

ORDINANCE NO. 23-_____

AN ORDINANCE AMENDING SECTIONS OF ARTICLE 10 (UNDERGROUND DAMAGE PREVENTION SAFETY PROGRAM) OF CHAPTER 12 (UTILITIES) 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 10 (Underground Damage Prevention Safety Program) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

12.10.103: UNDERGROUND DAMAGE PREVENTION SAFETY PROGRAM:

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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. * * *

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.**

12.10.105: VIOLATIONS:

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C. It shall be a violation of this article for any person to excavate in a manner inconsistent with the requirements of this article **or any rule regarding the Damage Prevention Safety Program promulgated by the by the Chief Executive Officer.**

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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.

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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:

Sarah B. Johnson, City Clerk