

CITY OF SALIDA, COLORADO
ORDINANCE NO. 12
(Series of 2024)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO AMENDING CHAPTER 11 OF THE SALIDA MUNICIPAL CODE, REGARDING CONSTRUCTION AND EXCAVATION IN THE STREETS, SIDEWALKS AND PUBLIC PROPERTY, TO ESTABLISH A PROCEDURE FOR THE UNDERGROUNDING OF UTILITY FACILITIES

WHEREAS, the City of Salida, Colorado (the “City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety, and welfare; and

WHEREAS, obstructions and excavations in City rights of way disrupt and interfere with public use of the rights of way; and

WHEREAS, obstructions and excavations in City rights of way result in loss of parking and loss of business to merchants and others whose places of business are in the vicinity of such obstructions and excavations; and

WHEREAS, it is desirable to adopt policies and regulations which will enable the City to gain greater control over the disruption and interference with the public use of public streets and rights of way, in order to provide for the health, safety and well-being of the City’s residents and users of City streets; and

WHEREAS, the various public and commercial utilities, broadband and communications providers and similar entities which install, maintain, and operate facilities under the City’s streets are constrained, from time to time, to make excavation cuts which degrade the surfaces of these thoroughfares, thereby reducing their useful life; and

WHEREAS, demand for access to broadband services is growing, and in order to fill such demand, more broadband network infrastructure is being installed in rights of way; and

WHEREAS, the current Chapter 11 of the Salida Municipal Code (the “Code”), which, in part, addresses construction and excavations in the rights of way does not include information regarding when undergrounding of utility facilities will take place; and

WHEREAS, the City has determined that locating such utility facilities underground improves the aesthetics of the City, provides for better protection of such utility facilities from damage due to accident, inclement weather, and other causes, and better protects the safety and welfare of the City’s citizens; and

WHEREAS, the City desires to amend Chapter 11 of the Code to provide for the undergrounding of utility facilities.

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

Section 1. The foregoing recitals are hereby incorporated as conclusions, facts, determinations, and findings by the City Council.

Section 2. Chapter 11, Section 11-1-10, Definitions, is hereby amended by adding the following definition to read as follows:

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

Section 3. The name of Chapter 11, Article III is hereby amended as follows:

ARTICLE III. – ~~CONSTRUCTION AND EXCAVATIONS~~ to CONSTRUCTION, EXCAVATIONS AND UNDERGROUNDING

Section 4. A new Section 11-3-135 within Chapter 11 is hereby created to read as follows:

Sec. 11-3-135. – Underground Construction and Use of Poles.

(a) When required by general ordinances, resolutions, regulations or rules of the City or applicable state or federal law, a permittee's Utility Facilities shall be placed underground at no cost to the City. Placing Utility Facilities underground does not preclude the use of ground-mounted appurtenances.

(b) Where all Utility Facilities are installed underground at the time of a permittee's construction, or when all such Utility Facilities are subsequently placed underground, all permittee Utility Facilities that by their nature can function underground, shall also be placed underground at no expense to the City unless funding is generally available for such relocation to all users of the rights of way. Related equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules. In areas where existing Utility Facilities are aerial, the permittee may install aerial Utility Facilities.

(c) For above ground Utility Facilities, a permittee shall utilize existing poles and conduit wherever possible.

(d) Should the City desire to place its own Utility Facilities in trenches or bores opened by a permittee, the permittee shall cooperate with the City in any construction by the permittee that involves trenching or boring, provided that the City has first notified the permittee in some manner that it is interested in sharing the trenches or bores in the area where the permittee's construction is occurring. A permittee shall allow the City to place its Utility Facilities in the permittee's trenches and bores, provided the City incurs any incremental increase in cost of the trenching and boring. Should the City desire to install Utility Facilities such as ducts or conduit for the possible use of other entities, then the permittee shall allow the City to place these Utility Facilities in the permittee's trenches and bores, provided the City shares proportionally in the cost of trenching and boring. The City shall be responsible for maintaining its respective Utility Facilities buried in a permittee's trenches and bores under this paragraph.

Section 5. *Severability.* The provisions of this ordinance are severable and the invalidity of any section, phrase, clause, or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING, on the 16th day of July, 2024, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Salida by the City Council on the 19th day of July, 2024, and set for second reading and public hearing on the 6th day of August, 2024.

INTRODUCED ON SECOND READING, FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on the ____ day of _____, 20__.

CITY OF SALIDA, COLORADO

Mayor

[SEAL]

ATTEST:

City Clerk/Deputy Clerk

PUBLISHED IN FULL in the Mountain Mail after First Reading on the ____ day of _____, 20____, and BY TITLE ONLY, after final adoption on the ____ day of _____, 20____.

City Clerk/Deputy City Clerk