CITY OF CENTRAL, COLORADO
NOTICE OF A REGULAR MEETING of the CITY COUNCIL to be held on
Tuesday, August 15, 2017 @ 7:00 p.m.
141 Nevada Street, Central City, Colorado

AGENDA

The City Council meeting packets are prepared several days prior to the meetings and available for public inspection at City Hall during normal business hours the Monday prior to the meeting. This information is reviewed and studied by the City Council members, eliminating lengthy discussions to gain basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis. Agendas are posted on the City’s website, the City Hall bulletin board and at the Post Office the Friday prior to the Council meeting.

7:00pm Council Meeting

1. Call to Order.

2. Roll Call. Mayor Kathryn Heider
               Mayor Pro-Tem Shirley Voorhies
               Council members Judy Laratta
                              Jeff Aiken
                                 Mary Bell

3. Pledge of Allegiance

4. Additions and/or Amendments to the Agenda.

5. Conflict of Interest.

6. Consent Agenda: All matters listed under item 6, Consent Agenda, are considered to be routine business matters by the Council and will be enacted with a single motion and a single vote. There will be no separate discussion of these items. If discussion is deemed necessary, that item should be removed from the Consent Agenda and considered separately.
   
   Regular Bill lists through August 9; and
   City Council minutes: August 1, 2017

PUBLIC FORUM/AUDIENCE PARTICIPATION — (public comment on items on the agenda not including Public Hearing items): the City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address the City Council. Your comments should be limited to three (3) minutes per speaker. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the City Manager for follow-up. Thank you.

PUBLIC HEARING —

7. Ordinance No. 17-07: An Ordinance of the City Council of the City of Central, Colorado, Excluding Certain Property from the Boundaries of the Central City Business Improvement District (McAskin)

8. Ordinance No. 17-08: An Ordinance of the City Council of the City of Central, Colorado, adopting a new Article VIII of Chapter 18 of the Central City Municipal Code titled EXCAVATING REGULATIONS. (Hoover)

ACTION ITEMS: NEW BUSINESS – None

REPORTS –

9. Staff updates –
COUNCIL COMMENTS - limited to 5 minutes each member.

PUBLIC FORUM/AUDIENCE PARTICIPATION – for non-action items not Action or Public Hearing items on this agenda (same rules apply as outlined in the earlier Public Forum section).

ADJOURN. Next Council meeting September 5, 2017.

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CITY COUNCIL
WORK SESSION
(To begin immediately following regular meeting)

1) Discussion with CCBID Bondholder Managers

Please call Reba Bechtel, City Clerk at 303-582-5251 at least 48 hours prior to the Council meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting.
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Grand Totals: $175,625.85
CITY OF CENTRAL
CITY COUNCIL MEETING
August 1, 2017

CALL TO ORDER
A regular meeting of the City Council for the City of Central was called to order by Mayor Heider at 7:04 p.m., in City Hall on August 1, 2017.

ROLL CALL
Present: Mayor Heider
   Mayor pro tem Voorhies
   Alderman Laratta
   Alderman Aiken
   Alderman Bell

Absent: None

Staff Present: City Manager Miera
   Attorney McAskin
   City Clerk Bechtel
   Community Development Director Rears
   Public Works Director Hoover
   Utilities Director Nelson
   Fire Chief Allen

The Pledge of Allegiance was recited by all present.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA
The agenda was approved with the addition to continue discussion of work session topics as item #13.

CONFLICTS OF INTEREST
No Council Member disclosed a conflict regarding any item on the agenda.

CONSENT AGENDA
Alderman Bell moved to approve the consent agenda containing the regular bill lists through July 26 and the City Council minutes for the meeting on July 18, 2017. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

PUBLIC FORUM/AUDIENCE PARTICIPATION
David Josslyn, 344 E 1st High St., requested the description of items on the bill list be made more clear to provide a more accurate official record. Manager Miera offered that staff will continue to work to with the software to clarify those descriptions.
Joe Behm, CCBID Executive Director, addressed City Council asking that they support the bus parking request that the Reserve/Grand Z recently requested, and which is scheduled to be discussed later in the meeting by Manager Miera during the delivery of Staff Reports.

PUBLIC HEARING
Petition for Exclusion of Property from Central City Business Improvement District.
Attorney McAskin explained the Petition for Exclusion and included background for Ordinance No. 17-07 as follows: Ordinance No. 17-07 excludes certain City-owned property from the boundaries of the Central City Business Improvement District (“CCBID”). A Petition for Exclusion (the “Petition”) requesting the exclusion of the City Property from the CCBID boundaries was filed with the City Clerk on July 14, 2017. The City Property is described with particularity in the Petition, and consists of sixteen (16) separate parcels. The Petition was executed by the City Manager, in accordance with the authorization set forth in Resolution No. 17-07 dated February 21, 2017. C.R.S. § 31-25-1220(1) requires that the Petition be accompanied by a deposit of moneys sufficient to pay all costs of the inclusion or exclusion proceedings. In this case, a deposit of two hundred and fifty dollars ($250) was submitted to the City Clerk. The fourth paragraph of the Petition sets forth the petitioner’s agreement to pay additional costs, if necessary.

In accordance with C.R.S. § 31-25-1220(1) and (2), the City Clerk has caused notice of the filing of the Petition to be given and published and requires City Council to hold a hearing on the request set forth in the Petition. During the hearing, the City Council shall proceed to hear the petition and all objections thereto which may be presented by any person showing cause why said petition should not be granted. The failure of any interested person to show cause shall be deemed as an assent on his part to the exclusion of such property as requested for in the petition. At the conclusion of the public hearing, the City Council will be asked to make a determination as to whether the proposed change of boundaries of the CCBID does, or does not, adversely affect the CCBID. If City Council determines that the exclusion of the City Property does not adversely affect the CCBID and the petition is granted, C.R.S. § 31-25-1220(2) requires that the City Council proceed to adopt an ordinance to that effect and file a certified copy of the same with the county clerk and recorder of the county in which the City Property is located (in this case, Gilpin County).

At 7:21 p.m., Mayor Heider opened the Public Hearing. Hearing no comment, at 7:22 p.m., Mayor Heider closed the Public Hearing.

With no interested person showing cause why said petition should not be granted, nor any other objection or comment during the public hearing, Mayor pro tem Voorhis moved to approve and grant the Petition for Exclusion which determines that the exclusion of the City Property and resulting change of the district’s boundaries does not adversely affect the CCBID. Alderman Bell seconded, and without discussion, the motion carried unanimously.

ACTION ITEMS: NEW BUSINESS
Ordinance No. 17-07: An Ordinance of the City Council of the City of Central, Colorado, Excluding Certain Property from the Boundaries of the Central City Business Improvement District
Alderman Aiken moved to adopt Ordinance No. 17-07: An Ordinance of the City Council of the City of Central, Colorado, excluding certain property from the boundaries of the Central City Business Improvement District on first reading and further move that second reading and public hearing on the ordinance be scheduled for Tuesday, August 15, 2017, at 7:00 p.m. Alderman Laratta seconded, and without discussion, the motion carried unanimously.

**Ordinance No. 17-08:** An Ordinance of the City Council of the City of Central, Colorado, adopting a new Article VIII of Chapter 18 of the Central City Municipal Code titled *EXCAVATING REGULATIONS.*

Public Works Director Hoover explained that this ordinance amends Chapter 18 of the Municipal Code in order to set forth environmental and geotechnical testing requirements for excavation projects in the City. The City is located in the Central City/Clear Creek Superfund Site due to contamination from past mining activity in the area, and due to issues that have arisen during recent excavation projects the City has been involved in, such as undergrounding the electrical utilities, the State has recommended adopting environmental testing requirements.

Mayor pro tem Voorhies moved to adopt Ordinance No. 17-08: An Ordinance of the City Council of the City of Central, Colorado, adopting a new Article VIII of Chapter 18 of the Central City Municipal Code titled *EXCAVATING REGULATIONS* on first reading and further move that second reading and public hearing on the ordinance be scheduled for Tuesday, August 15, 2017, at 7:00 p.m. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

**Resolution No. 17-20:** A resolution of the City Council of the City of Central, Colorado amending the City of Central Comprehensive Fee Schedule.

CDD Rears reviewed the changes to the comprehensive fee schedule to include revised fees that reflect the Land Development Code update as well as clarify other areas where fee ambiguity may exist.

Mayor pro tem Voorhies moved to approve Resolution No. 17-20: A resolution of the City Council of the City of Central, Colorado amending the City of Central Comprehensive Fee Schedule. Alderman Aiken seconded, and without discussion, the motion carried unanimously.

**REPORTS**

CDD Rears report included IIPC approvals with a new approval for a NSFD (new single family dwelling) on Eureka that was originally approved over a year ago and that approval has lapsed.

Public Works Director Hoover reviewed the progress with storm clean-up.

Manager Miera reviewed the proposed changes to accommodate the bus parking on Gregory St. near Reserve/Grand Z. The proposal which will includes the removal of some passenger parking spaces along Gregory St. between the ingress/egress of the Century Casino parking garage and D St., and the installation of a right-turn lane into their parking structure with any costs associated to be covered by Reserve/Grand Z. The Council signified unanimous support and direction for
staff to move forward with the proposed changes. Joe Behm, CCBID Executive Director, thanked the Council for their approving support of the request.

Council continued discussion of work session topics of the Ambassador Program and the CCFD Brush Truck (Unit 32). Fire Chief Allen explained that this truck is useful to the Fire Department. Council provided direction to Manager Miera to pursue the City’s acquisition of the truck from Gilpin County, and requested that the County donate the truck to the City, or at the very least consider a nominal amount for the purchase price. Manager Miera agreed to work on a proposal for the County’s consideration.

COUNCIL COMMENTS
Mayor pro tem Voorhies thanked Public Works for their efforts following the storm.

Council consensus directed staff to send a Letter of Support for continuing tax credits for historic preservation to Congress.

PUBLICFORUM/AUDIENCEPARTICIPATION
No one requested time to address the Council.

At 8:19 p.m., Mayor Heider adjourned the meeting.
The next Council meeting is scheduled for August 15, 2017 at 7:00 p.m.

Kathryn A. Heider, Mayor

Reba Bechtel, City Clerk
AGENDA ITEM # 7

CITY COUNCIL COMMUNICATION FORM

FROM: Marcus McAskin, City Attorney

DATE: August 9, 2017 (for August 15, 2017 meeting)

ITEM: Agenda Item 7 (Ordinance 17-07 – Excluding Certain Property from the Boundaries of the Central City Business Improvement District)

X ORDINANCE
_____ MOTION
_____ INFORMATION

I. REQUEST OR ISSUE: Ordinance No. 17-07 excludes certain City-owned property ("City Property") from the boundaries of the Central City Business Improvement District ("CCBID"). A Petition for Exclusion (the "Petition") requesting the exclusion of the City Property from the CCBID boundaries was filed with the City Clerk on July 14, 2017. The Petition was executed by the City Manager in accordance with the authorization set forth in Resolution No. 17-07 dated February 21, 2017.

A copy of the Petition is attached as Exhibit A to the Ordinance. The City Property is described with particularity in the Petition, and consists of sixteen (16) separate parcels.

In accordance with C.R.S. § 31-25-1220(1) and (2), the City Clerk caused notice of the filing of the Petition to be given and published. A copy of the publisher's affidavit concerning the notice published by the City Clerk is attached to the Ordinance as Exhibit B.

City Council held the public hearing on the exclusion request as required by C.R.S. § 31-25-1220(2) on August 1, 2017. At the conclusion of the public hearing, and following a motion duly made, seconded and unanimously approved, determined that the proposed change of boundaries of the CCBID will not adversely affect the CCBID.

Ordinance No. 17-07 was approved on first reading on August 1, 2017.
II. **RECOMMENDED ACTION / NEXT STEP:**

Approve Ordinance No. 17-07 on second reading following public hearing.

As set forth above the proposed Ordinance was approved on first reading on August 1st.

III. **BACKGROUND INFORMATION:**

C.R.S. § 31-25-1220(2) states, in relevant part, that:

"If the change of boundaries of the [business improvement] district does not adversely affect the district and if the petition is granted, the [City Council] shall adopt an ordinance to that effect and file a certified copy same with the county clerk and recorder of the county in which the property is located."

IV. **FISCAL IMPACTS:** None.

V. **LEGAL ISSUES:** None. C.R.S. § 31-25-1220 vests City Council with jurisdiction to exclude the City Property from the CCBID boundaries.

VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:** N/A

VII. **SUMMARY AND ALTERNATIVES:** City Council has the following options:

1. Adopt Ordinance No. 17-07 on second reading, as may or may not be amended;

2. Direct staff to make revisions to the Ordinance and continue the public hearing to a date and time certain; or

3. Reject or deny the Ordinance.

**RECOMMENDED MOTION:** "I MOVE TO APPROVE ORDINANCE NO. 17-07, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO EXCLUDING CERTAIN PROPERTY FROM THE BOUNDARIES OF THE CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT ON SECOND READING."

**Attachments:**

- Ordinance 17-07 (for second reading)
- Exhibit A to Ordinance (Petition for Exclusion)
- Exhibit B to Ordinance (Publisher’s Affidavit)
CITY OF CENTRAL, COLORADO
ORDINANCE 17-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO EXCLUDING CERTAIN PROPERTY FROM THE BOUNDARIES OF THE CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT

WHEREAS, City Council received a Petition for Exclusion ("Petition") filed pursuant to C.R.S. § 31-25-1220 for the exclusion of certain property described in the Petition attached and made a part of this Ordinance as Exhibit A (the "Property") from the boundaries of the Central City Business Improvement District ("District"); and

WHEREAS, in accordance with law, a public notice of the Petition has been given and published in The Weekly Register-Call, calling for a public hearing on the exclusion request set forth in the Petition, proof of publication for which is attached as made a part of this Ordinance as Exhibit B; and

WHEREAS, City Council has conducted a public hearing and heard all persons having objections to the exclusion of the Property from the District; and

WHEREAS, the Property sought to be excluded from the District is located entirely within the City of Central, Gilpin County, Colorado, and does not include property within any other county or within any other incorporated city, town, or city and county.

BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CENTRAL, COLORADO THAT:

Section 1. City Council finds and determines that it is vested with jurisdiction in this matter pursuant to the Business Improvement District Act, Part 12 of Article 25 or Title 31, C.R.S.

Section 2. City Council finds and determines that the change in boundaries of the Central City Business Improvement District as proposed in the Petition does not adversely affect the District.

Section 3. Pursuant to C.R.S. § 31-25-1220, City Council grants the Petition and orders the exclusion of the Property from the boundaries of the District.

Section 4. The City Clerk is directed to file a certified copy of this ordinance with the County Clerk and Recorder of Gilpin County, Colorado for recording.

Section 5. Effective Date. This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 1st day of August, 2017, at Central City, Colorado.
CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 15th day of August, 2017.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on August 3, 2017.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on August 17, 2017.
Exhibit A
Petition for Exclusion
Exhibit B
Publisher's Affidavit
PETITION FOR EXCLUSION OF PROPERTY
from
CENTRAL CITY BUSINESS IMPROVEMENT DISTRICT

TO: City Council, City of Central, Colorado.

The undersigned, the City Manager of the City of Central, pursuant to authority set forth in City Resolution No. 17-07, hereby respectfully petitions the City Council pursuant to Section 31-25-1220, C.R.S., for the exclusion of the hereinafter described land from the boundaries of the Central City Business Improvement District (the “CCBID”).

The undersigned hereby requests that the property described in Exhibit A, a copy of which is attached hereto and incorporated by reference (“City Property”), be excluded from the boundaries of the CCBID and that an Ordinance be adopted by the City Council excluding the City Property from the boundaries of the CCBID, and that from and after the entry of such Ordinance, the City Property shall not be liable for assessments and other obligations of the CCBID.

The undersigned represents to the City Council that the City of Central is the sole owner of the City Property and that no other persons, entity or entities own an interest therein except as beneficial holders of encumbrances.

In accordance with Section 31-25-1220(1), C.R.S., the City Clerk “shall cause notice of the filing of [this Petition for Exclusion] to be given and published, which notice shall state the filing of such petition, the names of the petitioners, descriptions of the property sought to be . . . excluded, and the request of said petitioners.” The undersigned requests that the City Clerk proceed to publish the required notice, and set a public hearing on this Petition for Exclusion for the August 1, 2017 regular City Council meeting, which hearing may be continued from time to time.

This Petition is accompanied by a deposit of two hundred and fifty dollars ($250.00); said deposit is believed to be sufficient to pay all pre- and post-acceptance costs of the exclusion proceedings, but should said deposit be insufficient, the undersigned further agrees that it shall pay in full the fees and costs incurred by the City for the publication of notice of the hearing on exclusion, publication of the ordinance approving the exclusion (if any), filing and recording fees, and all other costs of exclusion of the City Property from the CCBID, whether or not such exclusion is approved.

This is a verified petition.

Petitioner(s): City of Central

Petitioner
Street Address: 141 Nevada Street
Central City, CO 80427
Petitioner
Mailing Address: City of Central
P.O. Box 249
Central City, CO 80427

Petitioner: CITY OF CENTRAL, a home rule municipality of the State of Colorado

By: Daniel R. Miera
Daniel R. Miera, City Manager, authorized pursuant to Resolution No. 17-07

STATE OF Colorado ss.
COUNTY OF Gilpin ss.

The foregoing Petition was acknowledged before me this 11th day of July, 2017, by Daniel R. Miera as City Manager of the City of Central, a home rule municipality of the State of Colorado.

Witness my hand and official seal.

My Commission Expires: 9/9/2017
Reba Bechtel
Notary Public

[SEAL]
# Exhibit A
City Property

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Weekly Register-Call

Proof of Publication

State of Colorado
County of Gilpin

I, Aaron K. Storms, do solemnly swear that I am the Publisher & Managing Editor of the Weekly Register-Call; that the same is a weekly newspaper published in the City of Black Hawk, County of Gilpin, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Gilpin for a period of more than fifty-two consecutive weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the act of March 3, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly newspaper for the period of one insertions as noted; and that the first publication of said notice was in the issue of newspaper dated July 20, 2017, and that the last publication of said notice was in the issue of newspaper dated July 20, 2017.

City of Central – Notice of Exclusion of property from the Central City Business Improvement District

In witness whereof I have hereunto set my hand this 25th day of July, 2017.

/s/ Aaron Storms
Publisher & Managing Editor

Subscribed and sworn to before me, a notary public in and for the County of Gilpin, State of Colorado, this 25th day of July, 2017.

Notary Public

My Commission Expires on: 3/25/2019

Weekly Register-Call
PO Box 93
Black Hawk, Colorado 80422
aaron.storms@weeklyregistercall.com
303-582-0133
www.weeklyregistercall.com
OF THE DEED OF TRUST.

NOTICE OF SALE

The current holder of the Evidence of Debt secured by the Deed of Trust, described herein, has filed Notice of Election and Demand for sale as provided by law and in said Deed of Trust.

Therefore, Notice is hereby given that I will sell at public auction, at 10:00 a.m. on Thursday, 08/24/2017, at The Office of the Gilpin County Public Trustee, 210 9th Avenue, Arapahoe Road, Idaho Springs, CO 80452,
The Attorney File No. # 17-768093
The Attorney above is acting as a debt collector and is attempting to collect a debt. Any information provided may be used for that purpose.

NOTICE OF EXCLUSION

NOTICE IS HEREBY GIVEN that there has been filed with the City Council of the City of Central, a petition praying for the exclusion of certain lands from the Central City Business Improvement District.

1. The name and address of the petitioner and the description of the property identified in the petition is as follows:

   Petitioner: City of Central
   Petitioner Street Address: 141 Nevada Street
   City, CO 80427

   City of Central
   P.O. Box 249
   Central City, CO 80427

2. The prayer of the petition is that certain property owned by the Petitioner be excluded from the boundaries of the Central City Business Improvement District, specifically the sixteen (16) parcels of City-owned property described in Exhibit A below.

3. The City Council shall proceed to hear the petition at the August 1, 2017 regular City Council meeting, and shall adopt or refuse hearing thereon.

Accordingly, notice is hereby given to all interested persons to appear at the public hearing before the City Council of the City of Central, to be held at City Hall,
AGENDA ITEM # 8
CITY COUNCIL COMMUNICATION FORM

FROM: Sam Hoover, Public Works Director
DATE: August 9, 2017 (for August 15, 2017 meeting)
ITEM: Ordinance 17-08 Adopting a New Article VIII of Chapter 18 of the Central City Municipal Code Titled Excavation Regulations

___X___ ORDINANCE
_______ MOTION
_______ INFORMATION

I. REQUEST OR ISSUE: Ordinance No. 17-08 amends Chapter 18 of the Municipal Code in order to set forth environmental and geotechnical testing requirements for excavation projects in the City. The City is located in the Central City/Clear Creek Superfund Site due to contamination from past mining activity in the area, and due to issues that have arisen during recent excavation projects the City has been involved in, the State has recommended adopting environmental testing requirements. This Ordinance is before the Council for first reading.

Ordinance No. 17-08 was approved on first reading at the August 1, 2017 City Council meeting.

II. RECOMMENDED ACTION / NEXT STEP: Approve Ordinance No. 17-08 on second reading following public hearing.

As set forth above the proposed Ordinance was approved on first reading on August 1st.

III. BACKGROUND INFORMATION: The City Attorney’s office has recommended some revisions to Ordinance No. 17-08 following first reading. The revisions are highlighted in the “legislative redline” version of the proposed Ordinance and include the following:

Sec. 18-8-20 (page 3): Including cross reference to City’s Quartz Hill Overlay District regulations and clarifying that no excavation permit required for any activity that
disturbs one cubic yard of soil or less and is associated with routine gardening, landscape maintenance or irrigation ditch maintenance.

Sec. 18-8-60 (page 4): Delete last sentence – "No more than one (1) Permit shall be issued for one parcel of land within a three (3) year period."

Sec. 18-8-110 (page 5): Delete last sentence to remove reference to Single Family/Duplex Dwelling Deposit Agreement.

Sec. 18-8-170 (page 11): Reference Sec. 1-4-20 of the Municipal Code (regarding general penalty provisions) in lieu of the City’s Construction Standards.

IV. **FISCAL IMPACTS:** None.

V. **LEGAL ISSUES:** None.

VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:**

VII. **SUMMARY AND ALTERNATIVES:** City Council has the following options:

   (1) Adopt Ordinance No. 17-08 on second reading, as may or may not be amended;

   (2) Direct staff to make revisions to the Ordinance and continue the public hearing to a date and time certain; or

   (3) Reject or deny the Ordinance.

**RECOMMENDED MOTION:** "I MOVE TO APPROVE ORDINANCE NO. 17-08, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO ADOPTING A NEW ARTICLE VIII OF CHAPTER 18 OF THE CENTRAL CITY MUNICIPAL CODE TITLED EXCAVATION REGULATIONS ON SECOND READING."

**Attachments:**

- Ordinance 17-08 (for second reading)
- Ordinance 17-08 (LEGISLATIVE REDLINE VERSION)
CITY OF CENTRAL, COLORADO
ORDINANCE 17-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO ADOPTING A NEW ARTICLE VIII OF CHAPTER 18 OF THE CENTRAL CITY MUNICIPAL CODE TITLED EXCAVATION REGULATIONS

WHEREAS, the City of Central ("City") is authorized under its home rule charter and Title 31 of the Colorado Revised Statutes to adopt and amend ordinances in furtherance of governmental administration and the City’s police powers; and

WHEREAS, the City has been designated as part of the Central City/Clear Creek Superfund Site by the U.S. Environmental Protection Agency and the Colorado Department of Public Health and Environment ("CDPHE") due to contamination from past mining activities in the area; and

WHEREAS, during a recent project in which the City was assisting with the undergrounding of utilities, the City encountered a potential issue with miring waste in the soil that could have negatively impacted the City’s ability to complete the project; and

WHEREAS, the CDPHE has recommended that the City implement environmental testing requirements for excavations and grading within the City to address future issues with soil contamination that may arise during projects involving excavations in the City; and

WHEREAS, the City Council finds that this Ordinance will further the health, safety and general welfare of the City’s inhabitants; and

WHEREAS, this Ordinance has been prepared and enacted in accordance with the Home Rule Charter as well as applicable state statutes and is hereby declared to be adopted in accordance with all applicable provisions of the Home Rule Charter and applicable state statutes; and

WHEREAS, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL, COLORADO THAT:

Section 1. Article VIII of Chapter 18 of the Central City Municipal Code, titled "Excavation Regulations" is hereby adopted to read in full as follows:

CHAPTER 18

ARTICLE VIII
Excavation Regulations

Sec. 18-8-10 Definitions.
Sec. 18-8-20 Permit required.
Sec. 18-8-30 Fees required.
Sec. 18-8-40 Application for and issuance of permit.
Sec. 18-8-50 Revocation of permit.
Sec. 18-8-60 Term of permit.
Sec. 18-8-70 Regulatory and permit compliance.
Sec. 18-8-80 Protection of adjoining property.
Sec. 18-8-90 Inspection/completion of excavation.
Sec. 18-8-100 Corrective measures.
Sec. 18-8-110 Surety deposit.
Sec. 18-8-120 Environmental and geotechnical sampling and testing.
Sec. 18-8-130 Mitigation requirements.
Sec. 18-8-140 Consulting fees.
Sec. 18-8-150 Failure to perform required testing and violations.
Sec. 18-8-160 Persons liable.
Sec. 18-8-170 Penalties and enforcement.

Sec. 18-8-10. Definitions.

Applicant is a person who requests a Permit for work within the City under this Article.

CDPHE means the Colorado Department of Public Health and Environment.

Construction Standards means the City’s Standards and Specifications for Design and Construction, dated April 1, 2013, as adopted via Ordinance 13-06.

Environmental and geotechnical investigation means the testing and investigation requirements set forth in this Article.

EPA means the U.S. Environmental Protection Agency.

Excavation means any grading or earth movement of any type whatsoever.

Excavation project means an excavation that is undertaken pursuant to a Permit.

Permit means a grading permit as defined and described in Chapter 6 of the City’s Construction Standards.

Public Works Director means the Public Works Director of the City of Central.
Sec. 18-8-20. Permit Required.

No person shall do any grading, excavation or fill without first obtaining a Permit from the City. A separate Permit shall be obtained for each site and may cover both excavations and fills, including excavations for utility installation outside a public right-of-way. Permits for grading, excavation or fill within the Quartz Hill Overlay District shall be subject to all applicable regulations set forth in Division 3-2 of the Land Development Code. No Permit shall be required for any excavation activity that disturbs or may disturb one (1) cubic yard of soil or less and which is specifically associated with routine gardening, landscape maintenance or irrigation ditch maintenance.

Sec. 18-8-30 Fees required.

At the time of filing an application for a Permit, Applicant must remit to the City a permit fee as set forth in the City’s Schedule of Fees.

Sec. 18-8-40 Application for and issuance of permit.

An application for a Permit shall be made to the City’s Public Works Department on forms provided by the City. At the time of application, the City shall provide the Applicant with a copy of the Construction Standards. All work and Permits shall comply with the requirements set forth in the Construction Standards. The Construction Standards are also available on the City’s website.

Sec. 18-8-50 Revocation of permit.

(a) The City, through its Public Works Department, may revoke the Permit granted by this Article in any of the following circumstances:

(1) The Applicant violates any of the provisions of the ordinances of the City governing the activities permitted by the Permit;

(2) The Applicant obtains a Permit by fraud or misrepresentation;

(3) Revocation is necessary to maintain the public health, safety and welfare;

(4) The Applicant fails to maintain the required bond or letter of credit or other guarantees of performance during the course of the construction and of any warranty period specified by the City;

(5) The Applicant fails to comply with any of the conditions set forth in the Permit; or

(6) The Applicant violates any requirement of this Article.

(b) The Public Works Department shall advise the Applicant in writing
of the grounds for revocation of the Permit and the Applicant may be allowed to appeal such revocation to the City Council.

Sec. 18-8-60 Term of permit.

All Permits shall be valid for twelve (12) months from the date the Permit is issued unless a different term is warranted pursuant to the construction or work schedule provided by the Applicant at the time of application, provided that the approved application and the conditions of its approval have not changed. No more than one (1) Permit shall be issued for one parcel of land within a three (3) year period.

Sec. 18-8-70 Regulatory and permit compliance.

All work completed pursuant to a Permit shall comply with Permit requirements, the City’s Construction Standards, and all applicable federal, state, and local regulations.

Sec. 18-8-80 Protection of adjoining property.

(a) When, for the protection of property, it is necessary to enter upon such property for the purpose of taking appropriate protective measures, the Applicant shall obtain written permission from the owner of such property to enter thereupon.

(b) The Applicant shall, at his or her own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of his or her excavation work and the Applicant shall be responsible for all damage to public or private property, including public rights-of-way resulting from the work.

(c) Whenever it may be necessary for the Applicant to trench through any lawn area, such area shall be reseeded or the sod shall be carefully cut, rolled and replaced after the excavation has been backfilled as required in this Article.

(d) All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.

Sec. 18-8-90 Inspection/completion of excavation.

(a) The City shall make inspections as are necessary for the enforcement of this Article.
(b) The City’s Public Works Director or his or her designee shall have the authority to enforce such regulations as may be reasonably necessary to enforce and carry out the intent of this Article, including the authority to enforce any applicable Permit requirements or applicable local, state, or federal regulations.

Sec. 18-8-100 Corrective measures.

The Public Works Department, upon discovery of any defect in the work or for the Applicant failing to complete the excavation including backfilling and removal of debris for which a Permit is issued, may:

(a) In the event of an emergency, order a private contractor to do everything necessary to complete such work to acceptable standards, particularly where hazards exist due to the failure of the Applicant to restore or maintain the site in accordance with the provisions and conditions of his or her Permit.

(b) In the event of a nonemergency, give notice to the Applicant and his or her sureties in writing of the nature and location of such defects, including notice of a reasonable time, not less than twenty-one (21) calendar days, within which such defects are to be repaired. Such period of time may be extended by the Public Works Director upon application, for good cause shown.

(c) In the event of failure of the Applicant to perform the required work within the period provided by such notice, a private contractor on order of the City shall make such repairs as may be necessary.

(d) The City shall recover any and all costs of work performed by its personnel or by a private contractor, including the cost of labor, equipment, materials and administrative costs at the expense of the Applicant by applying any deposit, bond, letter of credit or other security in its possession to payment thereof, and shall recover any remaining unpaid balance of such costs from the Applicant.

Sec. 18-8-110 Surety deposit.

The City shall require a $1,000 surety deposit in the form of cash or letter of credit for minor utility installation (service lines) or any grading less than twenty (20) cubic yards. For projects grading larger than twenty (20) cubic yards, the City may require a surety deposit in the amount of up to 150% of the cost estimate to complete the work. The surety deposit is required to ensure that the work, if not completed in accordance with the approved plan and specifications, will be completed or corrected to eliminate hazardous conditions. The surety deposit shall not be required if the applicant has signed a Single Family/Duplex Dwelling Deposit Agreement with the City.
Sec. 18-8-120 Environmental and geotechnical sampling and testing.

(a) All applicants for a Permit shall prepare a sample collection plan including a chemical characterization of the metals content of the soils and geotechnical testing on the property sought to be excavated or developed. The areas most vulnerable for environmental contamination are:

(1) Known mining or milling sites;

(2) Properties adjacent to or down gradient from mining and milling areas;

(3) Listed Superfund sites;

(4) Properties adjacent to or down gradient from Superfund sites;

(5) Properties with known chemical storage or former gas or fuel storage areas;

(6) Properties adjacent to or down gradient from properties that had chemical or fuel storage;

(7) Properties in flood plains or drainages that are down gradient from any of the above sites;

(8) Properties with unstable slopes or waste piles reposed above them; and

(9) Properties subject to storm water runoff from any of the above-listed properties.

(b) If an applicant is developing on the property outside a vulnerable area as described above, relief from some of the testing and sampling requirements may be allowed. A report from a qualified environmental/geotechnical firm must be submitted indicating its opinion of the extent of testing which will be necessary to protect the public health and environment.

(c) If an applicant for a Permit concerns a property within the City which was specifically identified as a priority concern in the by the EPA or CDPHE in a Record of Decision, the Permit will not be approved unless the EPA and the CDPHE have been provided a reasonable opportunity to comment on the Permit application, and have not disapproved the action proposed by the Permit application based on state or federal legal requirements.

(d) Testing requirements. The following requirements and guidelines shall govern all environmental testing and sampling performed under
this Article.

(1) All sample collection plans shall be representative of the conditions at the property.

(2) The number and types of samples collected shall provide a reasonable and accurate representation of the entire property. By way of clarification, samples shall not be collected at the visually cleanest portion of the property and be presented as being representative.

(3) A minimum of one (1) augured subsurface soil sample shall be collected at a depth of zero (0) to two (2) feet per each one thousand five hundred (1,500) square feet of lot. A maximum of three (3) individual samples may be composited, if desired, and the minimum of two (2) individual analyses of the samples must be completed. Samples may only be composited if, based on visual appearance, mine waste is not combined with soil.

(4) Sites previously capped or backfilled shall be augured and one (1) soil sample collected to a minimum depth of ten (10) feet. At least one (1) sample per lot or four thousand five hundred (4,500) square feet shall be augured and a sample taken to a depth equal to the depth of the proposed excavation.

(5) All sampling must be performed by a nonbiased third party.

(6) Proper chain of custody shall be maintained and established for all samples collected from the property. All samples shall be submitted to a laboratory that has experience and is qualified to perform metals analysis in a solid matrix.

(7) Analytical methods shall conform to the procedures outlined in EPA’s SW-846 Compendium, as amended from time to time, or an approved equivalent method. For acid-base potential, tests should conform to the methods outlined in Report No. EPA-670/2-74-070, Mine Spoil Potential for Soil and Water Quality, or an equivalent method.

(8) At a minimum, all samples shall be analyzed for the following parameters:

a. Lead.

b. Arsenic.

c. Zinc.

d. Mercury.
e. Acid-base potential.

f. Soil pH.

(9) All samples for lead, arsenic, zinc and mercury shall be analyzed for total metals.

(10) If the historical use of the property includes uses which could result in soil contamination, the appropriate chemical testing must be included in the sample collection plan.

(11) Any other tests required by the EPA or the CDPHE as determined by the City.

e) Soil importation. If the Applicant desires to import soils onto the property, the Applicant must provide a verification of the quality of these soils.

f) Submission of sampling plan. A copy of the sampling plan must be submitted to the City, and must include the location and depth of all bore holes and location of the sampling, results of all tests and analysis required by this Article and any other public entity with jurisdiction, and the names and addresses of all consultants, engineers, testers and laboratories used. An explanation of why the specific locations and depths were chosen shall accompany all sampling plans.

g) Slope stability analysis. A slope stability analysis must be completed by a qualified registered professional engineer if development or excavation is planned for a lot with:

(1) Any slope greater than thirty-five percent (35%);

(2) Any development which will result in a slope of being created which is greater than thirty-five (35%);

(3) Any property with wood cribbing, rock retaining walls or other similar retaining structures or remnants of retaining structures.

h) Surface subsidence. An analysis of the potential for surface subsidence due to the presence of underground mine workings must include the following:

(1) Pilot bore hole drilling must be conducted prior to proceeding with any development that will require the earth to support any significant structure or vehicular traffic.

(2) The Applicant must contact the inactive mines program of the Colorado Division of Reclamation, Mining & Safety to
obtain information about past and future mine hazard and mitigation activities, and to coordinate any activity which may be undertaken by the Applicant.

Sec. 18-8-130  Mitigation requirements.

(a) General considerations. If the results of the environmental and geotechnical sampling and testing show that excavation on or development of the property would create a threat to the safety of the citizens or the environment of the City, or would violate the minimum standards set forth below, the application must include a plan for mitigation of those risks satisfactory to the City.

(b) Minimum standards. If the conditions of the property proposed for excavation or development exceed any of the minimum standards set forth below or as otherwise recommended by the EPA and CDPHE, the application shall not be approved unless a mitigation plan satisfactory to the City is included in the application.

(1) Risks which are determined unacceptable in the Clear Creek/Central City Superfund investigation, a copy of which is available from the City or another agency designated by the City.

(2) Mine wastes which contain concentrations greater than:

   i.  Lead – five hundred (500) milligram/kilogram.
   ii. Arsenic– one hundred thirty (130) milligram/kilogram.
   iii. Mercury – ten (10) milligram/kilogram.
   iv.  Zinc – one thousand (1,000) milligram/kilogram.

Or which exhibit any of the following characteristics:

   v.  The material has a negative acid-base potential.
   vi.  The soil pH is less than six (6.0).

(3) Mercury is often concentrated in a limited area and will migrate downward. Therefore, samples containing concentrations of mercury over one (1) milligram/kilogram will need to be followed with a minimum of three (3) additional samples taken in the immediate area to the full depth of the proposed excavation.

(4) Conditions which violate applicable standards set forth by the CDPHE or the EPA.
(5) Any other conditions identified in the results of the sampling or testing which indicate that the proposed excavation or development may create or accelerate a potential threat to the citizens of the City or the environs of the City which are not adequately mitigated by the mitigation plans contained in the application.

(c) Mitigation plans. If the application includes a plan for mitigation of environmental or geotechnical conditions of the property which the City determines adequately alleviates the potential threat to the citizens and environs of the City, the application may be approved by the City. Mitigation plans the City may consider include:

(1) Scientific justification that mine wastes will not migrate into surface or ground water or otherwise present a harm to humans or the environment.

(2) Plans for excavation and off-site disposal at a permitted disposal facility of contaminated soils or mine wastes. An Applicant utilizing off-site disposal shall confirm that the facility accepting the waste material has been approved by the County, the State and, if applicable, the EPA. The amount of material to be removed, a time schedule of removal, and documentation of a proper disposal facility must be included in the development plan.

(3) Plans for on-site capping and institutional controls of mine wastes. All on-site capping must be designed to be resistant to erosion, be capable of isolating the waste from human exposure, and minimize infiltration in order to prevent degradation of ground water. Institutional controls will involve recording in the real estate records the estimated amount of mine waste on the property, the location of the mine waste, and the results of the geochemical analysis. The property owner shall be required to perform annual inspections of the cap to evaluate its integrity, and to make all necessary repairs to the cap within thirty (30) days. The results of the annual inspection shall be submitted to the Public Works Department. If on-site capping and institutional controls are utilized, an Applicant shall evaluate whether the mine waste is in contact with or contaminating ground water.

(4) Plans to neutralize soil agents. In a situation where soil pH levels are the only parameters exceeded, the amendment of the soil with a neutralizing agent may be considered an acceptable course of action. Any proposal for amendment to the soil shall provide for the long-term neutralization of the
soil, and shall take into consideration the results of the acid-based potential tests.

(5) Other engineering controls which adequately limit or remove the adverse conditions as a threat or danger to humans or the environment as determined by the City.

___Sec. 18-8-140___ Consulting fees.

In addition to any other fees imposed by the City for a Permit application, the Applicant shall be responsible for and pay to the City the cost of any expert consultants which the City retains to review the test and sampling results and mitigation plans included in the application.

___Sec. 18-8-150___ Failure to perform required testing and violations.

No Permit shall be issued or site development plan be considered if an Applicant fails to perform the tests and to submit the reports required by this Article. It is illegal to falsify or fail to disclose to the City test results required by this Article. The performance of any excavation prior to complying with the provisions of this Article shall be a violation of this Article.

___Sec. 18-8-160___ Persons liable.

The owner, tenant or occupant of any building or land or part thereof and any builder, agent or other person who participates in, assists, directs, creates or performs any excavation without first performing the requirements of this Article may be held responsible for the violation and be subject to the penalties and remedies herein provided.

___Sec. 18-8-170___ Penalties and enforcement.

(a) Any person who is found guilty of, or pleads guilty or nolo contendere to the commission of, a violation of this Article shall be subject to the applicable penalties as set forth in the City’s Construction Standards, Section 1-4-20 of this Code. For each day during which any violation continues, a person may be cited for a separate infraction.

(b) The penalties specified in this Section shall be cumulative and nothing shall be construed as either prohibiting or limiting the City from pursuing such other remedies or penalties in an action at law or equity. Any action in law or equity may include, but is not limited to, instituting an appropriate action to prevent any excavation when excavation is undertaken without performing the requirements of this Article or enjoining contemplated actions or inactions in violation of this Article. The City shall be entitled to
recover its attorneys' fees incurred in bringing any action to compel compliance with the provisions of this Article, as well as any costs incurred to remove fill, restore the area, conduct independent testing or perform any requirements that should have been performed prior to undertaking the activity.

Section 2. Codification Amendments. Following the Effective Date of this Ordinance, the codifier of Central City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Central City Municipal Code.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 4. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the ___ day of ____________, 2017, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

________________________________________
Kathryn A. Heider, Mayor

Approved as to form:

_______________________________________
Marcus McAskin, City Attorney
ATTEST:

______________________________
Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the ___ day of ____________________, 2017.

CITY OF CENTRAL, COLORADO

______________________________
Kathryn A. Heider, Mayor

ATTEST:

______________________________
Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on ___________, 2017.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on ___________, 2017.

CITY OF CENTRAL, COLORADO

______________________________
Kathryn A. Heider, Mayor

ATTEST:

______________________________
Reba Bechtel, City Clerk
CITY OF CENTRAL, COLORADO
ORDINANCE 17-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CENTRAL,
COLORADO ADOPTING A NEW ARTICLE VIII OF CHAPTER 18 OF THE
CENTRAL CITY MUNICIPAL CODE TITLED EXCAVATION REGULATIONS

WHEREAS, the City of Central ("City") is authorized under its home rule charter and Title 31 of the Colorado Revised Statutes to adopt and amend ordinances in furtherance of governmental administration and the City's police powers; and

WHEREAS, the City has been designated as part of the Central City/Clear Creek Superfund Site by the U.S. Environmental Protection Agency and the Colorado Department of Public Health and Environment ("CDPHE") due to contamination from past mining activities in the area; and

WHEREAS, during a recent project in which the City was assisting with the undergrounding of utilities, the City encountered a potential issue with mining waste in the soil that could have negatively impacted the City's ability to complete the project; and

WHEREAS, the CDPHE has recommended that the City implement environmental testing requirements for excavations and grading within the City to address future issues with soil contamination that may arise during projects involving excavations in the City; and

WHEREAS, the City Council finds that this Ordinance will further the health, safety and general welfare of the City's inhabitants; and

WHEREAS, this Ordinance has been prepared and enacted in accordance with the Home Rule Charter as well as applicable state statutes and is hereby declared to be adopted in accordance with all applicable provisions of the Home Rule Charter and applicable state statutes; and

WHEREAS, City Council conducted a public hearing, with proper notice provided, to consider adoption of this Ordinance as required by law.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTRAL,
COLORADO THAT:

Section 1. Article VIII of Chapter 18 of the Central City Municipal Code, titled "Excavation Regulations" is hereby adopted to read in full as follows:

CHAPTER 18

ARTICLE VIII
Excavation Regulations
Sec. 18-8-10 Definitions.
Sec. 18-8-20 Permit required.
Sec. 18-8-30 Fees required.
Sec. 18-8-40 Application for and issuance of permit.
Sec. 18-8-50 Revocation of permit.
Sec. 18-8-60 Term of permit.
Sec. 18-8-70 Regulatory and permit compliance.
Sec. 18-8-80 Protection of adjoining property.
Sec. 18-8-90 Inspection/completion of excavation.
Sec. 18-8-100 Corrective measures.
Sec. 18-8-110 Surety deposit.
Sec. 18-8-120 Environmental and geotechnical sampling and testing.
Sec. 18-8-130 Mitigation requirements.
Sec. 18-8-140 Consulting fees.
Sec. 18-8-150 Failure to perform required testing and violations.
Sec. 18-8-160 Persons liable.
Sec. 18-8-170 Penalties and enforcement.

Sec. 18-8-10 Definitions.

Applicant is a person who requests a Permit for work within the City under this Article.

CDPHE means the Colorado Department of Public Health and Environment.

Construction Standards means the City’s Standards and Specifications for Design and Construction, dated April 1, 2013, as adopted via Ordinance 13-06.

Environmental and geotechnical investigation means the testing and investigation requirements set forth in this Article.

EPA means the U.S. Environmental Protection Agency.

Excavation means any grading or earth movement of any type whatsoever.

Excavation project means an excavation that is undertaken pursuant to a Permit.

Permit means a grading permit as defined and described in Chapter 6 of the City’s Construction Standards.

Public Works Director means the Public Works Director of the City of Central.
Sec. 18-8-20. Permit Required.

No person shall do any grading, excavation or fill without first obtaining a Permit from the City. A separate Permit shall be obtained for each site and may cover both excavations and fills, including excavations for utility installation outside a public right-of-way. Permits for grading, excavation or fill within the Quartz Hill Overlay District shall be subject to all applicable regulations set forth in Division 3-2 of the Land Development Code. No Permit shall be required for any excavation activity that disturbs or may disturb one (1) cubic yard of soil or less and which is specifically associated with routine gardening, landscape maintenance or irrigation ditch maintenance.

Sec. 18-8-30 Fees required.

At the time of filing an application for a Permit, Applicant must remit to the City a permit fee as set forth in the City’s Schedule of Fees.

Sec. 18-8-40 Application for and issuance of permit.

An application for a Permit shall be made to the City’s Public Works Department on forms provided by the City. At the time of application, the City shall provide the Applicant with a copy of the Construction Standards. All work and Permits shall comply with the requirements set forth in the Construction Standards. The Construction Standards are also available on the City’s website.

Sec. 18-8-50 Revocation of permit.

(a) The City, through its Public Works Department, may revoke the Permit granted by this Article in any of the following circumstances:

1. The Applicant violates any of the provisions of the ordinances of the City governing the activities permitted by the Permit;

2. The Applicant obtains a Permit by fraud or misrepresentation;

3. Revocation is necessary to maintain the public health, safety and welfare;

4. The Applicant fails to maintain the required bond or letter of credit or other guarantees of performance during the course of the construction and of any warranty period specified by the City;
(5) The Applicant fails to comply with any of the conditions set forth in the Permit; or

(6) The Applicant violates any requirement of this Article.

(b) The Public Works Department shall advise the Applicant in writing of the grounds for revocation of the Permit and the Applicant may be allowed to appeal such revocation to the City Council.

Sec. 18-8-60 Term of permit.

All Permits shall be valid for twelve (12) months from the date the Permit is issued unless a different term is warranted pursuant to the construction or work schedule provided by the Applicant at the time of application, provided that the approved application and the conditions of its approval have not changed.

Sec. 18-8-70 Regulatory and permit compliance.

All work completed pursuant to a Permit shall comply with Permit requirements, the City’s Construction Standards, and all applicable federal, state, and local regulations.

Sec. 18-8-80 Protection of adjoining property.

(a) When, for the protection of property, it is necessary to enter upon such property for the purpose of taking appropriate protective measures, the Applicant shall obtain written permission from the owner of such property to enter thereupon.

(b) The Applicant shall, at his or her own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of his or her excavation work and the Applicant shall be responsible for all damage to public or private property, including public rights-of-way resulting from the work.

(c) Whenever it may be necessary for the Applicant to trench through any lawn area, such area shall be reseeded or the sod shall be carefully cut, rolled and replaced after the excavation has been backfilled as required in this Article.

(d) All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began.

Sec. 18-8-90 Inspection/completion of excavation.

(a) The City shall make inspections as are necessary for the enforcement
of this Article.

(b) The City’s Public Works Director or his or her designee shall have the authority to enforce such regulations as may be reasonably necessary to enforce and carry out the intent of this Article, including the authority to enforce any applicable Permit requirements or applicable local, state, or federal regulations.

Sec. 18-8-100 Corrective measures.

The Public Works Department, upon discovery of any defect in the work or for the Applicant failing to complete the excavation including backfilling and removal of debris for which a Permit is issued, may:

(a) In the event of an emergency, order a private contractor to do everything necessary to complete such work to acceptable standards, particularly where hazards exist due to the failure of the Applicant to restore or maintain the site in accordance with the provisions and conditions of his or her Permit.

(b) In the event of a nonemergency, give notice to the Applicant and his or her sureties in writing of the nature and location of such defects, including notice of a reasonable time, not less than twenty-one (21) calendar days, within which such defects are to be repaired. Such period of time may be extended by the Public Works Director upon application, for good cause shown.

(c) In the event of failure of the Applicant to perform the required work within the period provided by such notice, a private contractor on order of the City shall make such repairs as may be necessary.

(d) The City shall recover any and all costs of work performed by its personnel or by a private contractor, including the cost of labor, equipment, materials and administrative costs at the expense of the Applicant by applying any deposit, bond, letter of credit or other security in its possession to payment thereof, and shall recover any remaining unpaid balance of such costs from the Applicant.

Sec. 18-8-110 Surety deposit.

The City shall require a $1,000 surety deposit in the form of cash or letter of credit for minor utility installation (service lines) or any grading less than twenty (20) cubic yards. For projects grading larger than twenty (20) cubic yards, the City may require a surety deposit in the amount of up to 150% of the cost estimate to complete the work. The surety deposit is required to ensure that the work, if not completed in accordance with the approved plan and specifications, will be completed or corrected to eliminate hazardous conditions.
Sec. 18-8-120 Environmental and geotechnical sampling and testing.

(a) All applicants for a Permit shall prepare a sample collection plan including a chemical characterization of the metals content of the soils and geotechnical testing on the property sought to be excavated or developed. The areas most vulnerable for environmental contamination are:

(1) Known mining or milling sites;
(2) Properties adjacent to or down gradient from mining and milling areas;
(3) Listed Superfund sites;
(4) Properties adjacent to or down gradient from Superfund sites;
(5) Properties with known chemical storage or former gas or fuel storage areas;
(6) Properties adjacent to or down gradient from properties that had chemical or fuel storage;
(7) Properties in flood plains or drainages that are down gradient from any of the above sites;
(8) Properties with unstable slopes or waste piles reposed above them; and
(9) Properties subject to storm water runoff from any of the above-listed properties.

(b) If an applicant is developing on the property outside a vulnerable area as described above, relief from some of the testing and sampling requirements may be allowed. A report from a qualified environmental/geotechnical firm must be submitted indicating its opinion of the extent of testing which will be necessary to protect the public health and environment.

(c) If an applicant for a Permit concerns a property within the City which was specifically identified as a priority concern in the by the EPA or CDPHE in a Record of Decision, the Permit will not be approved unless the EPA and the CDPHE have been provided a reasonable opportunity to comment on the Permit application, and have not disapproved the action proposed by the Permit application based on state or federal legal requirements.

(d) Testing requirements. The following requirements and guidelines
shall govern all environmental testing and sampling performed under this Article.

(1) All sample collection plans shall be representative of the conditions at the property.

(2) The number and types of samples collected shall provide a reasonable and accurate representation of the entire property. By way of clarification, samples shall not be collected at the visually cleanest portion of the property and be presented as being representative.

(3) A minimum of one (1) augured subsurface soil sample shall be collected at a depth of zero (0) to two (2) feet per each one thousand five hundred (1,500) square feet of lot. A maximum of three (3) individual samples may be composited, if desired, and the minimum of two (2) individual analyses of the samples must be completed. Samples may only be composited if, based on visual appearance, mine waste is not combined with soil.

(4) Sites previously capped or backfilled shall be augured and one (1) soil sample collected to a minimum depth of ten (10) feet. At least one (1) sample per lot or four thousand five hundred (4,500) square feet shall be augured and a sample taken to a depth equal to the depth of the proposed excavation.

(5) All sampling must be performed by a nonbiased third party.

(6) Proper chain of custody shall be maintained and established for all samples collected from the property. All samples shall be submitted to a laboratory that has experience and is qualified to perform metals analysis in a solid matrix.

(7) Analytical methods shall conform to the procedures outlined in EPA's SW-846 Compendium, as amended from time to time, or an approved equivalent method. For acid-base potential, tests should conform to the methods outlined in Report No. EPA-670/2-74-070, Mine Spoil Potential for Soil and Water Quality, or an equivalent method.

(8) At a minimum, all samples shall be analyzed for the following parameters:
   a. Lead.
   b. Arsenic.
c. Zinc.
d. Mercury.
e. Acid-base potential.
f. Soil pH.

(9) All samples for lead, arsenic, zinc and mercury shall be analyzed for total metals.

(10) If the historical use of the property includes uses which could result in soil contamination, the appropriate chemical testing must be included in the sample collection plan.

(11) Any other tests required by the EPA or the CDPHE as determined by the City.

(e) Soil importation. If the Applicant desires to import soils onto the property, the Applicant must provide a verification of the quality of these soils.

(f) Submission of sampling plan. A copy of the sampling plan must be submitted to the City, and must include the location and depth of all bore holes and location of the sampling, results of all tests and analysis required by this Article and any other public entity with jurisdiction, and the names and addresses of all consultants, engineers, testers and laboratories used. An explanation of why the specific locations and depths were chosen shall accompany all sampling plans.

(g) Slope stability analysis. A slope stability analysis must be completed by a qualified registered professional engineer if development or excavation is planned for a lot with:

1. Any slope greater than thirty-five percent (35%);
2. Any development which will result in a slope of being created which is greater than thirty-five (35%);
3. Any property with wood cribbing, rock retaining walls or other similar retaining structures or remnants of retaining structures.

(h) Surface subsistence. An analysis of the potential for surface subsistence due to the presence of underground mine workings must include the following:

1. Pilot bore hole drilling must be conducted prior to proceeding with any development that will require the earth
to support any significant structure or vehicular traffic.

(2) The Applicant must contact the inactive mines program of the Colorado Division of Reclamation, Mining & Safety to obtain information about past and future mine hazard and mitigation activities, and to coordinate any activity which may be undertaken by the Applicant.

Sec. 18-8-130 Mitigation requirements.

(a) General considerations. If the results of the environmental and geotechnical sampling and testing show that excavation on or development of the property would create a threat to the safety of the citizens or the environment of the City, or would violate the minimum standards set forth below, the application must include a plan for mitigation of those risks satisfactory to the City.

(b) Minimum standards. If the conditions of the property proposed for excavation or development exceed any of the minimum standards set forth below or as otherwise recommended by the EPA and CDPHE, the application shall not be approved unless a mitigation plan satisfactory to the City is included in the application.

(1) Risks which are determined unacceptable in the Clear Creek/Central City Superfund investigation, a copy of which is available from the City or another agency designated by the City.

(2) Mine wastes which contain concentrations greater than:

i. Lead – five hundred (500) milligram/kilogram.

ii. Arsenic – one hundred thirty (130) milligram/kilogram.

iii. Mercury – ten (10) milligram/kilogram.

iv. Zinc – one thousand (1,000) milligram/kilogram.

Or which exhibit any of the following characteristics:

v. The material has a negative acid-base potential.

vi. The soil pH is less than six (6.0).

(3) Mercury is often concentrated in a limited area and will migrate downward. Therefore, samples containing concentrations of mercury over one (1) milligram/kilogram will need to be followed with a minimum of three (3) additional samples taken in the immediate area to the full
depth of the proposed excavation.

(4) Conditions which violate applicable standards set forth by the CDPHE or the EPA.

(5) Any other conditions identified in the results of the sampling or testing which indicate that the proposed excavation or development may create or accelerate a potential threat to the citizens of the City or the environs of the City which are not adequately mitigated by the mitigation plans contained in the application.

(c) Mitigation plans. If the application includes a plan for mitigation of environmental or geotechnical conditions of the property which the City determines adequately alleviates the potential threat to the citizens and environs of the City, the application may be approved by the City. Mitigation plans the City may consider include:

(1) Scientific justification that mine wastes will not migrate into surface or ground water or otherwise present a harm to humans or the environment.

(2) Plans for excavation and off-site disposal at a permitted disposal facility of contaminated soils or mine wastes. An Applicant utilizing off-site disposal shall confirm that the facility accepting the waste material has been approved by the County, the State and, if applicable, the EPA. The amount of material to be removed, a time schedule of removal, and documentation of a proper disposal facility must be included in the development plan.

(3) Plans for on-site capping and institutional controls of mine wastes. All on-site capping must be designed to be resistant to erosion, be capable of isolating the waste from human exposure, and minimize infiltration in order to prevent degradation of ground water. Institutional controls will involve recording in the real estate records the estimated amount of mine waste on the property, the location of the mine waste, and the results of the geochemical analysis. The property owner shall be required to perform annual inspections of the cap to evaluate its integrity, and to make all necessary repairs to the cap within thirty (30) days. The results of the annual inspection shall be submitted to the Public Works Department. If on-site capping and institutional controls are utilized, an Applicant shall evaluate whether the mine waste is in contact with or contaminating ground water.
(4) Plans to neutralize soil agents. In a situation where soil pH levels are the only parameters exceeded, the amendment of the soil with a neutralizing agent may be considered an acceptable course of action. Any proposal for amendment to the soil shall provide for the long-term neutralization of the soil, and shall take into consideration the results of the acid-based potential tests.

(5) Other engineering controls which adequately limit or remove the adverse conditions as a threat or danger to humans or the environment as determined by the City.

Sec. 18-8-140 Consulting fees.

In addition to any other fees imposed by the City for a Permit application, the Applicant shall be responsible for and pay to the City the cost of any expert consultants which the City retains to review the test and sampling results and mitigation plans included in the application.

Sec. 18-8-150 Failure to perform required testing and violations.

No Permit shall be issued or site development plan be considered if an Applicant fails to perform the tests and to submit the reports required by this Article. It is illegal to falsify or fail to disclose to the City test results required by this Article. The performance of any excavation prior to complying with the provisions of this Article shall be a violation of this Article.

Sec. 18-8-160 Persons liable.

The owner, tenant or occupant of any building or land or part thereof and any builder, agent or other person who participates in, assists, directs, creates or performs any excavation without first performing the requirements of this Article may be held responsible for the violation and be subject to the penalties and remedies herein provided.

Sec. 18-8-170 Penalties and enforcement.

(a) Any person who is found guilty of, or pleads guilty or nolo contendere to the commission of, a violation of this Article shall be subject to the applicable penalties as set forth in Section 1-4-20 of this Code. For each day during which any violation continues, a person may be cited for a separate infraction.

(b) The penalties specified in this Section shall be cumulative and nothing shall be construed as either prohibiting or limiting the City from pursuing such other remedies or penalties in an action at law or
equity. Any action in law or equity may include, but is not limited to, instituting an appropriate action to prevent any excavation when excavation is undertaken without performing the requirements of this Article or enjoining contemplated actions or inactions in violation of this Article. The City shall be entitled to recover its attorneys' fees incurred in bringing any action to compel compliance with the provisions of this Article, as well as any costs incurred to remove fill, restore the area, conduct independent testing or perform any requirements that should have been performed prior to undertaking the activity.

Section 2. Codification Amendments. Following the Effective Date of this Ordinance, the codifier of Central City’s Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Central City Municipal Code.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 4. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 1st day of August, 2017, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Kathryn A. Heider, Mayor

Approved as to form:

Marcus McAskin, City Attorney
ATTEST:

__________________________
Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 15\textsuperscript{th} day of August, 2017.

CITY OF CENTRAL, COLORADO

__________________________
Kathryn A. Heider, Mayor

ATTEST:

__________________________
Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on August 3, 2017.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on August 17, 2017.

CITY OF CENTRAL, COLORADO

__________________________
Kathryn A. Heider, Mayor

ATTEST:

__________________________
Reba Bechtel, City Clerk
To: Central City Council  
From: Ray W. Rears, Community Development Director  
Date: August 15, 2017  
Re: Department Update

Development
1) Mineral Impact Grant (Comprehensive Plan, LDC and Design Guidelines) – Close Out - $180,000  
2) CDBG – Resilience Project. – Closeout - $75,000  
3) Wayfinding Signage –  
   a. Design requested following the direction from Council on August 1, 2017.  
4) Marijuana Suspension – Options/data being pursued  
5) UNC Survey – Event impact for businesses and citizens has been sent.  
6) Various initial development/building inquirens addressed.  
7) Joint Planning / Historic Preservation Commission meet to be held on August 29th to discuss Sign Code Updates  

Historic Preservation
1) Belvidere Theater  
   a. RFP – Expected to be released next week.  
   b. Contractor to pursue other funding opportunities contacted  
2) Washington Hall RFP – Work continues  
   a. Paint analysis contractor contacted  
3) 2017 HPC Cases

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<td>110</td>
<td>Academy</td>
<td>Gilpin Historical Society</td>
<td>Install Solar Panel</td>
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<td>17-06</td>
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<td>Bates</td>
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<td>FV Investors</td>
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<td>FV Investors</td>
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Code Enforcement
1) Work continues on reported violations  
   a. Cases Reported in 2016 – 35  
   b. Cases Reported in 2017 – 18  
   Meeting with State regarding tire grant clean-up effort.

IT/Web/Audio Visual
1) Website, Facebook and Twitter internal administration continues.  
2) Channel 20 – Integration still in progress
3) Livestreaming meetings being investigated

Events / Marketing
1) Billboard – City #6 in-bound
   b. City Billboard – “Shop Central City” – design in the works – September Installation planned
2) Central City App – Mobile Town Guide developed and can be download – “Mobile Town Guide Central City”
   a. Working on an interactive walking tour of the City
3) Short Promotional Videos are planned with two firms as well as the Opera
4) Main Street Central City – Meeting with Chair regarding ongoing efforts – Aug. 9, 2017
5) Visitor Center
   a. Refresh of the area nearly complete. New items to sell are being pursued.
6) Main Street Central City
   a. 2016 MS Central City Photo Contest Winners – Post Cards – Available For Purchase
7) 2017 Additional Marketing Items
   a. 118 Radio Spots purchased to promote Central City
   b. Jeffco Living print and digital ads Runs for 6 month/ change messages monthly, Attractions, Shop, Dine, local business promotion, etc.)
   c. MMAC ½ page running new monthly messages from May through the end of August (Focus on seasonal attractions, local business, etc.)
   d. Will also be ½ page ads ran in MMAC, The Gambler, The Mountain Ear, etc.
   e. Blasts, Radio Banner Ads and on-air mentions

Staffing
1) Contractor(s) retained to assist with Belvidere/ Special Projects and Electronic Message Board (EMB) sign code update/discussion.
2) Management of consultant contracts.
3) Ongoing employee wellness program – New program being investigated
### Central City Stats

**Dates and time:** 7/27/17 00:00:00 to 8/2/17 23:59:59

**Month of August**

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**totals**  | 2             | 20     | 7      | 7              |

**Other Calls of Interest**

- Animal: 1
- Business checks: 56
- Camping: 1
- Parking citations: 13

---

### Central City Stats

**Dates and time:** 8/3/17 00:00:00 to 8/9/17 23:59:59

**Month of July**

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**totals**  | 3             | 7      | 2      | 4              |
**Other Calls of Interest**

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<td>Parking citations</td>
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Over the past four weeks, the region has experienced heavy rain which often affects water quality. When heavy rain occurs, the department staff has by passed hole-in-the-ground reservoir to avoid high turbidity waters. This method has proved very successful over the last eight weeks. This allows for minimal chemical dosage and extended filter run times.

Due to the recent heavy rainfall, minor soil erosion below Chase Gulch dam and had begun to block the reservoirs main outlet works pipe. Department staff has been removing loose sediment and soil by hand and will be starting a minor project with larger rock to protect the outlet structure.

Department staff has begun upgrading the water treatment plant’s outdated chlorine delivery system. The current devices can no longer be serviced and/ or supported. The new equipment will allow for safer and more accurate delivery of the departments chlorine disinfection component.
To: Mayor Heider, City Council, and City Manager

From: Sam Hoover, Public Works Director

Date: July 11, 2017

Re: Bi-weekly Report

Since our last council update, public works staff has performed the following activities:

- Provided support for the Bonanza Event
- Swept the downtown area, residential streets and Parkway
- Continued cleanup and repair activities relating to flooding (see attached pictures)
- Posted 2017 RFP for Concrete Flatwork (sidewalk replacement will continue on the North side of Eureka from where we stopped in 2016 to County Road, and then continue on the South side of Eureka St)