



Legislation Text

File #: CPC CA 17-00027, **Version:** 3

Ordinance No. 17-38 amending Section 102 (General Standards) of Part 1 (General Standards) of Article 4 (Site Development Standards of Chapter 7 (Planning Development and Building) of the Code of the City of Colorado Springs 2001, As Amended, Pertaining to ADA Site Accessibility

(Legislative)

Presenter:

Meggan Herington, Assistant Director of Planning
Peter Wysocki, Director of Planning and Development

Summary:

This amendment proposes to add Subsection H to Section 102 (General Standards) of the City Code codifying a note related to ADA site accessibility compliance notifying property owners of their responsibility under Federal law and a requirement that ADA accessible routes with clearly identified corridors be reflected on development plans that are submitted to the City for review and approval.

Previous Council Action:

While Council has not heard previous action on this language specifically, staff presented an update to the ADA parking standards to City Council at the January 10, 2017 Work Session. As part of that presentation, staff discussed the need for additional ADA site accessibility language. The updated parking ordinance was approved by City Council on February 14th.

Staff presented the background information to City Council Work Session on March 13, 2017.

During the March 13, 2017 Work Session, some of the Councilmembers expressed concerns that the ordinance gives an appearance that the City is avoiding the responsibility of enforcing the ADA; and asked the question of why the staff can't ensure compliance. A more detailed response can be provided during the Council meeting; however, to briefly address the questions/comments, staff offers the following:

The ADA is a Federal law that applies to property owners. The ADA not only applies to construction, but it also establishes ongoing, post-construction accessibility requirements. Although some cities and counties (including the City of Colorado Springs) review for basic standards such as parking and accessible routes, the ADA is more comprehensive enforced by the US Department of Justice. Ultimately, compliance falls on the property owners, and as representatives of the property owner, the design professionals.

The ADA is an extensive and complicated law. Although very prescriptive in nature, interpretations are necessary and in some cases variances permitted. Staff believes that the City should not be put in a position to make interpretations or act on variances.

For the City to review/inspect/enforce the ADA on private property (at least in regard to development-related standards), additional staff and resources would be necessary. A more robust plan review and inspection process would also affect the overall development review process.

The current agreement with the Pikes Peak Regional Building Department (PPRBD) is for it to review plans and conduct inspections to ensure compliance with “model” construction codes. The PPRBD, and most other building departments, apply accessibility standards set forth in the building codes (most published by the International Code Council). Changes to authority delegated to the PPRBD would require a renegotiation of the current agreement and potential fee increase.

As part of the overall ADA compliance/enforcement discussion with the Independence Center of Colorado Springs, staff believes that the City can and should be a local portal for providing and listing resources to property owners and those wishing to file complaints.

On March 28, 2017, the Code Amendment was approved with a 9:0 vote on first reading.

Background:

In May of 2016 the Independence Center of Colorado Springs wrote a letter to the City asking for better provisions for the notification of ADA accessibility within new and existing developments. In response to that letter, the City’s Planning and Development Director, Peter Wysocki, convened a stakeholder group to review current ADA accessibility enforcement procedures and possible enhancements. That group met several times in the summer of 2016. As an outcome of those discussions, staff brought to City Planning Commission and City Council an update to the City Code Chapter 7 Parking Ordinance that updated the Code standards related to ADA parking.

This ordinance is the second phase of those changes. There are two parts to the ordinance: (1) To codify a note that would be placed on development plans and preliminary plats that outlines the owner being solely responsible for ADA accessibility under Federal guidelines and (2) That development plans illustrate the provision of ADA accessible routes in accord with the applicable ADA design standards and guidelines as published by the United States Department of Justice. These requirements will be highlighted on the development application checklist used by the planning department for submittals of land use applications.

It is also the intent of the Independence Center of Colorado Springs, in collaboration with the Housing and Building Association (HBA), to use this process and language as a model for other local jurisdictions.

Financial Implications:

N/A

Board/Commission Recommendation:

At their meeting on March 16th, City Planning Commission voted 6-0 (with Commissioners Smith, McDonald and Henninger excused) to forward a recommendation of approval to the City Council. Please review the minutes from the hearing for the discussion of the item.

Stakeholder Process:

City planning staff drafted the language in coordination with the Independence Center of Colorado Springs and the Housing and Building Association (HBA). The language was also reviewed by the City Title II ADA Coordinator and the City Attorney's Office.

Public outreach and input was achieved principally through the City's Code Scrub Committee. The proposed amendment has been discussed at several Committee meetings. The Committee consists of the Planning & Development Department and City Attorney's Office as well as community members representing stakeholder interests including Council of Neighbors and Organizations (CONO), the Housing and Building Association (HBA), architects, Regional Business Alliance (RBA), planning consultants and engineers. Staff has also shared the language with surrounding jurisdictions including El Paso County and the City of Fountain.

Alternatives:

1. Uphold the action of the City Planning Commission;
2. Modify the decision of the City Planning Commission;
3. Reverse the action of the City Planning Commission; or
4. Refer the matter back to the City Planning Commission for further consideration

Proposed Motion:

Approve an Ordinance Amending Section 102 (General Standards) of Part 1 (General Standards) of Article 4 (Site Development Standards of Chapter 7 (Planning Development and Building) of the Code of the City of Colorado Springs 2001, As Amended, Pertaining to ADA Site Accessibility

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