

**CITY OF WRENS
CODE OF ORDINANCES
TITLE 5
CHAPTER 4**

CHAPTER 4

Underground Facilities

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Sec. 5-4-1 Short title.

This chapter may be cited as the "Underground Utility Damage Prevention Ordinance".

Sec. 5-4-2 Definitions.

As used in this chapter:

- a. Damage includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, and the partial or complete severance of an underground utility.
- b. Demolish or demolition means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives.
- c. Excavate or excavation means an operation for the purpose of the movement or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and including augering, backfilling, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling, but not including the tilling of soil for agricultural purposes.
- d. Mechanized equipment means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing-in or pulling-in cable or pipe;
- e. Person means any individual, corporation, partnership, association, or any other entity organized under the laws of any state; any subdivision or instrumentality of a state; and any employee, agent, or legal representative thereof.

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- f. Utility means any line, system or facility used for producing, storing, conveying, transmitting, or distributing communication, electricity, gas, petroleum products, petroleum, hazardous liquids, water, steam or sewage.
- g. Operator means any person who owns or operates a utility.
- h. Working day means every day, except Saturday, Sunday, and national and state holidays.

Sec. 5-4-3 Excavation and demolition permits; liability.

A permit issued pursuant to law authorizing excavation or demolition operations shall not be deemed to relieve a person from the responsibility for complying with the provisions of this chapter.

Sec. 5-4-4 Compliance to chapter.

Except as provided in Section 5-4-9, no person may excavate in a street, highway, public space, private easement of an operator, or near the location of a utility installed on the premises of a customer served by such utility, or demolish a building without having first ascertained in the manner prescribed in this chapter the location of all underground utilities in the area that would be affected by the proposed excavation or demolition.

Sec. 5-4-5 Filing requirements of utility operators.

- a. Each operator having underground utilities in the City shall file with the City Clerk a list containing the name of every section within the City in which it has underground utilities (including those utilities that have been abandoned in place by the operator but not yet physically removed), the name of the operator and the name, title, address and telephone number of its representative designated to receive the written or telephonic notice of intent required by Section 5-4-6.
- b. Changes in any of the information contained in the list filed under this section shall be filed by the operator with the City Clerk within five (5) working days of the change.

Sec. 5-4-6 Notice of intent to excavate or demolish.

- a. Except as provided in Section 5-4-9, before commencing any excavation or demolition operation designated this chapter, each person responsible for such excavation or demolition shall serve written or telephonic notice of intent to excavate or demolish at least three (3), but not more than 10 full working days:
 - 1. on each operator which has filed a list required by Section 5-4-5 indicating that it has underground utilities located in the proposed area of excavation or demolition; or

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2. if the proposed area of excavation or demolition is served by an association provided for in Section 5-4-7, on such association and on each operator which has filed a list required by Section 5-4-5 indicating that it has underground utilities in the proposed area of excavation or demolition that is not receiving the services of the association; provided, where demolition of a building is proposed, operators shall be given reasonable time to remove or protect their utilities before demolition of the building is commenced.
- b. The written or telephonic notice required by subsection (a) must contain the name, address, and telephone number of the person filing the notice of intent, and, if different, the person responsible for the excavation or demolition, the starting date, anticipated duration, and type of excavation or demolition operation to be conducted, the location of the proposed excavation or demolition, and whether or not explosives are to be used.
- c. If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by the operators and associations notified to document compliance with the requirements of this chapter.

Sec. 5-4-7 Operator associations.

Operators may form and operate an association providing for mutual receipt of Section 5-4-6 notifications of excavation or demolition operations in a defined geographical area. An association that provides such service on behalf of operators having underground utilities within the City shall file with the City Clerk the telephone number and address of the association, a description of the geographical area served by the association, and a list of the names and addresses of each operator receiving such service from the association.

Sec. 5-4-8 Response to notice of intent to excavate or demollsh.

- a. Each operator or designated representative (including an association established in accordance with Section 5-4-7) notified in accordance with Section 5-4-6 shall, not less than two (2) working days in advance of the proposed excavation or demolition (unless a shorter period is provided by agreement between the person responsible for the excavation or demolition and the operator or designated representative), supply, by use of maps when appropriate, the following information to the person responsible for the excavation or demolition:
 1. the approximate location and description of all of its underground utilities which may be damaged as a result of the excavation or demolition;
 2. the location and description of all utility markers indicating the approximate location of the underground utilities; and
 3. any other information that would assist that person in locating and thereby avoiding damage to the underground utilities including providing adequate temporary markings indicating the approximate location of the underground utility in locations where permanent utility markers do not exist.

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- b. For purposes of this chapter the approximate location of underground utilities is defined as a strip of land at least three (3) feet wide but not wider than the width of the utility plus one and one-half (1 ½) feet on either side of the utility.

Sec. 5-4-9 Emergency excavation or demolition.

Compliance with the notice of requirements of Section 5-4-6 is not required of persons responsible for emergency excavation or demolition to ameliorate an imminent danger to life, health, or property, provided, however, that such persons give, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area (or to an association provided for in Section 5-4-7, that serves an operator) where such excavation or demolition is to be performed and requests emergency assistance from each operator so identified in locating and providing immediate protection to its underground utilities. 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 Sections 5-4-6 and 5-4-8 can be fully complied with.

Sec. 5-4-10 Precautions to avoid damage.

In addition to the notification requirements of Section 5-4-6, each person responsible for any excavation or demolition operation designated in this chapter shall:

- a. plan the excavation or demolition to avoid damage to or minimize interference with underground utilities in and near the construction area;
- b. maintain a clearance between an underground utility 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 utility; and
- c. provide such support for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities.

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Sec. 5-4-11 Excavation or demolition damage.

- a. Except as provided by 5-4-11(b), each person responsible for any excavation or demolition operation designated in this chapter that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the operator of such utility of the location and nature of the damage and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility.
- b. Each person responsible for any excavation or demolition operation designated in this chapter that results in damage to an underground utility permitting the escape of any flammable, toxic, or corrosive gas or liquid shall, immediately upon discovery of such damage, notify the operator, police and fire departments of the City, and take any other action as may be reasonably necessary to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire department personnel.

Sec. 5-4-12 Civil penalties.

Any person who violates any provision of this chapter shall be subject to a civil penalty not to exceed \$200 for each such violation. Actions to recover the penalty provided for in this section shall be brought by the City attorney, at the request of any person in the City in the jurisdiction in which the cause, or some part thereof, arose or in which the offender has its principal place of business or resides. All penalties recovered in any such actions shall be paid into the general fund of the City. This chapter does not affect any civil remedies for personal injury or property damage including underground utilities damage except as otherwise specifically provided for in this chapter.