



# City of Cambridge

## Executive Department

**YI-AN HUANG**  
City Manager

CMA 2025 #259  
**IN CITY COUNCIL**  
October 20, 2025

To the Honorable, the City Council:

Please find attached the response to AR #25-34 regarding curb cut disputes from City Solicitor, Megan Bayer.

Very truly yours,

Yi-An Huang  
City Manager



Megan B. Bayer  
City Solicitor

Elliott J. Veloso  
Deputy City Solicitor

Kate M. Kleimola  
First Assistant City Solicitor



## CITY OF CAMBRIDGE

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October 20, 2025

Yi-An Huang  
City Manager  
Cambridge City Hall  
795 Massachusetts Avenue  
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***Re: Response to Awaiting Report 25-34 re: The City Manager is requested to work with relevant City departments to determine whether the City Council can revoke an already approved curb cut application if said application was incomplete due to applicant failure.***

Dear Mr. Huang:

I am writing in response to the above Awaiting Report that requested that the Law Department review whether the City Council can revoke an already approved curb cut application if said application was incomplete due to applicant failure. In the circumstance described below, the City Council may revoke an already approved curb cut application if the City Council complies with procedural requirements, provides justification for the revocation, and follows applicable legal standards.

### *Background*

On March 3, 2025, the City Council reviewed an application for a curb cut and later voted to approve the application, on March 17, 2025.<sup>1</sup> In subsequent weeks, abutters alerted the City Council of an alleged discrepancy in abutter notices in favor or against the curb cut application (Notices), submitted by the applicant to the Inspectional Services Department (ISD). Although seven Notices were submitted by the applicant (3 approving and 4 disapproving), an additional six abutters allege submitting disapproving Notices to the applicant, which were not included in the application documents. The abutting residents are concerned that exclusion of these alleged additional Notices resulted in the City Council voting on the application with incomplete information. Now, the City Council wants to know if it can revoke an already

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<sup>1</sup> APP 2025 #10.

approved curb cut application if an application was incomplete due to an applicant's failure to include all application materials.

### *Reconsideration*

The City Council's Rules state that an order cannot be reconsidered where a motion to reconsider that order was not made prior to adjournment of the next meeting after the order was originally adopted.<sup>2</sup> However, the City Council may suspend the rule regarding reconsideration by 2/3 vote of the entire City Council.<sup>3</sup> Accordingly, as an initial matter, if the Council wants to reconsider a prior order approving a curb cut outside of the timelines established by the City Council's rules, then it may do so if 2/3 of the entire City Council vote for reconsideration.

### *Power to Grant and to Revoke*

The Law Department previously advised that the City Council has implied authority to approve or deny curb cut applications.<sup>4</sup> Unlike a permit granted to an applicant to build something upon their own land, a curb cut is a privilege granted to a property owner to access private property across a public way.<sup>5</sup> In the Commonwealth it is settled law that such a privilege is revocable at the discretion of the grantor.<sup>6</sup> Accordingly, an applicant who is granted a curb cut, by the City Council, takes it subject to revocation.<sup>7</sup> However, as discussed further below, the City Council's revocation cannot be an arbitrary, capricious or unreasonable exercise of power.<sup>8</sup>

### *Notice Must be Given*

To exercise its power to allow, deny, or revoke a curb cut the City Council must comply with any applicable statutory notice and publication requirements.<sup>9</sup> In Tenneco Oil Co., Springfield's City Council voted at a public hearing to allow a special permit. After that vote, the city council, at a separate public hearing that was not properly noticed, voted to revoke its earlier decision granting the special permit.<sup>10</sup> Upon review, the courts held that Springfield's city council could not reverse its prior decision without compliance with relevant notice and hearing requirements.<sup>11</sup> Accordingly, if the City Council wishes to revisit a curb cut decision, then it must notice any meeting held to discuss the matter in the same manner that the original meeting was noticed. That is, the item must be properly posted to the City Council Meeting Agenda and

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<sup>2</sup> Rules of the City Council, Rule 15.

<sup>3</sup> Rules of the City Council, Rule 19.

<sup>4</sup> Response to Awaiting Report 24-54, January 27, 2025.

<sup>5</sup> See Woodbury v. Mun. Council of Gloucester, 318 Mass. 385, 388 (1945); see also Chelsea Yacht Club v. Mystic River Bridge Auth., 330 Mass. 566, 568 (1953).

<sup>6</sup> See Woodbury, 318 Mass. at 388 ("a license granted to a person to use a public way, even if he owns the fee therein and even if the statute [sic] makes no provision for the revocation of the license, is revocable at the discretion of the licensing board).

<sup>7</sup> Id.

<sup>8</sup> Id., 318 Mass. at 390.

<sup>9</sup> Tenneco Oil Co. v. City Council of Springfield, 406 Mass. 658, 659 (1990); Young v. Plan. Bd. of Chilmark, 402 Mass. 841, 844 (1988).

<sup>10</sup> Tenneco, 406 Mass. at 659.

<sup>11</sup> Id. at 659-660.

the City’s website. Such notice will of course allow any parties interested in the relevant curb cut an opportunity to be heard on the matter.

*Good Reason Required*

Revoking a prior curb cut approval must be justified by “good reason” and cannot stand if the reversal lacks a defensible substantive basis.<sup>12</sup> Where allegations arise that the City Council and/or City Staff were deprived of all application materials, including but not limited to all relevant Notices, then the City Council could be justified in revoking a previously approved curb cut.

The City’s website states the following regarding applications for curb cuts:

Anyone wanting to make or change a cut in the curb of the street, such as in constructing, moving or removing a driveway must first obtain a permit from the City of Cambridge. The placement of curb cuts can have significant impacts on the safety and quality of life of the surrounding neighborhood. The City will review each permit application with due consideration to the applicant’s desire for the curb cut and public welfare.<sup>13</sup>

The application process requires a petitioner submit Notices, signed in favor or against the proposed curb cut, from any abutters to the front, side, rear, and across the street from the property where the curb cut is to be made. If a petitioner does not submit all abutter responses – *i.e.*, Notices, to a curb cut application – in particular negative responses, the integrity of the process is undermined regardless of whether the applicant intentionally or unintentionally omitted any Notices. In this instance, where Notices are omitted, the City Council has a rational basis to reconsider, and possibly revoke, a prior curb cut approval as the integrity of the process is called into question and the public welfare possibly not fully considered in making the ultimate decision.<sup>14</sup> Furthermore, the City Council would have sufficient ground to revoke a curb cut where an applicant made misrepresentations as part of its application for a curb cut.<sup>15</sup> However, in the absence of a fact-based rational basis for revocation - *e.g.*, failure to submit a complete application and/or misrepresentation, reconsideration and reversal of a prior approved curb cut may not be sustainable, especially if the revocation might be deemed unreasonable, whimsical, arbitrary, or capricious.

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<sup>12</sup> Czyoski v. Planning Bd. of Truro, 77 Mass.App.Ct. 151, 157 (2010) (a board may not revoke its approval of a definitive plan unless there is “good reason” to do so); Young, 402 Mass. at 846 (“Presumably a planning board may not without good reason rescind approval of a definitive plan”).

<sup>13</sup> <https://www.cambridgema.gov/iwantto/applyforacurbcut>.

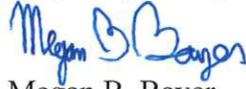
<sup>14</sup> See Gattineri v. McGearry, No. 15 MISC 000494 HPS, 2016 WL 6465341, at \*13 (Mass. Land Ct. Oct. 31, 2016) (“It was rational and within the proper exercise of the [Gloucester] City Council's discretion as the special permit granting authority to conclude that the interests of the City would be impaired if it condoned or rewarded an applicant’s flagrant disregard of the Ordinance.”).

<sup>15</sup> See Higgins v. Bd. of License Comm'rs of City of Quincy, 308 Mass. 142, 146 (1941) (“The securing of a license on the misrepresentation of the applicant that he was the true owner of the premises and that he intended to conduct the business in good faith has been held to constitute a fraud upon the licensing board and to be adequate ground for the revocation of the license.”).

*Conclusion*

In sum, it is the Law Department's opinion that the City Council may revoke the grant of a curb cut where the application was incomplete due to applicant failure, but the City Council must comply with procedural requirements, provide justification for the revocation, and follow applicable legal standards.

Very truly yours,



Megan B. Bayer  
City Solicitor

MBB/fl