

12.10.103: UNDERGROUND DAMAGE PREVENTION SAFETY PROGRAM:

There is hereby established the Colorado Springs Underground Damage Prevention Safety Program within Utilities. The Chief Executive Officer will appoint a Program Manager. The Program Manager will:

A. Collaborate with the underground damage prevention safety commission existing within the Colorado Department of Labor and Employment, the notification association and other state agencies to develop best practices and training to prevent damage to underground utilities.

~~B. Review complaints alleging violations of this article and order appropriate remedial action or penalties~~**Enforce rules and regulations regarding this Underground Damage Prevention Safety Program promulgated by the Chief Executive Officer pursuant to City Code section 12.1.110.**

C. Establish best practices for excavators.

~~D. Serve as the utility enforcement officer for violations of this article~~**Review complaints alleging violations of this article.**

E. Investigate or cause to be investigated allegations of violations of this article;

F. Serve as the utility enforcement officer for violations of this article and rules and regulations regarding this Underground Damage Prevention Safety Program promulgated by the Chief Executive Officer pursuant to City Code section 12.1.110, and order appropriate remedial action or penalties.

G. Adopt all forms necessary to operate and enforce this Underground Damage Prevention Safety Program.

(Ord. 20-70 1)

Notes

1 1. January 1, 2021 is the effective date of Ordinance 20-70.

12.10.105: VIOLATIONS:

A. It shall be a violation of this article to willfully or maliciously remove a marking used by an owner or operator to mark the location of any underground facility, except in the ordinary course of excavation.

B. It shall be a violation of this article for any person to excavate without first obtaining locates for underground facilities.

C. It shall be a violation of this article for any person to excavate in a manner inconsistent with the requirements of this article.

D. It shall be a violation of this article for any owner or operator of underground facilities to fail to locate its underground facilities in accordance with this article **or any rule regarding the Damage Prevention Safety Program promulgated by the by the Chief Executive Officer.**

(Ord. 20-70 1)

Notes

¹ 1. January 1, 2021 is the effective date of Ordinance 20-70.

12.10.106: COMPLAINTS AND ENFORCEMENT:

A. The Program Manager will investigate all complaints and alleged damage. The Program Manager may receive complaints from any person who observes or identifies a violation or evidence of a violation of this article, or any rule promulgated by the Chief Executive Officer regarding the Damage Prevention Safety Program or it may receive a complaint from the Colorado Underground Damage Prevention Safety Commission. The Program Manager may also identify violations as a result of a damage investigation involving damaged underground facilities. The Program Manager will characterize the violations as minor, moderate or major. If violations are found, the Program Manager will issue a notice of violation that is personally served whenever feasible and states with particularity the nature of the violation, the facts giving rise to the violation, any fines, penalties, or damages to be imposed, and that the recipient of the notice has the right to appeal the notice of violation by written application within ten (10) days of the date of service of the notice of violation. Upon receipt of a written application requesting an appeal hearing, the Program Manager shall schedule a hearing with a hearing officer to occur within thirty (30) days of the date of receipt of the written application requesting the appeal. Any party adversely affected by the decision of a hearing officer may appeal that decision to the District Court in and for El Paso County, Colorado, pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure.

B. The Program Manager may recommend to the City Engineer that the party's excavator's permit issued pursuant to City Code section 3.3.202 be suspended or revoked and notify the City Clerk.

C. In addition to penalties, the Program Manager may require any person found to be in violation of this article to take an excavation safety training class.

D. Penalties and damages for violation of this article shall be as set forth in Colorado Revised Statutes sections 9-1.5-104.4 and 9-1.5-104.5. (Ord. 20-70 1)

Notes

¹ 1. January 1, 2021 is the effective date of Ordinance 20-70.