

ORDINANCE 25-5915

AN ORDINANCE OF THE CITY OF BILLINGS PROVIDING THAT SECTION 6-1208 OF THE BILLINGS, MONTANA CITY CODE BE AMENDED

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Section 6-1208, Billings, Montana City Code, be amended to read as follows:

Sec. 6-1208. Curb cut regulations.

(a) *Purpose.* The purpose of this section is to standardize, regulate and control the location, size, type, construction, maintenance and quantity of curb cuts, driveway aprons, driveways, and sidewalk driveway crossings in the city from the standpoint of proper design, safe and efficient entry to and exit from city streets to private property, safety of vehicular traffic in the streets, and safety of pedestrian traffic on the sidewalk area.

(b) *Definitions.* For the purpose of this section, the following definitions shall apply:

Alley shall mean a narrow public thoroughfare, providing access to the rear yard of the abutting properties.

Curb cut shall mean the total street curbing that is removed to place a driveway and slopes.

Curb return shall mean the curved portion of a street curb at drive approaches.

Driveway shall mean that area on private property where vehicles are operated, parked or allowed to stand.

Driveway apron shall mean the area, construction or improvement between the curb cut or proposed curb line and the back edge of walk or proposed walk line, to provide ingress and egress for vehicles from the alley, street or roadway to a definite area of the private property.

Driveway width shall mean that portion of the street curbing that is removed excluding curb returns or transitions to provide ingress to and egress from abutting property.

Intersection shall mean the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways which join each other at, or approximately at, right angles, or the area within which vehicles traveling upon different roadways joining at any other angle may come in conflict.

Right-of-way shall mean public property dedicated for streets, alleys or other public uses.

Roadway shall mean that portion of a street improved, designed and customarily used for vehicular travel, exclusive of the berm or shoulder.

Sidewalk shall mean that portion of a street between curb lines or the outer lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

Street shall mean the entire width between the boundary lines of the right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Traffic shall mean pedestrians, vehicles, and other conveyances, either singly or together, while using any street, alley or roadway for purposes of travel.

Transitions shall mean the ramp sections along the street curb on each side of a driveway apron.

(c) *Permit required.* It shall be unlawful for any person either as owner, agent, servant, contractor or employee to cut, break, remove or alter any curbing, driveway apron or sidewalk, or cause to have cut, broken or removed any curbing, driveway apron or sidewalk, or to install or cause to have installed any driveway, or any vehicular access, on any public right-of-way in the city without a permit. Permits shall be issued only to properly licensed and bonded contractors by the city after payment of fees as prescribed by council resolution. At the time the permit application is made, the city shall be advised of any parking meters, traffic or street signs, signal poles, street light poles, fire plugs, trees or obstructions that will be affected by the placement or removal of the driveway or sidewalk.

(d) *Traffic Impact Study.* At the time of site development submittal, a traffic impact study shall be prepared by the applicant and approved by the City Engineer for any new residential, institutional, commercial or industrial development in accordance with subdivision regulations Sec. 23-406, with the following exception:

If the proposed site is located within a subdivision having a traffic impact study completed within the past twenty (20) years and does not exceed the assumed trip generation value identified in the subdivision traffic study for the site or the total subdivision trip generation value by 100 peak-hour trips or 1000 average daily trips, the applicant shall complete a traffic memo documenting compliance with the subdivision study. The applicant shall meet and discuss elements of any study with City Engineering to determine the general scope of the study at the time of the pre-application meeting.

(e) *Consent of property owner required.* Before a permit is granted for the removal of the curb and/or the construction of a driveway on any street, the applicant for the driveway permit must produce evidence satisfactory to the city to show that the construction of such driveway is agreeable to and in accordance with the desire of the owners of the property to which such driveway will be an entrance.

(f) *Fees.* Permit, inspection and service fees shall be charged by the city as prescribed by council resolution.

(g) *City to furnish inspector.* The city shall furnish an inspector to inspect every piece of curb, driveway and driveway apron to be constructed, whose duties shall be to check the forms for alignment, grade and materials and to see that the work is done in accordance with the specifications of the city at the time of the issuance of the permit. The city shall be notified at least twenty-four (24) hours in advance of the time when the work is proposed to be started.

(h) *Allowable curb cut widths.*

(1) In N1, N2, N3 or RMH residential zoned districts, and any other zone that allows one or two-family dwellings, the maximum driveway width shall be thirty (30) feet and shall be located in accordance with city specifications or drawings. The minimum distance between curb cuts serving the same lot or parcel shall be twenty-five (25) feet and shall have twenty-five (25) feet of full height curb, except when multiple buildings are located on a single parcel, the minimum distance between separate and adjacent building curb cuts shall be four (4) feet. Up to a thirty-six (36) foot driveway width is allowed for a shared approach between two buildings.

(2) In any NX zoned districts, and any other zone that allows multi-family dwellings (three (3) or more attached dwelling units), the maximum driveway width shall not exceed thirty (30) feet and shall be located in accordance with city specifications or drawings. The minimum distance between curb cuts shall be twenty-five (25) feet and shall have twenty-five (25) feet of full height curb. When multiple buildings are located on a single parcel, the minimum distance between separate and adjacent building curb cuts shall be four (4) feet. Up to a thirty-six (36) foot driveway is allowed for a shared approach between two buildings.

(3) In all commercial, mixed-use and industrial use districts, the maximum driveway width shall be thirty (30) feet except driveway widths for service stations and trucking businesses may be up to forty (40) feet when approved by the city, and shall be located in accordance with city specifications and drawings. The minimum distance between curb cuts shall be twenty-five (25) feet.

(4) In any allowable location, no driveway width shall be less than twelve (12) feet wide.

(5) For a local residential street, up to two (2) curb cuts are allowed per residential building containing up to two dwelling unit(s), but there shall be a minimum of a twenty-five (25) foot separation between curb cuts. For buildings containing more than 2 dwelling units on a local residential street, multiple curb cuts are allowed per building, but there shall be a minimum a twenty-five (25) foot separation between curb cuts. The minimum distance between separate and adjacent building curb cuts shall be four (4) feet.

(6) For a local commercial, collector, or arterial street, up to two (2) curb cuts will be allowed for property frontages up to six hundred (600) feet, and an additional curb cut will be allowed for property frontages over six hundred (600) feet to nine hundred (900) feet, unless restricted by access management policy. Property frontages over nine hundred (900) feet may have curb cuts as approved by the City Engineer. For an existing property frontage that is unable to meet access management policy standards, the City shall determine access location in consultation with the applicant.

(i) *General regulations.* Every curb cut, driveway, and driveway apron constructed or altered in the street right-of-way or on private property shall conform to the following regulations:

- (1) No curb cut shall extend beyond the side property line for the property being served by the curb cut or as may be regulated by city specifications in effect at the time of such work.
- (2) No driveway apron shall be closer than five (5) feet to, nor shall it be so located as to interfere with, intersecting sidewalks, utility facilities, light standards, fire hydrants, catch basins, street signs, signals or other public improvements or installations.
- (3) Any necessary adjustments to such utility facilities, light standards, fire hydrants, catch basins, street signs, signals, underground conduits for street lighting or fire alarm systems, or other public improvements or installations shall be accomplished without cost to the city.
- (4) No curb cut shall be made between the points of curvature of any curb radius at intersections, nor closer than ten (10) feet from the points of curvature except along arterial streets or streets intersecting an arterial at a signalized intersection any curb cut shall be a minimum of one hundred (100) feet from the corner unless restricted by access management policy. The location of curb cuts for lots or parcels along arterial or collector streets having less than one hundred (100) feet of frontage shall be approved by the city engineer or their designee. For a two-leg uncontrolled intersection on a local residential street, the City may approve a curb cut on the larger outside radius provided adequate sight distance is maintained.
- (5) No curb cut or driveway apron shall be located so as to create a hazard to pedestrians or motorists, or to invite or compel illegal or unsafe traffic movements.
- (6) Every curb cut and/or driveway apron must provide complete access to a surface parking space, a covered parking space or loading dock on private property requiring the entrance of vehicles in accordance with city specifications and drawings. Driveways constructed less than twenty (20) feet between back of sidewalk and garage face shall not be used for vehicle parking such that a vehicle encumbers use of any portion of the sidewalk.
- (7) In any commercial, mixed-use or industrial use, driveways shall be designed such that vehicles entering or egressing shall not be required to back from or into a street right-of-way.
- (8) All curb cuts and driveway aprons are to be constructed of Portland cement concrete of a quality and type as specified by the city, and in accordance with city specifications in effect at the time of such work. Curb cuts shall be permitted only with construction of adjoining Portland cement concrete aprons.
- (9) All work shall be done under the supervision of the city, and in accordance with city specifications in effect at the time of such work.

(10) The licensed and bonded contractor or his or her agent doing the construction or alteration work shall maintain the premises in a safe manner and shall provide adequate barricades and lights at his or her own expense to protect the safety of the public using the adjacent streets or sidewalks, and shall hold the city free from any damages incurred by his or her operations.

(11) The angle between any driveway apron and the street and/or curb line shall be ninety (90) degrees to the street tangent or on a radial line to the street curve.

(12) The two (2) side borders of each driveway apron between the curb line and property line shall be parallel.

(13) The city street right-of-way shall not be used for private commercial purposes unless allowed through the issuance of an Encroachment Permit (Sec. 22-400), a special review approval (Sec. 27-1600), or other permission granted by City Council.

(14) At the time of building permit application approval, any curb cut or driveway apron which has become abandoned or unused through a change of the conditions for which it was originally intended shall be closed and the owner shall replace any such curb cut and/or driveway apron with a standard curb and sidewalk (if necessary) to be constructed according to the city specifications in effect at the time of such work. If the owner does not make such replacement within sixty (60) days after notice, the city may do so at the expense of the owner.

(15) Driveways serving facilities that will generate five hundred (500) or more vehicle trips per day may, at the discretion of the city, be classified and constructed as a street intersection. A complete design of the intersection shall be submitted to the city before a permit is issued. Approval of this type entrance may be contingent upon the applicant installing traffic-control devices at his or her sole expense. This type of entrance shall be included in calculating number, spacing, or any other requirement pertaining to driveways as specified herein.

(16) Surfacing is required for private streets, driveways, off-street parking, loading, storage, rental or service areas for vehicles including service stations, used car lots, and storage rental. Surfacing shall be asphalt concrete, Portland concrete cement, pervious concrete, or pervious pavers, and shall meet Public Rights-of-Way Accessibility Guidelines ("PROWAG"). Gravel surfacing, rotomillings or similar crushed loose glass, or material with integral particle to particle binder shall not be allowed unless the area is behind a gated area not accessible to the public and is used for storage of materials and fleet vehicles. Further, surfacing shall not have the potential to track sediment into the public right-of-way. Surfacing shall be designed by accepted engineering methods and subject to the approval of the City Engineer. Driveways providing access to a single-family, two-family, or multi-family dwelling unit shall be surfaced a minimum of twenty-five (25) feet from the back of the driveway apron unless zoning setbacks allow or dictate a shorter distance.

(17) Public improvements such as street or alley paving, curbs, gutters, sidewalks, drainage facilities, water and sewer facilities, or other public improvements may be required along the property frontage by the City at the time of site development for certain developments that do not require issuance of a building permit, are not subject

to a subdivision improvements agreement, or are not subject to an annexation agreement. A right-of-way permit shall be required by the City for these improvements.

(j) *Restrictions.* In addition to the general regulations prescribed herein, curb cuts and driveway aprons to be constructed or altered in districts must conform to the following:

(1) Where a property abuts more than one city street, the maximum curb cut permitted on each street shall be considered separately and shall be governed by the frontage of the property on that street. The City may require only curb cut access to the lower street classification. For example, the City may require curb cut access to only a local access street rather than an arterial street for a property that fronts both a local access and arterial street.

(2) Two (2) or more curb cuts serving the same property must be separated by islands with full height curb not less than twenty-five (25) feet long, except on arterial roads where there shall be a minimum of one hundred (100) feet of separation.

(3) A joint curb cut is allowed between two adjoining properties. Both property owners must be in agreement to a joint curb cut and must submit a copy of their written agreement and a recorded easement to the city that identifies maintenance responsibilities between the private parties.

(k). Administrative relief.

A. Applicability.

1. Administrative relief allows the modification of an existing numeric dimensional standard to accommodate site-specific or minor construction issues.
2. Administrative relief is applicable to new development, and redevelopment.
3. Administrative relief may be requested either as part of an original application or as a modification to an existing approval.

B. Authority. Administrative relief may be requested by an applicant qualified to request a primary development approval or amendment.

C. Procedures.

1. All applications for administrative relief shall identify the specific issue that the administrative relief is intended to address and how the administrative relief will resolve that issue:
 - (a) A written request for administrative relief prior to construction shall be submitted with the project site plan application.
 - (b) A written request for administrative relief to address a minor construction issue shall be submitted with the approved project site plan, a written description of the minor construction issue, and an amended drawing of that part of the site for which the administrative relief is requested.

D. *Permitted types of administrative relief.*

1. In all zoning districts an applicant may request the following adjustments through administrative relief:
 - (a) Up to ten (10) percent reduction in minimum separation between curb cuts serving the same property.
 - (b) Up to ten (10) percent reduction in minimum separation distance to public improvements or installations.
 - (c) A five (5) foot separation distance from public improvements or installations to the driveway rather than curb cut where the improvements or installations sit at least ten (10) feet behind the curb.
 - (d) Up to ten (10) percent reduction in minimum separation distance to points of curvature of any curb radius at intersections of a local street.
2. Administrative relief may not:
 - (a) Permit a curb cut to extend beyond the side property line of the property being served by the curb cut;
 - (b) Be used to reduce private street, roadway, or drive aisle widths

E. *Decision criteria.* The City Engineer or their designee shall approve or deny the application and provide written notification of the decision to the applicant within fifteen (15) days from the date of submission. If an application is denied, the written notification shall include the reason for denial.

F. *Appeal process.*

- 1) If the applicant would like to appeal a denial from the City Engineer, then within thirty (30) days from the date of denial the applicant must submit a written request for review to the City Administrator. This request for review shall contain the applicant's correct mailing address, shall identify the application for which review is requested, shall contain a statement of the reason(s) why the applicant believes the denial should be reversed, and shall be signed by the applicant. The City Administrator shall have thirty (30) days from receipt of the request for review to a.) approve or deny the application and b.) issue a written notification of the decision to the applicant. If an application is denied, the written notification shall include the reason for denial.
- 2) If the applicant would like to appeal a denial from the City Administrator, then within thirty (30) days from the date of denial the applicant must file a written notice of appeal with the City Administrator. This notice of appeal shall contain the applicant's correct mailing address, shall identify the application being appealed, shall contain a statement of the reason(s) why the applicant believes the denial should be reversed, and shall be signed by the applicant. The City Administrator shall act promptly to have the appeal placed on the City Council's agenda. The petitioner shall be notified in writing by certified mail, return receipt requested, of the date and time the matter will be considered on the City Council's agenda. The petitioner and all other interested persons may

appear at the time and place and be heard. The City Council shall act on the question within thirty (30) days of the hearing.

(I) **Deviation.** Permission to deviate from the requirements and regulations of this section shall be granted by the City Administrator and the City Council only where unusual conditions or strict adherence to this section would cause undue and extreme hardship.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions and ordinances of the City Code inconsistent herewith are hereby repealed.

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or application, and, to this end, the provisions of this ordinance are declared severable.

PASSED by the City Council on first reading the 27th day of May, 2025.

PASSED, ADOPTED and APPROVED on second reading this 9th day of June, 2025.



Attest:

BY:

Denise R. Bohlman
Denise R. Bohlman, City Clerk

CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor