

## Ontario One Call Schedule 1 to By-Law 3



Effective [TBD], 2022

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## PART I: DEFINITIONS

1. In By-Law 3, Schedule 1, the following terms have the following meanings:

- (a) **“360 Feedback”** means the web-based solution provided by Ontario One Call, as may be modified from time to time, by which:
  - (i) Members (or Members’ designates) used to notify Ontario One Call whenever the status of a Locate Request has changed; and
  - (ii) anyone that has made a Locate Request may utilize to ascertain the status of their Locate Request.
- (b) **“Act”** means *Ontario Underground Infrastructure Notification System Act, 2012, S.O. 2012, c. 4*, as may be amended or replaced from time to time.
- (c) **“Administrative Penalty”** means an administrative penalty imposed under section 16.2 of the Act by Ontario One Call on an Excavator or Member in accordance with Part X of these Rules and the Administrative Penalty Policy.
- (d) **“Board”** means Ontario One Call’s Board of Directors
- (e) **“Business Day”** means a day other than a Saturday, Sunday, or statutory holiday in the province of Ontario where the day that the Locate Request is transmitted to the Member and the day of the proposed Excavation are not counted in tabulating the number of Business Days.
- (f) **“By-Law No. 3”** means By-law No. 3, of Ontario One Call, as amended by Ontario One Call from time to time.
- (g) **“Clear”** means a written statement made by a Member or the Member’s designate indicating that none of its underground infrastructure in the vicinity of the proposed Excavation will be affected by the planned Excavation, or in the case of a Clear

provided by Ontario One Call on a Member's behalf pursuant to "Additional Optional Services" (Part VI of these Rules), a clear will be provided on the locate confirmation.

- (h) **"Complaint"** means a complaint about a Member or Excavator received by Ontario One Call.
- (i) **"Compliance Investigation"** means an investigation undertaken by Ontario One Call regarding a Member or Excavator's compliance with the Act, the Regulations, applicable Ontario One Call By-laws, or the Rules.
- (j) **"Confidential Information"** in section means all information relating to Ontario One Call received by the Member as a result of its membership in Ontario One Call which is not publicly available on the Ontario One Call website.
- (k) **"Dispute Resolution Policy"** means a policy approved by the Board and posted on Ontario One Call's website that establishes the mechanism by which the disputes specified therein will be resolved.
- (l) **"Emergency Locate Request"** means a Locate Request that Ontario One Call determines, in its sole discretion, satisfies the following criteria:
  - (i) the Locate Request is necessary as a result of a loss of service by a Utility;
  - (ii) in the circumstances the Utility is considered essential; and
  - (iii) the absence of the Utility service can reasonably be expected to result in:
    - a. imminent or significant safety or environmental hazards, or
    - b. imminent threat to a person or to the public.
- (m) **"Excavator"** means any individual, partnership, corporation, public agency, or other person or entity that digs, bores, trenches, grades, excavates, moves or breaks earth, rock or the materials in the ground, and "Excavation" has a corresponding meaning.

- (n) **“Fees”** means membership fees set by the Ontario One Call Board and paid monthly by Members to fund the operations and reserves of Ontario One Call, necessary to permit Ontario One Call to fulfill its obligations under the Act, Regulations, By-Laws, and Rules.
- (o) **“Locate”** means the identification of a Member’s underground infrastructure.
- (p) **“Locate Documentation”** means information provided by the Member to the Excavator consisting of, at a minimum:
- (i) the Excavation date originally requested;
  - (ii) the Locate request number;
  - (iii) a drawing depicting the location of the underground infrastructure for the Locate;
  - (iv) the date that the Member completed the Locate Request;
  - (v) the time period during which the Locate Documentation and Locate markings are valid; and
  - (vi) such other information as may be required by Ontario One Call.
- (q) **“Locate Request”** means a request by an Excavator to Ontario One Call for Locates of all underground infrastructure that may be affected by an Excavation.
- (r) **“Mapping Information”** means accurate underground infrastructure information, necessary to allow Ontario One Call to carry out its obligations under the Act, the Regulation, and the Rules, regardless of whether the infrastructure is currently in use.
- (s) **“Member”** means a Member of Ontario One Call pursuant to section 5 of the Act.
- (t) **“Ontario One Call”** means the Corporation continued under subsection 2(1) of the Act.

- (u) **“Regulation”** means Ontario Regulations made under the Act.
- (v) **“Standard Locate Request”** means every Locate Request, other than:
  - (i) a Locate Request where the Excavation relates to work pursuant to *the Building Broadband Faster Act, 2021* or which otherwise qualifies as a Dedicated Locate in the Rules; or
  - (ii) an Emergency Locate Request

## **PART II: POWER TO MAKE RULES AND POLICIES**

### **Power to Make Rules and Policies**

2. Ontario One Call shall have the power to make Rules for Members and Excavators, provided that the Rules are not inconsistent with the Act, the Regulation, and Ontario One Call By-laws. Ontario One Call may also create Policies, provided that such policies are not inconsistent with the Rules, the Act, the Regulation, and this By-Law.

### **Rules Must be Approved Annually by the Board of Ontario One Call**

3. Ontario One Call’s Rules shall be reviewed annually, along with the results of Member consultation if applicable. The Board is responsible for approving Rules on an annual basis by ordinary resolution.

### **Rules Must be Posted on Ontario One Call’s Website to Be Binding**

4. Once approved by Ontario One Call’s Board, the Rules shall be posted on Ontario One Call’s website. The Rules are effective and binding on Members and Excavators from the date they are posted and publicly available on the Ontario One Call website, until the date that a new version of the Rules is approved by the Board and posted on Ontario One Call’s website.

## **PART III MEMBERSHIP IN ONTARIO ONE CALL**

### **Designation of Members**

5. In accordance with the Act, the following entities that own or operate underground infrastructure in Ontario are Members of Ontario One Call:



- (a) Every municipality in Ontario.
- (b) Hydro One Inc., as defined in the *Electricity Act, 1998*.
- (c) Ontario Power Generation Inc., as defined in the *Electricity Act, 1998*.
- (d) Every gas distributor and every gas transmitter, as those terms are defined in the *Ontario Energy Board Act, 1998*.
- (e) Every operator of a distribution system, as defined in the *Electricity Act, 1998*.
- (f) Every person or entity regulated under the *Oil, Gas and Salt Resources Act*; and
- (g) Every person or entity that owns or operates underground infrastructure that crosses a public right of way or is in the vicinity of a public right of way.

#### **Members' Obligation to Register with Ontario One Call**

- 6. Every Member must register with Ontario One Call within [30] days of meeting the criteria for Membership in Ontario One Call.

#### **Member Acknowledgements**

- 7. Each Member acknowledges that:
  - (a) Ontario One Call has all right, title, and interest in its primary telephone number, its website, and its social media accounts;
  - (b) Ontario One Call assumes no liability for infringement of patent or copyright claims in respect of:
    - (i) equipment that was not supplied by Ontario One Call;
    - (ii) any assembly, circuit, combination, method, or process in which any of the computer systems may be used, other than as specified by Ontario One Call;
    - (iii) any compliance with the Member's detailed specifications; or

- (i) any modification of any computer system or any part thereof, unless such modification was made or authorized by Ontario One Call;
- (c) Communications may, from time to time, be partially or wholly interrupted or inaccurate as a result of a telecommunication interaction, in which case:
  - (i) Ontario One Call will execute measures and practices designed to aid the Members and to provide timely and accurate restoration of the services; and
  - (ii) Ontario One Call will not be liable for any loss or damage of any kind whatsoever arising as a result of such telecommunication interruption;
- (d) Ontario One Call does not warrant the accuracy of any information provided by an Excavator, contained in a Locate Request or otherwise, and Ontario One Call will not be liable for any loss to the Member as a result of inaccurate information provided by an Excavator; and
- (e) Ontario One Call will not be liable in any manner to a Member or any third party claim, for any losses, costs, or damages due to mapping software used by Ontario One Call in the provision of services.

**Members' Obligation to Provide Information to Ontario One Call**

8. Every Member shall, upon registration with Ontario One Call and from time to time thereafter, provide Ontario One Call with the information requested by it as specified in the Rules or as requested or deemed necessary by Ontario One Call to allow it to fulfill its obligations under the Act, Regulations, Ontario One Call By-Laws or the Rules. Members shall respond to information requests from Ontario One Call within 7 Business Days

**Members' Obligation to Pay Annual Fees to Ontario One Call and Calculation of Fees**

9. The Members will pay the fees for Services in accordance with the fee model used by the Corporation and to be provided to Members by the Corporation, as are determined from

time to time by the Board of Directors of the Corporation. Each revised set of proposed fees, and if applicable the said fee model, must be approved by the Members at either the annual general meeting or a special meeting of Members before it comes into effect. In order for such approval to occur, at least two-thirds of all Members in attendance at such a meeting (whether in person or by proxy) must pass the revised fees and/or changes to the model.

#### **Penalties and Interest on Late or Unpaid Fees by Members**

10. Ontario One Call may make Rules that impose penalties and/or interest on Members' late or unpaid Fees. Interest on unpaid fees shall not exceed 1.5% calculated monthly, which is equivalent to an annual rate of 19.56% per annum.

#### **Publication of Members' Names for Delinquent Fees, Complaints, or Compliance Issues**

11. Ontario One Call:
  - (a) may, but is not obliged to, publish the names of Members on its website accessible to the public:
    - (i) whose fees to Ontario One Call have not been paid in full by the [120<sup>th</sup>]day from the date of the invoice;
    - (ii) for any other reason, including but not limited to general statistical information;
  - (b) shall publish on its website accessible to the public for two years from the date of publication, the following information:
    - (i) information about each Member's Locate performance, including, at a minimum, the number of Locate Requests received by the Member and when those Locate Requests were completed;
    - (ii) any other information about a Member's performance providing Locates as may be prescribed by the Minister of; and

- (iii) a summary of each order imposing an Administrative Penalty, provided that such notice shall not be posted until:
  - b. the time for delivering a notice of appeal from the Administrative Penalty expires; or
  - c. if an appeal from the Administrative Penalty is commenced, the Appeal Body has made its decision.

### **Members' Obligation to Maintain Insurance**

12. Each Member shall:

- (a) maintain a policy of comprehensive general liability insurance with a minimum coverage against bodily injury and property damage caused by the negligence of the Member in an amount not less than \$2 million per occurrence or such other amount as may be required by Ontario One Call, from time to time;
- (b) provide Ontario One Call with a copy of its insurance certificate upon request to demonstrate that the Member has satisfied the requirements of this section.

### **Ontario One Call's Limitation of Liability to Members**

13. Each Member:

- (a) is solely responsible for the adequacy and accuracy of their Locates, Locate Documentation, and Clears, regardless of whether the Member fulfilled these obligations directly, outsourced these obligations to a service provider, or, with respect to Clears, relied on Ontario One Call to provide notification of the Clear on behalf of the Member;
- (b) acknowledges that Ontario One Call is not responsible for ensuring the accuracy of Locates or Clears, nor will it be held liable for any injury or damage as a result of an Excavation performed using a Locate or Clear provided by any Member or anyone on behalf of the Member; and

- (c) acknowledges that Ontario One Call is not liable to the Member for any special, indirect, or consequential damages, including but not limited to, loss of profit, loss of revenue, failure to realize expected savings, or other commercial or economic losses or damages of any kind caused by Ontario One Call's failure to meet its obligations set forth in this Schedule, the Act, the Regulation Law, or the Rules.

### **Ownership of Data**

- 14. Ontario One Call is the sole and exclusive owner of all information and data associated with its services delivered pursuant to the Act, the Regulation, the By-Law, or the Rules, other than the Member's Mapping Information.

### **Confidentiality Obligations**

- 15. Other than where a Court orders production of information, each Member and Ontario One Call will:
  - (a) keep any confidential information relating to the business affairs of any Member or Ontario One Call, obtained as a result of membership, in the strictest confidence, including ensuring any representative, affiliate, director, officer, employee or agent holds all such information in the strictest confidence;
  - (b) not use any confidential information except as required to perform its obligations under the Act, the By-Law, or the Rules; and
  - (c) keep confidential all non-published information or other data relating to Ontario One Call.

### **Right to Seek Injunction for Breach or Threatened Breach of Confidentiality**

- 16. Notwithstanding Ontario One Call's Dispute Resolution Policy, where there is a breach or threatened breach of confidentiality, Ontario One Call or a Member may seek injunctive relief from the Court to prevent the disclosure of confidential information

### **Members' Mapping and Notification Requirements**

- 17. Each Member shall:

- (a) provide Ontario One Call with accurate and up-to-date information as required in order to determine and map each Member's service area and any changes to it from time to time;
- (b) provide Ontario One Call with the Member's accurate and complete infrastructure location information necessary to maintain and complete Ontario One Call's mapping system;
- (c) provide Ontario One Call with instructions about how the Member will receive notification of Locate Requests, including a telephone number that is answered 24 hours a day, 7 days a week, to be used in the case of equipment failure, and update such instructions when necessary; and
- (d) provide Ontario One Call with such other information provided for in the Rules or as may be necessary for Ontario One Call to fulfill its obligations under the Act, the Regulations, the By-Law, or the Rules.

### **Members' Equipment Requirements and Care of Property**

18. Each Member will:

- (a) supply and maintain, at the Member's sole cost and expense, proper notification receiving equipment for communication from Ontario One Call regarding Locate Requests, including technical adequacy, back-up in the event the Member's equipment fails, and the adequate staffing to monitor and respond to Locate Requests, as required by Ontario One Call for the transmission of Locate Requests, including:
  - (i) paying the cost of installing communication lines at the Member's premises to ensure supply and maintenance of compatible receiving equipment; and
  - (ii) paying all costs associated with dedicated communication lines to receive notifications of Locate Requests, if the Member so chooses to install such facilities,

- (b) promptly notify Ontario One Call of any proposed or actual action to relocate, move or disconnect any of the Members receiving equipment;
- (c) implement any updates and changes to its equipment, software, operations, or procedures upon receipt of notice from Ontario One Call that such changes or updates will be required by a specified date; and
- (d) take proper care of any and all property owned by other Members or Ontario One Call which may be in the custody, care, or control of another Member, and be responsible for any loss or damage to any such property until it is returned to the custody, care, or control of the owner.

#### **PART IV: LOCATE REQUESTS**

##### **Categorization of Locate Requests**

19. Locate Requests shall be categorized as either a Standard Locate Request, an Emergency Locate Request, or a Dedicated Locate Request and shall be completed by the Member in accordance with the specified completion deadline by completing the Locate and providing the Locate Documentation or, where applicable, providing a Clear. Ontario One Call may also make Rules about “priority locate requests”, where such deadline shall not be mandatory.

##### **Standard - Within 5 Business Days**

20. For a Standard Locate Request, the following provisions apply:
- (a) at the time the Locate Request is submitted, the proposed Excavation must be reasonably expected to commence in greater than 5 Business Days and less than 30 Days;
  - (b) a Standard Locate Request Notification for which all necessary information has been provided will be transmitted to the Member or Member’s designate by Ontario One Call within 24 hours of receipt; and

- (a) unless the Member and the Excavator agree in writing to a different time limit, the Member shall complete a Standard Locate within 5 Business Days of receiving a Standard Locate Request Notification from Ontario One Call, unless the Member and the Excavator agree in writing to a Renegotiated Due Date prior to the expiration of the 5 Business Day deadline, in which case (subject to Rule 35 regarding Late Renegotiated Due Dates) the Renegotiated Due Date shall prevail.

**Emergency – Within 2 Hours:**

21. Where Ontario One Call has approved an Emergency Locate Request:

- (a) Ontario One Call will provide the Member with Notification of the Emergency Locate Request within 15 minutes of receipt; and
- (b) unless the Member and the Excavator agree in writing to a different time limit, the Member shall ensure that a person able to mark on the ground the location of underground infrastructure or state in writing that none of its underground infrastructure will be affected is at the site for which the locate request has been made within two hours of receiving notification of the emergency locate request.

**Dedicated Locates – Within 10 Business Days**

22. For a Locate Request that satisfies the conditions in the Act and Regulations for Dedicated Locates:

- (a) Dedicated Locates must be completed within 10 Business Days or such other deadline as prescribed in the Act and Regulations; and
- (b) Ontario One call may make Rules and policies regarding Dedicated Locates so long as those Rules and policies do not contradict the Act or applicable Regulations.

**Ontario One Call's Right to Screen and Qualify the Type of Locate Request**

23. Ontario One Call shall have the power to screen Locate Requests submitted by Excavators and determine whether the Locate Request submitted meets the criteria for a Standard or Emergency Locate Request. Ontario One Call's determination of whether a Locate



Request satisfies the criteria for a Standard or Emergency Locate is determinative and final.

### **Re-Locates**

24. Where the Member's original Locate has expired, the Member shall complete a re-Locate by replacing the markings within 5 Business Days of being notified of the need for a re-Locate.

### **Locates Must be Valid for a Minimum of 60 days**

25. A Member's Locate, including Dedicated Locates, if applicable:
- (a) must be valid for a minimum of 60 days or such other time period as may be specified by the Minister;
  - (b) may specify a Locate validity period that is longer than 60 days;
  - (c) must be updated if, before the end of the validity period, a Member becomes aware of any change to information that was provided, and, within two Business Days after becoming aware of the change, the Member shall notify:
    - (i) Ontario One Call and the Excavator for a non-Dedicated Locator Project; and
    - (ii) Ontario One Call, the Project Owner and the Dedicated Locator for a Dedicated Locator Project.

### **360 Feedback**

26. Members must notify Ontario One Call of the completed Locate by completing Ontario One Call's 360 Feedback in accordance with the deadline and completion criteria provided for in the Rules.

### **No Abuse of the Locate System by Members or Excavators**

27. No Member or Excavator, or their respective agents, will abuse the Locate system in any manner. The consequences for abusing the Locate system may be addressed in the Rules, including the penalties that may apply to such abuse by an Excavator or Member.

### **No Excavation Without a Completed Locate**

28. Under no circumstances shall an Excavator commence an Excavation unless or until the Locate has been completed, regardless of any delay in completing the Locate caused by the Member or an unforeseen circumstance such as a force majeure or Act of God.

### **Referral to Other Administrative Body and/or Publication of Non-Compliant Member or Excavator Names**

29. Where Ontario One Call deems it appropriate, it may, in accordance with the Rules, refer a Member or Excavator to another administrative or law enforcement agency and/or publish the Member's name and a summary of the Member's non-compliance with the Rules.

### **Members' Responsibility for Accuracy and Adequacy of Locates**

30. Each Member is responsible for the accuracy of its Locates, Locate Documentation, and Clears in accordance with the Rules.

### **Members' Obligation to Provide Timely, Accurate, and Complete Information**

31. With respect to each Locate Request, a Member shall ensure that:
- (a) the Locate markings at the Excavation site are clear and accurate;
  - (b) the Locate Documentation provided to the Excavator is accurate and complete and aligns with the Locate markings;
  - (c) if it determines that a Clear statement is warranted, the Clear is accurate and complete;
  - (d) all information provided by the Member into 360 Feedback is accurate and is completed by the Member or the Member's designate in accordance with the Rules.

## **PART V: OPTIONAL ADDITIONAL ONTARIO ONE CALL SERVICES**

### **Optional Additional Services**

32. Ontario One Call may, but is not obliged to:
- (a) offer Members the option of accessing Locate clearance services from Ontario One Call (e.g. system filters, secondary screening, etc.) where specified conditions are satisfied on a cost recovery basis;
  - (b) facilitate and accept agreements between a Member and a particular Excavator to clear Locates where specified conditions are satisfied; or
  - (c) offer a sewer safety inspection request service, including notification of affected Members

but in any situation where Ontario One Call provides a Member with optional additional services, the Member shall release and indemnify Ontario One Call with respect to the provision of such services.

## **PART VI: COMPLAINTS AND COMPLIANCE**

### **Rules Regarding Complaints and Compliance**

33. Ontario One Call's Rules must include the process for addressing non-compliance by Members and Excavators or complaints from third parties.

### **Members and Excavators Must Provide Information Requested by Ontario One Call**

34. Members and Excavators are required to provide Ontario One Call with accurate and timely information, upon request, where such information is necessary for Ontario One Call to fulfill its obligations under this By-Law or the Rules. This includes providing information in response to possible non-compliance by an Excavator or Member.

### **Dispute Resolution**

35. The Rules must include a Dispute Resolution Policy that provides a fair and efficient mechanism to resolve disputes that may arise after Ontario One Call has taken disciplinary action against a Member or Excavator.

## Members and Excavators Must Implement Directions of Ontario One Call

36. Subject to a Member or Excavator’s right to pursue dispute resolution in accordance with the Dispute Resolution Policy, Members and Excavators are required to implement the directions made by Ontario One Call arising out of complaints or non-compliance.

## Administrative Penalties

37. Ontario One Call’s Rules may include a process by which it may require a non-compliant Excavator or Member to pay an Administrative Penalty not exceeding \$10,000.

## Considerations in Establishing the Appropriate Administrative Penalties

38. In establishing the appropriate range for Administrative Penalties, Ontario One Call must consider the applicable criteria, if any, in the Act or applicable Regulations, as well as:

No.	Criteria
1.	<b>Severity:</b> Was the contravention minor or did it cause or create a risk to public safety or risk of financial or other potential harm to the Public, a Member’s underground infrastructure, or the integrity of the Ontario One Call system? Single instances and first time breaches where safety is not a central feature should attract lower AMAs.
2.	<b>History:</b> The Member/Excavator’s history, if any, complying or not complying with <i>Ontario Underground Infrastructure Notification System Act, 2012</i> , the Regulations thereunder, By-Laws, and the Rules.
3.	<b>Remediation</b> Any information available to Ontario One Call regarding whether the person has remedied the contravention or is in the process of remedying the contravention, and how quickly the contravention was or has been remedied.