

ORDINANCE NO. 22-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO AMENDING ARTICLE 4 OF CHAPTER 11 OF THE MUNICIPAL CODE OF CASTLE PINES RELATING TO EXCAVATION OF NEWLY CONSTRUCTED OR RESURFACED STREETS

WHEREAS, the City of Castle Pines (the "City") is a home rule municipality authorized to exercise its police powers to promote and protect the public health, safety and welfare; and

WHEREAS, the City recognizes that excavation of newly resurfaced or constructed streets can be detrimental to the integrity and appearance of such streets; and

WHEREAS, the City wishes to generally prohibit the excavation of any newly resurfaced or constructed right-of-way for a period of two (2) years, except in limited circumstances where a permit is first obtained or in emergency circumstances; and

WHEREAS, the City Council finds that these changes are necessary for the protection of health, safety, and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Castle Pines, Colorado:

Section 1. Article 4 of Chapter 11 of the Castle Pines Municipal Code is hereby amended as follows with the addition of a new Section 11-4-05, entitled "Definitions" to read as follows:

Sec. 11-4-05: - Definitions.

The following words or phrases, when used in this Article, shall have the following meanings unless the context otherwise clearly indicates to the contrary:

Emergency means any event which may threaten public health or safety, or that results in an interruption in the provision of service, including but not limited to damaged or leaking water or gas conduit systems, damaged, obstructed or leaking sewer or storm drain conduit systems and damaged electrical and communications facilities.

Excavate means to dig or in any way remove, distribute, or penetrate any part of a right-of-way.

Facilities means and includes without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, transmission structures, street lights, ducts, fixtures and appurtenances, and other like equipment used in connection with transmitting, receiving, distributing, offering, and providing utilities and other services.

Open Trench Excavation means digging down to and exposing the existing utility line or pipe, removing the existing line or pipe or a section of it, installing a new line or pipe or a section of new line or pipe, and then backfilling the trench.

Potholing means the practice of digging a test hole to expose underground utilities to ascertain the horizontal and vertical location of the facility.

Sidewalk means that portion of the street which is set aside for the use of pedestrians and which has been surfaced with cement, stone or other similar material.

Street means the entire width of every dedicated public way, and includes the traveled portion thereof known as the roadway, the portion used for sidewalks, and the portion between the property line and the roadway, known as the parking portion. The term shall also include a public alley.

Section 2. Article 4 of Chapter 11 of the Castle Pines Municipal Code is hereby amended as follows with the addition of a new Section 11-4-25, entitled "Construction and Restoration Standards for Newly Constructed or Resurfaced Streets" to read as follows:

Sec. 11-4-25: - Construction and Restoration Standards for Newly Constructed or Resurfaced Streets.

No person shall cause an open trench excavation or potholing of utilities in the pavement of any public right-of-way for a period of two (2) years from the completion of construction or resurfacing except in compliance with the provisions of this Section.

A. *Excavation Permit Application.* Any application for a permit to excavate in a public-right-of-way within two (2) years from the completion of construction or resurfacing must be on a form acceptable to the city and shall contain the following information, at a minimum:

1. A detailed and dimensional engineering plan that identifies and accurately represents the City rights-of-way or property that will be impacted by the proposed excavation, as well as adjacent streets, and the method of construction.
2. The street width including curb and gutter over the total length of each City block that will be impacted by the proposed excavation.
3. The location, width, length, and depth of the proposed excavation.
4. The total area of existing street pavement in each individual City block that will be impacted by the proposed excavation.
5. A written statement addressing the criteria for approval set forth in subsection (B).

B. *Criteria for Approval.* No permit application described in subsection (A) shall be approved by the City Manager or his or her designee unless all the following are met:

1. Boring or jacking without disturbing the pavement is not practical due to the physical characteristics of the street or other utility conflicts.
2. Alternative utility alignments that do not involve excavating the street are found to be impracticable.
3. The proposed excavation cannot reasonably be delayed until after the two (2) year deferment period has lapsed.
4. The construction is necessary in the public interest or to provide a public service. By way of example, but not by limitation, an exemption could be requested in order to provide services to a part of the City where no service would be available without construction.
5. The permit fee has been paid. Such permit fee shall be set forth in the City's adopted fee schedule.
6. Additional restoration requirements, beyond the permanent patch repairs, that may be required to restore anticipated pavement life. Additional requirements may include resurfacing an area larger than the street cut, using infrared applications, requiring a longer warranty period, imposing a payment to the City equal to the anticipated restoration remedy, or a reasonable combination thereof.

C. *Exemptions for Emergency Operations.* Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Persons with prior authorization from the City to perform emergency maintenance operations within the public rights-of-way shall be exempted from this Section. Any person commencing emergency maintenance operations shall submit detailed engineering plans, construction methods, and remediation plans no later than three (3) working days after initiating such operations.

D. *Construction and Restoration Standards for Newly Constructed Streets.* The streets shall be restored and repaired in accordance with design and construction standards adopted by the City. The City Manager or designee may, in his sole discretion, impose additional restoration requirements, including but not necessarily limited to, roto-milling and repaving of a larger area, such as an entire block in which the construction occurs.

Section 3. **Severability.** If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect, in accordance with Section 6.8 of the Charter.

Section 4. **No Existing Violation Affected.** Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any ordinance hereby repealed or amended by this Ordinance, or any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 5. **Publication and Effective Date.** The City Clerk is hereby directed to cause publication of this Ordinance in accordance with Section 6.5 of the Charter. This Ordinance shall be effective thirty (30) days after final publication on the City's official website and posting at the City Clerk's office pursuant to Section 1-3-40 of the Municipal Code.

[Remainder of page left intentionally blank.]

INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 14th day of June, 2022.

READ, PASSED, AND ADOPTED ON SECOND READING, FOLLOWING A PUBLIC HEARING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 28th day of June, 2022.



DocuSigned by:
Tracy Engerman
183521265945456
Tracy Engerman, Mayor

ATTEST:

Approved as to form:

DocuSigned by:
Tobi Duffey
AD03A3B02032489
Tobi Duffey, CMC, City Clerk

DocuSigned by:
Linda C. Michow
5241DE6988FF444
Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading on June 14, 2022; published by title only in the Douglas County News-Press, together with the statement that “[t]he complete text of the ordinance is available through the City Clerk’s office and on the City’s official website with second reading and public hearing to be held on June 28, 2022”; and finally passed and adopted by the City Council on June 28, 2022, following a duly noticed public hearing and published on the City’s official website and posted at the City Clerk’s office on June 15, 2022.

ATTEST:

DocuSigned by:
Tobi Duffey
AD03A3B02032489
Tobi Duffey, CMC, City Clerk