

# MN Statute Chapter 216 D Excavation Notice System 216D.04 City and County Responsibilities

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AMC TRANSPORTATION POLICY COMMITTEE

DECEMBER 9, 2019

PRESENTATION BY: MCEA



# What is the issue?

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- Utilities – public and private exist in the public Rights of Way
- Construction project impact utilities
- Conflicts are becoming more common
- Delays due to conflicts cost all of us money...

# Delays due to Utility Conflicts

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- Utilities do not move in a timely manner
- Utility locates not completed
- Utility company(ies) not provided enough notice/time
- Conflicts not planned for in design
- Timing and workload management

# Who pays for these delays?

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- Mixed Bag & Not always clear
- Project Owner – directly and indirectly
- Contractor
  - Impact to project schedule
  - Costs for equipment not used
  - Labor
- The public – projects extended

# Associated General Contractors (AGC) of Minnesota

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- Represent general contractors in MN
- Significant concern over this issue
- Two Tiered approach
  - Education
  - Legislation
- Education
  - Partnership with Counties and Cities

# What does this mean for Counties?

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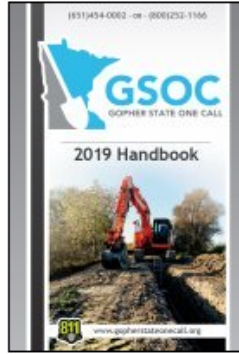
- MN Statute 216D – legal requirements that we **MUST** meet
- Education
- Two main areas of responsibility
  - Permit authority
  - Planning for an excavation

# As a Permit Authority

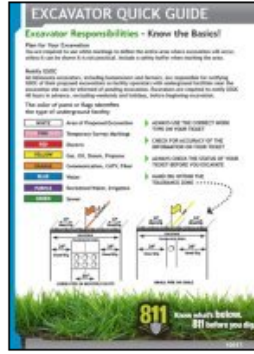
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- 216D.02 Notice to Excavator or Operator
- Subdivision 1
  - MUST display excavators and operators notice – where permits are obtained
  - Copies of portions of the statute – MUST be furnished to persons obtaining permits for excavation

<http://www.gopherstateonecall.org/resources/downloads>



2019 Handbook



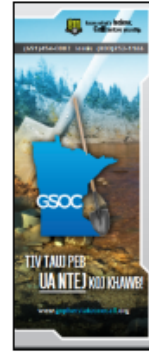
Excavator Quick Guide



Excavator Quick Guide Spanish



Homeowner Guide



Homeowner Guide - Hmong



Excavation Safety Guide



Locate Request Guide



Dig Safe Guide



ITIC NextGen Infographic



ETM - Excavator Ticket Management



LTM - Locator Ticket Management



IMAP





# When Planning for an Excavation

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- 216D.04 Excavation, Land Survey
- Subdivision 1a
- Owner **MUST** notify gopher state one call to obtain utility locations (Design Locate)
  - Operator **MUST** respond within 15 days
- ***Counties MUST do this – and document it.***
- You can request paper documents AND locate markings
- **Potential Conflict Areas?**
  - **Pothole! DO NOT ASSUME**

# When Planning for an Excavation

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- Have a bid item for potholing to further identify conflicts.
- Understand the Cities or Counties Franchise Agreements, for your rights and responsibilities.
- DOCUMENT, DOCUMENT, DOCUMENT!
  - Documents may be needed if issue arises
- DO NOT IGNORE non responsive operators
  - Make repeated requests
- If no data is received, document this on the construction plans and contact the MNOPS to file a complaint.

# When Planning for an Excavation

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- The Statute has requirements
- Design locate request info
  - MUST be in final bid documents
- Information in your bid documents must be current
  - 90 days old or newer

# When Planning for an Excavation

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- Best Practices
  - Perform secondary 15-day design request through GSOC 30 days prior to advertisement for bids.
  - The level of accuracy of the utilities should be clearly marked on all plan sheets that utilities appear on.
  - If the utility has been located by potholing – show the details
  - Consider color on their plan sheets, gas yellow, electric red, etc. Iowa DOT is using color on their plans.
  - Some project sites/locations should have a higher level of accuracy such as hospitals, airport, schools etc

# When Planning for an Excavation

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- Utility Engagement
  - You MUST have a utility meeting
    - At least one
    - Can have more
  - Communicate project design
  - Coordinate utility relocation
  - Operators MUST attend these

# When Planning for an Excavation

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- Best Practices:
- An annual meeting with all private utility company's is recommended to review a City or County's 3 – 5 year Capital Improvements Plan.
- Formalize the process to notify utilities of the upcoming work and when they need to be completed with the work. MNDOT uses “Notice and Orders” Cities and Counties should look at this process
- For complex projects more than one preliminary design meeting is recommended, for utility coordination and these meetings could be held at the start, 30%, 60% and 90% design progress phases.
- Cities and Counties should actively engage with the Utility Operators to coordinate relocation.
- If facility operators do not attend, documentation shall be placed in the project file and a second meeting should be held to assure all information is communicated and the design and/or relocation of utilities can be properly addressed.

# When Planning for an Excavation

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- Utility Engagement (Continued)
- You **MUST** conduct one or more preconstruction meetings to communicate the project design and coordinate utility relocation.
- Operators **MUST** attend these meetings.

# When Planning for an Excavation

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- Best Practices:
- If a critical facility operator does not attend, the city or county should work diligently to schedule another meeting to assure all information is communicated and the design and/or relocation of utilities can be properly addressed.
- Attendance to meeting shall be documented in your project files.
- If facility operators do not attend, document this and contact the MNOPS to file a complaint.
- Enforce Franchise Agreement rules if they exist.



# Enforcement

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- Minnesota Office of Pipeline Safety
- MS216D.08 Civil Penalties
- Subdivision 1. Penalties.
  - *A person who is engaged in excavation for remuneration... who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed by the commissioner not to exceed \$1,000 for each violation per day of violation. An operator subject to section 299F.59, subdivision 1, who violates sections 216D.01 to 216D.07 is subject to a civil penalty to be imposed under section 299F.60...*

# County Take Away

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- Statute 216D is the law
  - Counties MUST fulfill requirements
  - Scrutiny is increasing
- **Awareness is our goal – talk to your staff**
  - Educate – read the statute
  - Compliance
  - Documentation

# Resources

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- Questions?
  - Mike Mendiola, MNOPS, (651)201-7248 or [Michael.Mendiola@state.mn.us](mailto:Michael.Mendiola@state.mn.us)
  - Shelly Hanson, (WSB) CEAM, (612)219-4529 or [shanson@wsbeng.com](mailto:shanson@wsbeng.com)
  - Gerritt Bangma, (Washington County) MCEA [Gerritt.Bangma@co.Washington.mn.us](mailto:Gerritt.Bangma@co.Washington.mn.us)
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