

PUBLIC RIGHT OF WAY CONSTRUCTION REQUIREMENTS



ENGINEERING DEPARTMENT

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CITY OF ODESSA, TEXAS
RIGHT-OF-WAY CONSTRUCTION ORDINANCE

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ARTICLE IV. RIGHT-OF-WAY CONSTRUCTION

DIVISION I In General

Section 16-27. Short title.

This article shall be known and may be cited as the "Right-of-way Construction Ordinance of the City of Odessa".

Section 16-28. Definitions

Terms, phrases and words and their derivations used herein shall, in addition to their common meanings, have the more specific meanings as follows:

- (1) When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number.
- (2) "Shall" is always mandatory and not merely directory.
- (3) "Applicant" means a person, firm, partnership, association, corporation, company or organization making application to perform construction within the right-of-way.
- (4) "City" means the City of Odessa, Texas.
- (5) "City Council", "City Manager", "Director of Public Works", "City Attorney", "City Engineer", "Traffic Engineer" or other City officers or departments as used herein shall mean the respective officers or departments of the City of Odessa, Texas, and their authorized representatives.
- (6) "Construction" means any and all construction, excavation or other work done in the public right-of-way.
- (7) "Repair work" means the rehabilitation and/or replacement of defective construction in the right-of-way.
- (8) "Street" means any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way and not merely the improved portion of the said right-of-way, located within the City limits.
- (9) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (10) "Permittee" means any person who has been granted and has in full force and effect a construction permit issued hereunder.

- (11) "Recessed parking area" means that additional parking area formed by setting the established street "curb line" back toward the property line of the property owner and shall include such recessed parking areas formed partly on private property and partly on public right-of-way.
- (12) "Curb" means a vertical or sloping member along the edge of a pavement strengthening or protecting the paving edge and clearly defining the pavement edge to vehicle operators. The surface facing the general direction of the pavement is the "face". The "curb line" means the line of the back edge, as distinguished from the face, and is as established by the City Engineer for alignment of the curb.
- (13) "Owner" means the record owner of property abutting the public right-of-way.
- (14) "Right-of-way" means all public rights-of-way of streets or other public property within the City.
- (15) "Angle of departure" means the angle between two planes, one being the surface on which a vehicle is supported and the other being an inclined plane passing through the lowest points of the rear wheels and the lowest point of the rear bumper of the vehicle.
- (16) "Bumper Curb" means any type of physical barrier, such as pipe rail, wood timber, poured in place concrete curb, or portable concrete curb, minimum 6 feet long, minimum 6" in height, minimum 7" wide (at the base), permanently placed and anchored between designated sidewalk areas and vehicle parking areas. (Plate 1-91)
- (17) "Driveway approach" means the area, construction, or facility between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to private property.
- (18) "Intersection" means the general area where two or more streets join or cross, within which are included the roadway and the roadside facilities for traffic movements in that area.
- (19) "Island" (as used in this article) means a defined area separating two driveway approaches, within the right-of-way, for control of vehicular movement and for pedestrian refuge.
- (20) "Property frontage and driveway approach area measurements" means all references to property frontage and driveway approach areas on the street adjacent to and bounding the abutting private property, as well as such additional frontage and driveway approach of adjoining property which by virtue of an easement, license or other agreement with the owner of such adjoining property are under the control of the person making the improvements and may be used for driveway approach purposes.
- (21) "Roadway" means the portion of the street, including shoulders, which are used for vehicular traffic. On curbed streets it is the area between curb lines.
- (22) "Minimum and maximum", as used on the drawings, identified as Plates 1-91 through 10-91 inclusive, and included as a part of this article, are limits of design

dimension to which construction may be performed at the option of the permittee. (Plates 1-91 through 10-91 are on file with the City).

- (23) "Reinspection" means an additional or supplemental inspection which is necessitated by non-compliance with the construction authorized by the permit and required by this article.
- (24) "Public utility or utility" means any person, firm, partnership, association, corporation, company or organization which conducts in the City a business of distributing to the citizens of Odessa electricity, gas or water or provides to the general public the service of telephone communication [or cable television,] or sewage disposal and has the right to use and occupy the City streets, alleys, and other public places in conducting such business by virtue of an existing franchise granted by the City or by the right under the City Charter.
- (25) "Homeowner", as the word is used herein, means the owner and occupant of the residential property adjacent to the right-of-way.

Section 16-29. Penalty for violation of article provisions.

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount as provided for in Section 1-5 of the Code of Ordinances, and each day of violation under this article shall become a separate offense. Repeated violations of this article will be grounds for refusal by the Administrative Officer to issue permits to such applicants.

Section 16-30. Liability of City.

This article shall not be construed as imposing upon the City or any City official or employee any liability or responsibility for damages to any person injured by the performance of any construction or excavation work for which a permit is issued hereunder; nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.

Section 16-31. Reserved.

Section 16-32. Administrative Officer.

Both the Director of Public Works and the City Engineer in working under this article shall be an administrative City official with authority and responsibility for right-of-way construction.

Section 16-33. Emergency action.

In the event of any emergency in which a sewer main, conduit, or utility in or under a street breaks, or is in such condition as to immediately endanger the property, life, health or safety of any individual, the person causing or knowing of such damage, break or condition shall immediately notify the owner of such facility of such fact, and the person owning or controlling such sewer main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility, unless exempt under Section 16-39 of this article, shall apply for a permit

not later than the end of the next succeeding day during which the Director of Public Work's office is open for business, and shall not proceed with permanent repairs without first obtaining a permit hereunder.

Section 16-34. Urgent work.

If, in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest, require that the work be performed as emergency work, the Administrative Officer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such work may be completed as soon as possible.

Section 16-35. Routing of traffic.

The normal conditions of traffic will not be disrupted without the approval of the Administrative Officer. The Administrative Officer shall prescribe such traffic control as he deems necessary. Such controls are to be furnished by the permittee.

Section 16-36. Clearance for fire equipment.

All construction work shall be performed and conducted so as not to interfere with access to the fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants. Passageways leading to fire escapes or fire fighting equipment shall be kept free of all obstructions.

Section 16-37. Existing nonconforming conditions.

- (a) The use of any property, construction and improvements existing and lawful at the time of the enactment of this article or any amendment thereto may be continued although such use does not conform to the provisions and regulations of this article.
- (b) No such nonconforming use or condition of any property, construction or improvement shall be hereafter extended or materially altered unless such extension or alteration shall conform to the provisions of this article; but nothing herein shall be deemed to prevent the normal maintenance, repair, of such nonconforming construction or improvement unless such nonconforming use creates a hazardous condition.

DIVISION II
Permits and Duties of Permittee

Section 16-38. Permit required for construction in public right-of-way.

All construction within the public right-of-way of the City is prohibited unless such person shall first have obtained a permit therefor from the Administrative Officer or the City, as herein provided, or unless such person is specifically exempt therefrom. Such construction shall specifically include:

- (a) The construction or demolition of curbs, gutters, streets, sidewalks, driveway approaches, recessed parking areas and other construction in the right-of-way. This does not apply to such construction or demolition on private property except where

such construction or demolition becomes an integral part of streets as a portion of a recessed parking area.

- (b) The digging up, breaking, excavating, tunneling, undermining or damaging of any street as herein defined, or placing, depositing or leaving upon any street any earth or other material or obstruction.

Section 16-39. Exemptions from permit requirements.

- (a) Work done by the City or under City contract and under direction of the City is exempt from the provisions of this article.
- (b) Work done by public utility companies (or their contractors) are exempt from the fee provisions contained herein. These provisions are also not applicable if in conflict with the Telecommunication Ordinance (Article VIII, Chapter 19), the Cable Ordinance (Article XI, Chapter 19), or if in conflict with state or federal law.
- (c) Work, such as major construction of mains, extensions of mains, installation of fire hydrants, etc., shall be done by qualified, bonded, insured contractors. Work of this type, done by a contractor, is not exempt from any bond, insurance or permit fee requirements. This provision does not apply to those covered under subsections (a) and (b).
- (d) Work done pursuant to a permit obtained under the provisions of Chapter 11 of the City Code is exempt from the permit requirements of this article, but any work done within the public right-of-way must conform to all other applicable provisions of this article.
- (e) Work done by governmental agencies or by contractors under contract and under supervision of governmental agencies is exempt from the permit fee provisions of this article, but such work must be done in compliance with all the other provisions of this article.
- (f) Work done by a homeowner within the public right-of-way abutting his property shall be exempt from the bond and insurance provisions of this article, but said homeowner must comply with the balance of said article.

Section 16-40. Permit fee schedule.

A Permit fee shall be collected by the Administrative Officer for the issuance of right-of-way construction permits and for additional reinspection hereunder, which shall be in addition to all other fees or charges for any proposed construction work. These fees shall be as follows:

- (a) Fees for permits for construction or reconstruction in the public right-of-way shall be based upon the estimated cost of the proposed work. Where no line or grade is required to be established, the permit fee shall be as follows:

<u>Cost of Construction</u>	<u>Fee</u>
Up to \$2000	\$ 25.00
\$2,000 to \$5,000	\$ 25.00 + \$0.90 per \$100 cost over \$2,000

\$5,000 to \$10,000	\$ 52.00 + \$0.80 per \$100 cost over \$5,000
\$10,000 to \$20,000	\$ 92.00 + \$0.70 per \$100 cost over \$10,000
Over \$20,000	\$162.00 + \$0.60 per \$100 cost over \$20,000

- (b) Where the proposed work requires that the Administrative Officer establish lines and/or grades, the permit fee shall be 5% of the construction cost, but not less than \$25.00.
- (c) A \$10.00 permit fees will be charged for repair work in the public right-of-way, located between the property line and street curb or edge, for driveways, retaining walls, parking areas, pavement repairs, underground lines, pole setting, sidewalks or other similar improvements.
- (d) If construction related activities require extended use of the public right-of-way a street lease will be required. The street lease fees will be in addition to, and separate from, any right-of-way permit fees. Street lease fees will be \$100.00 per 1000 square feet of leased street right-of-way or any portion thereof.
- (e) Street Use Permit or Street Beautification Permit fee shall be \$25.00.

Section 16-41. Application for permit.

- (a) No permit hereunder shall be issued unless a written application for the issuance of said permit is submitted to the Administrative Officer. The application is to contain such information as may be considered necessary by the Administrative Officer to obtain sufficient information concerning the job, contractor, owner, and work to be performed.
- (b) Two sets of plans or sketches must be submitted showing the extent of the proposed work, and/or such other information as may be required under the circumstances by the Administrative Officer.

Section 16-42. Issuance of permit.

- (a) The Administrative Officer shall issue a permit hereunder, within seven days after receipt of a proper application together with the permit fee and proper bond and insurance certificates, provided the Administrative Officer finds that the submitted plans for construction shall meet all requirements of this article and other applicable City and State Laws.
- (b) Upon approval of the permit, the Administrative Officer shall deliver to the applicant such permit with one set of plans for the proposed work, indicating approval thereon, any revisions required in the proposed work, and grades and/or bench marks necessary for compliance with the City design requirements. Where there are special conditions, practical difficulties, or necessary hardships in the way of literal enforcement of the strict letter and provisions of this article, the Administrative Officer is hereby authorized to vary the application of any such provisions in harmony with the general purpose and intent of this article, but consistent with public interest, safety and general welfare. Any substantial variances shall be in writing and shall be specifically noted in the permit issued by the Administrative Officer.

Section 16-43. Placard; issuance to permittee, display at work site.

- (a) The Administrative Officer shall provide each permittee, at the time a permit is issued hereunder, a placard containing such information as the Administrative Officer shall prescribe. Such placard must be displayed at the site of the work in a conspicuous place for the duration of the permit.
- (b) It shall be unlawful for any person to exhibit such placard at or about any work not covered by such permit, or to misrepresent or omit any of the information thereon.

Section 16-44. Right-of-Way Construction Bond.

Before a construction permit as herein provided is issued to an applicant, he shall deposit with the City of Odessa a bond in the amount of Ten Thousand Dollars (\$10,000.00). A bond of Two Thousand Dollars (\$2,000.00) will be permitted where the work to be performed by the applicant shall not exceed Two Thousand Dollars (\$2,000.00) in value for any one permit he may acquire for that work within the right-of-way. The required bond must be:

- (a) With a good and sufficient corporate surety authorized to do business in the State of Texas.
- (b) Duly completed on a form prescribed and furnished by the City.
- (c) Conditioned upon the permittee's compliance and performance in accordance with the Code of Ordinances, as well as the specifications of the City; and said bond is further conditioned that the said permittee shall fill up, restore and place in good and safe condition, as near as practical to the original condition, all openings and excavations made in all streets, alleys or other public rights-of-way. An annual bond shall be given under these provisions which shall remain in force for a period of one year from date of initial work permit granted hereunder, or until all work under any permit granted, within a year of the date of said original permit, shall have been completed, as to all right-of-way construction or excavation work in public rights-of-way within the City.

Section 16-45. Construction of streets, sidewalks, etc., public liability insurance required.

- (a) Public liability insurance. Before such permittee as described herein shall engage in any work described therein, he shall file with the Administrative Officer, and thereafter keep in full force and effect throughout the time of work, a policy, or policies, or comprehensive general liability insurance, issued by an insurance company authorized to do business in the State of Texas, which policy shall be approved by the City Attorney and said policy shall be performable in Ector County, Texas, insuring the public against any loss or damage that may result to any person or property caused by the negligent or willful acts of said contractor or permittee or his agents or employees in the construction of or growing out of the construction of said work, provided that the maximum amount of recovery in such policy of insurance specified shall not be less than the following sums for damages caused by the construction of said work, to-wit:
 - (1) For bodily injury or death in any occurrence and in the aggregate - Three Hundred Thousand Dollars (\$300,000.00).

- (2) For the injury or destruction of property in any one occurrence and in the aggregate Fifty Thousand Dollars (\$50,000.00).

All policies of insurance shall contain a provision for a continuing liability thereon up to the full amount thereof, notwithstanding any recovery thereon. It shall be the duty of such permittee and the surety on the bond to give notice to said City by filing a written notice with the Administrative Officer of the expiration of said policy at least thirty (30) days before the expiration thereof.

Section 16-46. Preservation of monuments.

- (a) The permittee shall not disturb any surface monuments or hubs found on the line of work until ordered to do so by the City Engineer.
- (b) In the event that the permittee, his agent or his employees, disturb or remove hubs or stakes, the hubs or stakes shall be replaced at the expense of the permittee.

Section 16-47. Removal and protection of existing improvements.

The permittee shall not interfere with any existing improvements without the written consent of the Administrative Officer and the person owning the improvements. If it becomes necessary to remove an existing improvement, this shall be done by its owner. No improvements owned by the City shall be moved to accommodate permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned improvements shall be similarly borne by the permittee unless he makes other arrangements with the person owning the improvement. The permittee shall protect any improvements which may be in any way affected by his work. In case any of said improvements should be damaged, they shall be repaired in conformance with all applicable requirements by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The Administrative Officer shall have the authority to cause said necessary labor and materials to be furnished by the City and the cost shall be charged against the permittee, and the permittee shall also be liable on his or its bond therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, oil pipe, gas pipe, electric conduit, telephone conduit or other utility and his bond shall be liable therefor. The permittee shall inform himself as to the existence and location of all underground utilities and protect the same against damage. The word "improvement" shall include utilities.

Section 16-48. Protection of adjoining property.

The permittee shall at all times, and at his own expense, preserve and protect from injury any adjoining property by providing proper safeguards and taking measures adequate for the purpose.

Section 16-49. Protection of watercourses.

The permittee shall provide for the flow of all watercourses, sewer or drains intercepted during the work and shall replace the same in as good condition as they were found, or shall make such provisions for them as the Administrative Officer may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provisions to take care of all surplus water, muck, silt, slicking or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from his failure to so provide.

Section 16-50. Attractive nuisance.

It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of the work any opening, machinery, equipment or other device having the characteristics of any attractive nuisance likely to attract children and be hazardous to their safety or health.

DIVISION III Construction Requirements

Section 16-51. Lines and grades.

- (a) The Administrative Officer shall furnish information for and/or set stakes establishing curb lines and grades for the construction, reconstruction or major repairs of any improvements covered by this article within ten (10) working days after a permit has been granted for such construction. All such construction shall be in accord with such lines and grades and subject to approval of the Administrative Officer.
- (b) In those cases, original construction where the grade and location of the street curb and gutter cannot be established because of existing conditions, the street curb and gutter and sidewalk may be omitted upon request of the applicant and written approval of the Administrative Officer, until such time as the remaining street curb and gutter and sidewalk fronting the abutting property is constructed by or at the instance of the City; provided that construction of temporary curbs and gutters and sidewalks may be authorized pending establishment of grades and locations of permanent curbs and gutters and sidewalks.

Section 16-52. Power of the City to change grade of streets.

The City hereby expressly reserves the right when putting down a permanent street pavement, either by original construction or reconstruction to change or alter the lines and grades of said street, when in the opinion of the Administrative Officer such change is necessary for the proper pavement or drainage of said street.

Section 16-53. Construction materials and methods.

- (a) Construction and/or repairs shall be in accordance with the latest revision of the City of Odessa standard specifications in effect as of the date of issuance of the permit. Construction or repairs not meeting these requirements shall be removed at the expense of the permittee.
- (b) No concrete mixture shall be poured until forms and excavation have been inspected and approved by the Administrative Officer.
- (c) Notwithstanding subsection (a) hereof, a permit may be issued for filling or grading within the right-of-way with a material deemed suitable by the Administrative Officer even though said material does not meet the requirements of the latest revision of the City of Odessa standard specifications then in effect. Provided, however, the applicant must sign a statement declaring that if the area is paved at a future date the paving will be done in accordance with the standard specifications in effect at that time, which obviously may require the replacement of said material.

Section 16-54. Extent of construction required.

- (a) Commercial. When a structure is to be built on a lot or moved onto a lot and used for other than residential purposes, right-of-way improvements shall be required on the property abutting the public right-of-way; sidewalks and curb and gutter shall be required around the portion of the property being improved. In special situations where existing conditions make the installation of curb and gutter and sidewalks impractical, this provision may be waived by the Administrative Officer. There shall be no right-of-way requirements for additions to existing buildings. All construction in the right-of-way shall be subject to the provisions of this chapter and the City of Odessa Subdivision Ordinance. Construction improvements within public right-of-way where permanent structures exist on abutting property shall be allowed provided such improvements do not create a hazardous condition and provided that all construction materials and methods conform to the provisions of this chapter.

- (b) Residential. When a new structure is to be built on a lot or moved onto a lot and used for residential purposes and the right-of-way improvements are not covered under the City of Odessa Subdivision Ordinance or the City of Odessa Zoning Ordinance, then there shall be no right-of-way improvement requirements under this section; however, any construction that is done in the right-of-way shall be done in compliance with the provisions of this chapter. Construction improvements within the public right-of-way where permanent structures exist on abutting property shall be allowed provided such improvements do not create a hazardous condition and provided that all construction materials and methods conform to the provisions of this chapter. Notwithstanding any of the above provisions in this subsection (b), whenever any structure is built on a lot or moved onto a lot and used for residential purposes, the installation of sidewalks, as defined in Section 1-2 of the Code of Ordinances, around such lot shall be required if either of the following conditions exist:
 - (1) If all or any portion of such lot is bordered by existing curb and gutter;
 - (2) If the City council has determined the necessity for, and has ordered the installation of, curb and gutter improvements around all or any portion of said lot.

Section 16-55. Details of construction.

All curbs, gutters, sidewalks, driveway approaches, etc., constructed, reconstructed, or altered in the City streets or alleys shall conform to the details shown in Plates 1-91 through 10-91, attached hereto and made a part hereof.

Section 16-56. Normal working time.

All work done by the permittee shall be done between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday, except as otherwise provided in this article or unless otherwise authorized by the Administrative Officer on the permit.

Section 16-57. Noise, dust and debris.

Each permittee shall conduct and carry out the work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the

performance of the work, noise, dust and unsightly debris, and during the hours of 10:00 p.m. to 7:00 a.m. shall not use, except with the express written permission of the Administrative Officer, or in case of emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the street or repose of occupants of the neighboring property.

Section 16-58. Prompt completion of work.

The permittee shall prosecute with diligence and expedition all work covered by the permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable, and in any event, not later than the date specified in the permit therefor.

Section 16-59. Repair work.

Repair work, as defined herein, shall comply with the provisions of this article to the extent practicable, except that sections of surface structures being replaced shall conform as nearly as possible in dimension, shape and appearance with the structure in place.

Section 16-60. Restoration of surface.

- (a) The permittee shall restore all streets, broken into or damaged as a result of the construction work, to their original condition in accordance with the City standard specifications.
- (b) Acceptance or approval of any work by the Administrative Officer shall not prevent the City from asserting a claim against the permittee and his or its surety under the surety bond required hereunder for incomplete or defective work if discovered within six months from the completion of the work. The Administrative Officer's presence during the performance of any work shall not relieve the permittee of his responsibilities hereunder.

Section 16-61. Inspections.

The Administrative Officer shall make such inspections as are reasonably necessary in the enforcement of this article, and shall, upon completion of each inspection so made, and where requested, issue a certificate of compliance or noncompliance as applicable. The Administrative Officer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

Section 16-62. Sidewalk construction.

- (a) All sidewalks shall be constructed of concrete with the exception of commercial areas where there is adjacent or contiguous parking areas to the sidewalk area in which case the sidewalk area may be of asphaltic concrete at the option of the property owner provided that:
 - (1) The construction of the sidewalk area meets the requirements of this article pertaining to design standards for asphaltic concrete paving.
 - (2) The sidewalk area is clearly delineated with bumper curbs placed on the property line or six (6) feet from the back of curb, whichever is the greater distance.

- (3) The property owner at all times maintains the asphalt sidewalk area in a safe and nonhazardous condition for public use.
- (4) The property owner at all times maintains and keeps the sidewalk area clearly delineated with bumper curbs.
- (b) All sidewalks shall be a minimum of four feet (4') in width and the outer edge of sidewalks shall be adjacent to the curb unless other placement locations are approved by City Council. Sidewalks adjacent to parking areas shall be a minimum of six feet (6') in width. Sidewalks in the central business district and Medical Center District shall be a minimum of ten feet (10') in width. Sidewalks in other areas of heavy pedestrian traffic shall have a minimum width of between four feet (4') and ten feet (10'), which exact width to be required shall be determined by the Administrative Officer.
- (c) Wheelchair Ramps shall be required to be installed in all sidewalk areas at all crosswalks in accordance with Section 228 of the 1973 Federal Aid Highway Act.

Section 16-62.1 Street use permit.

- (a) Where there is more than ten feet (10') of right-of-way between the back of the curb and the property line, the owner of the adjacent property may apply for a street use permit to use the portion of right-of-way more than ten feet (10') from the back of the curb for the purpose of parking vehicles, installing bumper curbs or curbing, or installing lighting improvements, landscaping or similar minor improvements. A written application, together with a drawing showing the proposed usage and/or improvements, for such a street use permit shall be made to the Administrative Officer. A street use permit shall be granted only upon the determination by the Administrative Officer, based upon the following criteria, that the proposed usage of the right-of-way does not create a safety hazard:
 - (1) Sight visibility of vehicular and/or pedestrian traffic on adjacent or nearby streets, alleys or driveways will not be unreasonably impaired by the proposed usage.
 - (2) No unreasonable obstruction to pedestrian traffic over the right-of-way question will result from the proposed usage.
 - (3) No unreasonable potential physical danger to persons will result from the physical characteristics and composition of any proposed improvements.
 - (4) The width, traffic capacity and normal traffic volume of the adjacent and nearby streets are not such as to make the usage of right-of-way behind the back of the curb at the particular location involved unsafe.
- (b) Any such street use permit shall contain and be subject to the following requirements:
 - (1) Any usage of right-of-way under a street use permit may be required by the City to be terminated upon sixty (60) days written notice, and upon such termination the adjoining property owner shall remove any improvements at his own expense.
 - (2) The owner of the adjacent property shall maintain the right-of-way covered by the street use permit in such a manner so as not to allow the creation of any unsafe condition.

- (3) The City shall not be liable to the adjoining property owner for any damages to any property or improvements located within right-of-way under a street use permit regardless of the nature or reason for any occurrence causing such damages.
- (4) The owner of the adjacent property shall indemnify and hold the City harmless from any and all claims or damages of whatsoever nature arising out of or in any way connected with the usage of the right-of-way under the beautification or street use permit.
- (c) Street use permits may be revoked by written notice from the Administrative Officer if the owner of the adjacent property violates or fails to comply with the safety maintenance and insurance requirements set out above. Street use permits issued under this section shall remain effective until terminated or revoked by the City as provided in this section or until the authorized right-of-way usage is discontinued or the improvements are removed by the permittee.
- (d) No street use permit for right-of-way usage under this section shall be permitted on state or federal highways and roadways without prior permission of the Texas Department of Transportation.

Section 16-62.2 Fences permitted within right-of-way in certain situations.

Authority to erect and maintain a fence in the right-of-way of local streets (being those streets indicated as local streets in the Midland/Odessa Regional Transportation Study, a copy of which is on file in the office of the Director of Public Works) may be given by way of a street use permit applied for by the owner of the adjoining property, provided the following requirements and conditions are met:

- (a) The right-of-way involved is adjacent to property used only for residential purposes.
- (b) Any such fence must comply with all requirements of the zoning ordinance, building code and any other applicable ordinances.
- (c) No such fence may be erected or maintained nearer than four feet (4') to the back of the curb.
- (d) It is determined by the Administrative Officer based upon the criteria set forth for such determination in Section 16-62.1, that the proposed fence will not constitute a safety hazard.
- (e) All of the requirements and conditions set forth in Section 16-62.1, for street use permits are met except the ten feet (10') requirement.
- (f) For the purposes of this section, a fence shall be a wall type structure, nineteen inches (19") or greater in height, constructed parallel and/or perpendicular to the street. A wall type structure that is eighteen inches (18") or less in height shall be considered a retaining wall. Construction of a retaining wall in the right-of-way does not require a street use permit, but must comply with all other provisions of this article.

Section 16-62.3 Street Beautification Permit.

On streets where adequate right-of-way is existing between the back of the curb and the property line, the owner of the adjacent property may apply for a Street Beautification Permit to install landscaping, canopies, awnings, or other similar minor beautification improvements. A written application, together with a drawing showing the proposed improvements for the Street Beautification Permit shall be made to the Administrative Officer. A Street Beautification Permit shall be granted only upon the determination of the Administrative Officer that the proposed improvements in the right-of-way do not create a safety hazard. All improvements shall conform to the criteria described in Section 16-62.1, paragraphs (a)(1) through (a)(4), (b), (c) and (d).

Section 16-63. Recessed parking areas.

- (a) Recessed parking areas may be installed only in special circumstances which do not interfere with traffic or other responsibilities of the City. Permission to allow a recessed parking area shall be granted only to the abutting property owner and where he agrees to be bound to accept future costs of reconstruction or upkeep as may be required. Recessed parking areas shall be constructed in conformance with Plate 2-91 unless otherwise approved in writing by the Administrative Officer.
- (b) Recessed parking areas shall not be allowed on major thoroughfares.
- (c) A permit to install a recessed parking area shall be issued only after permission has been given to allow a recessed parking area.

Section 16-64. Driveway approaches.

A. Location and angle of intersection.

- (1) No driveway approach shall be permitted to encompass or encroach upon any municipal facility; provided that the relocation of municipal facilities may be authorized by the Administrative Officer, if the construction of a driveway approach under the provisions of this article shall encroach thereon, and provided that such relocation shall be completed by and at the expense of the applicant and in accordance with specifications provided by the Administrative Officer in the permit issued therefor.
- (2) Notwithstanding the foregoing provision of this section, the curb cut or beginning of the transition curb of the driveway approach shall not be less than twenty feet (20') from the back of curb of the nearest intersecting street or past the curb return whichever is more restrictive.
- (3) It is the intent and policy of this article that the location of a driveway approach in relation to the street intersection shall be such that a vehicle leaving the abutting property may turn into the lane of traffic moving in the desired direction and be channeled within such lane before crossing the intersection or proceeding along the street, and that a vehicle entering the abutting property may turn out of the nearest lane of traffic without interfering with other traffic.
- (4) No laydown curb shall begin closer than five feet (5') to the interior property line, measured along the curb face, for a commercial driveway approach.
- (5) No laydown curb shall begin closer than one foot (1') to the interior property line, measured along the curb face, for a residential driveway approach.

- (6) Exceptions to paragraph 5 can be made to begin transition curb at or past the interior property line providing the adjacent property owner signs an agreement furnished by the Engineering Department of the City of Odessa. Signed letters are to be kept by the City.
- (7) The interior angle formed by the extension of the axis of a driveway approach and the center line of street shall be 90°, unless otherwise approved by the Administrative Officer.

B. Driveway approach width.

- (1) The total amount of laid down curb shall not occupy more than 2/3 of the frontage abutting the roadway of the tract of ground devoted to one use. Where adjacent owners are, or will use off-street parking as a common parking lot, or when there are no physical barriers to prevent the use of the parking area as a common parking lot, then the area in question shall be deemed to be one tract devoted to one use for purposes of this article.
- (2) For commercial or public establishments, the width or throat of an undivided driveway approach shall be 35', where possible, to comply with the other provisions of this Ordinance, but in no case shall the width be less than 24'. Residential driveways shall not be greater than 30'. However, for commercial and residential driveways, there may be exceptions to the width requirements as provided in Paragraph 4. All widths or throats of driveways shall be measured at right angles to the axis of the driveway approach.
- (3) Where the driveway approach is divided by an effective physical barrier, the throat of the driveway approach may be a maximum of fifty-four feet (54') in width and shall be constructed in conformance with requirements of Plate 4-91. The physical barrier shall not protrude into the right-of-way, and may not contain landscaping that creates any sight problems.
- (4) Driveway approaches for motor vehicle docks and buildings with vehicle doorways may be as wide as sixty feet (60'). Where more dock space is required the driveway approach shall be separated by a traffic island meeting the requirements of this article. Approaches built under the provision of this paragraph need not be limited to a total width of 2/3 of the frontage as prescribed in paragraph (1) of this section or limited as to number of driveway approaches, but must comply with all other provisions of this article.

C. Number of driveway approaches allowed on major thoroughfares and collector streets.

No more than the following prescribed number of driveway approaches shall be allowed on thoroughfares and collector streets:

- (1) No more than one (1) driveway approach shall be permitted on any lot or tract of land with frontage of ninety-nine feet (99') or less.
- (2) No more than two (2) driveway approaches shall be permitted on any lot or tract of land with frontage of more than ninety-nine feet (99') but less than three hundred feet (300').
- (3) No more than three (3) driveway approaches shall be allowed for any lot or tract of land with more than three hundred feet (300') but less than six hundred feet (600').

- (4) For lots or tracts of land with frontage in excess of six hundred feet (600'), one (1) additional driveway approach may be allowed for each additional three hundred feet (300') of frontage in excess of six hundred feet (600').
- (5) If any proposed driveway approach is determined by the Administrative Officer to create a safety or traffic hazard, then such driveway approach shall not be permitted.
- (6) At Major Intersections
 - (a) No driveway approach shall be closer than forty feet (40') to the intersection measured from the property line.
 - (b) There may be an exception to the forty foot (40') requirement if the lot frontage width will not accommodate a minimum thirty-five foot (35') driveway approach with a forty foot (40') clearance, then one driveway approach will still be allowed, and shall be located adjacent to the property line farthest from the intersection. See Plate 10-91.

D. Number of driveway approaches on other streets.

No more than the following prescribed number of driveway approaches shall be allowed on all streets other than major thoroughfares and collector streets:

- (1) No more than two (2) driveway approaches shall be permitted on any lot or tract of land with frontage of one hundred feet (100') or less.
- (2) No more than three (3) driveway approaches shall be permitted on any lot or tract of land with frontage of more than one hundred feet (100') but less than three hundred feet (300').
- (3) No more than four (4) driveway approaches shall be permitted for any lot or tract of land with frontage of more than three hundred feet (300') but less than six hundred feet (600').
- (4) For any lots or tracts of land with frontage in excess of six hundred feet (600'), one (1) additional driveway approach may be allowed for each additional three hundred feet (300') of frontage in excess of six hundred feet (600').

E. Intermediate island between two driveway approaches.

Between any two driveway approaches there shall be an intermediate island within the right-of-way, not less than fifteen feet (15') in length, measured along the property line, and not less than fifteen feet (15') measured along the curb face between stand-up points or transition curb or between tangent points of return radii.

F. Construction details of driveway approaches.

- (1) All driveway approaches shall have a minimum ramp length of four feet (4') on each side of the driveway approach, with the throat of the driveway approach being eight feet (8') narrower than the mouth of the driveway approach. The mouth of the driveway approach is that portion of the approach adjacent to the back of the laydown curb, and the throat of the driveway approach is that portion of the approach nearer the property line. Every driveway approach shall be at least four feet (4') in length or depth from back of the laydown curb and additionally every driveway approach shall be at least such length or depth as any sidewalk area adjacent to the back of the curb. Commercial approaches may have ten feet (10') radius in place of four feet (4') ramps if approved by Administrative Officer.

- (2) In all cases the driveway approach shall be of such width and so located as to allow safe and easy turning of vehicles either into or out of the abutting property served by such driveway approach.

G. Limitation on use of driveway approaches.

Driveway approaches shall not be constructed or used for angle or recessed parking. To qualify as a driveway approach, the approach must provide access to a vehicle doorway, dock, or an offstreet parking lot with sufficient room for the vehicle to maneuver and re-enter the street front first from said parking lot.

Section 16-64.1 Removal of driveway approaches and recessed parking areas.

In case a laydown curb, driveway approach, or recessed parking area has become a hazard, the City may remove such laydown curb, driveway approach or recessed parking area and replace it with standard curb and gutter and where necessary a sidewalk.

Section 16-64.2 Location of devices for servicing vehicles.

All devices for servicing vehicles shall be so located that no part of the vehicle will extend into the right-of-way. In no case shall any part of the device or its appurtenances construction be nearer than twenty feet (20') from the right-of-way.

Section 16-64.3 Barricades, lights and flagmen

When the work is carried on in or adjacent to any street, alley, sidewalk or public place, the Permittee shall, at his own cost and expense, furnish and erect such barricades, fences, lights and danger signals; shall provide such flagmen; and shall take such other precautionary measures for the protection of persons or property and of the work as are necessary. Barricades shall be painted in two contrasting colors so as to provide visibility at night. From sunset to sunrise, the Permittee shall furnish and maintain appropriate lights at each barricade. A sufficient number of barricades shall be erected to keep vehicles from being driven onto or into any work which might be a hazard to the public. The Permittee will be held responsible for all damage to the work due to failure of barricades, signs, lights and flagmen to protect it, and when damage is incurred, the damaged portion shall be immediately removed and replaced by the Permittee at his own cost and expense. The Permittee's responsibility for the maintenance of barricades, signs, lights and for providing flagmen, shall not cease until the project has been completed and accepted by the City.

Section 16-64.4 Guarantee

The Contractor shall and hereby does guarantee:

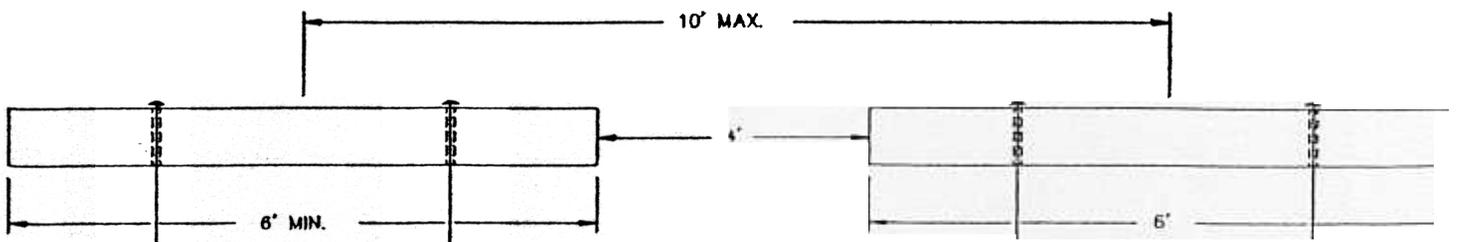
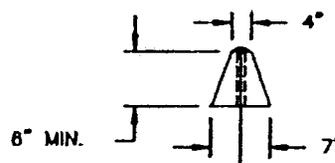
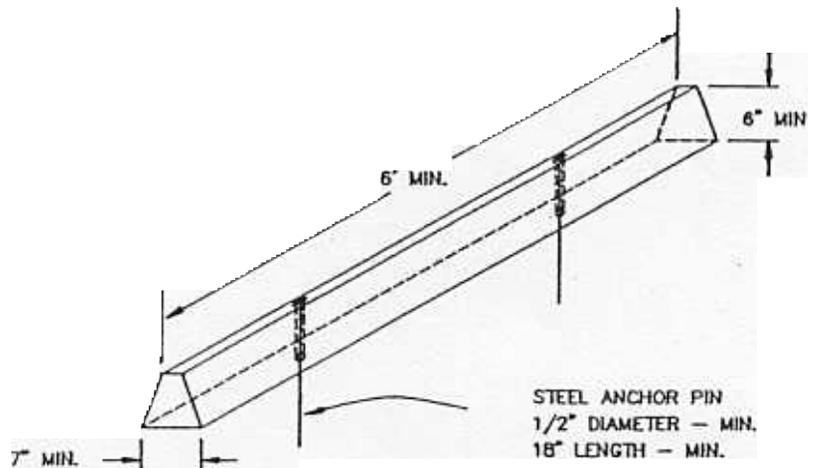
- (1) all work performed by him directly and all work performed by his subcontractors;
- (2) that all material and workmanship used in this project are of the quality, quantity and character specified; and
- (3) that any defect due to improper workmanship or material discovered and made known to him within one year of the date of final acceptance of the improvements shall be repaired, replaced, corrected or otherwise made good by him without additional expense to the City.

BUMPER CURBS (PORTABLE CONCG. BLOCK TYPE.)

SECTION 16-62 PG.16

NOTE:

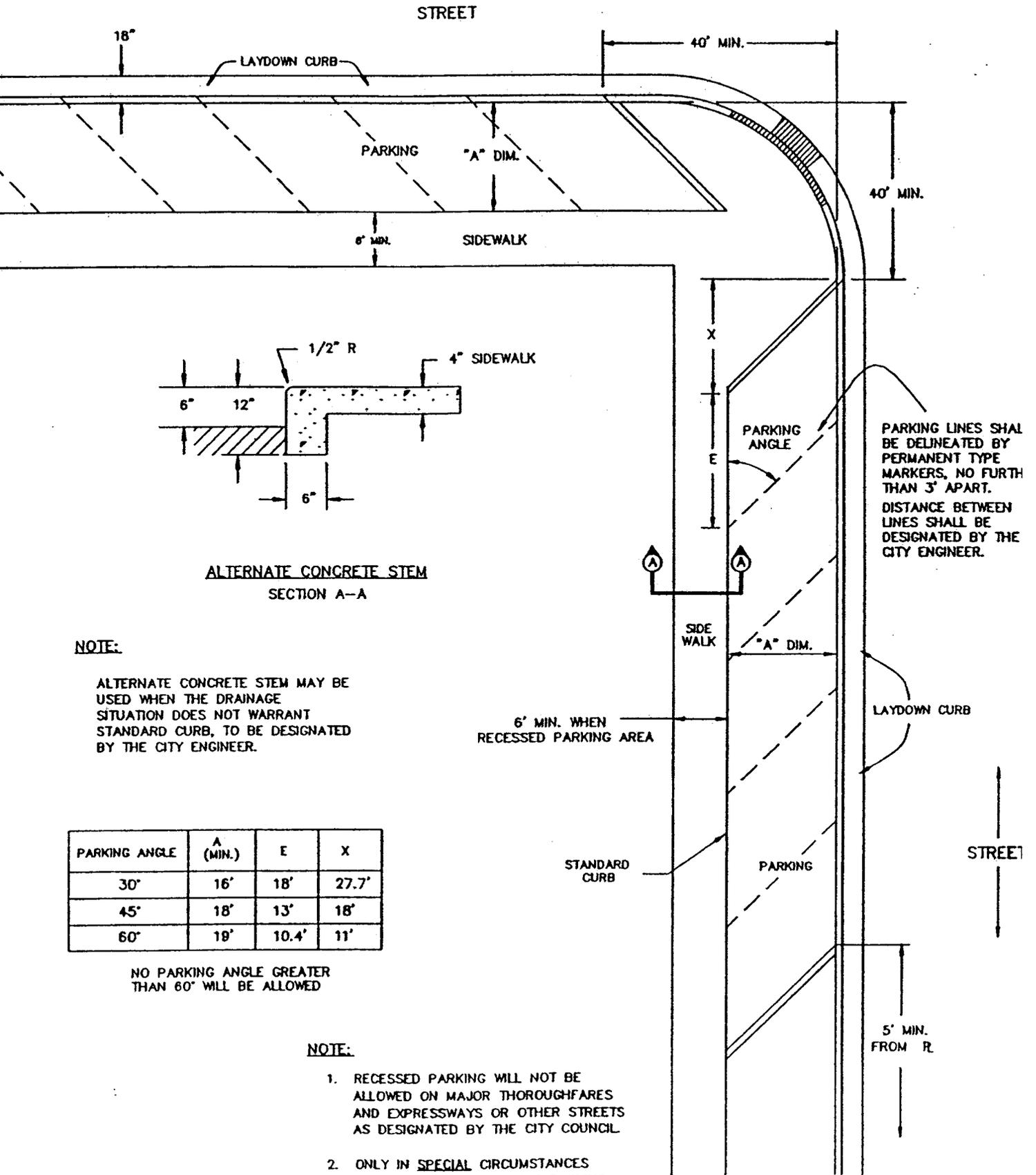
1. BUMPER CURB REQUIRED TO DESIGNATE SIDEWALK AREA BETWEEN BACK-OF-CURB AND VEHICLE PARKING AREA.
2. PORTABLE CONCRETE BLOCK TYPE BUMPER CURBS SHALL BE A MINIMUM SIX(6) FEET LONG, A MINIMUM SIX(6) INCHES IN HEIGHT AND A MINIMUM SEVEN(7) INCHES WIDE AT THE BASE.
3. BUMPER CURBS SHALL BE PLACED A MINIMUM OF TEN(10) FEET APART, MEASURED FROM CENTER TO CENTER.
4. ALL BUMPER CURBS, OF ANY TYPE SHALL BE PERMANENTLY ATTACHED TO THE GROUND OR PAVED SURFACE WITH EIGHTEEN(18) INCH LONG 1/2 INCH DIAMETER STEEL PINS, OR OTHER APPROVED ANCHORING DEVICES.
5. BUMPER CURBS MAY BE A PIPE RAIL WHICH SHALL RUN CONTINUOUS ALONG THE PROPERTY LINE.



TYPICAL PLACEMENT

RECESSED ANGLE PARKING

SECTION 16-63 A. B. PG. 20

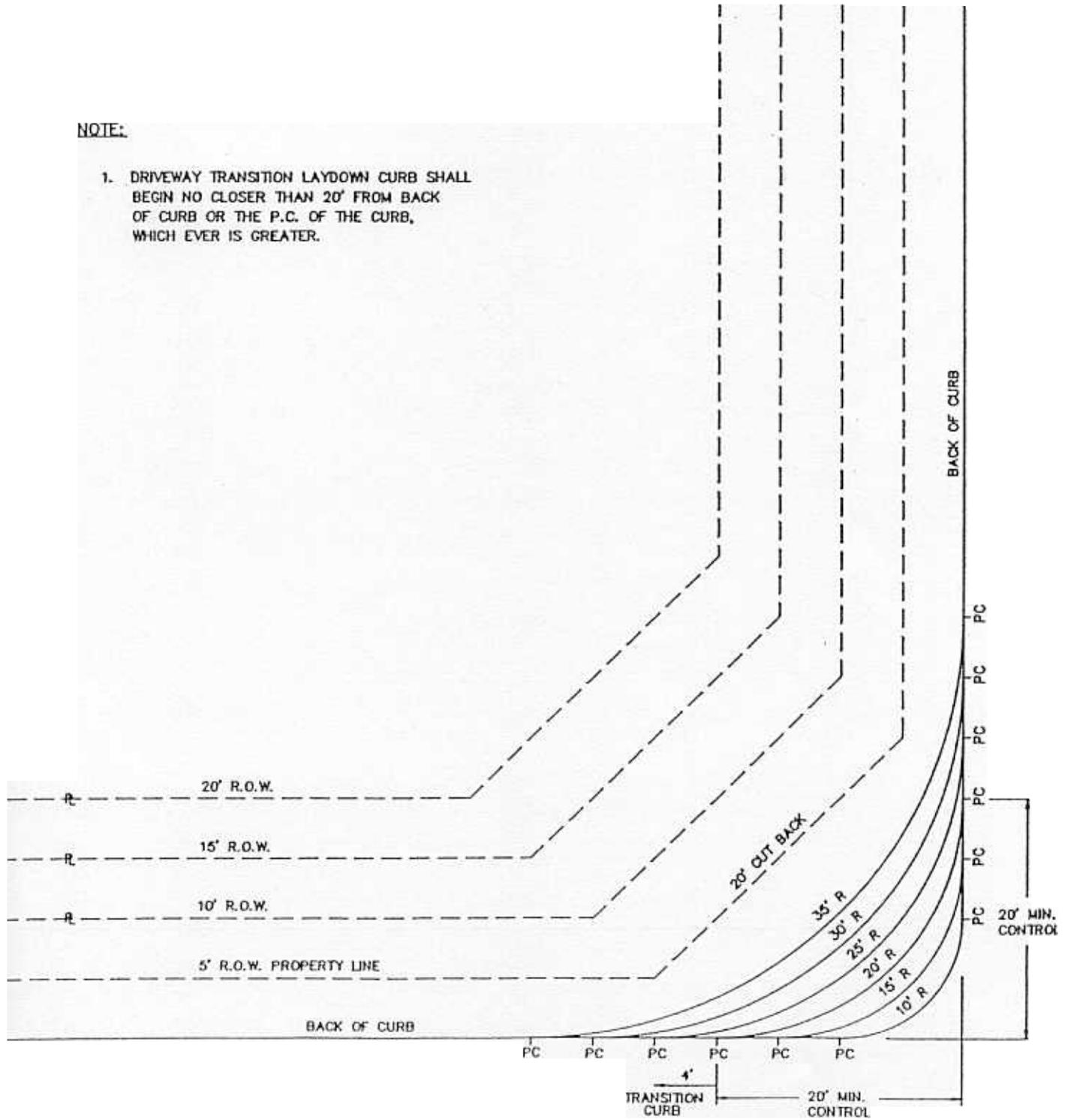


DRIVEWAY LOCATIONS AT INTERSECTION

SECTION 16-64 A. (2) PG.21

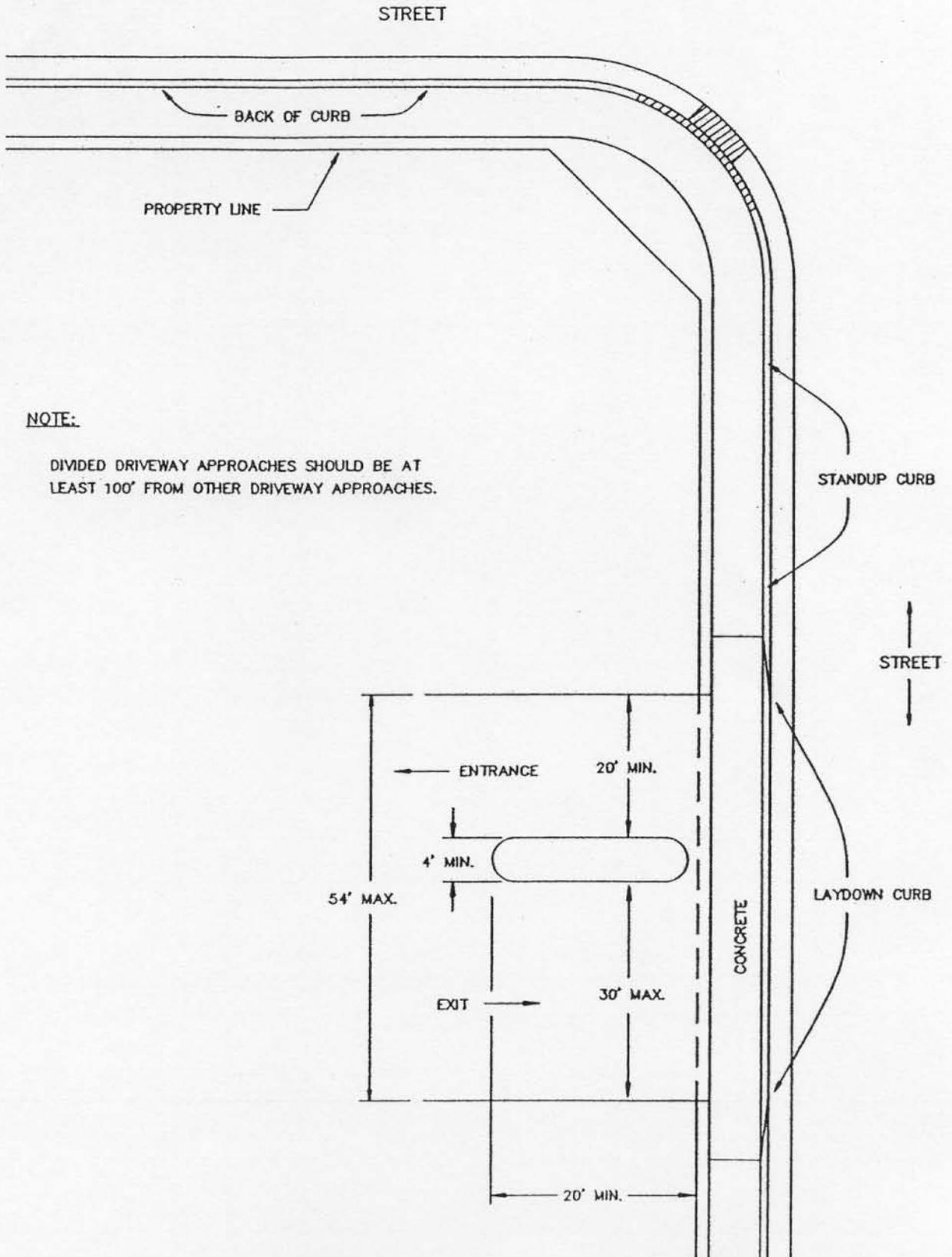
NOTE:

1. DRIVEWAY TRANSITION LAYDOWN CURB SHALL BEGIN NO CLOSER THAN 20' FROM BACK OF CURB OR THE P.C. OF THE CURB, WHICH EVER IS GREATER.



DIVIDED COMMERCIAL DRIVEWAY APPROACH

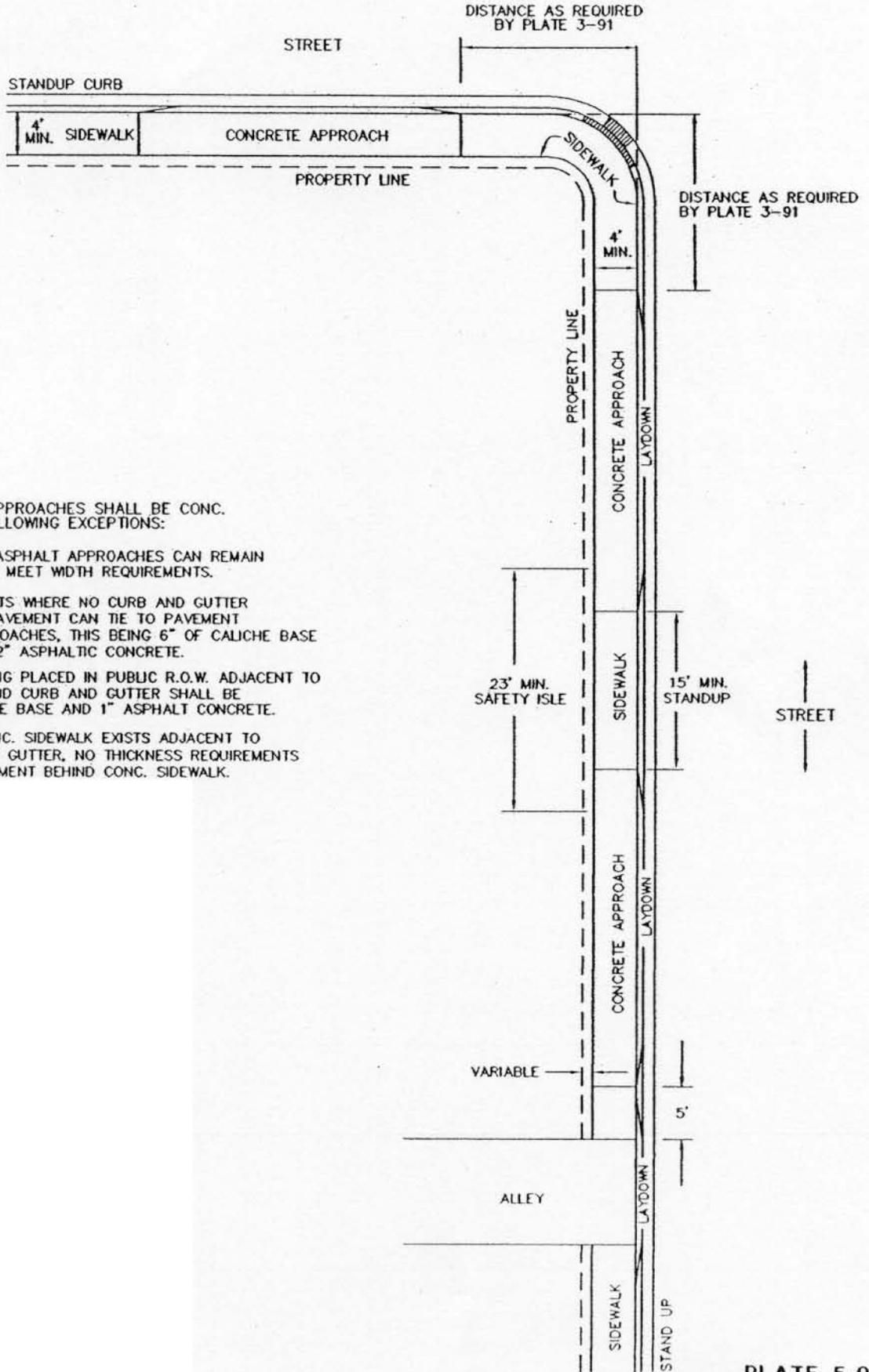
SECTION 18-64 B. (3) PG.22



NOTE:

DIVIDED DRIVEWAY APPROACHES SHOULD BE AT LEAST 100' FROM OTHER DRIVEWAY APPROACHES.

COMMERCIAL DRIVEWAY APPROACH AND CONCRETE SIDEWALK



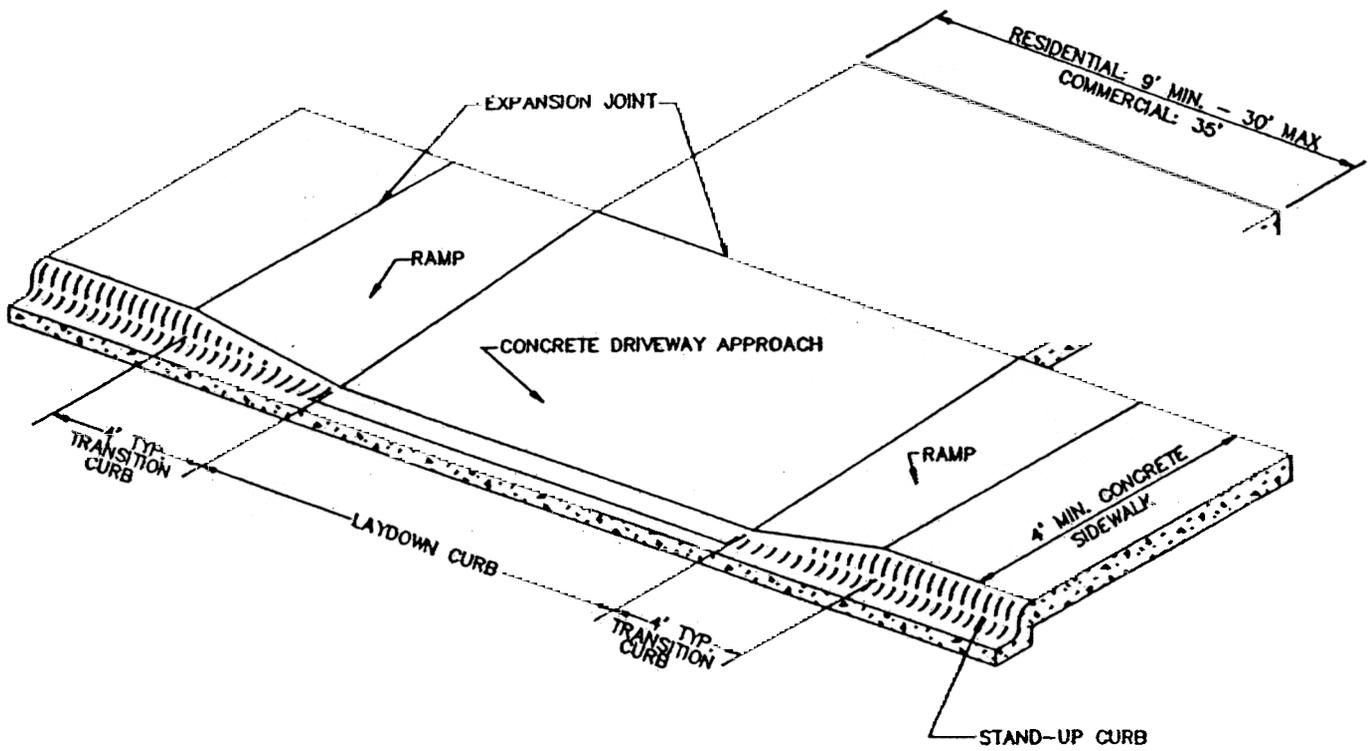
NOTE:

ALL DRIVE APPROACHES SHALL BE CONC. WITH THE FOLLOWING EXCEPTIONS:

1. EXISTING ASPHALT APPROACHES CAN REMAIN BUT MUST MEET WIDTH REQUIREMENTS.
2. ON STREETS WHERE NO CURB AND GUTTER EXISTS, PAVEMENT CAN TIE TO PAVEMENT FOR APPROACHES, THIS BEING 6" OF CALICHE BASE AND 1 1/2" ASPHALTIC CONCRETE.
3. ALL PAVING PLACED IN PUBLIC R.O.W. ADJACENT TO AND BEHIND CURB AND GUTTER SHALL BE 6" CALICHE BASE AND 1" ASPHALT CONCRETE.
4. WHEN CONC. SIDEWALK EXISTS ADJACENT TO CURB AND GUTTER, NO THICKNESS REQUIREMENTS FOR PAVEMENT BEHIND CONC. SIDEWALK.

CONSTRUCTION DETAIL FOR RESIDENTIAL AND COMMERCIAL APPROACHES

SECTION 16-64 B. PG.22



COMMERCIAL DRIVEWAY APPROACH (WITH OPTIONAL 10' RADIUS)

SECTION 16-64-F (1) PG.24

NOTES:

- RADI SHALL BE NO LESS THAN 10'.
- SHALL MEET ALL OTHER REQUIREMENTS OF RIGHT-OF-WAY ORDINANCE FOR DRIVE APPROACHES.
- RADIUS SHALL BE LAYDOWN WITH 4' TRANSITION CURBS AND 4' LAYDOWN CURB TO PROVIDE FOR WHEELCHAIR RAMP.
- SIDEWALK SHALL CONTINUE AROUND RADIUS TO FORM WHEELCHAIR RAMPS.

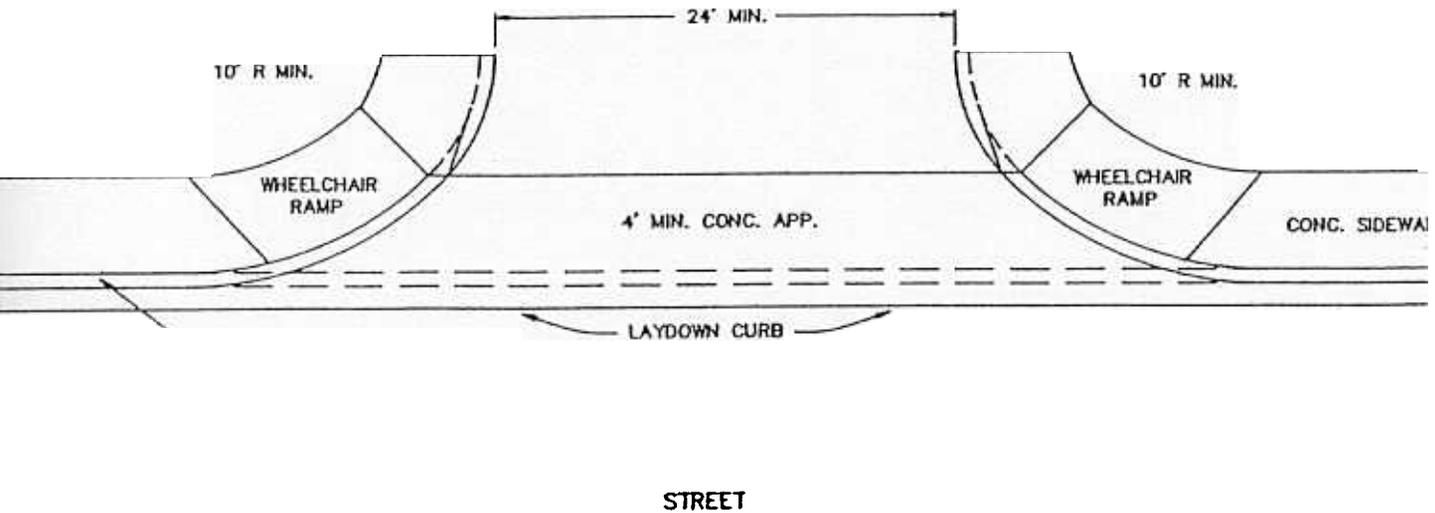


PLATE 7-91

RESIDENTIAL DRIVEWAY APPROACH AND SIDEWALK

SECTION 16-64 B-2 PG.22

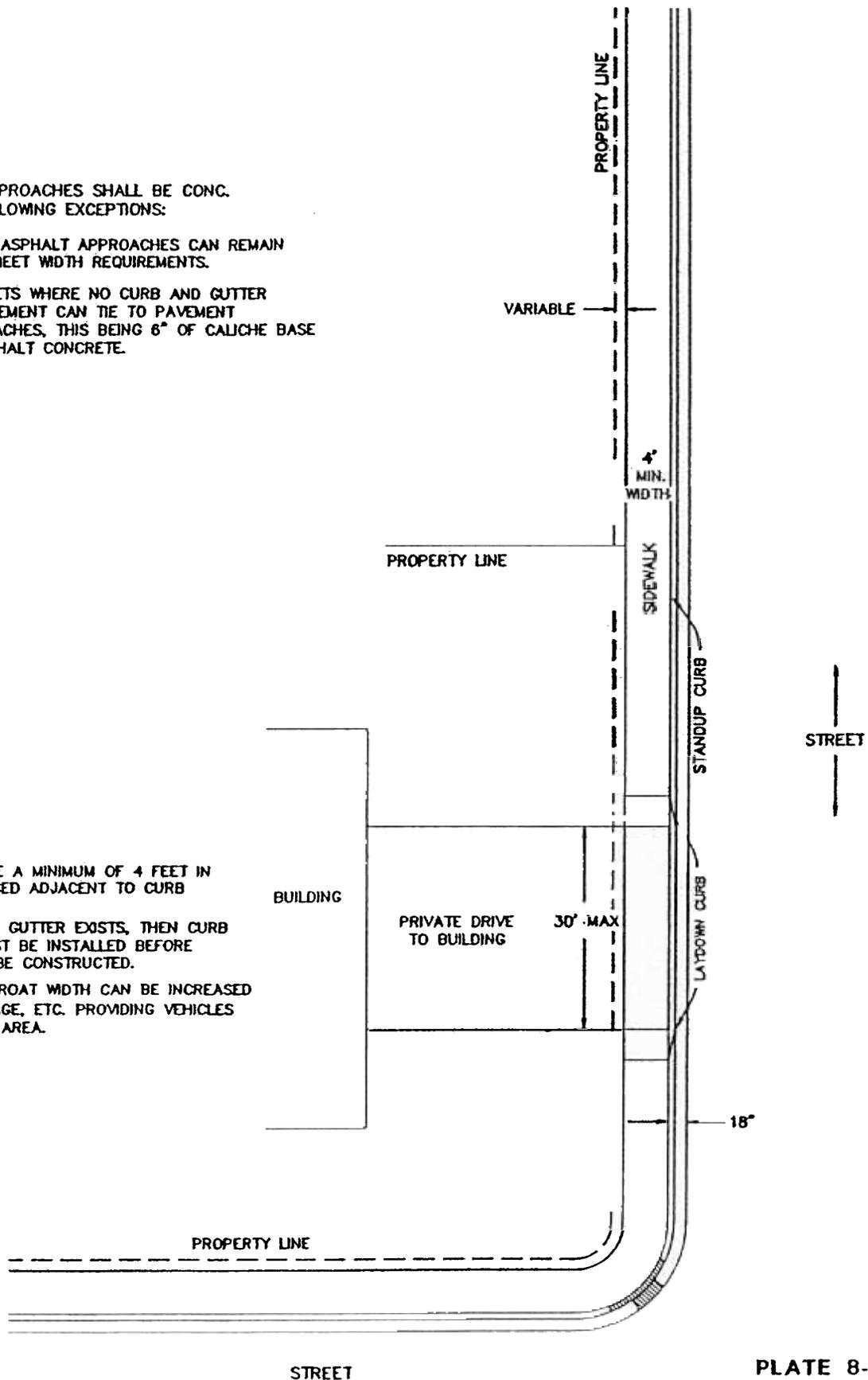
NOTE:

ALL DRIVE APPROACHES SHALL BE CONC. WITH THE FOLLOWING EXCEPTIONS:

1. EXISTING ASPHALT APPROACHES CAN REMAIN BUT MUST MEET WIDTH REQUIREMENTS.
2. ON STREETS WHERE NO CURB AND GUTTER EXISTS, PAVEMENT CAN TIE TO PAVEMENT FOR APPROACHES, THIS BEING 6" OF CALICHE BASE AND 1" ASPHALT CONCRETE.

NOTE:

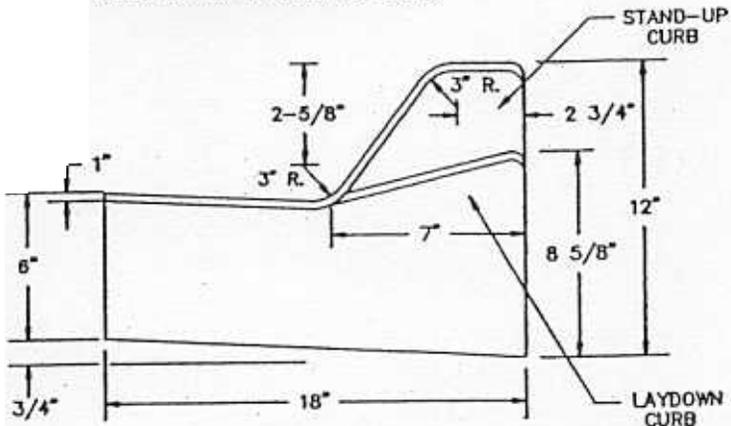
1. SIDEWALKS TO BE A MINIMUM OF 4 FEET IN WIDTH, AND PLACED ADJACENT TO CURB AND GUTTER.
2. IF NO CURB AND GUTTER EXISTS, THEN CURB AND GUTTER MUST BE INSTALLED BEFORE SIDEWALKS CAN BE CONSTRUCTED.
3. THE 30' MAX. THROAT WIDTH CAN BE INCREASED FOR 4 CAR GARAGE, ETC. PROVIDING VEHICLES CLEAR SIDEWALK AREA.



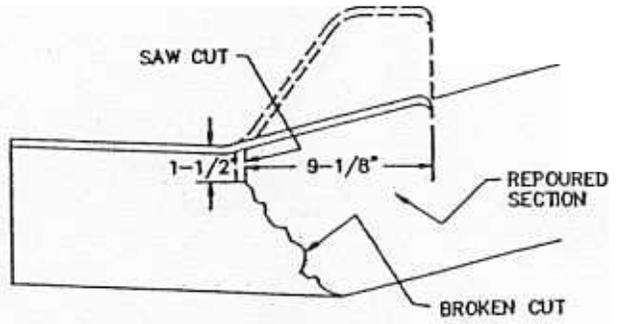
CONSTRUCTION DETAILS

NOTE: MAX. SIDEWALK SLOPE 1/2" PER 1'
MIN. SIDEWALK SLOPE 1/4" PER 1'

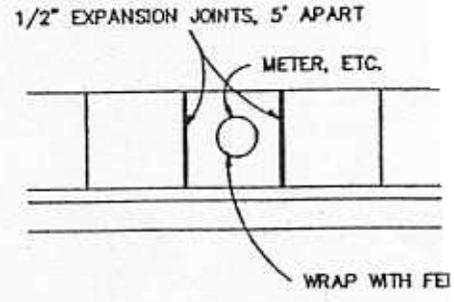
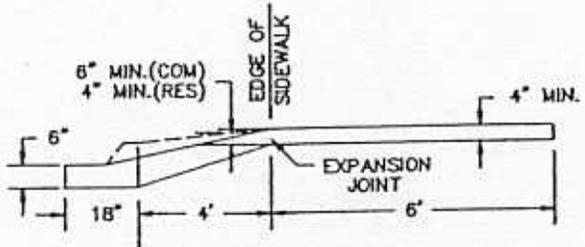
VERTICAL SAW CUTS THROUGH TOP AND FACE OF CURB FOR DRIVEWAY SHALL BE MADE AT POINTS OF TAPER ON TOP OF EXISTING CURB.



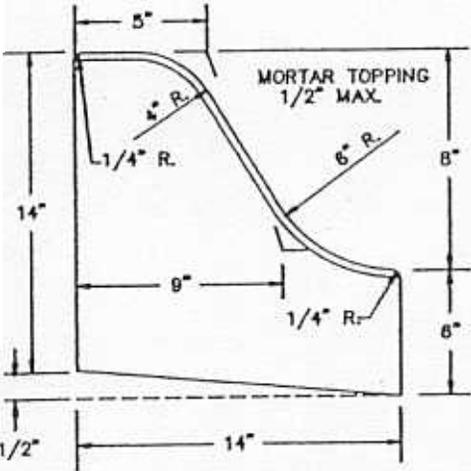
STANDARD CURB SECTION



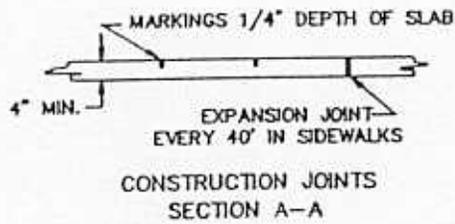
STANDARD CURB SECTION MODIFIED TO LAYDOWN CURB



INSTALLATION AROUND WATER & GAS METERS FIRE HYDRANTS, VALVE BOXES, SIGN POLES, POWER POLES AND ETC.

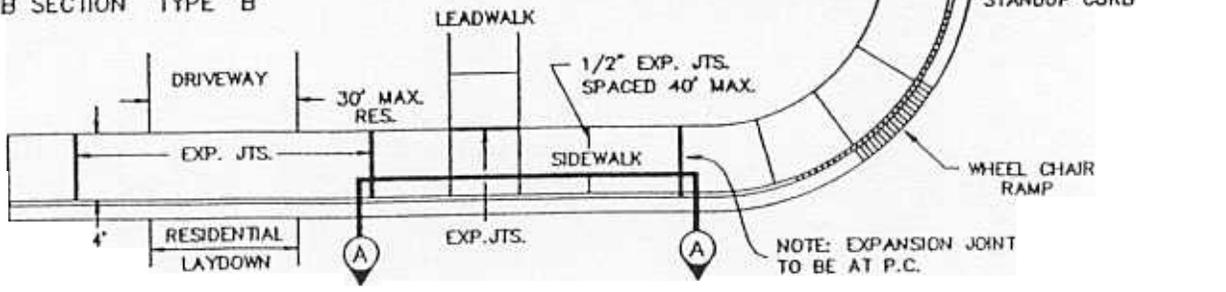


STANDARD CURB SECTION TYPE "B"



CONSTRUCTION JOINT SECTION A-A

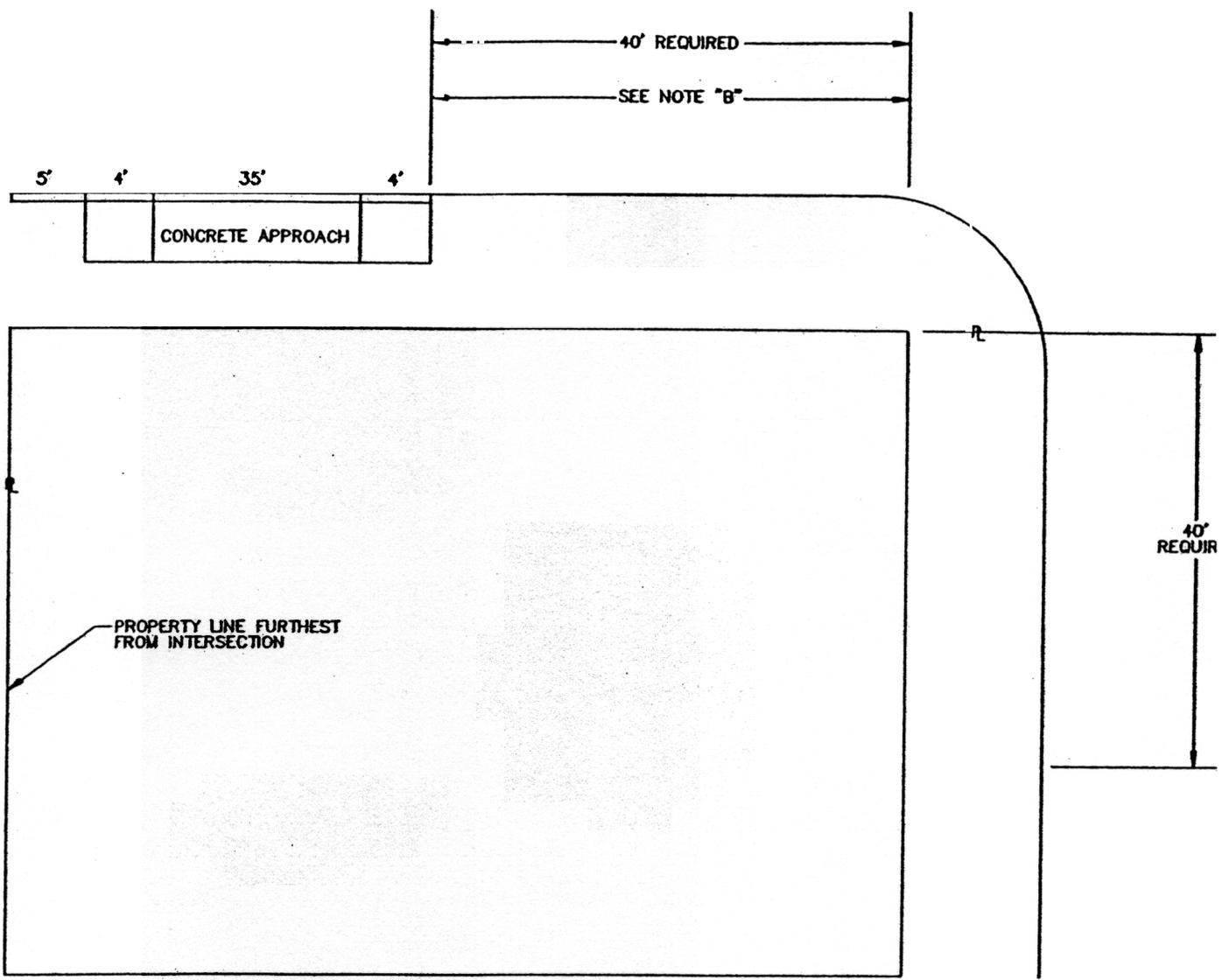
NOTE: 1/2" EXPANSION JOINT BETWEEN SIDEWALK AND RIGID STRUCTURES



TYPICAL PLAN FOR CURB, GUTTER, SIDEWALK & DRIVEWAY DETAILS.

MAJOR INTERSECTION DRIVEWAY APPROACH LOCATION

SECTION 16-64C PG.23



NOTES: AT MAJOR INTERSECTIONS

- A. NO DRIVEWAY APPROACH SHALL BE CLOSER THAN 40' TO THE INTERSECTION MEASURED FROM THE PROPERTY LINE.
- B. THERE MAY BE AN EXCEPTION TO THE (40') REQUIREMENT IF THE LOT FRONTAGE WIDTH WILL NOT ACCOMODATE A 35' DRIVEWAY APPROACH WITH A (40') CLEARANCE; THEN ONE DRIVEWAY APPROACH WILL STILL BE ALLOWED; AND SHALL BE LOCATED ADJACENT TO THE PROPERTY LINE FURTHEST FROM THE INTERSECTION.