

1 **SENATE FLOOR VERSION**

2 February 23, 2023

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 497

6 By: Paxton

7 An Act relating to the Oklahoma Underground  
8 Facilities Damage Prevention Act; amending 63 O.S.  
9 2021, Sections 142.2 and 142.8, which relate to  
10 definitions and required notice; modifying  
11 definition; updating statutory language; requiring  
12 certain information be provided within certain  
13 timeframe to underground facilities; and providing an  
14 effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 63 O.S. 2021, Section 142.2, is  
17 amended to read as follows:

18 Section 142.2. As used in the Oklahoma Underground Facilities  
19 Damage Prevention Act:

20 1. "Certified project" means a project where the public agency  
21 responsible for the public project, in consultation with the  
22 statewide one-call notification center, as part of its procedure,  
23 certifies that the project right-of-way is free and clear of  
24 underground facilities or wherein the public agency responsible for  
such project, as part of its procedure, notifies all persons  
determined by the public agency to have underground facilities

1 located within the construction right-of-way and certifies that all  
2 known underground facilities are duly located or noted on the  
3 engineering drawings for the project;

4 2. "Damage" means any impact upon or removal of support from an  
5 underground facility as a result of explosion, excavation or  
6 demolition which according to the operating practices of the  
7 operator of the underground facilities would necessitate the repair  
8 thereof;

9 3. "Demolish" means to wreck, raze, render, move or remove a  
10 structure by means of any equipment or explosive;

11 4. "Demolition" means the act or operation of demolishing a  
12 structure;

13 5. "Excavate" means to dig, compress or remove earth, rock or  
14 other materials in or on the ground by use of mechanized equipment  
15 or blasting, including, but not necessarily limited to, augering,  
16 boring, backfilling, drilling, grading, pile driving, plowing in,  
17 pulling in, trenching, tunneling and plowing; provided, however,  
18 that neither:

19 a. the moving of earth by tools manipulated only by human  
20 or animal power, except in a private or public  
21 easement or right-of-way, ~~nor~~

22 b. the moving of earth by tools manipulated only by human  
23 power for burying communication lines of a  
24 communications provider in a private or public

1 easement or right-of-way when depth is not greater  
2 than twelve (12) inches and within twelve (12) inches  
3 of a communications provider terminal,

4 c. any form of cultivation for agricultural purposes, nor  
5 any augering, dozing by noncommercial dozer operators  
6 or digging for postholes, farm ponds, land clearing or  
7 other normal agricultural purposes, ~~nor~~

8 ~~e.~~ d. routine maintenance, ~~nor~~

9 ~~d.~~ e. work by a public agency or its contractors on a  
10 preengineered project, ~~nor~~

11 ~~e.~~ f. work on a certified project, ~~nor~~

12 ~~f.~~ g. work on a permitted project, ~~nor~~

13 ~~g.~~ h. the opening of a grave in a cemetery, ~~nor~~

14 ~~h.~~ i. a solid waste disposal site which is a preengineered  
15 project, nor

16 ~~i.~~ j. any individual excavating on his or her own property  
17 and who is not in the excavating business for hire,  
18 except in a private or public easement or right-of-  
19 way,

20 shall be deemed excavation;

21 6. "Excavation" means the act or operation of excavating;

22 7. "Excavator" means a person or public agency that intends to  
23 excavate or demolish within the ~~State of Oklahoma~~ this state;

1       8. "Notification center" means the statewide center currently  
2 known as the Oklahoma One-Call System, Inc., which has as one of its  
3 purposes to receive notification of planned excavation and  
4 demolition in a specified area from excavators, and to disseminate  
5 such notification of planned excavation or demolition to operators  
6 who are members and participants;

7       9. "Operator" shall mean and include any person or public  
8 agency owning or operating underground facilities;

9       10. "Permitted project" means a project where a permit for the  
10 work to be performed must be issued by a state or federal agency  
11 and, as a prerequisite to receiving such permit, the applicant must  
12 locate all underground facilities in the area of the work and in the  
13 vicinity of any blasting and notify each owner of such underground  
14 facilities;

15       11. "Person" includes any individual, partnership, corporation,  
16 association, cooperative, trust or other entity, including a person  
17 engaged as a contractor by a public agency, but not including a  
18 public agency;

19       12. "Preengineered project" means a public project wherein the  
20 public agency responsible for such project, as part of its  
21 engineering and contract procedures, holds a meeting prior to the  
22 commencement of any construction work on such project in which all  
23 persons, determined by the public agency, in consultation with the  
24 statewide one-call notification center, to have underground

1 facilities located within the construction area of the project are  
2 invited to attend and given an opportunity to verify or inform the  
3 public agency of the location of their underground facilities, if  
4 any, within the construction area and where the location of all  
5 known underground facilities are duly located or noted on the  
6 engineering drawing and specifications for the project;

7 13. "Public agency" means the state or any board, commission or  
8 agency of the state;

9 14. "Routine maintenance" means the grading of roads and barrow  
10 or drainage ditches, the removal and replacement of pavement,  
11 including excavation relating thereto and the installation and  
12 maintenance of drainage and bridge facilities, signs, guardrails,  
13 and electrical and communications facilities in or on the public  
14 rights-of-way by a public agency; ~~and~~

15 15. "Underground facility" means any underground line, cable,  
16 facility, system and appurtenances thereto, for producing, storing,  
17 conveying, transmitting or distributing communication (including  
18 voice, video, or data information), electricity, power, light, heat,  
19 intrastate and interstate gas pipelines, as described in 49 CFR Part  
20 192.1, intrastate and interstate hazardous liquid or carbon dioxide  
21 pipelines, as described in 49 CFR Part 195.1, water (including storm  
22 water), steam, sewage and other commodities and any oil and gas  
23 pipeline located in a public right-of-way; and

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1        16. "Design" or "survey" means a notice to facility operators  
2 to provide underground facility information during the design or  
3 engineering phase of a project to mitigate potential impact to  
4 existing underground facilities.

5        SECTION 2.        AMENDATORY        63 O.S. 2021, Section 142.8, is  
6 amended to read as follows:

7        Section 142.8.    A. In addition to the notice required by  
8 Section 142.6 of this title, whenever the demolition of a structure  
9 is proposed, operators in the geographic area defined by the  
10 notification center who have a notice on file with the notification  
11 center pursuant to Section 142.3 of this title shall be given at  
12 least seven (7) business days' notice of the proposed demolition  
13 before the demolition work begins. Such notice shall be initiated  
14 by the notification center after the excavator has met local code  
15 requirements for a demolition permit. When an operator is served  
16 with notice and determines that underground facilities are within  
17 the proposed area of demolition and such facilities require  
18 additional protection, service removal or termination, the operator  
19 shall communicate this information to the excavator and by mutual  
20 agreement the operator and excavator shall determine a date to begin  
21 the demolition which shall not exceed sixty (60) business days from  
22 the original demolition notice. If a public agency determines that  
23 the structure endangers the public health or safety, then the public

1 agency may, in the manner provided by law, order the immediate  
2 demolition of the structure.

3 B. When a design or survey notice is received, operators or  
4 their designee shall provide underground facilities information  
5 within fourteen (14) calendar days from the time of the request  
6 which may include physical markings at the project site, facility  
7 mapping, or both. No excavation may take place on a design or  
8 survey notice. Operators shall provide the one-call notification  
9 center with the necessary information for notices to be sent to the  
10 appropriate person within their company or organization.

11 SECTION 3. This act shall become effective November 1, 2023.

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TELECOMMUNICATIONS  
13 February 23, 2023 - DO PASS AS AMENDED BY CS

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