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## Construction Project Management Improvement Ordinance

July 2018

**Purpose:** Considering the commercial and residential problems that have occurred with the construction and construction-related projects in the Cherry Creek area over the past year, it is clear that Public Works construction policies need to be strengthened. The lack of support and assistance to small business retailers and neighborhood residents by development owners, construction management, construction workers, and Denver Public Works justifies the need for stronger construction management policies by the City. This document will describe the actions taken and explain the ineffectiveness of the City's support for these actions.

It has been determined that a City Council ordinance is required to enhance existing Public Works construction management policies that will manage construction projects more efficiently and effectively and will mitigate serious detrimental effects on surrounding businesses and residents. This ordinance will give Public Works greater flexibility to manage projects of varying size and complexity and provide balanced, proactive support and assistance to projects, businesses, and residential areas.

### **Background:**

**Construction Activity and Management** - Over the past two years the business area construction management and neighborhood issues and problems have increased to the extent where the present Denver Public Works management policies and resources have been insufficient to address and mitigate these problems. There is a lack of recognition that the significant size and complexity of construction activity has exceeded the City's ability or willingness to control the damaging construction effects on the business and residential community.

All of the business and resident difficulties have been exacerbated by the large volume of construction projects that have been initiated simultaneously and in a relatively short period of time. Over the past three years in Cherry Creek North, four major projects have been completed, ten are underway, and two to three new projects are planned to begin in the next 12 months. This volume, in addition to the implementation of paid parking at the Cherry Creek Shopping Center, has only increased customer and parking concerns. This construction activity does not include projects completed and under construction in the contiguous Cherry Creek East and Triangle areas.

There is no doubt now that problems have resulted from Public Works' inability to require pre-permitting and pre-construction planning and construction management agreements regarding area traffic flow, street closures, parking meter management, defined offsite parking arrangements, noise mitigation, and trash prevention and collection. The lack of routine and timely construction meetings with the involvement of all parties has hindered critical discussion on construction project issues, plans, and potential difficulties for businesses and residents which could prevent or mitigate problems before they occur.

The inability to address these above-mentioned problems and issues has discouraged business customer desire to visit business areas; sent a citywide message to avoid Cherry Creek and its

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construction problems; reduced small business retail sales; hindered neighborhood parking; and disrupted residential quality of life. Some small businesses have either closed or are struggling to stay in business. Neighborhood residents are questioning whether the traffic congestion, traffic flow disruptions, and parking limitations will decrease or can be managed so that choosing to remain in the neighborhood will be possible and desirable.

**Mitigation Actions and Results:** Over the past year the following actions have been taken to minimize construction problems related to parking and traffic issues for retailers and residents:

## 1. Construction Communication Meetings

- **Actions** - Monthly meetings have been held with business improvement district leaders, construction firm representatives, Public Works Right of Way staff, and City Council to discuss construction progress, difficulties faced by area businesses, and parking problems in the business area and neighborhood. City Council has communicated with development owners and contractors multiple times, encouraging the use of offsite parking and requesting that workers be prohibited from using business area parking meters and neighborhood parking.
- **Results** - Even though construction management staff attendance at monthly meetings has been good, it is difficult to determine if owners and construction executives want to be aware of problems or are willing to press construction management and workers to address issues. Each meeting seems to focus primarily on construction progress and needs rather than any serious efforts to mitigate the problems with businesses and residents. Communications with owners have not produced any significant construction manager actions on identified issues. Public Works leadership have not been willing to address issues with construction management nor establish / modify procedural rules to mitigate parking and traffic problems.

## 2. Parking Management and Enforcement

- **Actions** – Daily and weekly City Council staff calls and in-person discussions on parking problems with Parking Operations and Right of Way Enforcement have occurred to address parking meter violations that affect retailers; the overwhelming construction worker parking in neighborhoods; the lack of enforcement on parking violations that would incentivize construction workers to park in provided parking areas; and, most importantly, the need to treat this business and residential area as a special construction zone that is exceeding normal community impacts due to the size and complexity of construction activities.
- **Results** – Parking Operations appears to be more concerned about maintaining established business and residential parking practices than being creative with parking solutions in this excessive construction environment. Such inflexibility has led to serious economic impacts on small business retailers and quality of life issues for neighborhood residents up to five blocks from construction sites. With a thirty percent (30%) vacancy in Right of Way Enforcement staffing, there seems to be no sense of urgency to employ additional staff.

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City Council had to contact the City's CFO about the inadequate staffing and its negative effect on revenue generation from the lack of enforcement. Also, Human Resources had to be contacted to explain how ROWE positions without benefits and proper pay only increase turnover and results in a lack of quality candidates. Right of Way Enforcement should be well compensated and participate in parking improvement strategies and practices that would incentivize construction workers to park in approved locations.

### 3. Shopping Center Parking

- Actions – In addition to a few private/contracted parking locations provided by some contractors, in September 2017, 250 Cherry Creek Shopping Center parking spaces were arranged for construction workers by the Shopping Center management and City Council. Communication was sent to development owners, contractor executives, and construction workers explaining how this location arrangement was closer than neighborhood parking areas, was comparable to private garage pricing, and was less expensive than using parking meters. The Shopping Center Parking Office contact information was posted for all workers.
- Results – Due to Right of Way Enforcement's limited staffing from September 2017 to February 2018, little enforcement of illegal parking occurred in business metered spaces, neighborhood permitted spaces, and two (2) hour parking. This had a dramatic effect on retailers and residents, since enforcement is critical to encourage construction workers to park in the Shopping Center and other offsite spaces. This lack of enforcement also sent the false message to construction workers that illegal parking is acceptable to development owners, contractors, and Right of Way Enforcement. Even though 4,000 parking tickets have been given out in the last two to three months by increasing staffing, it has not had a significant impact on construction worker parking due to the continued lack of construction project management supervision on this important issue.

### 4. Advance Notice on Significant Construction Activities

- Actions – Construction project planning normally indicates well in advance what construction needs and activities will have a possible detrimental impact on the surrounding community and when those impacts will occur. Examples of these construction related activities include street closures, sidewalk blockages, and parking meter bagging. Due to the City's permitting process, construction project management staff and Right of Way Services staff routinely know in advance this impactful information that can be communicated to all parties at monthly construction meetings.
- Results – Construction activities with significant impacts have not been reported with sufficient notice or at all to business leaders and retailers to allow them to prepare for any detrimental effects. The different silos/divisions within Public Works, such as Permitting and Right of Way Services, do not communicate and coordinate the planning of these construction activities, contributing to the lack of community notice and inability to mitigate business operational problems. Street closures, which have had the greatest impact on

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retailers and residents, have occurred with little advance notice on a continual basis. The inability to manage this process should not be acceptable to Public Works or the City.

## Recommendations for Improvement and Ordinance Development

### Construction Management

The following issues and recommendations for improvement have been provided to and discussed with Public Works leadership without any response since May 18th. These policy and practice improvements will have a major positive effect on construction management within areas of the City where significant construction activity is occurring.

It is very apparent now that an ordinance will be required to strengthen current City construction management policies and provide new policies for improvement. The recommendations for improvement are in italics and would be considered for inclusion in the development of an ordinance.

#### 1. Circumstances and Effects of Excessive Construction within a Defined Area

- Problem – When multiple construction projects of significant size and complexity are initiated within the same time period and in a defined geographic area, the compounding effects of this excessively large volume of work has caused extreme hardships and negative effects on surrounding businesses, residents, visitors, and / or other parties within the area.
- Recommendation for Improvement and Ordinance – *A defined area of excessive construction is described as a situation where multiple major construction projects are initiated that have compounded impacts on pedestrian safety and traffic management. In this situation of significantly increased workload Public Works should be allocated additional right of way, enforcement, and other necessary staff to provide efficient and effective service. Also, Public Works will need to strictly enforce all existing policies and procedures to manage construction activity in a manner that will have balanced and mitigated effects within both commercial and residential communities. This would require the strict management of sidewalk protections and severely limit the permitting of street or lane closures, temporary one-way street arrangements, and other methods that may give favorable treatment to construction projects and have a negative effect on customers, businesses, and residents.*

#### 2. Construction Management Planning, Communication, and Notification

- Problem – Business and community leaders are not involved with major construction project planning discussions in which construction activities affecting the community are communicated. In addition, there is insufficient notification to all parties when activities affecting business operations and area traffic flow will occur.

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- **Recommendation for Improvement and Ordinance** – *Every commercial or multi-family construction project will have an initial pre-construction planning overview meeting attended by the developer owner, key construction executives, affected City Council representatives, Public Works, business and neighborhood leaders. The purpose of the overview will be to review the construction schedule, key timeline activities, any activities that may have an effect on street and traffic flow, and any potential street and / or infrastructure damage. Routine weekly meetings will also be held to improve project progress communication and to notify all parties of any planned, permitted activity that will affect area businesses and/or residents. The use of communication technology and tools to record specific construction plans, activities, and permit needs may be helpful to the notification and approval process.*

### 3. **Parking and Street Lane Closure**

- **Problem** – The use of the parking lane and a traffic lane on any street for additional construction project space creates potential pedestrian and traffic flow safety problems. In business areas, a street closure has a negative effect on commercial businesses and creates a potential construction environment that discourage customer visits.
- **Recommendation for Improvement and Ordinance** – *The continuous use of one street traffic lane for the entirety or a significant portion of a construction project will not be allowed. For pedestrian safety reasons, the closure of the parking lane for the full construction time is acceptable. For specific safety construction reasons, the closure of one street lane for a short period of time (up to 3 days) would be justified and practical. Sufficient advance notice must be given to ensure proper planning for any possible disruption in business operations and neighborhood traffic flow. Initial permit and extension approvals would need to be granted and coordinated by Public Works, business and neighborhood leaders. A graduated fee would be imposed per day on the contractor for failing to end the street closure according to the previously agreed upon date/time.*

### 4. **Full Street Closure**

- **Problem** – A full street closure damages business operations; disrupts traffic flow for customers, residents, and visitors; and hinders the marketing and attraction of customers to the business area. This is similar to the one street lane closure issue but of a more serious nature.
- **Recommendation for Improvement and Ordinance** – *Full street closures on any block for an extensive time period will not be allowed for any construction project. The full closure of a street for a short period of time (up to 3 days) may be considered for significant safety reasons. A full street closure would need to be approved and coordinated by Public Works and business and neighborhood leaders. If approved, a graduated fee would be imposed per day on the contractor for failing to end the street closure according to the previously agreed upon date and time.*

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## 5. Pedestrian Sidewalks

- **Problem** – The use of sidewalks for construction purposes has caused pedestrian and business customer travel problems, especially when the sidewalks on both sides of a street are blocked due to multiple construction projects. Blockages discourage customers from visiting area businesses.
- **Recommendation for Improvement and Ordinance** - *If construction occurs on a block, one side of the street must be open without hindrances for pedestrians. If construction occurs on both sides of the street, a wooden covered walkway must be installed on at least one side of the construction project to protect pedestrians from unsafe construction activities. Covered walkways should be sturdily constructed, waterproofed, and adequately lighted for nighttime use.*

## 6. Construction Worker Parking Plans

- **Problem** - Construction worker parking is a major hindrance for both residents and retailers. The use of resident parking disrupts normal home services and visitors for social and business events. The use of parking spaces in the business area reduces commercial activity and discourages repeat customer visits, which has a serious detrimental impact on small businesses.
- **Recommendation for Improvement and Ordinance** - *A defined parking plan for every construction project is to be submitted to Public Works prior to receiving building permit approval. The plan must indicate the highest number of anticipated construction workers anticipated for the project, a signed agreement for contracted offsite parking to accommodate the highest number of workers, what contractor financial incentives will be used to ensure worker parking compliance, and what penalties will be imposed if construction workers refuse to comply with the parking plan. A copy of the approved parking plan will be forwarded to the business organization, RNO and Council representatives. Deviations from and/or corrections to a project's parking plan during the construction period will be reviewed at weekly construction meetings.*

## 7. Damage to Infrastructure and Streetscape

- **Problem** – There are many instances where construction projects have damaged the streets and streetscape. Per existing city policy, Denver Public Works has assumed the financial responsibility for repaving damaged streets and restoring the streetscape to a Public Works standard. The Public Works standard may not be to the same level of streetscape quality that existed prior to the construction project.
- **Recommendation for Improvement and Ordinance** – *It is not a taxpayer responsibility to repair the damage to our city streets and local streetscape that is created by any*

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***construction project. A construction project performance bond must include the costs of repairing, replacing, and restoring streets and infrastructure to their original condition prior to the initiation of the construction project. A pre-construction evaluation and documentation of infrastructure and streetscape conditions must be performed as part of the pre-construction planning process. A copy of the construction bond is to be submitted to Public Works prior to receiving building permit approval.***

## **8. Parking District Development**

- **Problem** – The management of all parking activities are not efficiently coordinated and managed by one single City division. Right of way permitting manages parking meter bagging, and Parking Enforcement handles parking violations. Staffing shortages have also caused variances in parking enforcement, allowing construction workers to use parking meters intended for customer service and within the neighborhood areas.
- **Recommendation for Improvement and Ordinance** – ***The development of a parking district would manage all parking activities and responsibilities efficiently and effectively. The responsibility would be handles by business organizational staff with issues and corrective actions discussed with construction representatives at weekly construction meetings. The parking district would operate and fulfill all prescribed City regulations and requirements but would not be responsible for parking meter collections.***

## **9. Parking Meters**

- **Problem** – The management of parking meter bag approval and permitting is fragmented and not properly coordinated with Right of Way staff and business leaders. The unnecessary bagging of parking meters has created significant parking problems for business customers. The inability to locate parking discourages customers and has a significant effect on small business retailers.
- **Recommendation for Improvement and Ordinance** – ***As mentioned in #8, a parking district which would manage all parking activities and resources within a specific business area should be developed. The use of parking meter bags for construction purposes must be included in the pre-construction planning discussion in order to make business and neighborhood leaders aware of any pending disruption in the parking district. In addition, parking district staff would manage construction parking plans, allowed parking violations, meter bagging, installing bags at the appropriate construction time, and removing bags when the construction activity has been completed or is not in progress, such as over a weekend. Meter bagging is not allowed for more than a continuous three (3) day period unless special circumstances exist.***

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## 10. 2 Hour Parking Enforcement

- Problem - Construction workers are over-utilizing 2-hour parking in neighborhoods, and City Parking Enforcement is not continuously enforcing parking regulations on all area streets.
- **Recommendation for Improvement and Ordinance** – Per current City parking regulations, parking enforcement and ticketing must be performed in all neighborhoods on a regular 2-hour basis to ensure compliance. Repeat offenders will have their vehicles either booted or towed from the area.

## 11. Intersection and Alley Signage

- Problem - Construction workers are parking too close to intersections and alley entrances, preventing a safe visual sightline for drivers. It is created due to the lack of no parking signs or marked curbs to give proper sightlines. City Parking Enforcement is not continuously enforcing parking regulations on these unsafe conditions.
- **Recommendation for Improvement and Ordinance** – Per current City parking regulations, parking signage that informs parkers on the proper distance from alley entrances and street intersections must be installed for all alley and street intersections to reinforce vehicular and pedestrian safety. An assessment of the total sign installation need must be conducted, and an implementation and budget plan must be developed for a five (5) year completion time frame.

## 12. Noise and Trash

- Problem - Construction workers are creating early morning disruptive noise to neighborhood residents and depositing trash and cigarette butts during their breaks in commercial areas or when travelling to or from areas adjoining the construction site.
- **Recommendation for Improvement and Ordinance** - *Contractors must provide construction site trash and cigarette butt receptacles directly outside of the construction site. Contractors must also pay the local business organization for the offsite area collection and removal of trash and cigarette butts daily. The construction safety plan is to include provisions for all smoking activities on and off of the construction site.*

## 13. Traffic and Pedestrian Management Signage

- Problem – Construction sites are leaving traffic and pedestrian signs, cones and barricades in the public right-of-way when not in use or no longer required. This leads to resident and

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customer confusion, visual waste and clutter, and unnecessary blockages of the right-of-way in violation of ADA standards.

- **Recommendation for Improvement and Ordinance** – *Unless required by the City or to address an immediate, identifiable safety hazard, contractors must remove all traffic and pedestrian management signs, cones and barricades from the public right-of-way within 24-hours when not in use. Residents should report all right of way and street delinquent signage, cones, and other construction related traffic devices to the City through 311 and also call the equipment vendor listed on the signage equipment.*

## 14. Construction Hours

- **Problem** – In residential areas construction activity has exceeded the established hours for construction – 7 AM to 9 PM during weekdays and 8 AM to 5 PM on weekends. The lack of enforcement during early and ending hours has allowed construction work to exceed allowed hours.
- **Recommendation for Improvement and Ordinance** – Parking enforcement should be utilized to monitor construction hours. If a parking district is development, cross trained parking enforcement officers could assist with all parking and construction regulation violations.

## 15. Coordination with Existing City Mitigation Plans and Approved Business Area Construction Guidelines

- **Problem** – Existing City regulations and policies may conflict with proposed improvements and will need to be coordinated and modified.
- **Recommendation for Improvement and Ordinance** – These recommendations for improvement must be coordinated with existing construction mitigation plans and business area guidelines. Differences should be reconciled, and final improvements should be guided by their efficiency, effectiveness, balance, and greatest positive impact.