

Dedicated to Outstanding Customer Service for a Better Community

SERVICE SOLUTIONS SUCCESS



**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: DEVELOPMENT SERVICES DEPARTMENT

AGENDA DATE: REGULAR – APRIL 6, 2010

CONTACT PERSON NAME AND PHONE NUMBER: VICTOR Q. TORRES,
(915) 541-4557

DISTRICT(S) AFFECTED: ALL

SUBJECT:

Discussion and Action on the requirements of Title 18 (Building and Construction), Chapter 18.08 (Building Code), Section 18.08.170 (Accessibility for People with Physical Disabilities), of the El Paso City Code, pertaining to the number of required multi-family units that must meet the Texas Accessibility Standards, and more specifically as follows:

- A. Overview of the September 8, 2009 City Council action on the ordinance amending these requirements and the direction provided;
- B. Summary of the audit conducted by the Development Services Department on all multi-family complexes subject to these requirements; and
- C. Status on creation of real time database on ADA units by VOLAR and the Apartment Association.

BACKGROUND / DISCUSSION:

Staff presented an amendment to Title 18 of the City of El Paso Municipal Code described above to the Council on September 8, 2008. The amendments had been previously shared with the members of the City's Accessibility Advisory Committee and members of the development community. Both groups agreed on the proposed amendments with the exception of reducing the number of Type A units from 5% to 2%.

PRIOR COUNCIL ACTION:

September 8, 2009 – Action was to adopt, as revised with the 5% provision, and for staff to bring back the Ordinance to Council in 6 months

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Enma Acosta

District 4
Carl L. Robinson

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

Development Services Department
Victor Q. Torres – Director

2 Civic Center Plaza – 5th Floor · El Paso, Texas 79901 · (915) 541-4622 · Fax (915) 541-4799

ORDINANCE NO. 017190

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.08 (BUILDING CODE), SECTION 18.08.170 (ACCESSIBILITY FOR PEOPLE WITH PHYSICAL DISABILITIES) OF THE EL PASO CITY CODE BY DELETING THE PRIOR ADOPTION OF SECTIONS 5 THROUGH 13 OF THE TEXAS ACCESSIBILITY STANDARDS; DELETING THE CITY OF EL PASO AMENDMENTS TO THE TEXAS ACCESSIBILITY STANDARDS, SECTIONS 4.1.3 (5) THROUGH 13.4.1; ADOPTING AND AMENDING THE 2003 INTERNATIONAL BUILDING CODE, CHAPTER 11, SECTION 1101; DELETING THE CITY OF EL PASO AMENDMENTS TO THE INTERNATIONAL BUILDING CODE, CHAPTER 11, SECTIONS 1102 THROUGH 1114; THE PENALTY BEING AS PROVIDED IN SECTION 18.02.107 (VIOLATIONS AND PENALTIES) OF THE EL PASO CITY CODE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 18 (Building and construction), Chapter 18.08 (Building code), Section 18.08.170 (Accessibility for people with physical disabilities) of the El Paso City Code, shall be and hereby is amended to read as follows:

18.08.170 Chapter 11 Amended - Accessibility for people with physical disabilities.

Chapter 11 of the 2003 International Building Code shall be and hereby adopted in its entirety and is amended to read as follows:

**Chapter 11
Accessibility**

1101.1 Scope. The provisions of this Chapter shall control the design and construction of facilities for accessibility to physically disabled persons.

1101.2 Design. Buildings and facilities shall be designed and constructed to be accessible in accordance with this code, the Texas Accessibility Standards ("TAS") of the Architectural Barriers Act (Chapter 469, Government Code) and the American National Standard of the International Code Council (ICC/ANSI A117.1 1998).

A. All buildings and structures and their associated sites and facilities including employee work areas shall be made accessible as required by this chapter.

CITY CLERK DEPT.
09 SEP -9 PM 12:01

B. The design and construction of accessible building elements shall be in accordance with this chapter and Sections 4.1 through 4.35 of the TAS or its successor and the requirements of this Chapter.

C. TAS, a copy of which, authenticated by the signature of the Mayor and City Clerk, and made a public record by resolution of the City Council, is on file in the City Clerk's Office and except as modified in this Chapter, is hereby adopted and shall be considered an integral part of the Building Code.

EXCEPTIONS:

1. Group R3--One and Two Family Dwellings. One and two family dwellings regulated by the El Paso Residential Code, Chapter 18.10, and their accessory buildings shall be exempt from the requirements of this Section.
2. Group R2 Occupancies. Group R2 Occupancies having not more than four units on a site are exempt from the requirements of this Section.
3. Group R1 occupancies. Group R1 Occupancies that are actually occupied as a residence by the proprietor and that have ten or fewer rooms on a site for rent or hire are exempt from the requirements of this Section.
4. Storage Mezzanines. Mezzanines used solely for storage shall be exempt from the requirements of this Section provided the area of the inaccessible level is less than 2000 square feet.
5. Uninhabitable Spaces. Uninhabitable spaces shall be exempt from the requirements of this Section. For the purposes of this Section, uninhabitable spaces shall mean those spaces accessed only by ladders, catwalks, crawl spaces, very narrow passageways, or non-passenger elevators, and frequented only by service personnel for maintenance purposes.
6. Religious Ritual Places. Places used primarily for religious rituals within either a building or facility of a religious organization such as baptisteries, chancels and/or altars, confessionals and similar places are exempt from the requirements of this Section.

1101.2.1 Maintenance of Facilities.

Any building, facility, dwelling unit, or site that is constructed or altered to be accessible or adaptable under this Section shall be maintained accessible/adaptable during its occupancy.

1101.2.2 Variances.

Any exemptions from or modifications of the requirements of the TAS obtained for any project through a variance granted by the Texas Department of Licensing and Regulation (TDLR) shall be deemed a variance under this chapter and approval of by the Construction Board of Appeals as described in City Code Chapter 2.30 shall not be required. The Development Services Department director may issue a conditional building permit, pending final determination from TDLR, provided the applicant submits proof that a variance application for the requested exemption or modification has been submitted to TDLR.

1107.6.2.1 Apartment houses, monasteries and convents.

Type A units and Type B units shall be provided in apartment houses, monasteries and convents in accordance with Sections 1107.6.2.1.1 and 1107.6.2.1.2.

1107.6.2.1.1 Type A units. In Group R-2 occupancies containing more than four (4) dwelling units or sleeping units, at least five (5) percent but not less than one of the units shall be a Type A unit. All units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units.

Exceptions:

1. The number of Type A Units is permitted to be reduced in accordance with Section 1107.7.
2. Existing structures on a site shall not contribute to the total number of units on a site.

All type A units shall be provided with a roll-in shower and a permanent mounted folding shower seat meeting the specifications and requirements for roll-in showers and mounted folding shower seats in ACC/ANSI 1171.1 – 2003, Section 608.

Section 2. Except as expressly herein amended, Title 18 (Building and construction), Chapter 18.08 (Building code) of the El Paso City Code shall remain in full force and effect.

PASSED AND APPROVED THIS 8th DAY OF September 2009.

THE CITY OF EL PASO:

John F. Cook
John F. Cook, Mayor

ATTEST:

Richarda Duffy Mømsen
Richarda Duffy Mømsen, City Clerk

APPROVED AS TO FORM:

Mark Shoemith
Mark Shoemith
Assistant City Attorney

APPROVED AS TO CONTENT:

Victor Q. Torres
Victor Q. Torres, Director
Development Services Department

CITY CLERK DEPT.
09 SEP -9 PM 12:01



DEVELOPMENT SERVICES DEPARTMENT

CITY OF EL PASO, TEXAS

Title 18 (Building & Construction), Chapter 18.08
Section 18.08.170 (Accessibility)



A. Review Actions

- **June 23, 2009--City Accessibility Advisory Committee—recommend 5% for Type A units all other items approved
-Unanimous vote**
- **June 24, 2009--Legislative Review Committee—Directed staff to conduct audit of apartment complexes to determine compliance and availability of Type A units**
- **June 25, 2009--City Accessibility Advisory Committee—recommend 5% for Type A units all other items approved
-reaffirmed unanimous vote**
- **August 13, 2009--City Accessibility Advisory Committee—recommend 5% for Type A units all other items approved
-reaffirmed unanimous vote**



Review Actions

- **August 20, 2009--Legislative Review Committee—voted 3-1 to send item to City Council**
- **August 27, 2009--City Accessibility Advisory Committee—recommend 5% Type A units all other items approved
--reaffirmed unanimous vote**

City Council Action

- **Sept. 8, 2009—City Council Adopts ordinance with the 5% provision for Type A units and directs staff to bring back the ordinance in 6 months**



Definitions

TYPE A UNIT- A dwelling unit or sleeping unit designed and constructed for accessibility in accordance with this code and the provisions for Type A units in ICC A 117.1.-**ACCESSIBLE**

TYPE B UNIT- A dwelling unit or sleeping unit designed and constructed for accessibility in accordance with this code and the provisions for Type B units in ICC A 117.1, consistent with the design and construction requirements of the federal Fair Housing Act.-**READILY ADAPTABLE**
(All ground floor units must be Type B/ all units accessible by elevator must be Type B)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature such as apartments, convents, dormitories, hotels, etc.



Current Municipal Code

- **1107.6.2.1.1 Type A units.** In Group R-2 occupancies containing more than 4 dwelling units, at least 5 percent but not less than one of the units shall be a Type A unit.

2003/2006/2009 International Building Code

- **1107.6.2.1.1 Type A units.** In Group R-2 occupancies containing more than 20 dwelling units or sleeping units, at least 2 percent but not less than one of the units shall be a Type A unit.



B. Audit of Existing Type A units

- 1. Number of Type A units in El Paso: 450 units located in 64 complexes**
- 2. Number audited by staff: 357 units have been inspected, 74 units refused entry**
- 3. Violations identified: 16 complexes had assorted violations and received notices**
- 4. Estimated time to complete audit: 3 weeks**
- 5. Average occupancy rate of units inspected: 97%**



**C. Status on creation of real time data base on ADA
units by VOLAR and the Apartment Association**



Questions ?