

CITY OF EDGEWATER
ORDINANCE NO. 2015 - 11
SERIES OF 2015

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF ARTICLE 3 OF CHAPTER 11 OF THE EDGEWATER MUNICIPAL CODE, CONCERNING EXCAVATIONS IN STREETS, ALLEYS, SIDEWALKS AND OTHER PUBLIC PLACES WITHIN THE CITY

WHEREAS, pursuant to its home rule authority under Sec. 6 of Article XX of the Colorado Constitution, the City of Edgewater, Colorado ("City") possesses the authority to regulate the excavation of City streets, alleys, sidewalks and other public places and the restoration of the same after excavation; and

WHEREAS, pursuant to this authority, the City previously adopted standards and requirements related to such excavation and restoration activities that are codified as Article 3 of Chapter 11 of the Edgewater Municipal Code ("Code"); and

WHEREAS, the Council, after taking into consideration the recommendations of City staff, and all other information it deems prudent, now desires to adopt certain amendments to such regulations.

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

Section 1. Section 11-3-60 of the Code, concerning the protection of property during excavation work, is hereby amended as follows:

Sec. 11-3-60. Property protection.

Trees, fences, mailboxes, poles, existing pavement surrounding the excavated area and all other property in the area of the excavation activity shall be protected unless their removal is authorized by the City Engineer, and property damaged or removed shall be restored to the reasonable satisfaction of the City Engineer.

Section 2. Article 3 of Chapter 11 of the Code, concerning excavations in public streets, alleys, sidewalks and other public areas, is hereby amended by the addition of a new Section 11-3-70 to read as follows:

Sec. 11-3-70. Restrictions related to size and age of streets and alleys.

(a) No excavation work may be performed, and no permit shall be issued under Division 2 of this Article for such work, within any portion of a street or alley that has been newly paved, resurfaced or reconstructed in the three (3) years preceding the proposed commencement of the

excavation work. Emergency work is excepted from the prohibition set forth in this subsection.

(b) For purposes of subsection (a) above, “emergency work” means excavation work within streets and alleys that are less than three (3) years of age when such work is necessary to extend and provide new or expanded utility service(s) to newly-constructed structures and facilities, to provide expanded utility service(s) to expanded structures and facilities and to restore existing utility service(s) to existing structures and facilities.

(c) Any person performing emergency work pursuant to subsection (b) above shall apply for and obtain an excavation permit as required by Section 11-3-220 of this Article. Application for such work shall be made prior to commencement of the work, if practicable; when not practicable, such application shall be made the next business day following commencement of the work.

(d) Excavation work that results in the disturbance of at least three percent (3%) of the area of the original paved surface of street or alleyway measuring one block, as measured from the nearest point of the street or alleyway intersection at one end of the block to the nearest point of the street or alleyway intersection at the other end of the block, shall require the restoration and resurfacing of the entire street or alleyway within such block upon completion of the work.

Section 3. Subsection 11-3-120(a) of the Code, concerning trench maintenance, is hereby amended as follows:

Sec. 11-3-120. Trench maintenance.

(a) The permittee under this Article shall, for a period of one (1) year after final acceptance of the work, warrant the materials and workmanship used for the excavation, backfilling and resurfacing work performed by it to be free from material defects and shall maintain and repair any trench settlement which may occur and make suitable repairs to any sidewalk, resurfacing or other structure which may have become damaged as a result of the backfill settlement.

Section 4. Section 11-3-130 of the Code, concerning the restoration of excavated streets, alleys, sidewalks and public places, is hereby amended as follows:

Sec. 11-3-130. Restoration.

Permanent restoration shall be performed by the City and the actual costs incurred by the City for such work shall be deducted from the deposit filed with the permit application pursuant to Section 11-3-250(b) of this Article. In the event such deposit is insufficient to reimburse the City's

actual costs, the City shall invoice the permittee for any such remaining outstanding costs and the permittee shall timely remit payment of the same to the City. All excavations that are made in a public right-of-way must be completely restored within seven (7) days subsequent to acceptance of backfill by the City Engineer.

Section 5. Section 11-3-220 of the Code, concerning excavation permit applications, is hereby amended as follows:

Sec. 11-3-220. Application.

An application for an excavation permit shall be made upon a form provided by the City Clerk and shall include a vehicular and pedestrian traffic control plan that meets the requirements set forth in sections 11-3-20(a) and 11-3-40(e) of this article, a statement of the exact location, depth, extent and nature of the excavation desired to be made, the purpose for which the privilege is requested, ~~and the duration of time required for the work, and a list of the owners of all property contiguous to those portions of a street, alley or sidewalk for which vehicular or pedestrian traffic flow and/or access is proposed to be altered under the applicant's submitted traffic control plan. The City Clerk shall use said list to provide timely notice to all such owners of excavation work performed pursuant to a permit issued under this Article.~~

Section 6. Section 11-3-250 of the Code, concerning excavation permit fees, is hereby amended as follows:

Sec. 11-3-250. Fee; Deposit.

(a) The fee to be paid for an excavation permit authorizing street cuts in asphaltic and/or concrete pavement shall be set forth in the fee schedule adopted by the City Council from time to time.

(b) The applicant for an excavation permit shall also deposit with the City an amount equal to the City Engineer's reasonable estimate of the City's costs to perform the permanent restoration work required by Section 11-3-130 of this Article.

Section 7. Section 11-3-260 of the Code, concerning the bond required as a part of an excavation permit application, is hereby amended as follows:

Sec. 11-3-260. Bond.

The applicant for an excavation permit shall furnish a good and sufficient bond, in an amount equal to the City Engineer's reasonable estimate of the costs of completing any unfinished work within the scope of the permit and of repairing any defective work performed by the permittee restoration of any excavation, but in no event less than ten thousand dollars

(~~\$10,000.00~~), with a surety to be approved by the City. The bond is to be a general obligation bond of such licensee or applicant made payable to the City to assure full compliance with the laws and regulations of the City by such licensee or applicant. The obligation of the surety shall be in full force and effect until the work within the scope of the permit excavation and restoration has been completed and approved by the City Engineer. Any part of the foregoing requirements notwithstanding, no bond shall be required of any applicant if the excavation is solely for the purpose of the repair or reconstruction of a sidewalk that is adjacent to a residential property.

Section 8. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined to be invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining sections or provisions of this Ordinance, it being the intent of the City Council of the City of Edgewater that such invalid or unenforceable provisions are severable.

Section 9. 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 10. Effective Date. This ordinance shall become effective in accordance with the Home Rule Charter of the City of Edgewater.

INTRODUCED, READ, PASSED ON FIRST READING AND ORDERED PUBLISHED this 16th day of July, 2015.

/s/ Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED this 6th day of August, 2015.

/s/ Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

APPROVED AS TO FORM:

/s/ Thad Renaud, City Attorney

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 2015-11 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on July 17, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 17th day of July, 2015.

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

CERTIFICATE OF PUBLICATION

STATE OF COLORADO)
)
CITY OF EDGEWATER) SS:
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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 2015-11 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on August 7, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 7th day of August, 2015.

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

SUMMARIZED HISTORY FOR ORDINANCE NO. 2015 - 11

Action	Date
Workshopped	June 4, 2015
First Reading	July 16, 2015
Posted	July 17, 2015
Publication	July 17, 2015
Second Reading	August 6, 2015
Sent to Codifier	August 7, 2015
Posted	August 7, 2015
Publication	August 7, 2015
Enacted	August 12, 2015