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**WHEREAS**, Section 556.107, Florida Statutes, authorizes the City, in the City's sole discretion, to enforce violations of excavators and other persons engaging in demolition who commit noncriminal infractions in accordance with such Section.

**WHEREAS**, it is in the City's best interest to prevent damage to persons or property and the interruption of services resulting from damage to underground facilities caused by excavation or demolition operations.

**NOW, THEREFORE,** BE IT ENACTED BY THE PEOPLE OF THE CITY OF TALLAHASSEE, FLORIDA:

Section 1. Section 21-7 of the Code of General Ordinances is hereby amended and shall read as follows:

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

*Damage* means the substantial weakening of structural or lateral support of any 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.

*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.

*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 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.

*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.

- 1           *Operator* means the department of underground utilities.
- 2           *Utility* means any line, system or facility used for producing, storing, conveying,  
3 transmitting, or distributing natural gas, water, reclaimed water, electricity, or sewage.
- 4           *Working day* means every day, except Saturday, Sunday and national and legal state  
5 holidays.
- 6 (b)   *Effect of excavation and demolition permits.* A permit issued pursuant to law authorizing  
7 excavation or demolition operations, shall not be deemed to relieve a person from the  
8 responsibility for complying with the provisions of this section.  
9
- 10 (c)   *Location of underground utilities.* Except as provided in subsection (f) of this section,  
11 no person may excavate in a street, highway, public space, a private easement of the  
12 operator, or near the location of a utility installed on the premises of a customer served  
13 by such utility, or demolish a building without having first ascertained in the manner  
14 prescribed in subsections (d) and (e) of this section the location of all underground  
15 utilities in the area that would be affected by the proposed excavation or demolition.  
16 The operator shall maintain a list of all underground utilities and plans or maps  
17 showing their location.
- 18 (d)   *Notice of intent to excavate or demolish.* Except as provided in subsection (f) of this  
19 section, before commencing any excavation or demolition operation designated in  
20 subsection (c) of this section, each person responsible for such excavation shall serve  
21 written or telephonic notice of intent to excavate or demolish at least three but not more  
22 than ten full working days on the operator which has a list required by subsection (c) of  
23 this section indicating that it has underground utilities located in the proposed area of  
24 excavation or demolition; or where demolition of a building is proposed, operators shall  
25 be given reasonable time to remove or protect their utilities before demolition of the  
26 building is commenced.
- 27       The written or telephonic notice required by the preceding paragraph must contain the  
28 name, address, and telephone number of the person filing the notice of intent, and, if  
29 different, the person responsible for the excavation or demolition, the starting date,  
30 anticipated duration, and type of excavation or demolition operation to be conducted,  
31 the location of the proposed excavation or demolition, and whether or not explosives  
32 are to be used.
- 33       If the notification required by this subsection is made by telephone, an adequate record  
34 of such notification shall be maintained by the operator notified to document  
35 compliance with the requirements of this section.
- 36 (e)   *Response to notice of intent to excavate or demolish.* The operator notified in  
37 accordance with subsection (d) of this section shall, not less than two working days in  
38 advance of the proposed excavation or demolition, supply, by use of maps when  
39 appropriate, the following information to the person responsible for the excavation or  
40 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 reasonably available 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 utilities in locations where permanent utility markers do not exist.
- (f) *Emergency excavation or demolition.* Compliance with the notice requirements of subsection (d) of this section 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 the operator and request emergency assistance from the operator 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 subsections (d) and (e) of this section can be fully complied with.
- (g) *Precautions to avoid damage.* In addition to the notification requirements of subsection (d) of this section, each person responsible for any excavation or demolition operation designated in subsection (c) of this section shall:
- (1) Plan the excavation or demolition to avoid damage to or minimize interference with underground utilities in and near the construction area;
- (2) 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
- (3) 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.
- (h) *Excavation or demolition damage.* Except as provided in this section, each person responsible for any excavation or demolition operation that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the operator 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. Each person responsible for any excavation or demolition operation that results in damage to an underground utility permitting the escape of natural gas shall, immediately upon discovery of such damage, notify the operator, police and fire departments, and take any other action as may be

1 reasonably necessary, to protect persons and property and to minimize the hazards until  
2 arrival of the operator's personnel or police and fire departments.

- 3  
4 (i) Penalties. Any person engaged in excavation or demolition operations in violation of this  
5 section that result in damage to an underground utility shall be liable to the operator for all  
6 damages direct and indirect and all costs of collection thereof including reasonable  
7 attorneys' fees.

- 8  
9 (j) Enforcement. This section authorizes and enables code enforcement officers, meeting  
10 the requirements of Section 2-152(b) of this Code, to enforce excavation requirements  
11 and penalties in accordance with this section, Chapter 2, including Section 2-146 and 2-  
12 154 of this Code, and the provisions of Section 556.107, Florida Statutes (2022), as it  
13 may be amended from time to time. Notwithstanding any provisions of chapter 2 of this  
14 Code, all provisions of Section 556.107 (2022), as it may be amended from time to  
15 time, are incorporated in this section as if fully set forth.

16  
17 Section 2. Conflict with other ordinances and codes. All ordinances or parts of ordinances  
18 of the Code of Ordinances of the City of Tallahassee, Florida, in conflict with the provisions of  
19 this ordinance are hereby repealed to the extent of such conflict.

20  
21 Section 3. Severability. If any provision or portion of this ordinance is declared by any  
22 court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining  
23 provisions and portions of this ordinance shall remain in full force and effect.

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25 Section 4. Effective Date: This Ordinance shall become effective immediately upon its  
26 passage.

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28 INTRODUCED in the City Commission on the 8<sup>th</sup> day of February, 2023.

29  
30 PASSED by the City Commission on the 22<sup>nd</sup> day of February, 2023.

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33 CITY OF TALLAHASSEE

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37 By: \_\_\_\_\_  
38 John E. Dailey  
39 Mayor

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42 ATTEST:

43 APPROVED AS TO FORM:

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45  
46 By: \_\_\_\_\_  
47 James O. Cooke, IV

48 By: \_\_\_\_\_  
49 Cassandra K. Jackson

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

