

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend and reordain Section 5-2-14 of Article A (GENERAL PROVISIONS) of Chapter 2 (STREETS AND SIDEWALKS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of the Code of the City of Alexandria, Virginia, 1981, as amended.

## THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-2-14 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

Sec. 5-2-14 - ~~Sidewalk crossovers and~~ Curb cuts generally.

- (a) No person shall establish, build, construct, reconstruct, repair, or alter any curb cut ~~or sidewalk crossover~~, either temporary or otherwise, within the public right-of-way or on the public streets in the city, without first having obtained a written permit from the city, as provided in this section. Nothing in this section, however, shall apply to any curb cut ~~or sidewalk crossover~~ which is shown on a site plan that has been approved under title 5, chapter 5 of this code.
- (b) Persons seeking a permit for a curb cut ~~or sidewalk crossover~~, which is neither temporary nor the replacement or repair of an existing curb cut ~~or sidewalk crossover~~, shall make application to the director of transportation and environmental services on a form prescribed by the director. Curb cuts proposed with grading plans, site plans, and development special use permits do not require a separate curb cut application and shall be reviewed and approved in conjunction with the review and approval of those other plans and permits. Individual curb cut applications, which are curb cuts that are not proposed with a grading plan, site plan, or development special use permit, are submitted on a standalone basis. The curb cut criteria under subsection (c) applies to all curb cuts. Within five (5) calendar days of filing an application and on a form prescribed by the director of transportation and environmental services, the permit applicant shall notify the owners of all adjacent property of ~~his~~ the application and of their opportunity to oppose the application by submitting a written statement to the director of transportation and environmental services that states their opposition and the reasons for their opposition. Thereafter, the applicant shall certify to the director of transportation and environmental services that ~~he has notified~~ all adjacent property owners have been notified as required by this subsection. Any adjacent property owner who wishes to oppose the application shall submit a written statement to the director of transportation and environmental services within five (5) days of receiving notice. ~~Fourteen (14) days after the filing of the application or as soon as reasonably possible thereafter, the director shall study the proposed curb cut or sidewalk crossover and forward the application and any written statement filed by an adjacent property owner, along with his findings and recommendations, to the city manager.~~

1 (c) ~~The city manager~~ director of transportation and environmental services or any  
2 designated agent, shall approve the permit application and issue a written permit only  
3 when he finds the following is found:

4  
5 (1) that the location and operation of the curb cut ~~or sidewalk crossover~~ will not  
6 interfere unreasonably with vehicular and pedestrian traffic, the demand and  
7 necessity for parking spaces, and means of ingress and egress to and from adjacent  
8 properties.

9  
10 (2) that the health, welfare and safety of the public will not be impaired unreasonably  
11 by the curb cut ~~or sidewalk crossover~~.

12  
13 (3) that the curb cut ~~or sidewalk crossover~~ is of adequate width under existing  
14 conditions and circumstances.

15  
16 (4) that the plans submitted comply with the standard specifications of the city for  
17 public work of like character, and that the design of the curb cut ~~or sidewalk~~  
18 ~~crossover~~ has been approved by the director of transportation and environmental  
19 services as being in accord with city specifications; provided, however, that the ~~city~~  
20 ~~manager~~ director of transportation and environmental services or any designated  
21 agent, may grant variances from these specifications when strict application of the  
22 specifications will prohibit or unreasonably restrict the use of property.

23  
24 (5) that the costs of construction, as estimated by the director of transportation and  
25 environmental services, have been paid for by the applicant if the work on the curb  
26 cut ~~or sidewalk crossover~~ is to be done by the city or a contractor employed by the  
27 city; however, if the applicant for a permit under this section elects to do the work  
28 ~~himself~~ themselves or through ~~his~~ their own contractor, ~~he or his~~ the applicant or  
29 their contractor shall comply with the requirements of article E of chapter 2 of this  
30 title.

31  
32 (d) For stand alone curb cut applications, the director of transportation and  
33 environmental services or any designated agent shall study the proposed curb cut and  
34 communicate the City's approval decision within thirty (30) days after the filing of the  
35 curb cut application. Curb cuts that are proposed as part of a grading plan shall follow  
36 review timelines associated with those applications.

37  
38 (e) Notice of the ~~city manager's~~ decision on whether to approve the curb cut permit  
39 application shall be mailed sent by the director of transportation and environmental  
40 services or any designated agent to the applicant and to each adjacent property owner  
41 who had submitted a written statement under subsection (b) opposing the application.  
42 Any applicant or any such adjacent property aggrieved by the ~~manager's~~ curb cut  
43 permit application decision may appeal the decision to the traffic and parking board by

1 filing a written notice of appeal with the director of transportation and environmental  
2 services within 15 days of the date ~~of~~ the decision was sent by the director of  
3 transportation and environmental services or any designated agent to the applicant and  
4 to each adjacent property owner who had submitted a written statement under  
5 subsection (b) opposing the application. The director of transportation and  
6 environmental services or any designated agent shall forward the appeal to the traffic  
7 and parking board and schedule it to be heard at the next regularly scheduled meeting  
8 of the board. The director of transportation and environmental services or any  
9 designated agent shall also notify the applicant and any adjacent property owner who  
10 has filed a notice of appeal of the date, time and place of the board meeting at which  
11 the appeal will be heard. No construction work shall begin on any curb cut ~~or sidewalk~~  
12 ~~crossover~~ which is the subject of an appeal until the appeal has been decided by the  
13 board. In deciding an appeal, the board shall afford the applicant and any adjacent  
14 property owner an opportunity to present ~~his~~ their views on the application and the  
15 ~~manager's~~ curb cut permit application decision. The board may affirm, modify or  
16 overturn the ~~manager's~~ decision; provided, however, that it may modify or overturn the  
17 decision only if it concludes that the ~~manager~~ director of transportation and  
18 environmental services or any designated agent clearly erred in applying the factors in  
19 subsection (c)(1) through (5) to the application. The decision of the board shall be final,  
20 and no further appeal shall lie to city council.

21  
22 (f) If the applicant elects to have the city do the work on the curb cut ~~or sidewalk~~  
23 ~~crossover~~ covered by the permit and the expense of construction amounts to more than  
24 the estimated cost, the applicant shall pay the additional amount to the city; in cases  
25 where the expense of construction amounts to less than the estimated cost, the city shall  
26 refund the excess to the applicant.

27  
28 (g) Where an application for a permit under this section pertains to a curb cut ~~or sidewalk~~  
29 ~~crossover~~ which is temporary in nature or which exists but is in need of repair or  
30 replacement, the application shall be made to the director of transportation and  
31 environmental services who, after giving due regard to the considerations enumerated  
32 in subsection (c) above, may issue a permit, and, if a permit is issued, he shall prescribe  
33 the type of construction to be used and, when the curb cut ~~or sidewalk crossover~~ is  
34 temporary in nature, he shall also prescribe the time the permit shall be in effect and  
35 shall require a reasonable bond or contract of insurance to save the city harmless from  
36 any claim of whatsoever nature which may arise as a result of the use of the temporary  
37 curb cut ~~or sidewalk crossover~~.

38  
39 (h) No curb cut ~~or sidewalk crossover~~, either temporary or otherwise, shall be of a greater  
40 width than 40 feet at the property line, except in those instances in which, in the  
41 opinion ~~of the city manager and upon recommendation~~ of the director of transportation  
42 and environmental services, the maximum safety and convenience of the general public  
43 demand a greater width.

- 1 (i) The granting of a permit application under this section shall not be considered as  
2 vesting any property interests in the applicant. Use of any curb cut ~~or sidewalk~~  
3 ~~erossever~~ by the applicant or his successor or their patrons shall constitute an  
4 agreement by the applicant or his successors, as the case may be, to pay for the  
5 maintenance and repair thereof and to indemnify and save harmless the city from any  
6 claim for damages to persons or property by reason of the maintenance and use thereof.  
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- 8 (j) In the event the use of any curb cut ~~or sidewalk crossover~~ should be discontinued for a  
9 period exceeding 12 months, authority to maintain the same may, at the discretion of  
10 the city manager, be forfeited and the director of transportation and environmental  
11 services may proceed to restore the curb, gutter and sidewalk to a condition conforming  
12 with the curb, gutter and sidewalk on each side thereof.  
13
- 14 (k) The city manager is hereby empowered to close any curb cut ~~or sidewalk crossover~~  
15 when its continued use is not necessary for access to the property it is designed to serve  
16 and it is being used by the public as a thoroughfare, or when its continued use would  
17 unreasonably interfere with public uses of the street, would constitute a serious menace  
18 to the safety of the public by reason of want of repair, or would not be in the public  
19 interest for any other reason. If the menace is caused solely by disrepair or need for  
20 reconstruction, use of the curb cut, ~~or sidewalk crossover~~ may be continued after repair  
21 or reconstruction, by the city at the expense of the person for whose convenience or  
22 profit the same was permitted. (Code 1963, Sec. 33-15; Ord. No. 3176, 1/24/87, Sec. 1)  
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24 Section 2. That Section 5-2-14 as amended pursuant to Sections 1 of this ordinance,  
25 be, and the same hereby is, reordained as part of the City of Alexandria City Code.  
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27 Section 3. That this ordinance shall become effective sixty (60) after the date and at  
28 the time of its final passage.  
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30 JUSTIN WILSON  
31 Mayor  
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33 Introduction: May 9, 2023  
34 First Reading: May 9, 2023  
35 Publication:  
36 Public Hearing: May 13, 2023  
37 Second Reading: May 13, 2023  
38 Final Passage: May 13, 2023  
39