

Proposed Amendment of City Code:
Pedestrian Access Act

City Council
January 26, 2016

Background

Urban Land Institute, June 2012:

“The comfort of those who walk the streets of downtown Colorado Springs to work, shop, or just enjoy them should be ensured....

[C]onsideration should be given to a sidewalk management ordinance that focuses on a six- to eight-foot clear zone for pedestrians to help eliminate vagrants from ‘claiming’ sidewalk space”

Proposed Ordinance – § 9.2.112

“Pedestrian Access Act”

Prohibits:	Sitting, kneeling, reclining, and lying down on <ul style="list-style-type: none">▶ The surface of any public right-of-way (“ROW”)▶ Any object placed on the surface of the public ROW
When:	7am–10pm daily 10pm–3am Friday & Saturday nights
Where:	Downtown & Old Colorado City Commercial Districts

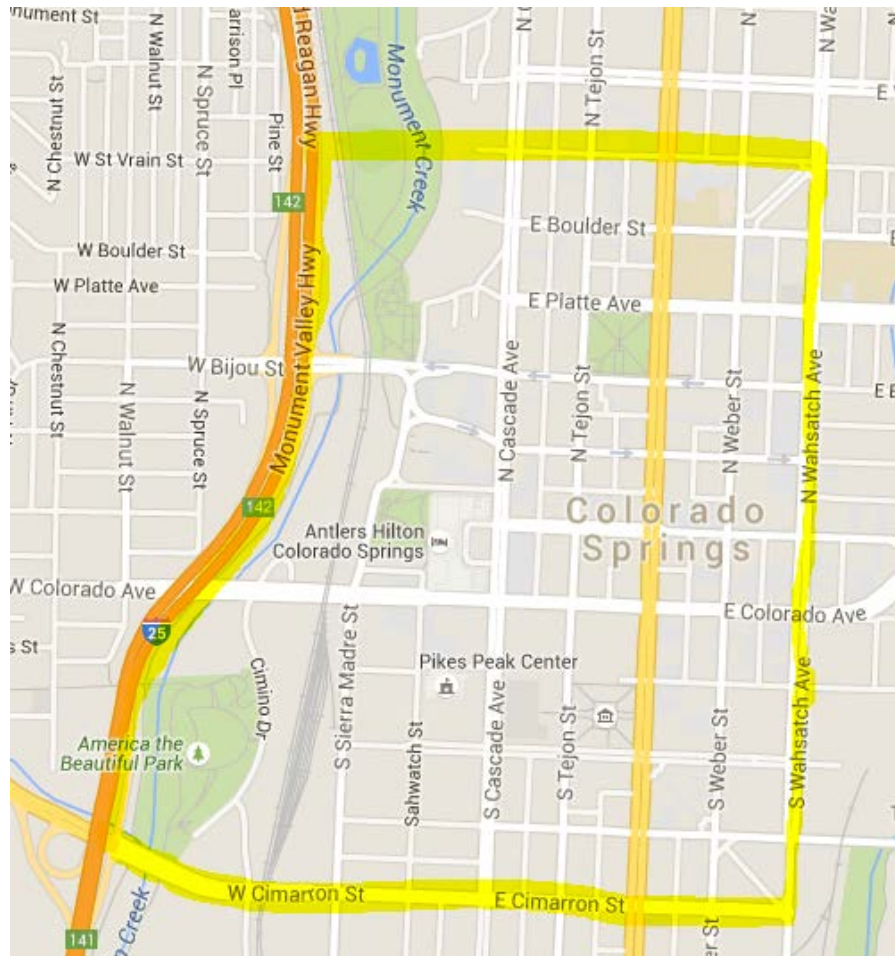
“Public Right-of-Way”

Any publicly owned property intended or used for pedestrian, recreational or vehicular travel:

- Street
- Path
- Curb
- Sidewalk
- Alley
- Median
- Trail
- Parkway
- Traffic Island

Downtown Commercial District

St. Vrain Street – north



I-25 – west

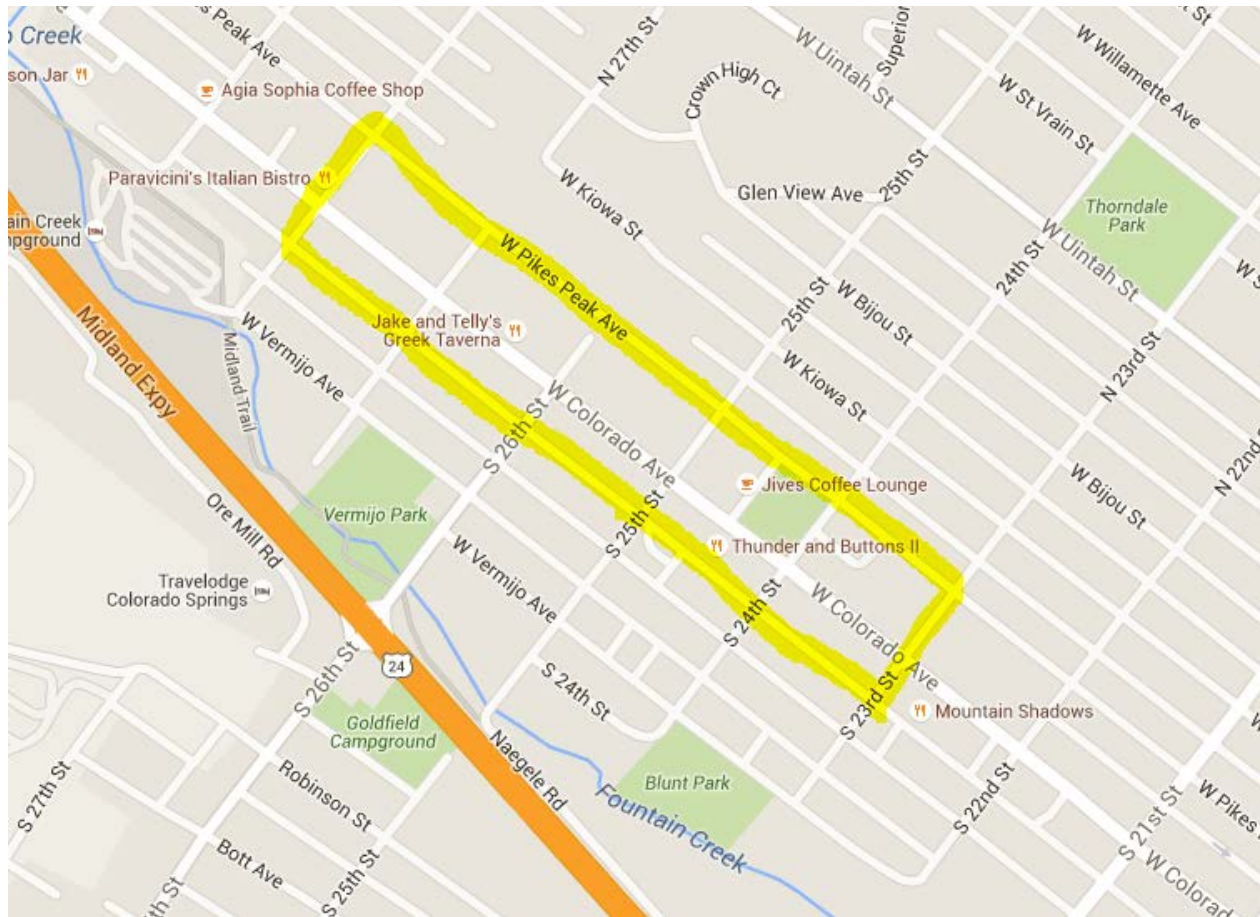
Wahsatch Ave. – east

Cimarron Street – south

Old Colorado City Commercial District

Pikes Peak Ave. – north

28th St.
– west



23rd St.
– east

West Cucharras Street – south

Affirmative Defenses

- ▶ Medical emergency
- ▶ Disability requiring wheelchair, walker
- ▶ Commercial establishment in ROW
- ▶ Permitted parade, special event
- ▶ Objects intended for sitting
- ▶ Transit stop

Enforcement & Penalty

Enforcement

- ▶ 60-day educational grace period
- ▶ Written warning before citation

Penalty

- ▶ 1st offense:
 - Fine of up to \$500 and/or
 - Probation
- ▶ 2nd (or more) offense:
 - Fine of up to \$500 and/or
 - Jail of up to 90 days

Legal Review

- ▶ Facially constitutional
- ▶ Held not to violate
 - First Amendment
 - Substantive Due Process
 - Equal Protection
 - Privileges or Immunities Clause
 - Right to Travel
- ▶ May implicate Eighth Amendment if
 - Prohibit city-wide,
 - 24/7, and
 - Insufficient shelter beds for homeless population

Cities With Similar Prohibition

- ▶ Denver, CO
- ▶ Aurora, CO
- ▶ Seattle, WA
- ▶ Phoenix, AZ
- ▶ Santa Cruz, CA
- ▶ Virginia Beach, VA
- ▶ Houston, TX
- ▶ Orlando, FL
- ▶ Honolulu, HI

Code Comparison

	Pedestrian Access Act	Obstructing Passage (9.2.104(C))	Loitering (9.2.102(B))	Trespass (9.6.102)
Conduct prohibited	Sitting, kneeling, reclining, lying on the public right-of-way	Lying or sleeping on the public ROW so as to interfere with the use of public right-of-way	Loitering so as to warrant alarm for the safety of persons or property in the vicinity	Entering onto property of another without permission of the owner
Time	7 am–10 pm Sun. to Thurs. 7 am–3 am Fri. & Sat.	At all times	At all times	At all times
Place	Downtown & Old Colorado City	Downtown only	In all places	In all places
Purpose	Safety & Economic Vitality	Primarily Safety	Safety & Property Interests	Property Interests
Penalty	1 st : max. \$500 fine/probation 2 nd +: max. \$500 fine/90 days jail	General Penalty: max. \$2,500 fine, 189 days jail, probation	General Penalty: max. \$2,500 fine, 189 days jail, probation	General Penalty: max. \$2,500 fine, 189 days jail, probation

Pedestrian Access Act

Prohibits

- ▶ Different conduct
- ▶ Different times
- ▶ Different places
- ▶ Different purposes

Imposes

- ▶ Different penalty

Safety, Implementation & Enforcement

» Chief Pete Carey
Colorado Springs Police
Department

Why is the conduct unsafe?

ROW meant for travel

Sitting, kneeling, reclining lying down on ROW

- ▶ Obstructs and impedes traffic flow
- ▶ Offenders are prone to being preyed upon by others

Unsafe both for

person using the right-of-way

person sitting/kneeling/reclining/lying down

Boundaries

- ▶ High concentration of civic, commercial, historic, recreational and residential properties
- ▶ High pedestrian, recreational, vehicular traffic
- ▶ Locations of most complained-of conduct

Time Limits

- ▶ 7am – 10pm daily
 - When most people (residents, proprietors, workers, tourists, shoppers, diners, etc.) travel in the commercial districts
- ▶ To 3 am on Friday and Saturday nights
 - Bars close at 2 am
 - Many more people traveling through the districts between 10pm and 3am on Friday and Saturday
 - People out at those hours are particularly vulnerable due to alcohol consumption and darkness

Implementation & Enforcement

Implementation

- ▶ 60-day educational grace period

Enforcement

- ▶ Written warning before citation
- ▶ Will not use public safety cameras

Cost

- ▶ No Staffing Increases Expected
 - Downtown Substation Staffing
 - Opened in December 2014
 - 16 Officers
 - 4 HOT Team Members (Homeless Outreach Team)
 - 12 Downtown Area Enforcement Team
 - Old Colorado City Staffing
- ▶ Time To Process Violators
 - Serve and release
 - Approximately 15 minutes to write warning/ticket

Witnesses