

CITY OF EDGEWATER
ORDINANCE NO. 2015 - 15
SERIES OF 2015

AN ORDINANCE REPEALING ORDINANCE NO. 2015 - 01 AND 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, by Ordinance No. 2015 - 01, the City Council adopted amendments to said Article 3 of Chapter 11 that erroneously contained references to Code section numbers that had previously been repealed; and

WHEREAS, additionally, the City Council finds that certain amendments contained in Ordinance No. 2015 - 01 are more appropriately contained in the excavation standards promulgated by the City Engineer pursuant to Code Section 11-3-10; and

WHEREAS, the City Council now therefore desires to repeal Ordinance No. 2015 - 01 and to re-adopt certain portions thereof with up-to-date references to existing Code section numbers in the interest of clarifying the purpose, intent and desired effect of prior legislation concerning excavations.

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

Section 1. Ordinance No. 2015 - 01 is hereby repealed in its entirety.

Section 2. 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 3. 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 4. 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 11-3-80 to read as follows:

Sec. 11-3-80. Permanent restoration work – costs.

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.

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 11-3-80 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 1st day of October, 2015.

/s/ Bonnie McNulty, Mayor

ATTEST:

/s/ Elizabeth A. Hedberg, MMC
City Clerk

PASSED AND ADOPTED ON SECOND READING AND ORDERED PUBLISHED this 5th day of November, 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 2015-15 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on October 2, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 2nd day of October, 2015.

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

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 2015-15 was published in full on the City website in accordance with Section 1-3-50 of the Edgewater Municipal Code on November 6, 2015. In witness whereof, I have hereunto set my hand and the seal of the City of Edgewater, this 6th day of November, 2015.

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

SUMMARIZED HISTORY FOR ORDINANCE NO. 2015-15

Action	Date
First Reading	October 1, 2015
Posted	October 2, 2015
Publication	October 2, 2015
Second Reading	November 5, 2015
Sent to Codifier	November 6, 2015
Posted	November 6, 2015
Publication	November 6, 2015
Enacted	November 11, 2015