

E. A utility shall accept surface-mark requests for no less than eight hours during each business day. A utility shall maintain an accurate record of all surface-mark requests and responses thereto by use of a surface-mark request log or an audio recording system which includes the following information for each request:

1. The name, address and telephone number of both the caller and the excavator if the two are not one and the same;
2. The date and time of the call;
3. The existence or nonexistence of an underground facility in the excavation site, the nature of that facility and its location; and
4. The name of the utility representative answering the call.

F. If a utility fails to provide a properly requested surface mark by the excavation date, the excavator may excavate without any surface marks. If an excavation reveals that a surface mark has been provided without reasonable accuracy or if an underground facility is found in an unmarked excavation site, the excavator may proceed, but only in a manner which avoids damage to such underground facility. Each time that an excavator discovers the location of an unmarked or improperly marked underground facility in the excavation area, the excavator shall immediately notify the affected utility.

**26.90.030
EXCAVATION DAMAGES &
EMERGENCIES**

If an excavation damages any underground facility or if contact by the excavator with an underground facility creates an emergency, the excavator shall immediately notify the utility which owns the underground facility and, in the case of an emergency, appropriate local public safety

agencies. The excavator shall take reasonable steps to protect the underground facility from further damage and to mitigate any safety hazard it may pose.

**26.90.040
LIABILITY FOR DAMAGES**

- A. Except for an initial damage to an underground facility that either was not marked after a proper request to do so or which was marked, but not with reasonable accuracy, an excavator who damages any underground facility during excavation shall be absolutely liable to the owner thereof for all costs of repair, including state department of transportation and public facilities approved overhead charges.
- B. Nothing in this section shall affect an excavator's liability for his negligence or gross negligence.

**26.90.50
REMEDIES & PENALTIES**

In addition to any other remedy or penalty provided by this chapter, any excavator who violates a provision of this chapter shall be subject to civil penalty of not less than \$50.00 and not more than \$1,000.00 per offense, or injunctive relief and a civil penalty. Upon application for injunctive relief and finding that an excavator is violating or threatening to violate any provision of this chapter, the superior court of the state shall grant injunctive relief to restrain such violation.

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**ANCHORAGE
MUNICIPAL CODE
26.90**

**DAMAGE TO
UNDERGROUND UTILITY
FACILITIES**

26.90.10 DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Absolute liability means that the Assembly has precluded all defenses to liability and has placed the entire responsibility for the damages caused upon an excavator who violates this chapter.

Business Day means a period of 24 hours which falls on any day other than a Saturday or Sunday or a municipal, state or federal holiday.

Damage means any undermining or reduction in lateral support or any severance, penetration, impairment or destruction of any underground facility or of any manmade protective coating, jacket, covering or other protective device of any underground facility.

Emergency means any condition constituting a clear and present danger to life or property.

Excavate and excavation mean any operation in which earth, rock or other material below the ground is moved or otherwise displaced by any means; road maintenance that changes the original road grade; and any demolition or movement of earth by equipment, tools or explosive device, including but not limited to auguring, backfilling, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping, trenching and tunneling.

Excavation date means the exact date of the excavation

Excavator means any person who either excavates or authorizes excavation.

One-Call notification center means a service through which a person can call one telephone number to notify all participating utilities of their

proposed excavation and request a surface marking of underground facilities within the proposed excavation area.

Reasonable Accuracy means that the surface mark for facilities less than ten feet deep is located within 24 horizontal inches of the outside dimensions of the underground facility. For facilities buried deeper than ten feet, the surface mark shall be within 30 horizontal inches from the outside dimensions of the underground facility.

Surface Mark means the use of stakes, paint or other clearly identifiable materials or markers to show the vertical projection of the subsurface location of underground facilities in accordance with the current color code of the American Public Works Association.

Underground Facility means any item buried or placed below ground for use in connection with the storage or conveyance of water or sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids or other substances, including but not limited to pipes, sewers, conduits, cables, valves, lines wires, vaults, manholes, attachments, and those parts of poles or anchors below ground.

Utility means a person who supplies any of the following by use of underground facilities for commercial or public use:

- 1.) Flammable, toxic or corrosive gas.
- 2.) Petroleum, petroleum products or hazardous liquids.
- 3.) Electricity.
- 4.) Telecommunications, including cable television.
- 5.) Sewage disposal and drainage.
- 6.) Water.
- 7.) Storm and subdrains.
- 8.) Steam or hot water.
- 9.) Slurry systems.
- 10.) Traffic signalization.
- 11.) Street Lighting.

A person who is a record owner of real property wherein are located underground facilities used solely to furnish any or all of such services or materials only to such property shall not be deemed a utility.

26.90.20 REQUEST FOR UNDERGROUND FACILITY SURFACE MARKS.

- A. Prior to starting an excavation, an excavator shall request a surface mark for the excavation site from the one-call notification center and all the other underground facility locating services listed in any telephone directory applicable to the municipality.
- B. Except for an emergency excavation, an excavator shall request surface marks from all the affected utilities not more than 15 business days and not less than 2 business days before the excavation date. If a surface mark is requested for an excavation date, the excavator shall not commence excavation prior to that date unless he again requests all required surface marks at least 2 business days prior to beginning excavation.
- C. The One-Call notification center will publish at least one telephone number in the public telephone directories published by Alaska Communication Systems and Matanuska Telephone Association. If a utility is not a member of the One-Call notification center, that utility having underground facilities shall provide at least one telephone number to be used for surface-mark request and shall provide for a publication of that telephone number in the public telephone directories published by Alaska Communication Systems and the Matanuska Telephone Association.
- D. When requested to do so in accordance with the subsections B and C of this section, a utility shall provide a surface mark for all of its underground facilities within an excavation site.