

§6-5-4 CURB CUT ORDINANCE

§ 6-5-4-1 PERMITS.

- (A) The owner of any land desiring to construct a crossing of any sidewalks or public right-of-way for use by animals, wagons, carts, carriages, trucks, tractors, trailers, buses, automobiles or any other vehicles as defined by this code or any other applicable city ordinance so as to enter any private or other alley or way on such premises, or so as to give access to any entrance or exit to any such premises, shall first make form application to the City Traffic Engineer for approval of a permit to cut any curb or construct such crossing and shall file with such form application a plan showing accurately the extent and character of the crossing proposed to be constructed.
- (B) Upon examination and consideration of the application and plan, and examination of the premises, if he deem it necessary, the City Traffic Engineer is expressly authorized and directed to approve a permit for the construction and use of the right-of-way or crossing over the sidewalk or sidewalks, if the use of the right-of-way or crossing of the same will not unreasonably interfere with or unduly impair the proper and safe use of the portion of the sidewalk or right-of-way to be crossed or the street or other public way to which ingress and egress is to be made from the private premises.
- (C) The City Traffic Engineer shall make his determination of the granting or withholding of the approval on the factors hereinafter specified, and no such construction shall be made until such permit has been granted.

('74 Code, § 8-13-1) (Ord. 1903) Penalty, see § 1-1-99

§ 6-5-4-2 BUILDING PERMIT PREREQUISITE.

Upon commencement of any new construction, it shall be mandatory for the owner of the property upon which a structure is to be constructed and who desires to construct a crossing of any sidewalk or public right-of-way for use by a horse wagon, cart, carriage, truck, tractor, trailer, bus, automobile or any vehicle as defined by this code or any other applicable city ordinance, so as to enter any private or other alley on such premises or so as to give access to any entrance or exit to any such premises, shall first obtain approval of the construction of such crossing from the Traffic Engineer before he is issued a building permit for such new construction.

('74 Code, § 8-13-2) (Ord. 1903) Penalty, see § 1-1-99

§ 6-5-4-3 CURB CUT REQUIREMENTS.

The following regulations shall apply to curb cuts:

- (A) In all residential areas which shall include all dwelling units, single family, apartments or otherwise, the following regulations shall apply:
 - (1) Measured from the gutter line the minimum width of curb cuts shall be 12 feet and the maximum width shall be 22 feet.
 - (2) A minimum of 22 feet of standing curb must remain between any two curb cuts on the same lot or single parcel of land or if more than one lot or parcel of land is being put to a single land use, then the requirement shall apply to said land use.
 - (3) The minimum setback for the building from the property line in an apartment parking area shall be 30 feet.

- (4) No double or circle drives shall be installed or maintained unless the property shall have a minimum of 60 feet frontage on the street affected thereby.
- (5) No curb cuts shall be closer than 2½ feet from side property lines.
- (6) Corner property curb cuts shall be no closer to the intersecting street than either:
 - (a) Twenty-five feet from the curb face of the intersecting street; or
 - (b) Ten feet from the property line of the intersecting street.
- (B) In all light commercial areas, which shall include all office buildings or other commercial buildings not more than two stories in height, the gutter line width of curb cuts shall be a minimum of 12 feet and a maximum of 25 feet. All other requirements shall be the same as in residential areas.
- (C) In all heavy commercial areas which include, but are not limited to, all drive-in type establishments, the gutter line width of curb cuts shall be a minimum of 20 feet and a maximum of 35 feet, provided, however, the Traffic Engineer may approve a curb cut over 35 feet in width when justified after a complete study of:
 - (1) Traffic volume;
 - (2) Pedestrian volume;
 - (3) One-way streets;
 - (4) Type of business making request.
- (D) All other requirements shall be the same as in residential areas.
- (E) Curb-cut applications requesting access to a city right-of-way from a public, private, or charter schools, will not be approved until the Planning Director, or designee, has approved a Neighborhood Impact Assessment ("NIA").
 - (1) Definitions. For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHARTER SCHOOL. A public school established under the authority of §§ 22-8B-1 to 22-8B-17.1 NMSA 1978.

PRIVATE SCHOOL. A school established, conducted and primarily supported by a non-governmental entity in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as an elementary, middle, junior high or high school or any combination of those.

PUBLIC SCHOOL. As defined at § 22-1-2 NMSA 1978 a part of a public school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school.

SITE TRAFFIC ASSESSMENT (STA). Analysis of site access (driveways), the need for turn lanes in advance of the site and impacts on signals downstream and upstream of the site. A STA is a lower level of analysis than a Traffic Impact Study.

STUDENT DROP OFF AND PICK-UP QUEUING LANE. A drive-lane on the public right of way or on private property reserved for motorists picking up or dropping off a student at the school site.

- (2) NIA Purpose; Scope. For purposes of this section, a NIA is a process to evaluate the overall effects that may result from the approval of curb-cut applications to allow access to public rights-of-way from public, private or charter schools, and to identify methods to mitigate such impacts to a reasonable level.
 - (a) The applicant shall cause the NIA to be performed at the applicant's own expense, and shall provide at least three draft copies of the NIA to the Planning Director, or designee.
 - (b) The permit applicant shall schedule a scoping meeting for the NIA in advance with the Planning Director and City Engineer, or designees, and any other necessary staff, as determined by the Planning Director and City Engineer.
 - (c) Upon receipt of the NIA, the Planning Director, or designee, shall route the STA or TIS required by subsection (3)(d) of this section to the City Engineer for review, and if appropriate, approval. The City Engineer, or designee, has sole review and approval authority over the STA or TIS component of the NIA. No NIA may be approved without approval of an STA or TIS by the City Engineer.
- (3) NIA Minimum Requirements. At a minimum each NIA must include:
 - (a) A description of the project;
 - (b) The baseline community data that identifies existing conditions with respect to adjacent land uses, traffic patterns, traffic turning movements and volumes, nearby multimodal transportation options, area pedestrian movements, and any other relevant information as determined at the time of scoping;
 - (c) An analysis of the neighborhood impacts, if any, including but not limited to:
 - (i) impacts on pedestrian and bicycle circulation, and pedestrian and bicycle routes;
 - (ii) potential automobile and pedestrian conflict points;
 - (iii) potential noise and air quality impacts resulting from stacking of idling vehicles or vehicle circulation;
 - (iv) consistency with existing or planned transit routes and stops;
 - (v) other potential impacts as determined by the Planning Director, City Engineer or designees;
 - (d) A Site Traffic Assessment (STA), unless a Traffic Impact Study (TIS) is required under the Albuquerque Development Process Manual (the "DPM"). The STA or TIS shall be at the applicant's cost. Unless the City Engineer determines otherwise, the STA or TIS shall be conducted by a Professional Engineer licensed in the State of New Mexico with Traffic Engineering experience. The STA or TIS shall include an appendix with support data for analysis and capacity analysis and shall be signed and sealed in compliance with city standards by the engineer that prepared the report. The City Engineer shall provide written instructions to the preparer of the STA or TIS. If a TIS is required, it is to be completed pursuant to the relevant requirements of the DPM as

determined by the City Engineer or designee. If an STA is required, at minimum and as more fully defined at the time of scoping, it shall address:

- (i) The impact that motorists arriving and departing from the school site will generate on traffic operations in the general vicinity;
 - (ii) The site's total capacity for student enrollment;
 - (iii) Anticipated student enrollment;
 - (iv) Scope of required analysis;
 - (v) Need for a student drop off and pick-up queuing lane; and
- (e) An evaluation of reasonable alternatives, if any, and their anticipated effectiveness in mitigating potential impacts. The NIA shall include a justification by the applicant for the selection of a particular alternative or why no other reasonable alternatives existed.
- (4) Planning Director Approval Required. After the scoping meeting, the Planning Director, or designee, shall provide written instructions to the preparer of the NIA, including any instructions by the City Engineer relating to the STA or TIS. The Planning Director, or designee, shall review each NIA and shall approve the NIA within 30 days of its receipt if all of the above requirements have been reasonably satisfied.

('74 Code, § 8-13-3) (Ord. 1903; Am. Ord. 2014-002) Penalty, see § 1-1-99

§ 6-5-4-4 APPEALS.

In the event any applicant feels abused by the refusal of the Traffic Engineer to grant any permit or in the event any owner or occupant shall be aggrieved by receipt of the notice of proposed revocation provided for in § 6-5-4-5, the applicant, owner, or occupant may, within ten days after denial of said application or receipt of said notice, appeal the decision of the Traffic Engineer to the Mayor by filing written notice thereof with the City Clerk within said time.

('74 Code, § 8-13-4) (Ord. 1903) Penalty, see § 1-1-99

§ 6-5-4-5 ABANDONED AND NONCONFORMING CURB CUTS.

Sections 6-5-4-1 et seq. shall not be retroactive as to any curb cuts or crossings in existence and in actual use at the time of its adoption, except as provided in (A) and (B) hereunder:

- (A) After the adoption of §§ 6-5-4-1 et seq., if any vehicular or other sidewalk crossing is clearly abandoned as a crossing or no longer used for its intended purpose, any permit heretofore or hereafter granted for the use of said crossing as such shall be subject to revocation by the City Traffic Engineer only after 30-days written notice of such proposed revocation has been given to the owner of the property to which the crossing is appurtenant, if his name and address can be reasonably ascertained from the Tax Rolls of Bernalillo County, and also by the giving of a copy of the written notice to the occupant of the premises, if any, and if such occupant is other than the owner. It shall be sufficient notice under the provisions of this section and § 6-5-4-6 to make delivery of the notices by registered mail. In the event the name and address of the owner cannot be reasonably ascertained from the current Bernalillo County Tax Rolls and the premises are unoccupied, it shall be sufficient notice under this section and § 6-5-4-6 to publish the notice in English in a newspaper of general circulation in the city once a week for four consecutive weeks.

- (B) All curb cuts on designated thoroughfares as shown on the city thoroughfare plan, which are determined by the Traffic Engineer to constitute a traffic hazard, and which become nonconforming upon passage of §§ 6-5-4-1 et seq., shall be subject to revocation as provided in division (A) above.

('74 Code, § 8-13-5) (Ord. 1903) Penalty, see § 1-1-99

§ 6-5-4-6 CONFORMANCE REQUIREMENTS.

- (A) In the event the Traffic Engineer has revoked any permit for curb cut or use of a sidewalk crossing under the provisions of § 6-5-4-5 such crossing shall be removed by and at the expense of the owner of the property to which the curb cut or crossing is appurtenant and the curb and sidewalk properly restored after the Traffic Engineer has given written notice to the persons and in the manner specified in § 6-5-4-5, directing such removal and proper restoration of the curb and sidewalk.
- (B) The time allowed for removal and restoration by the owner or occupant shall be:
- (1) Thirty days after notice in the cases provided for in § 6-5-4-5(A); and
 - (2) Two years after notice in the cases provided for in § 6-5-4-5(B); provided, however, that upon resolution duly passed by the City Council, that if a traffic hazard exists at a nonconforming curb cut which causes immediate and imminent danger to life, safety or property, conformance may be required within a lesser period of time set by the City Council, but in no event less than 30 days.
- (C) Each day's delay of the owner in complying with such notice after the expiration of the time specified shall constitute a separate violation of §§ 6-5-4-1 et seq. If conformance is not attained within said time allotted, the city may make the necessary removal and restoration at the cost of the owner and the cost thereof shall constitute a lien on the property affected.

('74 Code, § 8-13-6) (Ord. 1903) Penalty, see § 1-1-99

§ 6-5-4-7 CROSSINGS.

All construction of crossings as herein defined permitted under §§ 6-5-4-1 et seq. shall be done in a manner and with such materials as is prescribed by the specifications of the Department of Public Works of the city existing at the time such construction is accomplished at the expense of the owner of the abutting property.

('74 Code, § 8-13-7) (Ord. 1903) Penalty, see § 1-1-99