

**COUNTY OF BERNALILLO
OPERATIONS AND MAINTENANCE
DEPARTMENT**

2400 Broadway SE Albuquerque, NM 87102

MEMORANDUM



August 17, 2000

TO: Properties having Driveway Culverts
FROM: Dave Mitchell, ^{DM}Road Maintenance Manager
SUBJECT: Rights and Responsibilities Per County Codes and Ordinance

This policy will serve to identify the conditions by which driveway culverts are allowed in making connections from private property into public rights of way. There are two ordinances that speak to the issue; the sidewalk and access ordinance, and the drainage ordinance. They were originally passed by the County Commission in 1988 and 1990, and have since been codified and amended slightly.

Driveways and culverts serve to benefit private property's ability to use public facilities. Each driveway presents an obstruction to drainage patterns or new point of potential traffic conflict, so these ordinances were passed to address issues associated with private structures within the public space.

Public Works (which is now a Division having three Departments), in general, cannot publicly maintain private property by State Law. Driveways and their culverts are considered to be privately held structures.

Installations by Permit

Code Section 66-211. Drainage Ditch (borrow ditch) means a ditch parallel to the driving surface to convey rainwater runoff from the right-of-way. Where no curb or sidewalk exists, driveway construction shall not block the drainage ditch without providing proper drainage structures.

Section 66-222 Curb cut requirements, g. In rural (without curb and gutter) road sections, driveway accesses shall provide for drainage by means approved by the Public Works Division. Hydraulic design may be required. No culvert under any driveway access shall be less than 18 inches in diameter unless a variance is approved by the Public Works Division.

Section 66-227. non-conforming: (2) All curb cuts on designated roadways, which are determined by the Public Works Division to constitute a traffic hazard, and which become

nonconforming upon March 12, 1996, shall be subject to revocation (as provided in subsection..)
[No “grandfathered” accesses after 3-12-96] {66-213 This article is declared to be remedial and is intended to secure the following objectives (1) Provisions for safe and efficient driveway accesses, drivepads and street drainage;}

Maintenance

The Operations and Maintenance Department will respond to requests for drainage ditch or borrow ditch mowing, grading, and/or clearing both up and downstream from private culverts. The Operations and Maintenance Department, road maintenance dispatch line is 848-1503.

Section 38-206 (b) Minor facilities (less than 48” diameter inlet, allowing for 6” sediment) shall be maintained by their owners to County engineering standards. Based on likelihood and consequence of failure, or failure to maintain, the County Engineer may require a drainage covenant (a legal document in a form provided by the County)

Both the access and drainage sections of the Code provide for notification of non-compliance, an allowance for reasonable corrective time (usually 30 days) and possible repairs by the County if the property owner does not remedy. Both codes provide for liens against the property for repairs made by the County.

Where the County has installed culverts as part of a road improvement project, and a particular culvert is not maintained, the County can and has removed such culverts.

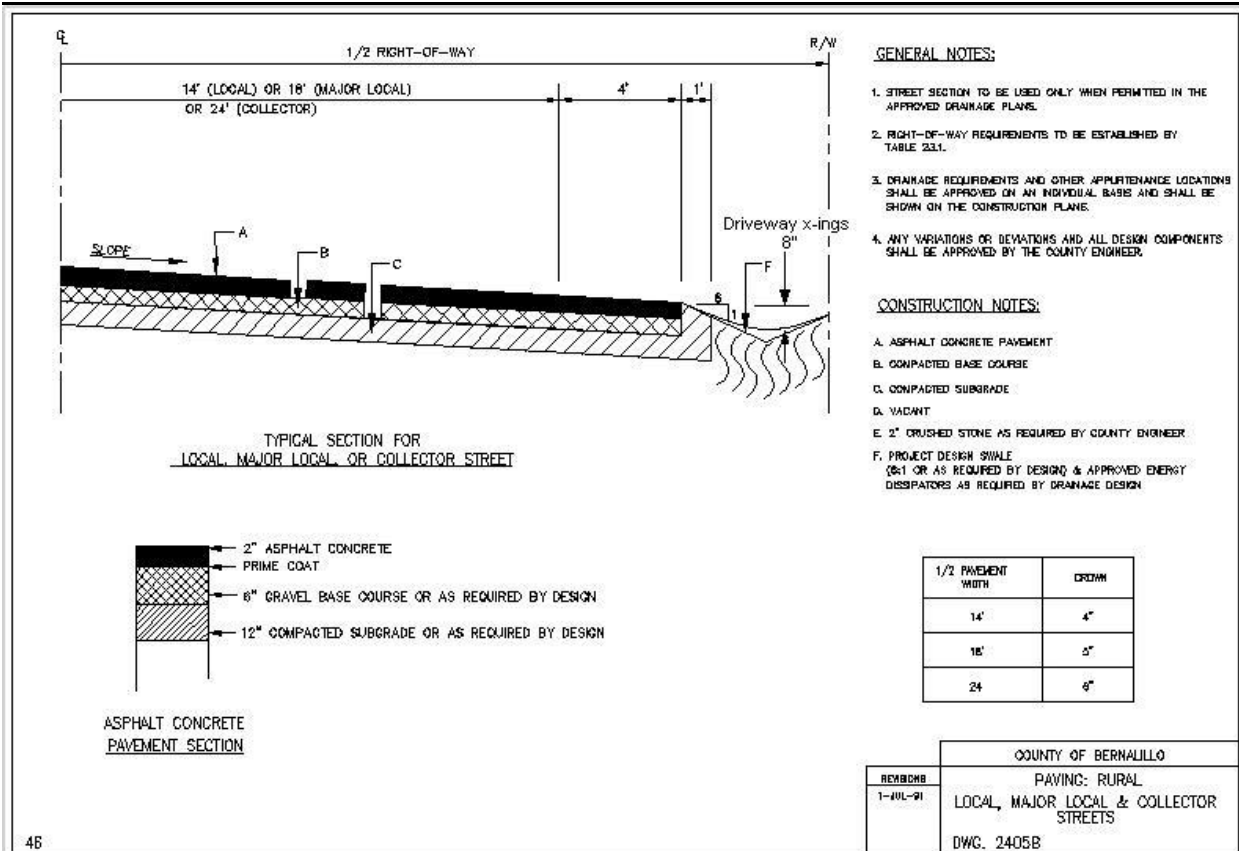
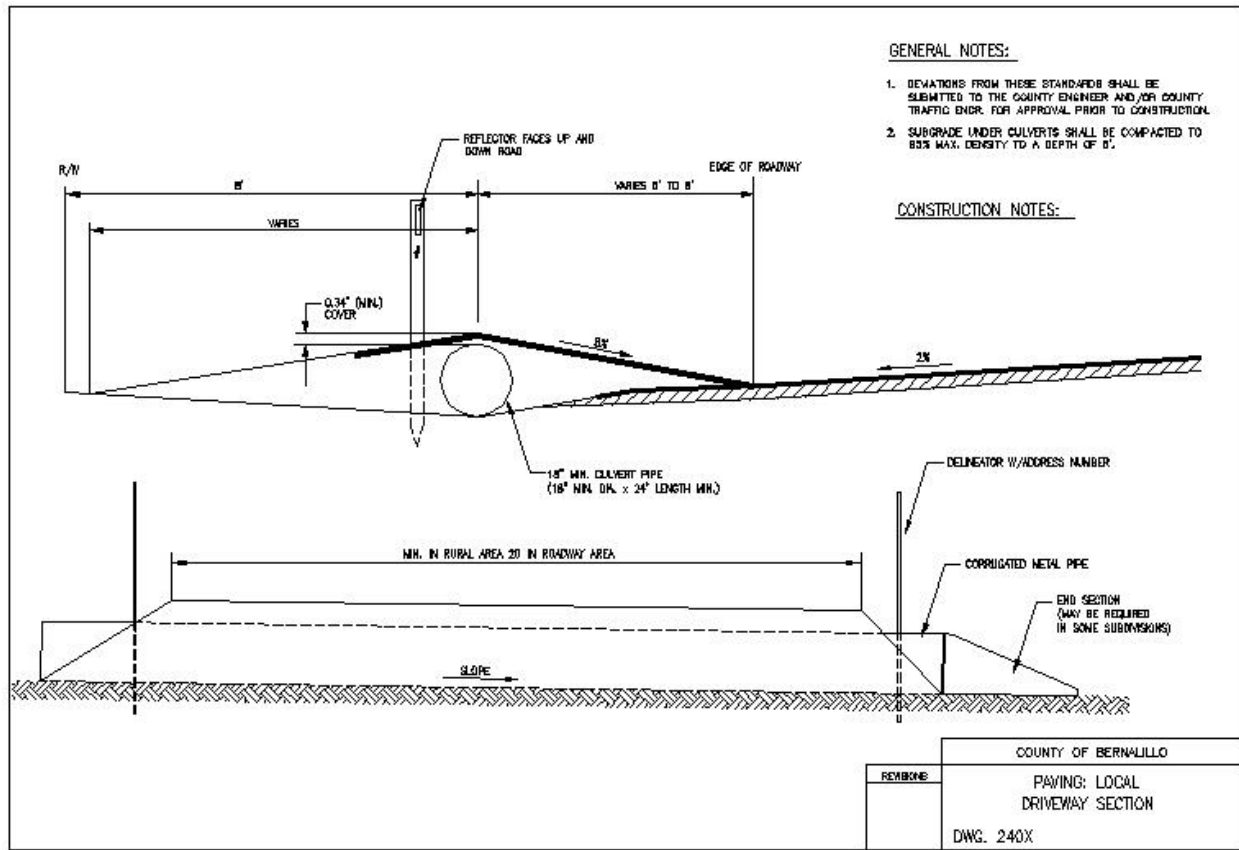
Summary

All of this is interpreted to mean that over-the-counter permits for new culverts or culverts installed in conjunction with a building permit that do not have hydraulic design, are subject to replacement by their owners if a problem is demonstrated.

Some engineered subdivisions have master drainage plans associated with their creation and can be referenced by the original engineering firm, or development company. The designed flows in a roadside borrow ditch can then be provided to any registered engineer for a culvert sizing calculation.

Where no drainage plan exists, builders and property owners bear the burden and liability for assuring that their driveways are installed properly, and not adversely affecting their neighbors. Permits are issued by the County to insure that minimums are met, and that work within the right-of-way is by licensed, insured individuals or companies. The County does not perform design verification for private driveways.

Approvable crossing styles (depending on individual flow patterns)



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