



# Maryland Damage Prevention Guide

Visit [www.missutility.net](http://www.missutility.net) or call 811

# KNOW THE COLOR CODE

WHITE	Proposed Excavation
PINK	Temporary Survey Markings
RED	Electric Power Lines, Cables, Conduit and Lighting Cables
YELLOW	Gas, Oil, Steam, Petroleum or Gaseous Materials
ORANGE	Communication, Alarm or Signal Lines, Cables or Conduit
BLUE	Potable Water
PURPLE	Reclaimed Water, Irrigation and Slurry Lines
GREEN	Sewer and Drain Lines



Call 811 before you dig. Every dig. It's the law.

## TICKET SEARCH & STATUS





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## **INTRODUCTION**

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Excavation damage can cause injury, loss of life and/or environmental damage. It could also cause interruptions to vital services and can involve tremendous repair costs. So, please dig safely.

- Contact the One Call System before your planned digging/demolition work by going online to [www.missutility.net](http://www.missutility.net), calling 1-800-257-7777 for Western Shore Maryland, 1-800-441-8355 for Eastern Shore Maryland or 811 nationwide, or by using the mobile app. IT'S THE LAW!
- Wait the required time for a positive response per state law, from each notified facility owner-member that their lines are marked or are outside the work area.
- Respect and maintain the marks.
- Dig with care (hand dig according to state laws).

## **PREFACE**

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This publication has been prepared as a reference tool for anyone using the One Call System operated by the Miss Utility Call Center. Being familiar with its contents is essential to successful communication between a person and the facility owner-member or its contract locator. Please keep this publication on hand for future reference when questions arise or clarification is needed.

As there is no copyright infringement on the material in this booklet, feel free to view, print and distribute this guide to all employees who regularly excavate, demolish or contact Miss Utility. Please visit [www.missutility.net](http://www.missutility.net) for access to this guide and other resources.

Miss Utility of Maryland has tried its best to ensure the information provided in this guide is accurate as of the date of publication. We shall not be held responsible for typographical errors or other errors, changes that occur after the date of this publication, or any subsequent federal or local regulations that may apply. If there are any conflicts between the content of this publication and any federal, state or local regulations, then follow the federal, state or local regulations.

*(NOTE: The contents of this publication are subject to change without notice.)*

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## WHAT IS THE ONE CALL SYSTEM?

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1. Miss Utility is the “approved one call system” for the state of Maryland (as per Maryland code).
2. A corporation whose purpose is to prevent damage to underground infrastructure by:
  - a. Performing the “approved notification center” and the “one call system” functions.
  - b. Fostering a sense of shared responsibility for the protection of underground facilities.
  - c. Developing and conducting public awareness and education programs.

### **Miss Utility does not perform locating services.**

The One Call System ensures that affected owner-member utilities are notified of the proposed excavation ticket in order to identify their buried facilities according to state laws. Miss Utility’s offices are located at 7223 Parkway Drive, Hanover, MD 21076.

Damage Prevention and Safety Meetings: Interested parties, such as excavators, contractors and others, are invited to attend damage prevention meetings that are generally held the fourth Tuesday of the month. The meetings are a great forum for voicing issues, asking questions, sharing ideas and networking with other interested parties. For more information, please visit [www.missutility.net](http://www.missutility.net)

## WHY IS MISS UTILITY BENEFICIAL FOR EVERYONE?

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### **IT’S THE LAW**

Maryland state and federal statutes require prior notification to all owner-members of underground facilities in the work area of intended excavation or demolition (please see the definition in the state laws). Most underground facility owners are required to become owner-members to receive notification of planned excavation or demolition when the One Call System is contacted. Owner-members or their contract locators are also required by law to respond and/or mark the area of planned excavation or demolition.

- Maryland Code: Title 12 “Underground Facilities Damage Prevention” (Appendix A)
- Occupational Safety and Health Administration (OSHA) Subpart P — Excavation Standard 29 CFR 1926.651 (Appendix B) or <http://osha.gov>

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## **IT'S EASY**

- Visit [www.missutility.net](http://www.missutility.net) for online ticketing access.
- Download and use the mobile app.
- Call Miss Utility for Western Shore MD ticketing at 1-800-257-7777.
- Call Miss Utility of Delmarva for Eastern Shore MD ticketing at 1-800-441-8355.
- Call 811 nationally to contact your area's local one call system.

## **SAVES TIME AND MONEY**

Time is money. Work stoppages due to an underground facility damage can be costly. Additionally, a damage occurring without a valid ticket in place may result in assessed penalties and additional repair costs/fees.

Make one toll-free call or online entry and the One Call System will transmit a locate request quickly and efficiently to underground facility owner-members. Miss Utility is set up to work for you, but only if you contact us first.

Please note that there are owners of underground facilities that are not members of Miss Utility and thus do not receive notifications from the One Call System.

When existing underground facilities in an excavation/demolition area are marked pursuant to the request for a locate, the risk of hitting a line is reduced, minimizing the likelihood of an unexpected work stoppage.

Contacting the One Call System can save time and money.

## **PROVIDES SAFER WORKING CONDITIONS**

Notifying owner-members of intended excavation/demolition using the One Call System enhances public, excavator and work crew safety.

## **PROVIDES SUPPORT**

In the case of legal proceedings, the One Call System can be invaluable. Excavator Ticket Management (ETM) searches are free of charge, and tickets are available for reviewing, downloading and printing for six (6) years. In addition, all incoming calls to the One Call System are recorded and kept on file for six (6) years. Verification of a call is available to resolve conflicts that may arise with facility owner-members and will incur a charge.

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## **DETERMINING WHO AND WHEN TO CALL**

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In any of the following situations, a person should contact the facility owner(s) directly.

- To report damage to any type of facility.
- To report any type of service outage.
- To resolve any type of billing problem.
- To request any type of facility removal or relocation. (Including mandatory meter or service removals prior to demolition of a building.) Please note: A Miss Utility ticket is still required prior to any disturbance of the earth.
- To request any type of utility service.

If an excavation or demolition occurs outside the state of Maryland, contact that state's one call center directly. Calls to the One Call System are accepted 7 a.m. to 5 p.m. Monday through Friday, excluding holidays and weekends. As a courtesy, online ticket processing is available 24 hours a day, seven days a week, 365 days a year. with owner-members or their contract locator response contingent upon state laws. Calls for emergency locate requests are accepted 24 hours a day, seven days a week, 365 days a year. Please note that facility owner-members or their contract locators may have different working hours or holiday schedules.

## **ONE CALL SYSTEM METHODS OF COMMUNICATION**

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### **Use the internet by visiting [www.missutility.net](http://www.missutility.net).**

ITIC (internet ticketing) is a free service and available, as a courtesy, 24 hours a day, seven days a week, 365 days a year.

Find more information on ITIC and other resources at [www.missutility.net](http://www.missutility.net).

### **Use a phone.**

- Call 1-800-257-7777 for Western Shore Maryland locate requests.
- Call 1-800-441-8355 for Eastern Shore Maryland locate requests.
- Calling 811 also works in all areas.

### **Download the free mobile app using an Android device or iPhone.**

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## **UNDERGROUND FACILITIES INFORMATION EXCHANGE SYSTEM (TICKET CHECK)**

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In Maryland, notified owner-members or their contract locators provide a response using the underground facilities information exchange system (aka Ticket Check) by calling a special toll-free number or using the internet to post their Ticket Check status. Call 1-866-821-4226 and follow the voice prompts to retrieve the status of your ticket. For further information on utilizing this system, please visit [www.missutility.net](http://www.missutility.net).

Please visit [www.missutility.net/searchstatus/](http://www.missutility.net/searchstatus/) to view and print tickets and Ticket Check statuses. Please note: Maryland Title §12–127 (c)(1) states that a person performing excavation or demolition or supervising a temporary excavator shall have a copy of the ticket issued by a one call system available, by any means, on the site of the activity for the duration of the ticket.

### **MARYLAND LOCATOR’S STATUS CODES**

Maryland facility owner-member locators will use the following “status codes” to communicate each ticket’s locate status. *Note: Ticket Check rules and information are available at [www.missutility.net/maryland/ticketcheck.asp](http://www.missutility.net/maryland/ticketcheck.asp)*

<b>Code 1:</b>	<b>Clear/no conflict.</b> If code 1 is selected, it will be locked out as the final selection. The owner-member cannot change or delete a code 1 response.
<b>Code 2:</b>	<b>Marked.</b> If code 2 is selected, the only code it can be changed to is code 1.
<b>Code 3:</b>	<b>24-hour delay.</b> When the code 3 extension expires, the owner-member will be sent a “no response” notice every 24 hours until the ticket number expires or the ticket is coded as a code 1, 2, 5, 9 or 10.
<b>Code 4:</b>	<b>48-hour delay.</b> When the code 4 extension expires, the owner-member will be sent a “no response” notice every 24 hours until the ticket number expires or the ticket is coded as a code 1, 2, 5, 9 or 10.

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<p><b>Code 5:</b></p>	<p><b>Not complete/in progress.</b> The locator has spoken with the excavator, and they have agreed to this ticket code. If the ticket is statused as a code 5 within ten business days from the original date of the call, it can be updated to a code 1, 2 or 9 until the 120th calendar day from the original call date. Maryland law requires a documented agreement between the owner member/contract locator and the excavator prior to the use of a code 5 status.</p>
<p><b>Code 8:</b></p>	<p><b>Utility locator has not yet responded.</b> If the ticket has not been assigned a Ticket Check status by the ticket's due date, the utility company will receive a No Response notice reminding them to status the ticket. The No Response will be transmitted to the affected utility company every 24 hours until the ticket is either statused or expires. If the ticket is statused after the Ticket Check due date, the locator will be restricted to status codes 1, 2, 5, 9 or 10.</p>
<p><b>Code 9:</b></p>	<p><b>Marked up to privately owned utility.</b> If code 9 is selected, the only code it can be changed to is a code 2.</p>
<p><b>Code 10:</b></p>	<p><b>Incorrect work site mapping, insufficient information and/or wrong address.</b> Code 10 will be a locked code unless the excavator successfully processes a discrepancy notice prior to the ticket expiring. Once the discrepancy notice is processed via the IVR or Search &amp; Status, the locator can update the ticket status using code 1, 2 or 9.</p>

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**MARYLAND TICKET CHECK – EXCAVATOR CODES**

An excavator can utilize two codes to communicate with the owner-member/locator as provided below.

<p><b>Code 6:</b></p>	<p><b>Locate discrepancy for code 1, 2, 9 or 10.</b>                  The discrepancy notice (code 6) can be used by the excavator only when the owner-member has stasured the ticket with a code 1, 2, 9 or 10. The code 6 discrepancy notice can be processed, on a valid ticket, via <a href="http://www.missutility.net">www.missutility.net</a> while viewing the Ticket Check statuses on Search &amp; Status or when listening to the ticket status using the IVR System at 1-866-821-4226. When using the internet to process a locate discrepancy, comments and attachments can be added. Complete the discrepancy process by clicking the link in the confirmation email. The One Call System will transmit the discrepancy notice to the affected owner-member or its contract locator. It is the locator’s responsibility to contact the excavator when they receive a code 6 discrepancy notice and to recode the ticket based on Ticket Check rules.</p>
<p><b>Code 2:</b></p>	<p><b>Not complete/in progress – code 5 dispute.</b> The dispute notice (code 7) can be used by the excavator only when the owner-member uses a code 5 as their status. The code 7 dispute notice can be processed, on a valid ticket, via <a href="http://www.missutility.net">www.missutility.net</a> while viewing the Ticket Check status on Search &amp; Status or when listening to the ticket status using the IVR system at 1-866-821-4226. Complete the dispute process by clicking the link in the confirmation email. The One Call System will transmit the dispute notice to the affected owner-member or its contract locator. It is the locator’s responsibility to contact the excavator when they receive a code 7 dispute notice and to recode the ticket while the ticket is valid. A code 5 ticket is available to recode 120 calendar days from the original call date.</p>

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## MARYLAND POSITIVE RESPONSE CONFIRMATIONS

If a valid email or fax number is provided when contacting the One Call System, an automated confirmation detailing the status activity on each ticket will be sent no later than 11:59 p.m. the business day prior to the Self-Select Start date. For example: A ticket called in with a Self-Select Start date of February 5 will receive an automated confirmation no later than 11:59 p.m. the business day prior to February 5. It is your responsibility to verify all statuses that have not yet been posted at the time of the confirmation. This can be done by going to Search & Status at [www.missutility.net/searchstatus/](http://www.missutility.net/searchstatus/) or by phone at 1-866-821-4226.

## TYPES OF TICKET NOTIFICATIONS HANDLED BY MISS UTILITY

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The One Call System can process two (2) types of "INTENT TO EXCAVATE" notices. They include:

- NORMAL
- EMERGENCY

Maryland Title §12-130 allows a primary contractor to add a temporary contractor to their valid ticket under certain circumstances and required duties.

In addition, the One Call System can process two (2) types of "NON-EXCAVATION" notices. They include:

- NON-EXCAVATION DESIGNER
- NON-EXCAVATION SUSPECTED CROSS BORE

### NORMAL MARYLAND EXCAVATION NOTICES

A person in Maryland shall initiate a ticket request, selecting a Start Work date no sooner than three (3) business days and no later than twelve (12) business days (excluding weekends and legal holidays) prior to the day they plan to start work. Miss Utility will issue a normal Response Due By date and time (excluding weekends and legal holidays) based on the selected Start Work date. Owner-members that receive the notice in Maryland are to contact Ticket Check by 11:59 p.m. of the Response Due By date. A person must verify all status codes prior to excavation by going to Search & Status at [www.missutility.net/searchstatus/](http://www.missutility.net/searchstatus/) or by phone at 1-866-821-4226. All notified owner members must provide positive response before excavation can begin on a valid ticket. Please refer to Maryland Title §12-127.

*Maryland example:* A ticket submitted on Monday at 10 a.m. with a selected Start Work date of the following

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Friday will have a Response Due By date of Thursday at 11:59 p.m. (not including holidays). Maryland owner-members should notify Ticket Check no later than Thursday at 11:59 p.m. Notification from Ticket Check will be sent to the person's email address or fax number after 11:59 p.m. on Thursday.

### **EMERGENCY EXCAVATION NOTICE**

An emergency is defined by Maryland state law (Maryland Title §12-101). An emergency exists when one or more of the following conditions exist:

- Emergency means a sudden or unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or injury to, life, health, property or an essential public service.

When calling in an emergency excavation, inform the One Call System operator that an emergency exists, and be prepared to explain which of the above conditions is in effect. The One Call System will prepare the ticket for immediate transmission.

### **NON-EXCAVATION DESIGNER OR SUSPECTED CROSS BORES**

Maryland Title §12-131 provides for the processing of Non-Excavation Designer and Non-Excavation Suspected Cross-Bore Tickets.

*Non-Excavation Designer:* In connection with a project that may require a future excavation/demolition ticket, a person may initiate a Maryland Non-Excavation Designer ticket for design purposes only by contacting the One Call System and requesting this particular ticket type. The notified owner-members may request the person to provide a preliminary drawing for the scope of the project. Notified Maryland owner-members shall respond to the ticket within fifteen (15) business days providing approximate underground utility locations by means of field locates, maps, surveys, installation records or other similar means. This ticket type is for informational purposes only and does not go to Ticket Check.

*Non-Excavation Suspected Cross-Bore:* In the case of an obstruction caused by a suspected cross-bore, a person intending to remove the obstruction shall contact the One Call System and request this particular ticket type. This Maryland non-excavation ticket will be transmitted to affected owner-members whose response is to take whatever action they consider necessary to respond to the ticket. This ticket type is for informational purposes only and does not go to Ticket Check.

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# **PREPARING FOR NON-EMERGENCY AND OTHER TYPES OF NOTIFICATIONS**

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## **SEPARATE LOCATE REQUESTS**

Every primary company on the job must have a separate one call ticket number before an excavation or demolition. Often, there are several companies on a job site performing work. The construction schedule may dictate different types of work requiring different specialty contractors simultaneously. In these situations, it is imperative for each company to obtain a ticket number before an excavation or demolition to ensure that the specific areas have been appropriately marked by any affected underground facility owner-members or their contract locators.

Maryland Title §12-130 allows a primary contractor to add a temporary contractor to their valid ticket under certain circumstances and required duties. Please review this law section before utilizing this ticket condition.

## **NOTIFICATION PROCESS**

The One Call System needs to obtain specific information concerning locate requests. There is a specific reason for every question asked. This section will provide a brief explanation of the reason for each. Locate request processing is easier if the person understands the questions and is prepared to answer them. Preparation is the key. The One Call System call-taking procedures align with state law requirements in addition to business rules established by the owner-members.

The following is a brief explanation of each question asked by a One Call System customer service representative or via ticket fields during ITIC ticket processing. It is a law requirement that all contact information be correct and kept up to date.

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## **TYPE OF CALL BEING PLACED**

When calling the One Call System, the system will prompt the user to identify the area where work will take place and type of ticket (routine, emergency, non-excavation) in addition to other informational prompts.

### **1. Company/Person ID**

All persons, excluding homeowners, are assigned a unique ID number, which is used to expedite locate requests. This information is also helpful in the event it is necessary to contact you for further information and may be needed to verify your identity.

#### **Name, Company Name and Mailing Address**

The caller's name and company name are taken to validate the ticket information and maintain ticket records.

#### **Telephone Number**

The telephone number (with area code) of the caller/company is taken for post-ticket communications by members, locators or the One Call System.

#### **Email Address**

To receive Positive Response information from Ticket Check and from any owner-members, an email address is requested.

#### **Fax Number**

To receive Positive Response information from Ticket Check and from many facility owner-members, a fax number is requested.

#### **Job Site Contact Name and Phone Number**

Include a field representative contact and cell phone number. Locate requests can often be expedited when a field contact or a person supervising the work can be reached directly. Please provide accurate contact information and ensure that the person's mailbox can accept voicemail.

### **2. County and State**

The One Call System accepts locate requests for all counties in the state of Maryland. The county and place of the work is required to identify the job site location. The accuracy of this information may affect which owner-members are notified.

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### 3. Mapping the Excavation Area

All tickets will be mapped using a digital mapping system. This system is used for utility owner-member notification of each locate ticket. If using the One Call System via phone to process a ticket, a customer service representative will provide the mapping and verify the mapped area with the caller.

If using ITICnxt via the internet, the user will enter the work site address first, and a map will be displayed for the user to identify the work site. Drawing tools will also be displayed for user selection based on their particular type of work. The mapping system may split the user mapped area into multiple tickets based on state law and mapping business rules. ITICnxt may auto fill this ticket field for user verification when using certain drawing tools.

### 4. Start Date

Users will be required to select a start date when processing a locate request. A start date is to be no sooner than three (3) business days and no more than twelve (12) business days (excluding weekends and holidays) from the date of ticket submission.

### 5. Response Due By Date and Time

The ticket shall include a response date and time for owner-members or their contract locators that corresponds with the Start Work date selected by the person who initiated the ticket (not including weekends and holidays). The legal Response Due By date is based solely on state codes (refer to Maryland Title §12-124), which do not permit excavation or demolition to begin until the facility owner-members have all provided the appropriate positive response for the standard/routine ticket.

### 6. City/Place Name

The One Call System recognizes legal municipalities (cities, civil towns and villages) and unincorporated communities that appear on the official U.S. Census Bureau/OCC base map. It is very important to identify the place name where the work will be performed. ITICnxt may auto fill this ticket field for user verification.

### 7. Street Address of Work Site

The One Call System may use the street name to identify which owner-members are to be notified. It should be noted that the owner-members of Miss Utility use different types of mapping records. To ensure that the information received is recognizable by all owner-members, the One Call System has

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requirements for identifying the location of the job site. The best information is a street address. If a street address is not available, the One Call System will ask for the following information:

- The name of the street.
- What side (N, S, E or W) of that street.
- Name of closest intersecting road.
- Distance and direction of travel from the nearest named intersection to beginning of locate. ITICnxt may auto fill this ticket field for user verification when using certain drawing tools.

**8. Nearest Intersecting Street**

This information ensures that the One Call System is accurately identifying the work site, which further ensures that the proper owner-members are receiving the locate request information. ITICnxt may auto fill this ticket field for user verification when using certain drawing tools.

**9. Type of Work**

The type of work field must provide the specific reason for the work being performed. For example, “boring sanitary sewer lateral” is more helpful than “digging for a sewer line.” Due to the number of damages that occur with boring, facility owner-members need to be aware if boring will take place at the work site.

**10. Trenchless (excavation)**

The ticket includes a specific field for TRENCHLESS excavation for a required response of yes, no or unknown.

**11. Extent of Work**

After identifying the location of the job site, the One Call System needs to identify what portion of the job site is to be marked. In all cases, the law requires “a clear and concise description of work to be done at a property, including the property address or specific distance and direction from a specified point, not to exceed 1,320 feet, that completely depicts the scope of work, and that the excavator can complete within the designated life of the ticket,” (Maryland Title §12-101 (n)). This allows facility owner-members to determine if an underground facility is within the planned excavation or demolition area. ITICnxt may auto fill this ticket field for user verification when using certain drawing tools.

## 11. Extent of Work (continued)

### WHITE LINE OR STAKE PLANNED EXCAVATION

White lining is a best practice and is strongly suggested. Identifying the proposed work area with white paint, flags or stakes provides locators with an understanding of the proposed excavation or demolition area. When the location of proposed excavation or demolition is identified in this manner, the boundaries of the proposed site need to be indicated in white to avoid conflict with the colors used to identify existing underground facilities (see APWA standards front cover). Facility owner-members may identify proposed excavations for new facilities by using white paint, flags or marking tape striped with the appropriate facility color code. Such markings should identify the owner of the facility. If the work site is white lined, please alert notified owner-members or their contract locators using the remarks field.

### DETAILED DESCRIPTION OF EXCAVATION

All locate instructions should have a specific, detailed beginning and ending point based on the proposed area of excavation or demolition. In identifying the area, the following guidelines should be considered:

- Right and left should not be used as directions, as they are relative points of view. Use north, south, east and west instead.
- If the excavation or demolition is in a roadway, marking instructions could include:
  - Mark from curb to curb.
  - Mark from lot line to lot line in the roadway.
  - Mark from the center line of road to N, S, E, W lot line or curb. Travel direction can be used but needs to be clearly indicated. (Example: Mark south bound side of Washington Blvd. from Rt. 100 to Dorsey Road center line to 10FT beyond curb line.)
- Try to refrain from using “mark the entire lot.”

Property lines cannot be easily identified and are therefore it is virtually impossible to correctly mark the entire area that has been requested. List the specific area to be marked out. The following are a few examples:

- Mark the front of the house to the curb.
- Mark a 10FT radius of the NW corner of the lot.

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- Mark the area from the house north approximately 100FT to the barn.
- Mark a 20FT radius around the perimeter of the home.

ITICnxt may auto fill this ticket field for user verification when using certain drawing tools.

## **12. Explosives**

The explosives field requires a yes or no response. Gas safety regulations require gas facility owners to perform leakage surveys in the vicinity of any excavation or demolition after blasting has been performed.

## **13. Work Being Done For**

The identification of who the work is being performed for is another resource for obtaining additional information.

## **14. Permit**

The permit field allows users to enter either an MDOT permit or job number. The Maryland Department of Transportation (MDOT) is a member of Miss Utility and requires companies that have obtained a permit to complete the MDOT questions for ticket processing and transmission. Some agencies/administrations of MDOT may also receive a copy of the ticket based on the work site mapping.

## **TICKET PROCESSING**

After all ticket information is verified and submitted by the ticket processor, the One Call System will issue a ticket number. It is very important to keep this ticket number as future inquiries concerning the ticket will be expedited if the ticket number is available. The One Call System will provide each ticket with a list of owner-members that will receive the locate request. If the excavator provides a valid email address or fax number on the ticket, the One Call System will attempt to deliver a copy of the processed ticket. All ticket numbers can be viewed and printed at [www.missutility.net/searchstatus/](http://www.missutility.net/searchstatus/).

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## **WHAT HAPPENS AFTER THE TICKET IS PROCESSED BY THE NOTIFICATION CENTER?**

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**Intent to excavate notice (ticket) is processed by the One Call System.** After the One Call System receives the locate request, the ticket is processed. The system analyzes the mapped area around the proposed excavation or demolition site to identify which owner-members have elected to receive the ticket information and then prepares the ticket for transmission. The system transmits the ticket number to the facility owner-members or their contract locators. **The One Call System does not mark the lines.** It is the facility owner-member or its contract locating company that determines if facilities in the proposed excavation or demolition area need to be marked or statused clear/no conflict.

**Miss Utility owner-members' field locator performs the appropriate response.** Once it is determined that markings are required, the locate request is dispatched to a facility owner-member's field locator, who will locate and mark the excavation site with paint, stakes and/or flags. Facility owner-members or their contract locating companies will mark facilities within five feet of the planned excavation or demolition according to specific guidelines and color codes and provide the required positive response to Ticket Check.

If an owner-member cannot complete the locate request by the Response Due By date and time, the owner-member will provide a response via Ticket Check. It is the person's responsibility to verify on Ticket Check that the requested dig area has been either marked or cleared by all owner-members.

## **WHAT SHOULD A PERSON DO AFTER NOTIFYING MISS UTILITY OF THE PLANNED EXCAVATION OR DEMOLITION?**

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### **REQUEST LOCATES FROM FACILITIES NOT OPERATED OR OWNED BY MISS UTILITY MEMBERS**

The One Call System informs users of any facilities operated or owned by Miss Utility owner-members that receive a notification ticket. It is suggested that contact be made with the property owner for identification of other privately owned facilities that are owned or operated by non-members in the planned

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### **Maryland Damage Prevention Guide**

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excavation or demolition area. As a safety precaution, contact those facility owners directly to request their lines be marked. There also may be homeowner or property-owner facilities that are on public rights-of-way or private property (e.g., water and sewer lines, electric, lighting, gas fuel lines, irrigation systems, dog fences, etc.). Note: Maryland Title §12-120 provides information regarding damage liability with respect to noncompliance of an owner-member in accordance with Maryland Title §12-123.

**MARYLAND TITLE §12-127 (c) (1)** requires the person/company performing excavation/demolition, including the person supervising the temporary excavator (when named on the ticket), to have a copy of the ticket issued by the One Call System on the work site for the life of the ticket. The ticket copy can be a paper or electronic copy.

**WAIT FOR POSITIVE RESPONSE FROM THOSE NOTIFIED OF THE PLANNED EXCAVATION OR DEMOLITION**

A person may begin a standard non-emergency excavation or demolition only after the person contacts Ticket Check or receives notification that all notified owner-members have either marked the approximate location of their underground facilities or reported that they have no underground facilities in the vicinity of the excavation or demolition area.

**Emergency excavation response** is contingent on state laws. Please refer to Maryland Title §12-121 for information regarding emergency excavation/demolition response and responsibilities.

**ENSURE THE SAFETY OF GENERAL PUBLIC AND EMPLOYEES, AND PREVENT DAMAGE TO THE UNDERGROUND FACILITIES**

Follow all local, state and federal excavation regulations. Inform each person at the job site of such work from the information provided by the One Call System and the owner-members. (Refer to Federal CFR §1926.650 & §1926.651.)

**Locate verification.** Prior to an excavation or demolition, verify that you are at the correct location, verify locate markings and check for unmarked facilities (refer to Maryland Title §12-127 (e)(1)). Upon arrival at the excavation or demolition site, and prior to beginning the excavation or demolition, verify that the dig site matches the one call ticket. Verify that all facilities have been marked, reviewing color codes if in doubt.

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Verify all service feeds from buildings and homes. Check for signs of clear evidence of unmarked underground facilities, such as pedestals, risers, meters and new trench lines, etc. Check for any facilities that are owned by non-members of Miss Utility and contact the owner to get them located. Use of a pre-excitation checklist is recommended by insurers and is considered a best practice.

**Facility relocations.** In all cases, a person must coordinate work that requires temporary or permanent interruption of a facility service directly with the affected facility owner-operator. Any temporary or permanent interruption requires the active participation of the facility owner/operator and the person to ensure protection of facilities through a joint preplanning meeting or conference call. Facility owner-members may charge a significant fee for utility relocations. This type of relocation must be scheduled, and time should be allowed for it on the part of the requester.

**Excavators should use a competent person.**

(OSHA Standard 29 CFR §1926.652) A competent person must be present during the excavation or demolition. This person must be capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them. The designated competent person at each job site must have access to the names and phone numbers of all facility owner/operator contacts and the One Call System. Situations may arise on the job site that require immediate notification of the facility owner/operator, one call system or local emergency personnel.

**Maintain the marks.** Protect in a prudent and careful manner all markings provided by facility owner-members. In the event of the obliteration, destruction or removal of the markings, the person shall notify the One Call System of the need for remarking of utility lines by the facility owner-members. After the excavation/demolition is finished, please complete the maintenance by removing the flags or other temporary marks that may be a hazard to others, or as required for site restoration by the private or public property owner.

**A person should use an excavation/equipment observer.** An excavation/equipment operator should have an observer to assist when operating around known underground facilities. The observer is a worker

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who is watching the excavation activity and can communicate clearly and effectively with an operator to prevent damage to buried facilities.

**Protect the marked underground utility lines.** In Maryland, as required by law (Maryland Title §12-127 (b) & (c)), protection shall include, but may not be limited to, hand digging within the limits of the planned excavation or demolition area to include any trenching. This hand dig tolerance zone must align with state law requirements and may vary between service territories. There can be no power excavating equipment, sub-surface boring excavations or heavy equipment supports (i.e., outriggers) within the tolerance zone. When excavation or demolition operations approach the estimated location of underground installations, the exact location of the installations shall be determined by safe and acceptable means, such as test/potholing or vacuum excavating all marked lines within the planned excavation or demolition area to confirm the exact line location and depth prior to using power excavating equipment or sub-surface boring equipment. Miss Utility facility owner-members do not provide any depth information. During perpendicular crossings, lines should be exposed to visually confirm no damage occurs. Any excavation within close proximity to underground facilities may require the person to provide bracing or shoring to protect the line(s). A person shall exercise due care to avoid interference with or damage to an underground facility that a facility owner/operator has marked. Most facility owner/operator members require a minimum of 12-18 inches or more of separation between underground facilities. While the excavation is open, underground installations shall be protected and supported as necessary to safeguard employees. Please contact the owner/operator for removal/relocation and repair of any facilities. Always assume all lines are active or energized.

**Protect exposed facilities.** Everyone needs to support and protect exposed underground facilities from damage. Protection of exposed underground facilities is as important as preventing damage to the facility when digging around the utility. Protecting exposed underground facilities helps to ensure that the utility is not damaged, and at the same time, protects employees working in the vicinity of the exposed facility. Exposed facilities can shift, separate or be damaged when they are no longer supported or protected by the soil around them.

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One should support or brace exposed facilities and protect them from moving or shifting, as this type of movement could result in damage to the facility. This can be accomplished in different ways, for example, by shoring the facility from below or by providing a timber support with hangers across the top of an excavation to ensure that the facility does not move or bend. In addition, workers are instructed not to climb on, strike or attempt to move exposed facilities, which could damage protective coatings, bend conduit, separate pipe joints, damage cable insulation, damage fiber optics or in some way affect the integrity of the facility. The Occupational Safety and Health Administration (OSHA) has also addressed this issue in Subpart P — Excavation Standard 29 CFR 1926.651(b)(4), which states: “While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.” For example, an unsupported sewer main could shift, causing the pipe joints to separate, which could cause the trench where employees are working to flood, endangering their safety. The same care and support should be done while back filling a site as well.

## **RESPOND TO ANY DAMAGE IMMEDIATELY**

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Maryland Title §12-127 (d) stipulates duties and responsibilities when there is a facility/utility damage as a result of excavation or demolition.

If the damage results in the escape of any flammable, toxic, or corrosive gas or liquid, the person shall immediately notify the 911 emergency system. This practice minimizes the danger to life, health or property by notifying the proper authorities who can evacuate as appropriate and command substantial resources unavailable to the person or underground facility owner-operator.

If the person responsible for the excavation or demolition discovers or causes any damage, disturbance or dislocation to the owner-member’s facility, they shall promptly notify the affected owner member. As with any utility, never attempt to repair, temporary or otherwise, any damage.

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Reporting directly and immediately any break in or leak on a utility line, any dent, gouge, groove or other damage to such lines or to the coating or cathodic protection made or discovered in the course of the excavation or demolition work is required by the owner-members. The person must immediately protect life, protect property and contact local emergency response personnel as appropriate. To this end, it is highly recommended to always have the utility contact information on site. This information is listed under the Members Notified section of the Miss Utility ticket, which can be obtained by going to [www.missutility.net/searchstatus](http://www.missutility.net/searchstatus). Immediately alert the occupants of any premise as to any emergency that the person may have created or discovered at or near such premises. A broken line may cause a hazardous atmosphere that may be explosive, flammable, poisonous, corrosive, oxidizing, irritating, oxygen-deficient or toxic, or that is otherwise harmful, and may cause death, illness or injury.

For example, natural gas is not poisonous, but it is extremely flammable and can cause oxygen deficiency. If, despite all precautions, a natural gas pipeline is hit or there is reason to suspect a leak, personnel are urged to take these six steps to protect themselves and others. (Local natural gas or propane providers may recommend additional precautions.)

1. Extinguish all open flames—such as welding equipment, heaters, cigarettes, etc.—immediately.
2. From a safe distance, call 911 to report the location of the natural gas odor and call the natural gas delivery company or propane provider.
3. Avoid any action that could cause a spark—such as starting equipment or vehicles, ringing a doorbell, using a phone.
4. Alert everyone in the area of the potential danger.
5. Evacuate the site. Tape, rope or place cones around the area. As a last resort, if no other barricade materials are available, make a human chain a safe distance from the danger to keep others away.
6. Wait for professionals to arrive. Never try to fix a damaged natural gas pipeline or try to extinguish a gas fire. Remember, some of the most serious accidents are caused by well-meaning individuals who try to help when they are not qualified to do so.

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### **Maryland Damage Prevention Guide**

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## **OTHER FREQUENTLY ASKED QUESTIONS**

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Please refer to Maryland law for specific requirements. These answers only represent normal practice.

**Q: How soon can I dig once the locate request has been placed?**

**A:** It is very important to wait until all facility owner-members or their contract locators have responded to your request. Beginning work earlier can result in forfeiture of the person's rights and protection under Maryland statutes.

**Q: How long is a locate request valid?**

**A:** In Maryland, a ticket is valid for twelve (12) business beginning the day after the Response Due By date, excluding weekends and legal holidays.

**Q: When should I request an update?**

**A:** You may request the One Call System to issue an update ticket prior to the original locate request reaching the 12th business day expiration date in Maryland. The original ticket number is required to obtain an update ticket. The updated ticket is a new ticket, with a new ticket number, Response Due By, Start and Expiration date. An updated ticket is a copy of the expiring/expired ticket, submitted because of continuing excavation or demolition to be completed within the same scope of work. This new ticket requires a positive response from all notified owner-members or their contract locators.

**Q: What about the depth of underground facilities?**

**A:** Utility owners have no control over depth variation caused by human interference, weather or other circumstances after the original installation. As a result, utilities owners will only mark the approximate horizontal location, not the depth of buried facilities.

**Q: Why must I hand dig within a tolerance zone of a marked facility?**

**A:** Maryland law mandates specific requirements as to a tolerance zone on each side of the extremities of a marked facility, and mechanized equipment is not to be used in Maryland (Maryland Title §12-127 (c) (1-5)) within this tolerance zone; hand digging or vacuum excavation is recommended. This is important as locating is not an exact science, and therefore, the actual location of the facility could vary from the position of the marks.

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**Q: Why do utility locators say they cannot locate private lines?**

**A:** There are customer or privately owned underground lines for a variety of reasons. The utility does not have the right or authority to maintain or locate underground facilities that are not owned or operated by them and therefore have no basis on which to provide an approximate locate.

**Q: How do I get buried privately owned facilities located?**

**A:** Private utility locators can be found via an online search.

**Q: How do I get underground facilities marked by underground facility operators or owners that are not members of Miss Utility?**

**A:** The person is responsible for contacting each non-member for identification of their buried facilities, as per OSHA 1926.651 (b) (2).

**Q: What about fiberglass poles or existing marks that warn about underground facilities in the area?**

**A:** Fiberglass poles warn of underground facilities and give specific information as to the type of facility and utility owner/operator contact information, but they are not markings. They are reminders to call to have the area marked.

**Q. There are already marks on my job site, why do I need to Call Miss Utility?**

**A:** You should always contact the One Call System to obtain your own marks and not rely on marks already in the field. Those marks will not be valid for your work.

**Q: I'm only digging a couple of inches. Should I still call Miss Utility?**

**A:** YES, you should! Any time the surface of the ground is altered or disturbed; it is considered excavation. This includes but is not limited to driving pins, rods and fence posts into the ground.

## **REPORTING PROBLEMS**

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There are several problems that a person may encounter during the locating process. Miss Utility can assist in the resolution of these problems:

### **1. Correcting errors**

If, at any time, it is discovered that incorrect information was provided to the One Call System, the person should notify the One Call System as soon as possible. The problem may be corrected by filing a new ticket, correction or update as appropriate. It should be noted that a new Response Due By date and time will be issued for new ticket numbers and update tickets only. Corrections to a ticket will only be accepted from a person working for the same company that originated the ticket (in other words, a subcontractor or temporary excavator may not change information on a ticket filed by the general or primary excavator).

If the Response Due By date and time issued by the One Call System has expired and an owner-member has failed to respond and/or mark the underground facilities, contact the owner-member or their contract locating company directly.

### **2. Missing or no marks, incorrect marks, or can't find the marked facility**

If there is a problem with the locating efforts of the owner-member/contract locating company, there are steps that must be taken to get corrective action before being allowed to legally excavate:

- Process a discrepancy ticket (see guide page 7), that can contain both comments and attachments when processed using Search & Status via the internet.
- Process a re-mark ticket, adding comments regarding the situation, which can be accomplished via ITICnxt.
- If an owner-member is not listed on a ticket but should be, notify the One Call System and request a correction ticket to have the missing owner-member added manually to the ticket.
- Contact the affected owner-member/contract locating company directly.

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The One Call System will post a ticket's notified owner-members/contract locating company's name and contact phone numbers at [www.missutility.net/searchstatus](http://www.missutility.net/searchstatus).

To ensure the safety of the excavating crews, the general public and to prevent a possible damage, an excavation or demolition should not begin until the person is confident that all facilities have been marked correctly. It's the law.

## **PARTICIPATE IN MARYLAND DAMAGE PREVENTION AND SAFETY MEETINGS.**

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Miss Utility owner-members are interested in your concerns and will assist in any way possible. Come meet owner-members, contract locators, one call system personnel and other stakeholders at regularly scheduled damage prevention meetings. All aspects of damage prevention and safety are discussed, and your voice matters. Other discussion topics include revised Ticket Check code(s), enhancements to ticket processing and website application, free training opportunities and much more. Promotional items are available for all attendees. The meetings typically last from 9:30-11:30 a.m. and are held the fourth Tuesday of each month (excluding December) at the below address. Please visit [www.missutility.net](http://www.missutility.net) for meeting dates, directions and copies of meeting minutes and attendance.

Miss Utility  
7223 Parkway Dr., Suite 100  
Hanover, MD 21076

**Office Phone:** 410-712-0056 **Fax:** 410-712-0062

[www.missutility.net](http://www.missutility.net)

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# Before you dig. Every dig. It's the law.

## Appendix A

Miss Utility Dig Law: Title 12 "Underground Facilities"  
<http://www.missutility.net/maryland/mdstatelaw.asp>

### §12-101. Definitions

- (a) In this subtitle the following words have the meanings indicated.
- (b) **"Authority"** means the Maryland Underground Facilities Damage Prevention Authority.
- (c) **"Business day"** means a calendar day other than a Saturday, Sunday, or legal holiday.
- (d) **"Clear evidence"** means a visible indication that an underground facility or structure is not marked as required in § 12-126 of this subtitle.
- (d) **"Clear evidence"** means a visible indication that an underground facility or structure is not marked as required in § 12-126 of this subtitle.
- (e) **"Contract locator"** means a person contracted by an owner specifically to determine the approximate horizontal location of the owner's underground facilities as specified in the ticket issued by the one-call center.
- (f) **"Cross-bore"** means an intersection of an existing underground facility by a second underground facility resulting in contact between the two facilities that results in the original facility being damaged, dislocated, or disturbed.
- (g) **"Damage"** means any excavation activity that results in the need to repair an underground facility due to a weakening or the partial or complete destruction of the facility, including the protective coating, lateral support, cathodic protection, or housing for the underground facility.
- (h) **"Demolition"** means an operation in which a structure or mass of material is wrecked, razed, rended, moved, or removed using any tool, equipment, or explosive.
- (i) **"Designer"** means a licensed architect, professional engineer, professional land surveyor, or licensed landscape architect, as those terms are defined in the Business Occupations and Professions Article, who prepares a drawing for a project that may require excavation or demolition.

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- (j) **"Detectable underground facility"** means an underground facility that utilizes a location device that is installed underground, such as an electronic marker or a traceable wire that may be detected above ground with an electronic locating device.
- (k) **"Emergency"** means a sudden or unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or injury to, life, health, property, or an essential public service.
- (l) (1) **"Excavation"** means an operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by using any tool, equipment, or explosive.  
 (2) **"Excavation"** includes grading, trenching, digging, ditching, dredging, drilling, boring, augering, tunnelling, scraping, cable or pipe plowing, pipe bursting, and driving a mass of material.
- (m) **"Excavator"** means a person that performs an excavation or a demolition.
- (n) **"Extent of work"** means a clear and concise description of work to be done at a property, including the property address or specific distance and direction from a specified point, not to exceed 1,320 feet, that completely depicts the scope of work and that the excavator can complete within the designated life of the ticket.
- (o) **"Fund"** means the Maryland Underground Facilities Damage Prevention Education and Outreach Fund.
- (p) **"Legal holiday"** means:
  - (1) the day on which a legal holiday, as defined in § 1-111 of the General Provisions Article, is observed; or
  - (2) a federal legal holiday.
- (q) **"Locatable underground facility"** means an underground facility that can be identified or discovered by methods including installation

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- records, facility markers or risers, locator tape, manual location techniques, surface extensions of underground facilities, or any visible indicators that a facility or structure is buried underground in the immediate vicinity.
- (r) **"Mark"** means a line, an arrow, a curve, a whisker, a flag, a stake, or any other symbol, placed or made to identify an underground facility.
- (s) **"One-call system"** means a communications system in the State that:
- (1) allows a person to notify owner-members of planned excavation or demolition by:
    - (i) calling a toll-free number or abbreviated dialing code; or
    - (ii) initiating an interactive Internet ticket request; and
  - (2) maintains an underground facilities information exchange system.
- (t) (1) **"Owner"** means a person that:
- (i) owns or operates an underground facility; and
  - (ii) has the right to bury an underground facility.
- (2) **"Owner"** includes:
- (i) a public utility;
  - (ii) a telecommunications corporation;
  - (iii) a cable television corporation;
  - (iv) a political subdivision;
  - (v) a municipal corporation;
  - (vi) a steam heating company;
  - (vii) an authority; and
  - (viii) a unit of the State.
- (u) **"Owner-member"** means an owner that participates as a member in a one-call system.
- (v) (1) **"Person"** has the meaning stated in § 1-101 of this article.
- (2) **"Person"** includes:
- (i) a municipal corporation;
  - (ii) the State;
  - (iii) a political subdivision of the State; and
  - (iv) any governmental unit, department, or agency.

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- (w) **"Primary contractor"** means the person that:
- (1) initiates the notification to the one-call system to establish a ticket;
  - (2) performs excavation duties for the duration of the ticket; and
  - (3) is on site to supervise all activities, employees, and any temporary excavator added to the valid ticket as required in **§ 12-130(b)** of this subtitle.
- (x) **"Temporary excavator"** means a person that the primary contractor may identify and add as a subcontracting excavator to an existing ticket under **§ 12-130(c)** of this subtitle.
- (y) **"Ticket"** means a numbered document issued by a one-call system to notify owner-members that:
- (1) a person intends to perform an excavation or demolition; or
  - (2) a designer has requested information on the location of underground facilities under **§ 12-131** of this subtitle.
- (z) (1) **"Trenchless technology"** means a family of methods, materials, and equipment capable of being used for the installation of new or replacement, or rehabilitation of existing, underground infrastructure that requires excavation with minimal disruption to surface traffic business and other activities.
- (2) **"Trenchless technology"** includes:
- (i) tunnelling;
  - (ii) microtunnelling;
  - (iii) horizontal directional drilling or directional boring;
  - (iv) pipe ramming;
  - (v) pipe jacking;
  - (vi) moling;
  - (vii) horizontal auger boring; and
  - (viii) any other method for the installation of pipelines and cables below ground with minimal excavation.

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**(aa) “Underground facilities information exchange system”** means an automated voice response unit or interactive Internet access system that is maintained as part of a one-call system.

**(bb)(1) “Underground facility”** means an item that is buried, placed below ground, or submerged for use in connection with the:

- (i)** storage or conveyance of water, sewage, oil, gas, or other substances; or
- (ii)** transmission or conveyance of telecommunications, cable television, or electricity.

**(2) “Underground facility”** includes pipes, sewers, combination storm/sanitary sewer systems, geothermal systems, conduits, cables, valves, lines, wires, manholes, and attachments.

**(3) “Underground facility”** does not include a storm drain.

### **§12-102. Legislative Intent**

It is the intent of the General Assembly to protect underground facilities of owners from destruction, damage, or dislocation to prevent:

- (1)** death or injury to individuals;
- (2)** property damage to private and public property; and
- (3)** the loss of services provided to the general public.

### **§12-103. Scope of Subtitle**

This subtitle does not apply to an excavation not more than 6 inches in depth or demolition performed or to be performed by an owner or lessee of a private residence when the excavation or demolition is performed or to be performed:

- (1)** entirely on the land on which the private residence of the owner or lessee is located; and
- (2)** without the use of machinery.

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### **§12–104. Detectable or Locatable**

- (a) This section applies to:
  - (1) complete replacement of an existing underground facility;
  - (2) underground storm drain systems and applicable devices; and
  - (3) an existing previously detectable underground facility or locatable underground facility.
- (b) Except as otherwise provided in § 12–129 of this subtitle, on or after October 1, 2021, all newly installed underground facilities shall be detectable or locatable.
- (c) Not later than October 1, 2021, any previously detectable underground facility or underground facility locatable during planned or emergency work must be restored to be detectable or locatable.

### **§12–106. Authority Established**

- (a) There is a Maryland Underground Facilities Damage Prevention Authority.
- (b) It is the intent of the General Assembly that the Authority not be funded by appropriations from the State budget.

### **§12–107. Membership**

- (a) The Authority consists of nine members appointed by the Governor.
- (b) The nine members shall be appointed as follows:
  - (1) one member from a list submitted to the Governor by the Associated Utility Contractors of Maryland;
  - (2) one member from a list submitted to the Governor by the Public Works Contractors Association of Maryland;
  - (3) two underground facility owners that are members of a one-call system from a list submitted to the Governor by the Maryland members of the Maryland/DC Subscribers Committee;

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- (4) one member from a list submitted to the Governor by the one-call centers operating in the State;
  - (5) one member who represents the State's underground facility contract locator community from a list submitted to the Governor by the Maryland members of the Maryland/DC Damage Prevention Committee;
  - (6) one member who has experience in the field of underground facilities from a list submitted to the Governor by the Maryland Association of Counties;
  - (7) one member who has experience in the field of underground facilities from a list submitted to the Governor by the Maryland Municipal League; and
  - (8) one member of the general public from a list submitted to the Governor by the other appointed and qualified members of the Authority.
- (c) (1) To the extent practicable, members appointed to the Authority shall reasonably reflect the geographic, racial, and gender diversity of the State.
- (2) A member shall reside in the State more than 6 months each year.
- (3) For the stakeholder members appointed under subsection (b)(1) through (7) of this section:
- (i) the member's primary business, employment, or membership determines the entity that the member is appointed to represent; and
  - (ii) an organization, a facility owner, or any other entity may not hold more than one seat on the Authority.
- (d) (1) The term of a member is 2 years.
- (2) The terms of members are staggered as required by the terms provided for members of the Authority on October 1, 2010.

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- (3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.
- (4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
- (5) A member may not be appointed for more than two consecutive full terms.
- (6) To the extent practicable, the Governor shall fill any vacancy in the membership of the Authority within 60 days after the vacancy.
- (e) On the recommendation of the Authority, the Governor may remove a member for incompetence or misconduct.
- (f) (1) Any organization, facility owner, or entity possessing a seat on the Authority whose term is due to expire or be vacated shall:
  - (i) designate a replacement for its representative; and
  - (ii) if reasonable, initiate the nomination process with the Governor's appointments office at least 60 days before the known expiration, removal, or resignation of its representative.
- (2) If the organization, facility owner, or entity fails to comply with the replacement process under paragraph (1) of this subsection, the Authority shall:
  - (i) conduct a search for a replacement nominee from the organization, facility owner, or entity having the vacancy on the Authority; and
  - (ii) follow the nomination process provided by the Governor's appointments office.
- (3) If the organization, facility owner, or entity having the vacancy subsequently fails to provide a nominee within the required time for a second time, the Authority may:
  - (i) remove the organization, facility owner, or entity representation from the Authority; and

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- (ii) replace the organization, facility owner, or entity having a vacancy on the Authority with a comparable organization, facility owner, or entity.
- (4) In the case of a sudden or unexpected vacancy, the organization, facility owner, or entity shall provide a nomination to the Governor's appointments office within 60 days after the vacancy occurs.

### **§12-108. Chair**

- (a) From among its members, each year the Authority shall select a chair.
- (b) Subject to subsection (c) of this section, the manner of selection of the chair and the chair's term of office shall be as the Authority determines.
- (c) A member may not serve more than 2 consecutive years as chair of the Authority.

### **§12-109. Quorum; Meetings; Compensation and Reimbursement**

- (a) Five members of the Authority are a quorum.
- (b) The Authority shall meet at least once every 3 months at the times and places it determines.
- (c) A member of the Authority:
  - (1) may not receive compensation as a member of the Authority; and
  - (2) is not entitled to reimbursement for expenses.

### **§12-110. Powers**

- (a) The Authority may:
  - (1) adopt bylaws for the conduct of its business;
  - (2) adopt a seal;
  - (3) maintain an office at a place it designates;
  - (4) maintain facilities for the purpose of holding hearings under this subtitle;
  - (5) employ a staff;
  - (6) accept a grant, a loan, or any other assistance in any form from any public or private source, subject to the provisions of this subtitle;
  - (7) enter into contracts and execute the instruments

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- necessary or convenient to carry out this subtitle to accomplish its purposes; and
- (8) do all things necessary or convenient to carry out the powers expressly granted by this subtitle.
  - (b) The Authority shall adopt a code of conduct for its members.

### **§12-111. Funding**

- (a) The Authority may obtain funding for its operational expenses from:
  - (1) a federal or State grant;
  - (2) filing fees and administrative fees for complaints heard by the Authority as authorized under **§ 12-112(c)(1)** of this subtitle, including:
    - (i) mailing costs;
    - (ii) fees for delivery or service of process;
    - (iii) reproduction costs; and
    - (iv) staff costs associated with the complaint;
  - (3) an additional assessment or charge per ticket as authorized under subsection (b) of this section; and
  - (4) any other source.
- (b) The Authority may collect an assessment or a charge not exceeding 5 cents per ticket from an owner-member if the assessment or charge:
  - (1) is not imposed on a county or a municipal corporation; and
  - (2) is approved by a two-thirds vote of all members of the Authority.
- (c) Except as provided in subsections **(a)(2)** and **(b)** of this section, the Authority may not impose a charge or assessment against any person, directly or indirectly, to obtain funding for its operational expenses.

### **§12-112. Enforcement**

- (a) To enforce this subtitle, the Authority:
  - (1) shall accept and review complaints for violations of this subtitle; and
  - (2) may recommend necessary enforcement actions.

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- (b) (1) The Authority shall:
  - (i) hear complaints for violations of this subtitle:
    - 1. at the request of a probable violator;
    - or
    - 2. after notifying a probable violator that the Authority has scheduled a hearing on its own motion; and
  - (ii) after a hearing, assess a civil penalty under **§ 12-135** of this subtitle.
- (2) The Authority may reach a settlement instead of assessing a civil penalty.
- (3) If a probable violator fails to appear at a scheduled hearing, the Authority may vote to proceed to hear the complaint against the probable violator in the absence of the probable violator.
- (c) (1) The Authority may:
  - (i) establish reasonable complaint filing fees and administrative fees for complaints heard by the Authority; and
  - (ii) use the services of a third party to collect civil penalties.
- (2) If the Authority determines that an individual cannot afford to pay a fee established under paragraph (1)(i) of this subsection, the Authority may exempt the individual wholly or partly from the fee.
- (d) The Authority may not assess a civil penalty against a person unless the person:
  - (1) receives reasonable prior notice of the complaint; and
  - (2) has an opportunity to be heard under **§ 12-113** of this subtitle.

### **§12-113. Hearing Procedure**

- (a) In a hearing before the Authority for an alleged violation of this subtitle:
  - (1) all testimony shall be given under oath administered by the chair or another member of the Authority; and

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- (2) the proceedings shall be recorded.
- (b) The Authority may compel the attendance of a witness by subpoena.
- (c) (1) The Authority shall issue its decision in writing, stating the reason for its decision.
  - (2) A copy of the decision shall be delivered or mailed to all parties to the complaint proceedings.
- (d) (1) A person aggrieved by a decision of the Authority may, within 30 days after receiving the decision, request judicial review of the decision by the circuit court.
  - (2) In accordance with the judicial review and appeals process under the Administrative Procedure Act, the circuit court shall hear and determine all matters connected with the decision of the Authority for which judicial review is requested.
- (3) (i) Except as provided in subparagraph (ii) of this paragraph, the costs of the judicial review, including the costs of preparing a record and transcript, shall be paid by the party filing the request for judicial review.
  - (ii) If the party filing the request for judicial review prevails, the circuit court may require that the costs of the judicial review, including the costs of preparing a record and transcript, be paid by the Authority.
- (4) If the request for judicial review is dismissed, the circuit court shall award attorney's fees to the Authority unless the Authority waives the award of attorney's fees.
- (e) (1) The record of a hearing conducted under this section, including any record of testimony or evidence offered at the hearing, is not admissible in any administrative or civil proceeding involving the same subject matter or the same parties.
  - (2) Paragraph (1) of this subsection does not apply to judicial review of the Authority's decision.

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### **§12-114. Annual Reports**

Beginning January 1, 2012, the Authority shall report each year to the Governor and, in accordance with **§ 2-1257** of the State Government Article, the General Assembly on the activities of the Authority and any recommendations of the Authority.

### **§12-117. Fund Established**

- (a) There is a Maryland Underground Facilities Damage Prevention Education and Outreach Fund.
- (b) The purpose of the Fund is to cover the costs of:
  - (1) public education and outreach programs; and
  - (2) the development of safety procedures to prevent damage to underground facilities.
- (c) The Authority shall hold and administer the Fund.
- (d) The Fund is a special, nonlapsing fund that is not subject to **§ 7-302** of the State Finance and Procurement Article.
- (e) The Fund consists of:
  - (1) civil penalties paid into the Fund under **§ 12-135** of this subtitle;
  - (2) investment earnings of the Fund; and
  - (3) any other money from any other source accepted for the benefit of the Fund.
- (f) (1) The Fund may be used only for:
  - (i) public education and outreach programs for the prevention of damage to underground facilities;
  - (ii) the development of safety procedures for excavation and demolition projects conducted in the area of underground facilities; and
  - (iii) with the consent of the Authority members, covering an unexpected shortfall in the operational account of the Authority.
- (2) The Authority may make grants to local governments or private entities consistent with the purposes of the Fund

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### **§12–120. Effect of Subtitle**

- (a) Except as provided in subsections (b) and (c) of this section, a person that obtains the information required under this subtitle is not excused from:
  - (1) performing an excavation or demolition in a careful and prudent manner; and
  - (2) liability for financial damages or injury that results from the excavation or demolition.
- (b) If an underground facility is damaged by a person that fails to comply with this subtitle, the person is deemed negligent and is liable to the owner for the total cost of repair of the underground facility, unless the owner has failed to become an owner–member in accordance with **§ 12–123** of this subtitle.
- (c) If an underground facility is damaged by a person that is in compliance with this subtitle and the owner has failed to become an owner–member in accordance with **§ 12–123** of this subtitle:
  - (1) the person is not liable to the owner for the cost of repair of the underground facility; and
  - (2) the owner is liable for any repairs or restoration of property damaged by the excavation or demolition.
- (d) Subsection (c) of this section may not be construed to interfere with the right of:
  - (1) a third party to recover financial damages arising out of the excavation or demolition from the person or from the owner; or
  - (2) the person to seek contribution from an owner for financial damages sought by a third party under paragraph (1) of this subsection.

### **§12–121. Emergency Excavation and Demolition**

- (a) (1) This section applies to any action taken to address an emergency from the time the emergency arises until a standard ticket is initiated and valid under **§ 12–124** of this subtitle, including any work associated with stopping or mitigating the emergency.

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- (2) Subject to § 12-120(b) of this subtitle, if all reasonable precautions have been taken to protect underground facilities, § 12-120(a) of this subtitle and § 12-122 through § 12-135 of this subtitle do not apply to an emergency excavation or demolition being performed to prevent danger to life, health, or property.
- (b) A primary contractor or a person performing an emergency excavation or demolition to prevent or mitigate loss of or injury to life, health, property, or an essential public service shall:
- (1) identify the location and extent of work, as stated in § 12-124(b)(1) of this subtitle, in a clear and concise manner;
  - (2) take all reasonable precautions to protect underground facilities in and near the excavation or demolition area; and
  - (3) immediately notify the one-call system serving the geographic area where the emergency excavation or demolition is performed to inform the appropriate owner—members of the excavation or demolition area.
- (c) (1) The owner—member or its contract locator shall:
- (i) respond to an emergency notice as soon as possible but not later than 2 hours from the transmission of the ticket from the one-call center; and
  - (ii) except for circumstances beyond an owner—member's or contract locator's control and for municipal corporations, considering the hours of operation and availability of employees:
    1. begin the locating process to mark their respective underground facility or facilities within 3 hours after the transmission of the ticket; or
    2. if the facility owner has no underground facilities within the delineated excavation area, clear the ticket within 3 hours after the transmission of the ticket.

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- (2) The person responsible for the excavation shall be on site or in communication with the owner-member, their contract locator, or their representative within 3 hours after the transmission of the ticket by the one-call center, or a mutually agreed response time.
- (3) The owner-member or its contract locator shall respond to the underground facilities information exchange system as soon as:
  - (i) the extent of work is marked; or
  - (ii) it is determined that no underground facilities are in the delineated area.
- (d) A person that abuses the emergency excavation and demolition procedure set forth in this section is subject to penalties under **§ 12-135** of this subtitle.

### **§12-122. One-Call Registration**

- (a) Except as provided in subsection (b) of this section, a person that operates a one-call system in the State shall register with and obtain certification to operate from the Commission.
- (b) A person operating a one-call system on or before July 1, 1990, is automatically registered with and certified by the Commission to continue to operate.
- (c) (1) The operator of a one-call system shall install and make available an underground facilities information exchange system in its one-call center in the State.
  - (2) The underground facilities information exchange system shall be available to any caller at all times.
- (d) The Commission may grant, amend, or revoke the certification of a person operating a one-call system.

### **§12-123. Owner-Member of One-Call System**

- (a) (1) An owner shall be a member of a one-call system.

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- (2) Except as provided in paragraph (3) of this subsection, an owner becomes a member of a one-call system by registering with the one-call system.
  - (3) The Department of Transportation, its administrations, and the Maryland Transportation Authority shall become members of the one-call system through a separate agreement and using the information collected under **§ 12-124(b)(2)** of this subtitle.
- (b) (1) An owner-member of a one-call system shall submit to the one-call system, in writing, the telephone number of the person to which calls concerning proposed excavations or demolitions shall be directed.
- (2) An owner-member shall ensure that all contact information provided to the one-call system remains current.

### **§12-124. Notice to One-Call System**

- (a) Before performing excavation or demolition in the State, a person:
- (1) shall initiate a ticket request by notifying the one-call system serving the geographic area where the excavation or demolition is to be performed; and
  - (2) shall select a start work date that commences:
    - (i) not sooner than 3 business days after the ticket is initiated, and
    - (ii) not later than 12 business days after the ticket is initiated, and
  - (3) may add a temporary excavator to an existing ticket.
- (b) Notice provided to a one-call system under subsection (a) of this section shall indicate:
- (1) the location of the proposed excavation or demolition;
  - (2) whether the proposed excavation or demolition is within rights-of-way owned or controlled

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- by the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority and, if so, the entity and the permit number or authorization number obtained from that entity;
- (3) the type and extent of work to be performed in connection with the proposed excavation or demolition; and
  - (4) the correct name of and contact information for the temporary excavator, if any, performing work under the ticket.
- (c) (1) Except as provided in paragraph (2) of this subsection, on receiving notice, the one-call system shall promptly transmit a copy of the ticket to all owner-members in the geographic area indicated for that ticket.
- (2) Based on information collected under **§ 12-124(b)(2)** of this subtitle, the one-call system shall promptly transmit a copy of the ticket to the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority, as applicable.
- (3) (i) The ticket shall include a response date and time for owner-members or their contract locators that corresponds with the start work date selected by the person who initiated the ticket.
  - (ii) A ticket is valid for 12 business days after the selected start work date on a ticket that is transmitted by the one-call system to an owner-member or their contract locator.

### **§12-125. Repeat Notification**

- (a) A person shall repeat the notification required under **§ 12-124** of this subtitle if the person:
  - (1) has not completed or will not complete the excavation or demolition within the time period authorized by the ticket;

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- (2) expands the excavation or demolition beyond the location indicated in the notice under **§ 12-124(b)** of this subtitle; or
- (3) adds a temporary excavator to the ticket.
- (b) If a person discovers that a mark is obliterated, destroyed, or removed, or observes a visible indication that an underground facility or structure is not marked as required under § 12-126 of this subtitle, the person shall notify the call center to request that all or part of the current scope of work of a valid ticket be re-marked.
- (c) A person shall repeat the notification regardless of:
  - (1) any delays by an owner-member in marking its underground facilities; or
  - (2) an agreement between the person and an owner-member regarding the time for marking underground facilities.
- (d) Any re-marking made after a notification provided under this section shall comply with the requirements of **§ 12-126** of this subtitle.

### **§12-126. Marking Requirements**

- (a) An owner-member or its contract locator shall mark its underground facility if a proposed excavation or demolition that is specified in the extent of work contained in the ticket:
  - (1) is within 5 feet of the horizontal plane of the underground facility; or
  - (2) because of planned blasting, is so near to the underground facility that the underground facility may be damaged or disturbed.
- (b) (1) An owner-member or its contract locator shall mark the location of its underground facility as specified under subsection (a) of this section by marking on the ground within 18 inches on a horizontal plane on either side of the underground facility.
  - (2) (i) When marking the location of an

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underground facility, an owner–member or its contract locator shall use the color codes established by the American Public Works Association for marking underground facilities in effect at the time of marking.

- (ii) If two or more owner–members share the same color code, each owner–member or its contract locator shall include information with the marking that indicates the owner–member of the marked underground facility.
- (c) Except as provided in subsection (d) of this section, within 2 business days after the day on which a ticket is transferred to an owner–member or before the selected start work date, the owner–member or its contract locator shall:
  - (1) mark the location of the owner–member’s underground facility and report to the underground facilities information exchange system that the underground facility has been marked; or
  - (2) report to the underground facilities information exchange system that the owner–member has no underground facilities in the vicinity of the planned excavation or demolition.
- (d) (1) If an owner–member or its contract locator is unable to mark the location of the owner–member’s underground facility within the time period prescribed in subsection (c) of this section because of the scope of the proposed excavation or demolition, the owner–member shall:
  - (i) promptly notify the underground facilities information exchange system and the person that intends to perform the excavation or demolition; and
  - (ii) work with the person that intends to perform the excavation or demolition to develop a documented agreement for marking the underground facility.

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- (2) If the owner–member or its contract locator and person that intends to perform the excavation or demolition cannot reach a mutually documented agreement for marking under paragraph (1) of this subsection, the owner–member or its contract locator shall mark that portion of the site where excavation or demolition will first occur, and the owner–member or its contract locator shall mark the remainder of the site within a reasonable time.
- (3) If, due to circumstances beyond the control of an owner–member or its contract locator and for reasons other than those specified in paragraph (1) of this subsection, an owner–member or its contract locator is unable to mark the location of the owner–member's underground facility within the time period prescribed in subsection (c) of this section, the owner–member or its contract locator shall report to the underground facilities information exchange system that an extension is required.
- (4) In connection with extensive or contiguous excavation or demolition projects, the person performing the excavation or demolition and the owner–member or its contract locator may establish a working agreement regarding the time periods for marking the underground facility.

### **§12–127. Excavation After Notice that Facilities Marked or Not in Vicinity**

- (a) A person that intends to perform excavation or demolition may begin excavation or demolition activity only after the person receives notification from the underground facilities information exchange system of the one–call system confirming that all applicable owner–members or their contract locators have:
  - (1) marked their underground facilities in accordance with **§ 12–126(c)** of this subtitle;

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- (2) marked the applicable portion of their underground facilities in accordance with **§ 12-126(d)** of this subtitle; or
  - (3) reported that they have no underground facilities in the vicinity of the excavation or demolition.
- (b) (1) After an owner-member or its contract locator has marked the location of an underground facility in accordance with **§ 12-126** of this subtitle, the person performing the excavation or demolition is responsible for the maintenance of the designated mark.
- (2) If the mark is obliterated, destroyed, or removed, the person:
- (i) shall repeat the notification required under **§ 12-125** of this subtitle; but
  - (ii) may not in any manner replace or repair the mark.
- (c) (1) A person performing excavation or demolition or supervising a temporary excavator shall have a copy of the ticket issued by a one-call system available, by any means, on the site of the activity for the duration of the ticket.
- (2) A person performing an excavation or demolition shall exercise due care to avoid interference with or damage to an underground facility:
- (i) that an owner-member or its contract locator has marked in accordance with **§ 12-126** of this subtitle; or
  - (ii) where clear evidence of an unmarked underground facility exists.
- (3) Before using mechanized equipment for excavation or demolition within 18 inches of an underground facility marking, a person shall expose the underground facility to its outermost surfaces by hand or other nondestructive techniques.

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- (4) When utilizing a trenchless technology method, to prevent the occurrence of a cross-bore, a person shall expose by nondestructive techniques intersecting underground facilities to the depth of the excavation plus 18 inches in the path of the trenchless technology operation during the entire trenchless installation operation.
- (5) A person may not use mechanized equipment to excavate within 18 inches of the outermost surface of an exposed underground facility.
- (d) (1) The person performing an excavation or demolition shall promptly report to the owner-member of the facility if the person discovers or causes any damage to or dislocation or disturbance of an underground facility in connection with the excavation or demolition.
- (2) If the damage, dislocation, or disturbance results in the escape of a flammable, toxic, or corrosive gas or liquid, the person performing the excavation or demolition immediately shall report the damage to the 9-1-1 emergency system.
- (e) (1) If a person knows or has reason to know that an underground facility in the area of a planned or ongoing excavation or demolition is not marked as required by this subtitle, the person may not begin or continue the excavation or demolition unless the person:
  - (i) has repeated the notification as required under **§ 12-125** of this subtitle; and
  - (ii) receives notification from the underground facilities information exchange system of the one-call system confirming that all applicable owner-members that have underground facilities in the vicinity of the excavation or demolition have marked:
    1. the underground facilities in accordance with **§ 12-126(c)** of this subtitle; or
    2. the applicable portion of the underground facilities in accordance with **§ 12-126(d)** of this subtitle.

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- (2) If the underground facility is not marked as required by this subtitle after the person receives notification from the underground facilities information exchange system under paragraph (1) of this subsection, the person may proceed with the excavation or demolition.

### **§12–128. Reimbursement of Political Subdivision, Municipal Corporation or Government Entities**

- (a) A political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority may charge, assess, or collect from a person a one-time initial marking fee not exceeding \$35 for reimbursement of expenses that the political subdivision, municipal corporation, the Department of Transportation, an administration of the Department of Transportation, or the Maryland Transportation Authority incurs to comply with this subtitle.
- (b) If re-marking is requested, or is required after renotification under § 12–125 of this subtitle, a political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section may charge, assess, or collect from a person a re-marking fee not exceeding \$15 for reimbursement of expenses that the political subdivision, municipal corporation, or any of the transportation entities specified in subsection (a) of this section incurs to comply with this subtitle.

### **§12–129. Detectable Wires for Connecting Buildings to Water Supply or Sewerage Systems**

- (a) Subject to subsection (c) of this section, any new or replacement piping that is buried or installed for the purposes of connecting a building to a water supply system, a sewerage system, an underground storm drain system, or any other applicable device shall be buried or installed with a wire or an equivalent product or technology that makes the piping detectable or locatable.

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- (b) Any wire used to comply with subsection (a) of this section shall:
  - (1) be an insulated copper tracer wire that is suitable for direct burial and has an American wire gauge (AWG) of at least 10, or an equivalent product;
  - (2) be installed:
    - (i) in the same trench as the piping that connects the building to the water supply system or the sewerage system;
    - (ii) within 12 inches of the piping that connects the building to the water supply system or the sewerage system; and
    - (iii) with at least one end of the wire terminating above grade in a location that is accessible and resistant to physical damage, such as in a cleanout or next to an external wall of the building; and
  - (3) run from within 5 feet of an external wall of the building to:
    - (i) the point where the piping intersects with the water supply system or the sewerage system; or
    - (ii) the point where the sewerage system disposes of or processes the sewage.
- (c) The requirement of subsection (a) of this section with regard to replacement piping connecting a building to a water supply system or a sewerage system:
  - (1) applies only to a complete replacement of the piping; and
  - (2) does not apply to a repair or a partial replacement of the piping.

### **§12-130. Primary Contractors and Temporary Excavators**

- (a) (1) This section applies to a primary contractor that:
  - (i) performs the excavation duties for the duration of a ticket;
  - (ii) initiates the notification to the one-call system to establish a ticket;
  - (iii) is on site to supervise all activities and employees; and

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- (iv) intends to utilize services or equipment of a temporary excavator.
- (2) For purposes of this section, a primary contractor does not include a private homeowner that intends to hire a temporary excavator.
- (b) A primary contractor:
  - (1) shall:
    - (i) notify the one-call system when a temporary excavator is to begin work under the ticket;
    - (ii) inform the temporary excavator of the exact scope of work as detailed on the existing ticket;
    - (iii) directly supervise the on-site activities of the temporary excavator; and
    - (iv) assume all liability if damage should occur to an underground facility by any person named as a temporary excavator on the existing ticket; and
  - (2) may name only one temporary excavator for the duration of the ticket.
- (c) (1) A temporary excavator may be:
  - (i) a piece of rental equipment and its operator;
  - (ii) an excavation contractor that is not an employee of the primary contractor; or
  - (iii) an equipment operator that is not a direct employee of the primary contractor.
- (2) The designated temporary excavator shall notify the one-call system with the associated ticket number to verify that the excavator has been hired to work for the primary contractor.

### **§12-131. Non-Excavation Tickets**

- (a) In connection with a project that may require excavation or demolition, a person may initiate a nonexcavation designer ticket request by notifying the one-call system serving the geographic area covering the planned project in accordance with this section.

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- (b) (1)** In connection with a project that may require excavation or demolition, a person initiating a nonexcavation designer ticket request under this section:
- (i)** may initiate only one ticket request for a single project by notifying the one-call system serving the geographic area covering the planned project; and
  - (ii)** shall, in connection with a nonexcavation designer ticket request:
    1. indicate that the request is for design purposes only and may not be used for the purpose of excavation or demolition;
    2. notify the one-call system of any owner-members from which the person does not require underground facilities information; and
    3. on the request of an owner-member, provide the owner-member with a preliminary drawing that indicates the scope of the project.
- (2)** The one-call system shall provide the person requesting a nonexcavation designer ticket an accurate means of contact for each underground facility within 2 business days.
- (3)** Each underground facility owner shall maintain current valid contact information with the one-call system for persons to contact.
- (c) (1)** Within 15 business days after receiving notice from a one-call system that a person has made a request under this section, an owner-member of an underground facility in the area of the project shall notify the person of the type and approximate location of the underground facility.
- (2)** An owner-member may provide notice of the approximate location of an underground facility through the use of:
- (i)** field locates;
  - (ii)** maps;
  - (iii)** surveys;
  - (iv)** installation records; or

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- (v) other similar means.
- (d) In the case of an obstruction caused by a suspected cross-bore:
  - (1) the person intending to remove the obstruction shall notify the one-call center and request a nonexcavation ticket for a suspected cross-bore which will be transmitted to all pertinent owner-members in the geographic area indicated for that ticket; and
  - (2) each owner-member shall take whatever action it considers necessary to respond to this notification.
- (e) (1) Information provided to a person requesting marking under this section is for informational purposes only.
  - (2) An owner-member or agent of an owner-member may not be held liable for any inaccurate information provided to a person under this section.

### **§12-134. Injunctive Actions**

- (a) To stop or prevent a negligent or unsafe excavation or demolition, an owner or the Attorney General may file an action for a writ of mandamus or injunction in a court of competent jurisdiction in Baltimore City or the county in which the excavation or demolition is being performed or is to be performed or in which the person resides or has its principal place of business, if the person:
  - (1) is performing an excavation or demolition in a negligent or unsafe manner that has resulted in or is likely to result in damage to an underground facility; or
  - (2) is intending to use procedures to carry out the excavation or demolition that are likely to result in damage to an underground facility.
- (b) (1) To make its judgment or processes effective, the court may join as parties any persons necessary or proper.
  - (2) If appropriate, the court shall issue a final order granting the injunction or writ of mandamus.

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### **§12-135. Civil Penalties**

- (a) (1) A person that performs an excavation or demolition without first providing the notice required under **§ 12-124(a)** of this subtitle is deemed negligent and is subject to a civil penalty assessed by the Authority.
- (2) The Authority shall calculate the civil penalty considering:
- (i) the severity of the violation;
  - (ii) the intent and good faith of the violator; and
  - (iii) the past history of violations.
- (3) The civil penalty may not exceed:
- (i) \$2,000 for the first offense; and
  - (ii) \$4,000 for each subsequent offense.
- (4) A person that violates any other provision of Part IV of this subtitle is subject to a civil penalty assessed by the Authority not exceeding:
- (i) \$2,000 for the first offense; and
  - (ii) \$4,000 for each subsequent offense.
- (5) Instead of or in addition to assessing a civil penalty under this subsection, the Authority may:
- (i) Require that a person:
    1. Participate in damage prevention training; or
    2. Implement procedures to mitigate the likelihood of damage to underground facilities; or
  - (ii) Impose other similar measures.
- (6) (i) For purposes of paragraphs (3)(ii) and (4)(ii) of this subsection, the Authority may not consider an offense to be a subsequent offense if the offense occurred at least 3 years after the earlier offense unless:
1. the earlier offense is unresolved, regardless of the age of the earlier offense; or
  2. the person has not met the conditions of an assessed penalty within the time period prescribed.

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- (ii) In the case of an unresolved earlier offense or a failure to meet the conditions under subparagraph (i) of this paragraph, the Authority may assess up to double the maximum civil penalty for each violation.
- (7) A person that fails to appear before the Authority without cause, after proper notification of a scheduled hearing, may be subject to a \$200 fine in addition to any civil penalty assessed by the Authority.
- (8) A person that files an emergency ticket that does not meet the definition of emergency under § 12-101 of this subtitle may be subject to the maximum penalties available under this subsection.
- (b) (1) This subsection applies if a proceeding has not been initiated before the Authority.
- (2) A court of competent jurisdiction may assess a civil penalty of up to 10 times the cost of repairs to the underground facility caused by the damage, dislocation, or disturbance against a person that has committed a subsequent offense under subsection (a)(1) of this section.
- (3) An action to recover a civil penalty under this subsection shall be brought by an owner of a damaged, dislocated, or disturbed underground facility or the Attorney General in a court of competent jurisdiction in Baltimore City or the county in which the damage, dislocation, or disturbance occurred.
- (4) The party bringing an action under this subsection may recover reasonable attorney's fees.
- (c) The Authority may not assess a civil penalty under subsection (a)(3)(ii) of this section if an action to recover a civil penalty has been brought under subsection (b) of this section.
- (d) All civil penalties recovered under this section shall be paid into the Fund.

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## **§ 1926.650 - Scope, application, and definitions applicable to this subpart.**

- (a) Scope and application. This subpart applies to all open excavations made in the earth's surface. Excavations are defined to include trenches.
- (b) Definitions applicable to this subpart (refer to Web site for definitions).

## **§ 1926.651 - Specific excavation requirements.**

- (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.
- (b) Underground installations.
  - (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.
  - (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.
  - (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.
  - (b) (4) While the excavation is open, underground installations shall be protected, supported or removed as necessary to safeguard employees.
- (c) (2) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

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- (d) Exposure to vehicular traffic. Employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high-visibility material.
- (e) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with 1926.601(b)(6), to provide adequate protection for the operator during loading and unloading operations.
- (f) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.
- (h) Protection from hazards associated with water accumulation.
- (h) (1) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.
- (h) (2) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.
- (h) (3) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area

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adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with paragraphs (h)(1) and (h)(2) of this section.

- (i) Stability of adjacent structures.
- (i) (1) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.
- (i) (2) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:
  - (i) (2) (i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or
  - (i) (2) (ii) The excavation is in stable rock; or
  - (i) (2) (iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or
  - (i) (2) (iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.
- (i) (3) Sidewalks, pavements and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.
- (j) Protection of employees from loose rock or soil.
- (j)(1) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.
- (j) (2) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2

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feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(k) Inspections.

(k)(1) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard-increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(k) (2) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(l) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with 1926.502(b) shall be provided where walkways are 6 feet (1.8 m) or more above lower levels.

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Division V. Local Business Affairs

Title 34. Public Utilities

Subtitle VII. Miscellaneous

Chapter 27. Underground Facilities Protection

# NOTES

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