

ORDINANCE NO. 23-\_\_\_\_\_

AN ORDINANCE AMENDING SECTIONS OF ARTICLE 1 (GENERAL PROVISIONS) OF CHAPTER 12 (UTILITIES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED

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

Section 1. Article 1 (General Provisions) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

12.1.110: ADOPTION OF UTILITIES ENTERPRISE POLICIES, ~~AND~~ SERVICE STANDARDS, **AND RULES AND REGULATIONS:**

\* \* \*

B. Service Standards And Specifications; **Rules And Regulations:**

1. Power And Authority: The Chief Executive Officer shall have the power and authority to promulgate service standards and specifications **and rules and regulations** consistent with the Charter and this Code, subject to the following guidelines:

\* \* \*

**h. Underground Damage Prevention Safety Program: Underground damage prevention safety program rules and regulations necessary to operate and enforce the Underground Damage Prevention Safety Program detailed in City Code Chapter 12, Article 10, shall pertain to, but shall not be limited to, the following: 1) governing excavations near and around underground utility infrastructure; 2) protecting persons and underground utility infrastructure from non-emergency excavation work; and 3) damage reporting requirements.**

2. Delegation Of Authority: The Chief Executive Officer by Utilities Enterprise Policies may delegate authority to staff reporting to the Chief Executive Officer to adopt service standards and specifications **and rules and regulations** for each respective department and other operational units.

3. \* \* \*

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c. Preproposal: When promulgation of service standards and specifications **or rules and regulations** is contemplated, the Chief Executive Officer is encouraged, but not required, to provide an opportunity to interested persons to participate informally in conferences on proposals under consideration.

d. Notice: Notice of proposed adoption of service standards and specifications **or rules and regulations** proposed by the Chief Executive Officer shall be published in at least one newspaper of general circulation within the City at least fifteen (15) days and no more than thirty (30) days prior to the date set for final adoption of the proposed service standards and specifications. The notice shall include: 1) an explanation of the proposed service standards and specifications **or rules and regulations**; 2) the proposed adoption and effective dates; 3) a statement that a copy of the proposed service standards and specifications **or rules and regulations, as applicable,** are on file and open for public inspection in the Office of the Chief Executive Officer; 4) designation of the public comment period and the means to provide the comment; and 5) opportunity and manner to request a public hearing. If any material is to be incorporated by reference in the proposed service standards and specifications **or rules and regulations**, the material shall be identified in the notice by date, title and citation. On or before the day the notice of proposed adoption is published, the Chief Executive Officer shall mail the notice to all persons on the list.

e. \* \* \*

f. Public Hearing: The Chief Executive Officer may grant a public hearing if requested by a member of the public if a significant controversy of public import has arisen regarding the proposed service standards and specifications **or rules and regulations.**

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### 12.1.115 ABATEMENT OF IMMEDIATE HAZARDS

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#### C. Abatement of Imminent Hazards

1. Notwithstanding any other provisions of this chapter to the contrary, if the Chief Executive Officer certifies in writing that an imminent hazard exists, and which requires immediate action in order to protect the public health, safety and welfare, he/she may issue an order to the owner, agent~~ey~~ of the owner, ~~or~~ occupant of property upon which the imminent hazard exists, **or entity causing the imminent hazard**, stating that the imminent hazard exists and requiring that the actions as deemed necessary be taken in order to abate the imminent hazard. The order issued by the Chief Executive Officer shall, if appropriate, set forth the maximum time within which the owner, agent of the owner or occupant must abate the imminent hazard.

2. Whenever the Chief Executive Officer shall issue the imminent hazard order, the order shall: a) be in writing; b) be personally served whenever feasible on the owner, or agent of the owner, ~~and~~ occupant of the premises, **or entity causing the imminent hazard** or, when the personal service is not feasible, either post it conspicuously at the premises or mail to the person by certified mail, return receipt requested, to his last known address; c) describe with reasonable particularity the condition existing on the premises which gives rise to the issuance of the imminent hazard order; d) specify, if applicable, the maximum time period within which the imminent hazard must be abated or otherwise corrected; e) state that an appeal is available provided the provisions of this section are followed; f) have a copy of this section attached; and g) state that, in the event the property owner, agent of the owner, ~~or~~ occupant **or entity causing the imminent hazard** fails to comply with the imminent hazard order, the City or Utilities may take the steps as are necessary to correct the imminent hazard, bill the property owner **or entity causing the imminent hazard** therefor, and if unpaid, to initiate assessment proceedings against the property **or entity causing the imminent hazard** pursuant to the City's Zoning Code.

3. \* \* \*

6. Any person aggrieved by the imminent hazard order of the Chief Executive Officer may appeal the order to ~~the~~ Hearing Officer, ~~who shall be~~ appointed by the Chief Executive Officer, provided written application therefor upon the Chief Executive Officer is made within five (5) days of service of the imminent hazard order. In no event, however, shall the appeal of the imminent hazard order in any way stay or suspend the same. If a timely appeal is made, a hearing concerning the propriety of the order shall be granted to the owner or agent of the owner of the premises, **or entity causing the imminent hazard**, and, after notice thereof to the appellant, the hearing shall be held no more than ~~ten (10)~~ **thirty (30)** days after the filing of the notice of appeal. At the hearing, the appellant and the City or Utilities may be represented by an attorney, may present evidence, and may cross examine witnesses. A verbatim transcript of the

hearing shall be made. **At the conclusion of the evidence, the Hearing Officer shall make written findings of fact, conclusions of law and orders regarding the imminent hazard order. The Hearing Officer may, at the conclusion of the hearing, take the matter under advisement and issue the written findings of fact, conclusions of law and orders within thirty (30) days.** The decision of the Hearing Officer shall be based upon competent evidence.

7. \* \* \*

**9. The decision or determination of the Hearing Officer shall in all cases be final and conclusive. A decision or determination of the Hearing Officer may only be reviewed by the District Court pursuant to CRCP 106(a)(4). There shall be no stay of execution of the Hearing Officer's decision pending decision by the District Court, except by court order.**

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this \_\_\_\_ day of \_\_\_\_\_, 2023.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Randy Helms, Council President

ATTEST:

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Sarah B. Johnson, City Clerk