

**CITY OF EDGEWATER**  
**ORDINANCE NO. 2015 - 01**  
**SERIES OF 2015**

**AN ORDINANCE AMENDING CHAPTER 11 OF THE EDGEWATER MUNICIPAL CODE, CONCERNING STREETS, SIDEWALKS AND PUBLIC PROPERTY, BY ADDING A NEW ARTICLE 6 THERETO, TO ESTABLISH STANDARDS AND PROCEDURES FOR THE VACATION BY THE CITY OF PUBLIC RIGHTS-OF-WAY AND EASEMENTS**

WHEREAS, pursuant to its home rule authority under Section 6 of Article XX of the Colorado Constitution, and pursuant to Article 23 of Title 31, C.R.S., the City of Edgewater, Colorado (“City”) possesses the authority to regulate the use of land within its jurisdiction; and

WHEREAS, pursuant to its home rule authority under Section 6 of Article XX of the Colorado Constitution, and pursuant to Section 31-15-101(d) C.R.S., the City possesses the authority to dispose of real property; and

WHEREAS, the City Council of the City desires to establish standards and procedures for the vacation of easements and roadways held by the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, COLORADO THAT:

Section 1. Chapter 11 of the Edgewater Municipal Code, concerning streets, sidewalks and public property, is hereby amended by the addition of a new Article 6 to read as follows:

**ARTICLE 6**

**Vacation of Property**

**Sec. 11-6-10. Declaration of policy.**

The City Council hereby finds and declares that the general policy of the City is to prohibit the vacation or divesting of any right, title or interest of the City in and to any land, including any roadway or easement. Any application for vacation pursuant to this Article may be granted only in cases where the City Council, in the exercise of its sole and exclusive discretion, first finds an overriding public interest favors the vacation.

**Sec. 11-6-20. Definitions.**

As used in this Article, unless the context otherwise requires, the following terms and words are defined as follows:

*Access easement* means any platted or designated area or public improvement dedicated to the City for the purposes of vehicular or pedestrian access or travel, whether or not it has been used as such.

*Easement* means any platted or designated easement dedicated to the City, whether or not it has been used as such.

*Roadway* means any platted or designated public street, alley, lane, parkway, avenue, road or other public way, whether or not it has been used as such.

*Vacation* means the extinguishment by ordinance of all right, title or interest of the City in and to any access easement, easement or roadway.

### **Sec. 11-6-30. Vacation by ordinance.**

(a) All right, title or interest of the City in and to any access easement, easement or roadway shall be divested only upon adoption by the City Council of an ordinance vacating such property or portion thereof located within the corporate limits of the City. If a roadway constitutes a boundary line of the City, it may be vacated only by a joint action of the City Council and the governing body of the other jurisdiction(s) within which the roadway is situated.

(b) Any ordinance effecting a vacation under this article shall contain the following findings, if applicable: (1) that no land adjoining any roadway to be vacated is left without an established public road connecting said land with another established public road; and (2) that the roadway, access easement or easement to be vacated is no longer necessary for present or prospective public use or convenience.

### **Sec. 11-6-40 Vacation application procedures.**

The following procedures shall be adhered to by any person requesting the vacation of any access easement, easement or roadway:

- (1) Attendance at a pre-application conference with the City Manager or his or her designee;
- (2) Submission to the City Manager or his or her designee of a written application that includes the following information:
  - (a) Name, address and telephone number of the applicant(s). An application submitted by multiple applicants shall designate one person from among them to serve as the primary applicant;
  - (b) Accurate legal description of the access easement, easement or roadway to be vacated;

- (c) A map showing the access easement, easement or roadway to be vacated and abutting properties. The City Manager or his or her designee may, in the exercise of his sole and exclusive discretion, require the applicant to furnish a survey of the access easement, easement or roadway to be vacated;
- (d) Names and addresses of all record owners of property adjacent to that portion of the access easement, easement or roadway to be vacated. If possible, all such record owners should sign the application for vacation;
- (e) Reasons for the requested vacation;
- (f) Certification by the applicant(s) that the statements referred to in subsection 11-6-30(b) above are true; and
- (g) Signature of the applicant(s).

**Sec. 11-6-50. Review of application.**

The City Manager or his or her designee shall review each complete application made under Section 11-6-40 above and prepare a staff report, and the City attorney shall prepare a proposed vacation ordinance. The City Council will consider the proposed vacation ordinance and render its decision either to adopt or deny the ordinance on first reading in accordance with the requirements of the City Charter with respect to the adoption of ordinances. As a prerequisite to adoption of the vacation ordinance on first reading, the City Council must first find that an overriding public interest favors the vacation. The City Council will consider the proposed vacation ordinance and render its decision either to adopt or deny the ordinance on second reading in accordance with the requirements of the City Charter with respect to the adoption of ordinances.

**Sec. 11-6-60. Notice.**

Notice of the City Council's consideration of a vacation ordinance will be given at least once prior to final adoption of the vacation ordinance by mailing written notice thereof, at least ten (10) days prior to the final adoption of the ordinance, to the record owner of each property that is adjacent to the access easement, easement or roadway for which vacation is requested.

**Sec. 11-6-70. Valuation of vacated property.**

If the City Council adopts on first reading a vacation ordinance vacating an access easement, easement or roadway, the City Manager or his/her designee will cause an appraisal to be made at the expense of the applicant(s), unless the City Manager or City Council waives the requirement for such appraisal. The appraisal will include the following information:

- (1) Valuation of the property being vacated;

- (2) Valuation of any property that may be benefitted by the vacation, valued prior to vacation;
- (3) Valuation of any property that may be benefitted by the vacation, valued after vacation; and
- (4) Any other determinations requested by the City Council.

**Sec. 11-6-80. Payment of costs.**

An applicant for vacation shall pay an application fee as set forth in the fee schedule adopted by the City Council from time to time. In addition, an applicant shall reimburse the City for any costs incurred in connection with the application or vacation proceedings including, without limitation, payment for administrative services performed by City staff members or consultants, appraisals, surveys, recording fees, documentary fees, legal services rendered to the City in connection with the application, and other customary costs in the following manner:

- (1) A development review cash deposit account shall be established at the time the vacation application is submitted to the City Manager. Such development review cash deposit account will be managed pursuant to Section 16-2-90 of this Code.

**Sec. 11-6-90. Vacation of none or portion of request.**

The City Council shall have the right, in its sole and exclusive discretion, to vacate none, or only a portion of the total area requested for vacation.

**Sec. 11-6-100 Reservation of rights-of-way or easements.**

The City Council may reserve from any vacation any right-of-way or easement for the continued use of existing or future sewer, gas, water or similar pipelines and appurtenances, for overland drainage, drainage facilities or canals and appurtenances, and for electric, cable television, telephone and similar lines and appurtenances, or any other public purpose. Notwithstanding the foregoing, the City Council is presumed to have reserved in any property vacated under this Article all necessary, useful or common easements related to underground utilities or services that were in place at the time of the vacation.

**Sec. 11-6-110. Conditions on vacation.**

The City Council, in the ordinance effecting a vacation, may impose reasonable conditions on said vacation, to preserve and promote the public health, safety and welfare of the inhabitants of the City and the public generally. Such reasonable conditions may include the payment of money to the City as consideration for a vacation when the vesting of title upon vacation may confer a benefit upon the new owner of the vacated access easement, easement or roadway, where the City has purchased or may purchase an access easement, easement or roadway to replace that being vacated, to

avoid a windfall to the new owner, or for any other reason deemed by the City Council to be in the public interest.

**Sec. 11-6-120. Recordation of vacation.**

In the event of a vacation in accordance with this Article, the documents vacating such property or interest in property, including but not necessarily limited to any ordinance, deed, conveyance document, plat or survey, shall be recorded in the office of the Clerk and Recorder of the of Jefferson County.

**Sec. 11-6-130. Preservation of access.**

No roadway or part thereof shall be vacated so as to leave any land adjoining said roadway without an established public road connecting said land with another established public road.

**Sec. 11-6-140. Vesting of title upon vacation.**

Any ordinance effecting a vacation under this Article shall state to whom title to the vacated land shall vest upon vacation. In the event that an ordinance effecting a vacation of a roadway under this Article does not so state, title to the lands included within a roadway or so much thereof as may be vacated shall vest in accordance with the provisions of C.R.S. § 43-2-302 or its successor statute.

**Sec. 11-6-150. Adjacent platted lands.**

Where title to any vacated property vests with the owner of adjacent platted land, said owner shall, within 90 days of the adoption of the ordinance effecting such vacation, take all necessary steps to include said vacated property within the plat of the adjacent land.

Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. Safety Clause. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare, and that this ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. Effective Date. This ordinance shall become effective five (5) days after final publication.



## CERTIFICATE OF PUBLICATION

STATE OF COLORADO    )  
                                  )  
CITY OF EDGEWATER    )    SS:  
                                  )  
COUNTY OF JEFFERSON)

I, Beth A. Hedberg, City Clerk, in and for said City of Edgewater, in the County of Jefferson, in the State of Colorado, do hereby certify that Ordinance 2015-01 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on February 6, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 6th day of February, 2015.

*/s/ Beth A. Hedberg, MMC*  
Edgewater City Clerk

### SUMMARIZED HISTORY FOR ORDINANCE NO. 2015-01

Action	Date
Workshopped	November 20, 2014
First Reading	January 15, 2015
Posted	January 16, 2015
Publication	January 16, 2015
Second Reading	February 5, 2015
Sent to Codifier	February 6, 2015
Posted	February 6, 2015
Publication	February 6, 2015
Enacted	February 11, 2015