

2012 District of Columbia Code

Chapter 27

Underground Facilities Protection (Section 34-2701 to Section 34-2709)

Section 34-2701 — Definitions

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2012 District of Columbia Code
Section 34-2701

Definitions

For the purposes of this chapter:

- (1) The terms “demolition” or “demolish” mean any operation by which a structure or mass of material is wrecked, razed, moved, or removed by means of any tool, equipment, or explosive.
- (2) The terms “excavate” or “excavation” mean any operation in which earth, rock, or other material in or on the ground is moved, removed or otherwise displaced by means of any tool, equipment, or explosive, and include but are not limited to grading, trenching, digging, ditching, drilling, boring, augering, tunnelling, scraping, cable or pipe plowing and driving, wrecking, razing, moving, or removing any structure or mass of material.
- (3) The term “one-call center” means any organization among the purposes of which is to notify 2 or more public utility operators of planned excavation activities or demolition in a specified area.
- (4) The term “person” means any individual, firm, joint venture, partnership, corporation, association, agency of the District of Columbia government, or other governmental body or authority, except the United States government, and shall include any trustee, receiver, assignee, or personal representative thereof.
- (5) The term “public utility operator” means a person, agency or instrumentality of the District of Columbia government, who supplies or transports any of the following materials or services by means of a utility line or conduit:
 - (A) Gas of any kind, including flammable, toxic, or corrosive gas;
 - (B) Liquids, including coal slurry, petroleum, petroleum products, or other hazardous liquids;
 - (C) Electric energy;
 - (D) Communication services;
 - (E) Sewage disposal and drainage;
 - (F) Water; or
 - (G) Steam.
- (6) The term “underground facility” means any item of personal property which is buried or placed below ground, or submerged for use in connection with the storage or conveyance of water, sewage, electronic, telephonic, or teletype communications, electric energy, oil, gas, or other substances, and shall include, but not be limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles located below the ground.
- (7) The term “utility line” means any cable, pipeline, or other conduit installed underground by which a public utility operator furnishes materials or services.

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 2, 28 DCR 264; Apr. 20, 1999, D.C. Law 12-264, § 48, 46 DCR 2118; May 23, 2000, D.C. Law 13-114, § 2(a), 47 DCR 1993.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1701.

Effect of Amendments

D.C. Law 13-114 in subd. (5) rewrote the introductory text which previously read:

“The term ‘public utility operator’ means a person, other than an agency of the District of Columbia, who supplies or transports any of the following materials or services by means of a utility line:”; and rewrote subpar. (B), which previously read:

“(B) Liquids other than water, including such liquids as coal slurry, petroleum, petroleum products, or other hazardous liquids;”; and following “(G) Steam”, deleted “Except, that the District of Columbia government shall not be included.”

Temporary Addition of Section

For temporary (225 day) addition, see § 2 of Utility Line Temporary Act of 2008 (D.C. Law 17-301, March 20, 2009, law notification 56 DCR 3012).

Emergency Act Amendments

For temporary (90 day) provisions, see § 2 of Utility Line Emergency Act of 2008 (D.C. Act 17-568, November 3, 2008, 55 DCR 12110).

For temporary (90 day) provisions, see § 2 of Utility Line Congressional Review Emergency Act of 2009 (D.C. Act 18-14, February 23, 2009, 56 DCR 1932).

Legislative History of Laws

Law 3-129 was introduced in Council and assigned Bill No. 3-240, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-338 and transmitted to both Houses of Congress for its review.

Law 12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

Law 13-114, the “Underground Facilities Protection Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-278, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on January 4, 2000, and February 1, 2000, respectively. Signed by the Mayor on February 18, 2000, it was assigned Act No. 13-267 and transmitted to both Houses of Congress for its review. D.C. Law 13-114 became effective on May 23, 2000.

Current through September 13, 2012

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2012 District of Columbia Code
Section 34-2702

Formation and operation of 1-call center

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

(b) All agencies or instrumentalities of the District of Columbia, including the Water and Sewer Authority, owning, leasing, maintaining, or otherwise possessing an interest in underground facilities shall join and participate in the one-call center. The name and address of each District agency or instrumentality participating in the operation of the one-call center shall be included in the list transmitted by the one-call center to the District of Columbia Department of Public Works.

(c) The one-call center shall be referred to as District One Call, abbreviated for convenience purposes as "DOC".

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 3, 28 DCR 264; May 23, 2000, D.C. Law 13-114, § 2(b), 47 DCR 1993.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1702.

Effect of Amendments

D.C. Law 13-114 designated the existing text as subsec. (a), and added subsecs. (b) and (c).
Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

For Law 13-114, see notes following § 34-2701.

Transfer of Functions

The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

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2012 District of Columbia Code
Section 34-2703

Availability of permit drawings

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

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 4, 28 DCR 264.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1703.

Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

For Law 13-114, see notes following § 34-2701.

Transfer of Functions

The functions of the Department of Transportation were transferred to the Department of Public Works by Reorganization Plan No. 4 of 1983, effective March 1, 1984.

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2012 District of Columbia Code
Section 34-2704

Notification prior to excavation

- (a) Except as provided in § 34-2709, no person shall excavate in a street, highway, public space, or on private property, or demolish a building without first notifying, by telephonic or teletype, at least 48 hours, but not more than 10 days (excluding Saturdays, Sundays, and legal holidays), prior to the commencement of the proposed excavation or demolition, each public utility operator which may have underground facilities in the area of the proposed excavation. Such telephonic or teletype notification shall be accomplished by notifying the one-call center within the time limit prescribed, which shall in turn notify the appropriate public utility operators.
- (b) The telephonic or teletype notice required by subsection (a) of this section must contain the name, address, and telephone number of the person responsible for the proposed excavation or demolition, the utility job number, the planned starting date, the anticipated duration, the type of excavation or demolition work to be conducted, the location of the proposed excavation or demolition, with a maximum length per notice of 1,320 feet, and whether or not explosives are to be used.
- (c) If it is determined by a public utility operator that a proposed excavation or demolition is planned in such proximity to an underground facility that the facility may be damaged, dislocated, or disturbed, the public utility operator shall within 48 hours (excluding Saturdays, Sundays, and legal holidays) respond by marking, staking, locating, or otherwise providing the approximate location of the public utility operator's underground facilities.
- (d) When the actual excavation or demolition operation enters the immediate vicinity of an underground facility or utility line transporting natural gas, the person responsible for the excavation or demolition shall expose the underground facility or utility line by hand digging; provided, that a test pit hand dug by the District government, which locates the utility line, shall meet the requirements of this subsection. For purposes of this subsection, the immediate vicinity of the underground facility or utility line shall be defined as a space within 18 inches from the nearest point on the underground facility.
- (e) If the public utility operator, notified by the one-call center, determines that its underground utility lines or facilities will not be affected by the excavation or demolition, the public utility operator shall advise the person who proposes to excavate or demolish that marking is unnecessary.
- (f) No person shall begin excavation prior to the notification of each public utility operator through the one-call center, or prior to the marking required by this section, or prior to the determination by the public utility operator that marking is unnecessary.
- (g) The notification through the one-call center is valid for 15 days excluding Saturdays, Sundays, and legal holidays, from the time of notification to the one-call center. Three days before the end of the 15-day period, or at any time when line-location markings on the ground become illegible, the person excavating shall contact the one-call center and request the re-marking of the lines. The public utility operator shall re-mark the lines as soon as possible. However, the re-marking of the lines shall be completed within 48 hours from the time of the request.

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 5, 28 DCR 264; May 23, 2000, D.C. Law 13-114, § 2(c), 47 DCR 1993.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1704.

Effect of Amendments

D.C. Law 13-114 in subsec. (b) substituted “the location of the proposed excavation or demolition, with a maximum length per notice of 1,320 feet,” for “the location of the proposed excavation or demolition,” and added subsec. (g).

Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

For Law 13-114, see notes following § 34-2701.

Editor's Notes

Near the beginning of the first sentence of subsection (a), the reference to § 34-2709 was substituted for a reference to § 43-1710 [1981 Ed.], to correct an error in D.C. Law 3-129.

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2012 District of Columbia Code
Section 34-2705

Requirements of person responsible for excavation or demolition

- (a) In addition to the requirements of § 34-2704, each person responsible for an excavation or demolition operation shall:
- (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground facilities in and near the construction area;
 - (2) Maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, taking into account the known limit of control of such cutting edge or point as may be reasonably necessary to avoid damage to such underground facility; and
 - (3) Provide such support for underground facilities in and near the construction area, including support during backfilling operations, as may be reasonably necessary for the protection of such facilities.
- (b) If a facility is damaged, under no circumstances shall a contractor backfill an excavation without first receiving permission from the utility operator whose facility was damaged.
- (c) Nothing in this chapter shall excuse the failure to obtain a permit to excavate in public space in compliance with § 9-431.01.
- (d) Persons and operators excavating for routine maintenance, including patch-type paving, will not be required to comply with the notification and marking procedures of this chapter, if they excavate within the limits of the original excavation, and if the excavation does not exceed 12 inches in depth below the grade existing prior to said excavation.

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 6, 28 DCR 264.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1705.

Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

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2012 District of Columbia Code
Section 34-2706

Damage caused by excavation or demolition

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

(b) Each person responsible for any excavation or demolition operation that results in damage to an underground facility, permitting the escape of any flammable, toxic, or corrosive gas or liquid shall, immediately upon discovery of such damage, notify the public utility operator, the Metropolitan Police Department, and the District of Columbia Fire Department, and shall take any other action which may be reasonably necessary to protect persons and property.

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 7, 28 DCR 264.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1706.

Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

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2012 District of Columbia Code
Section 34-2707

Liability for damages; civil penalty

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

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

(c) Any person who violates any provision of this chapter shall be subject to a civil penalty of \$2,500 for the first violation, \$3,500 for the second violation, and \$5,000 for the third or subsequent violation. Action to recover the civil penalties provided for in this section shall be brought by the Corporation Counsel of the District of Columbia in the Superior Court of the District of Columbia. All penalties recovered from such action, including reasonable attorney's fees, shall be paid into the General Fund of the District of Columbia.

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 8, 28 DCR 264; May 23, 2000, D.C. Law 13-114, § 2(d), 47 DCR 1993.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1707.

Effect of Amendments

D.C. Law 13-114 in subsec. (c) substituted “of \$2,500 for the first violation, \$3,500 for the second violation and \$5,000 for the third or subsequent violation” for “not to exceed one thousand dollars (\$1,000) for each such violation”.

Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

For Law 13-114, see notes following § 34-2701.

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2012 District of Columbia Code
Section 34-2708

Mandamus or injunction

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

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 9, 28 DCR 264.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1708.

Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

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2012 District of Columbia Code
Section 34-2709

Emergency excavation or demolition

Compliance with the notice requirements of § 34-2704 shall not be required for an emergency excavation or demolition involving an imminent danger to life, health, or property; provided, that reasonable precautions have been taken to protect underground facilities. The appropriate public utility operators shall, in any event, be notified directly and as soon as possible. An imminent danger to life, health, or property exists whenever there is a substantial likelihood that loss of life, health, or property will result before the procedures under § 34-2704 can be fully complied with.

CREDIT(S)

(Mar. 4, 1981, D.C. Law 3-129, § 10, 28 DCR 264.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1709.

Legislative History of Laws

For legislative history of D.C. Law 3-129, see Historical and Statutory Notes following § 34-2701.

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