

## ARTICLE 2-9 DPM WAIVER

### Part 2-9(A) Waiver for DPM Standards

#### Section 2-9(A)(1) Applicability

A waiver for design standards may be sought in order to cover unusual circumstances or alternative design concepts. Any exception from a standard in the DPM other than those in [DPM Chapter 7 Transportation Design](#) is reviewed by the DRB per [IDO](#) Subsection 14-16-6-6(L).

#### Section 2-9(A)(2) Procedure

See [IDO](#) Subsection 14-16-6-6(L)(2) for more detailed procedure requirements.

##### 2-9(A)(2)(i) Neighborhood Meeting

At the neighborhood meeting, the applicant shall provide information about the proposed project, including, but not limited to:

1. the scope of uses.
2. approximate square footages for different uses.
3. general site layout.
4. design guidelines.
5. architectural style.
6. conceptual elevations.
7. conceptual landscaping plans.

##### 2-9(A)(2)(ii) Application

1. An application form and the appropriate fees can be found on the City website as well as at the Development Review Services counter. The submittal shall include both of the following:
  - a. A scale drawing showing the location of the proposed waiver with appropriate dimensions.
  - b. Letter describing, explaining, and justifying the request per the criteria in [IDO](#) Subsection 14-16-6-6(L)(3) and the DPM.
2. Submit a completed application form and fee. A public meeting by the DRB will be scheduled within 7 days after the date of acceptance of the application and proper public notification per [IDO](#) requirements.

##### 2-9(A)(2)(iii) Public Meeting

1. The public meeting gives the general public and area residents an opportunity to speak for or against the request and to elicit additional information that may have a bearing on the request. The applicant or agent must be present at the meeting to speak on behalf of the request and respond to questions.
2. Decision by the DRB may be deferred or continued if additional information or additional public notice is deemed necessary.
3. The DRB's decision on the request may be to approve, approve with conditions, or deny the request.

4. The decision is final unless appealed to the Land Use Hearing Officer (LUHO). See [IDO](#) Subsection 14-16-6-4(U) for appeal procedures.

## **Part 2-9(B) Sidewalk Waiver**

### **Section 2-9(B)(1) Applicability**

While the City encourages compliance with sidewalk design standards, there are certain circumstances in which varying from the standards and design criteria is appropriate. The sidewalk waiver procedure was established to provide for possible departure from normal standards under specific circumstances and to protect unique characteristics of certain neighborhoods.

Any property owner who wants to install a sidewalk that does not conform to the standards in [Part 6-5-5 Sidewalk, Drive Pad, and Curb and Gutter Ordinance \(ROA 1994\)](#) and the design standards in [DPM Chapter 7 Transportation Design](#) must apply for a sidewalk waiver.

Exceptions:

A waiver to use material other than standard material described in [Chapter 7 Transportation Design](#) requires the approval of the City Engineer.

### **Section 2-9(B)(2) Governing Regulations**

[Section 6-5-5-3 of Part 6-5-5 Sidewalk, Drive Pad, and Curb and Gutter Ordinance \(ROA 1994\)](#) states that “all properties within the city shall have sidewalk, drive pad, curb ramps, and curb and gutter in accordance with the standards set forth by §§ 6-5-5-1 et seq., unless a variance from these standards is allowed.”

Additionally, sidewalk design shall comply with [IDO](#) Subsection 14-16-5-3(D) and [DPM Chapter 7 Transportation Design](#). Sidewalk design standards promote mobility, safety, and comfort of the pedestrian and allow adequate pedestrian access to abutting property.

#### **2-9(B)(2)(i) Criteria for Waiver from IDO Sidewalk Standards**

Requests for a waiver to not provide sidewalks as required pursuant to [IDO](#) Subsection 14-16-5-3(D) are approved if all of the criteria in [IDO](#) Subsection 14-16-6-6(L)(3) and all of the following criteria are met:

1. The area is of low-intensity land use to an extent that the normal installation of sidewalks will not contribute to the public welfare, and the absence of a sidewalk will not create a gap in an existing sidewalk system extended to one or more sides of the subject property or area.
2. The City's right-of-way is insufficient in width to allow the construction of a sidewalk of standard dimension and placement, but there is sufficient right-of-way to meet minimum ADA or PROWAG guidance.
3. The adjoining sidewalks are non-standard as to width and/or location, and the Waiver would enable the new and existing sidewalks to match in width and/or location, or could create a smooth transition between areas of different width and/or character.

## 2-9(B)(2)(ii) Criteria for Waiver from DPM or Sidewalk, Drive Pad, and Curb and Gutter Ordinance Sidewalk Standards

Requests for a waiver for standards in the [DPM Chapter 7 Transportation Design](#) or [Part 6-5-5 Sidewalk, Drive Pad, and Curb and Gutter Ordinance \(ROA 1994\)](#) are approved if all of the criteria in [IDO](#) Subsection 14-16-6-6(L)(3) are met and any of the following criteria is met:

1. The area or site has been recognized as having historical, archeological, and/or architectural significance by the City of Albuquerque, the State of New Mexico, or the United States of America, and a waiver is appropriate to maintain such historical, archeological, and/or architectural significance.
2. There are pre-existing obstructions that cannot be easily or economically relocated or should not be altered, such as mature trees, grades, fills, water courses, natural topographic features, or manmade obstructions.
3. The established neighborhood character or mature landscaping on the site would be damaged to a degree that outweighs the public utility of the normal sidewalk requirement.
4. The waiver is requested for a short stub street, cul-de-sac, or local access street with Average Daily Traffic (ADT) of no more than 50.

## Section 2-9(B)(3) Procedure

### 2-9(B)(3)(i) Neighborhood Meeting

At the neighborhood meeting, the applicant shall provide information about the proposed project, including, but not limited to:

1. the scope of uses.
2. approximate square footages for different uses.
3. general site layout.
4. design guidelines.
5. architectural style.
6. conceptual elevations.
7. conceptual landscaping plans.

### 2-9(B)(3)(ii) Application

1. An application form and the appropriate fees can be found on the City website as well as the Development Review Services counter.
2. The submittal shall include all of the following:
  - a. A scale drawing showing the location of the proposed waiver with appropriate dimensions.
  - b. Letter describing, explaining, and justifying the request per the criteria in [IDO](#) Section 14-16-6-6(L)(3) and the DPM.
3. A public meeting by the DRB will be scheduled within 7 days after a complete application was accepted and required public notice per the [IDO](#) is complete.

### 2-9(B)(3)(iii) Public Meeting

1. The public meeting gives the general public and area residents an opportunity to speak for or against the request and to elicit additional information that may have a bearing on the request. The applicant or

agent must be present at the meeting to speak on behalf of the request and respond to questions.

2. Decision by the DRB may be deferred or continued if additional information or additional public notice is deemed necessary.
3. The DRB's decision on the request may be to approve, approve with conditions, or deny the request.
4. The decision is final unless appealed to the LUHO. See [IDO](#) Subsection 14-16-6-4(U) for appeal procedures.

### **2-9(B)(3)(iv) Sidewalk Permit**

Approval of a sidewalk waiver does not constitute approval of plans for a sidewalk permit. The Letter of Advice must accompany the traffic site plan and/or sidewalk permit application.

## **Part 2-9(C) Temporary Sidewalk Deferral**

### **Section 2-9(C)(1) Applicability**

A developer has the option to defer the construction of sidewalks until the end of lot construction within a subdivision. The eventual construction of sidewalks shall be financially assured through the use of an Infrastructure Improvements Agreement (IIA) per [DPM Article 2-3 Public Infrastructure Improvement Procedures](#).

### **Section 2-9(C)(2) Governing Regulations**

Sidewalks shall be designed and constructed be in accordance with the criteria presented in [IDO](#) Subsection 14-16-5-3(D) and [DPM Chapter 7 Transportation Design](#).

### **Section 2-9(C)(3) Procedure**

#### **2-9(C)(3)(i) Neighborhood Meeting**

At the neighborhood meeting, the applicant shall provide information about the proposed project, including, but not limited to:

1. the scope of uses.
2. approximate square footages for different uses.
3. general site layout.
4. design guidelines.
5. architectural style.
6. conceptual elevations.
7. conceptual landscaping plans.

#### **2-9(C)(3)(ii) Application**

1. An application form and the appropriate fees can be found on the [Planning Department webpage](#) as well as the Development Review Services counter.
2. The submittal shall include a scale drawing showing the location of the deferred sidewalk with appropriate dimensions.

3. A public meeting by the DRB will be scheduled within 7 days after the complete application is accepted and required public notice per the [IDO](#) is complete.

### 2-9(C)(3)(iii) Public Meeting

1. The public meeting gives the general public and area residents an opportunity to speak for or against the request and to elicit additional information that may have a bearing on the request. The applicant or agent must be present at the meeting to speak on behalf of the request and respond to questions.
2. Decision by the DRB may be deferred or continued if additional information or additional public notice is deemed necessary.
3. The DRB's decision on the request may be to approve, approve with conditions, or deny the request.
4. The decision is final unless appealed to the LUHO. See [IDO](#) for appeal procedures.

## Part 2-9(D) Stub Street/Cul-de-Sac Waiver

### Section 2-9(D)(1) Applicability

The street network in new subdivisions shall be created through block standards in [IDO](#) Subsection 14-16-5-4(E) and [DPM Chapter 7 Transportation Design](#). Stub streets and cul-de-sacs that terminate the road are prohibited, except as allowed pursuant to [IDO](#) Subsection 14-16-5-3(E)(1)(d).

### Section 2-9(D)(2) Governing Regulations

Although stub street and cul-de-sac street configurations should be avoided in layout of new streets, if they are necessary and meet the exceptions in [IDO](#) Subsection 14-16-5-3(E)(1)(d), they shall be designed per [DPM Section 7-4\(J\)\(3\)](#) after a waiver is granted by DRB.

### Section 2-9(D)(3) Procedure

#### 2-9(D)(3)(i) Neighborhood Meeting

At the neighborhood meeting, the applicant shall provide information about the proposed project, , including, but not limited to:

1. the scope of uses.
2. approximate square footages for different uses.
3. general site layout.
4. design guidelines.
5. architectural style.
6. conceptual elevations.
7. conceptual landscaping plans.