



Chapter 32

STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

- Sec. 32-1. General duties of city engineer relative to streets and sidewalks.**
- Sec. 32-2. Obstructions generally.**
- Sec. 32-3. Littering prohibited.**
- Sec. 32-4. Deposit of nails, glass, wire, etc., in streets.**
- Sec. 32-5. Permits for certain uses of streets, alleys, etc.**
- Sec. 32-6. Closing of streets and alleys for paving.**
- Sec. 32-7. Guards and signals for paving operations.**
- Sec. 32-8. Use of streets or alleys being paved.**
- Sec. 32-9. Residence and Building Address Numbering.**
- Sec. 32-10. Sidewalk Preservation.**
- Sec. 32-11. Maintenance of sidewalks in clean condition.**
- Sec. 32-12. Reserved.**
- Sec. 32-13. Gates and doors opening on streets and sidewalks generally.**
- Sec. 32-14. Covering and doors for vaults and cellars in streets and sidewalks.**
- Sec. 32-15. Washing vehicles on streets or sidewalks.**
- Sec. 32-16. Escape of grease, wastewater, etc., onto streets or sidewalks.**
- Sec. 32-17. Interfering with or injuring street lighting system.**

Sec. 32-18. Obstruction of sidewalks, streets, and alleys by trees or branches of trees prohibited.

Sec. 32-19. Height obstructions at corners prohibited; penalty.

Sec. 32-20. Prohibiting operation of vehicles larger than certain weight to operate on city streets; penalty.

Section 32-21. Street Use or Encroachment License.

Secs. 32-22--32-30. Reserved.

ARTICLE II. STREET CONTRACTORS

Sec. 32-31. Definition.

Sec. 32-32. Bond--Required; amount; condition; approval.

Sec. 32-33. Same--Suits and recoveries.

Sec. 32-34. Same--Revocation or cancellation.

Sec. 32-35. Work permit required.

Sec. 32-36. Work to conform to prescribed plans, specifications, lines and grades.

Sec. 32-37. Removal of unapproved improvements.

Sec. 32-38. Certificate of acceptance of work required.

Secs. 32-39--32-50. Reserved.

ARTICLE III. EXCAVATIONS

Sec. 32-51. Permit required; exceptions.

Sec. 32-52. Information to be furnished with applications; repairing excavations.

Sec. 32-53. Bond.

Sec. 32-54. Specifications for work.

Sec. 32-55. Not to be expense to city.

Sec. 32-56. Penalty.

Sec. 32-57. Barricades and flares.

Secs. 32-58--32-69. Reserved.

ARTICLE IV. UTILITY FIXTURES IN STREETS, ALLEYS, ETC.

DIVISION 1. GENERALLY

Sec. 32-70. Inspection.

Sec. 32-71. Location of poles near trees.

Sec. 32-72. Poles to be run on one side of street only; exception.

Sec. 32-73. Two lines of poles prohibited on same side of street.

Sec. 32-74. Poles to be stamped.

Sec. 32-75. Supports for electric conductors.

Sec. 32-76. Number of wires permitted on poles.

Sec. 32-77. Insulation of arc lamps.

Sec. 32-78. Franchises and permits subject to division.

Secs. 32-79--32-90. Reserved.

DIVISION 2. RENTAL CHARGE

Sec. 32-91. Definitions.

Sec. 32-92. Imposed; amount; when payable.

Sec. 32-93. Report of gross receipts of payor.

Sec. 32-94. Report of industrial and governmental customers by payor.

- Sec. 32-95. Examination of books and records of payor.**
- Sec. 32-96. Receipt for payment.**
- Sec. 32-97. Charge is not a tax, but is additional to taxes.**
- Sec. 32-98. Division grants no relief from other laws and ordinances.**
- Sec. 32-99. Division does not grant franchise; cancellation of privileges and refund of rental.**
- Sec. 32-100. Right of city to adopt restrictions, regulations, etc.**
- Sec. 32-101. Certain persons exempt from payment of charge.**
- Sec. 32-102. Penalty for nonpayment.**
- Secs. 32-103--32-111. Reserved.**

ARTICLE V. DRIVEWAYS, SIDEWALKS, CURBS AND GUTTERS

- Sec. 32-112. Definitions.**
- Sec. 32-113. Permits.**
- Sec. 32-114. Drive approach standards adopted as an advisory guideline.**
- Sec. 32-115. Appeals.**
- Sec. 32-116. Inspections and approval.**
- Sec. 32-117. Warranty.**
- Sec. 32-118. Safety.**
- Sec. 32-119. Contractor's bond.**
- Sec. 32-120. Construction standards.**
- Sec. 32-121. City or state control.**
- Sec. 32-122. Violations.**

Sec. 32-123. Defacing public structures prohibited.

Sec. 32-124. License for pasting or painting street address numbers.

Sec. 32-125. Application by a corporation, firm or partnership.

Sec. 32-126. Conditions of license.

Sec. 32-127. Fees.

Sec. 32-128. Grant of license.

Sec. 32-129. Deposit or bond.

Sec. 32-130. Penalty.

**Appendix to Chapter 32 - Repealed by Ord. No. 2010-4413,
Adopted December 16, 2010**

Chapter 32

STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

Sec. 32-1. General duties of city engineer relative to streets and sidewalks.

The city engineer shall maintain a grade of all streets and public grounds of the city and exercise general supervision over all work undertaken on the streets and public grounds. He shall make plans and estimates and give and furnish instructions as to the grading and construction of sidewalks.

Sec. 32-2. Obstructions generally.

It shall be unlawful for any person to place any barrel, box, stone, brick, iron, firewood or other obstruction on any street or sidewalk in the city. No person shall have or maintain any bootblack stand or chair or other similar device for polishing boots and shoes, or candy stand, confectionery stand, hucksters' stand or other stall on any sidewalk, street, or alley in the city.

Any article or substance placed upon any street, sidewalk, alley, gutter or public ground, except such as are permitted by the ordinances of the city, so as to obstruct the same is hereby declared to be a nuisance. Nothing in this section shall be so construed as to prevent any merchant from occupying not to exceed one-half (1/2) of any sidewalk in front of the building occupied by him, in receiving and forwarding goods, wares and merchandise; provided that such goods, wares and merchandise shall not remain on the sidewalk for a longer period than two (2) hours.

Sec. 32-3. Littering prohibited.

It shall be unlawful for any person to scatter, throw or deposit any paper, peelings, hulls, garbage, trash or other refuse or litter upon any street, sidewalks or alley in the city.

Sec. 32-4. Deposit of nails, glass, wire, etc., in streets.

It shall be unlawful for any person to place, throw or leave upon any public street or ground any nails, glass, bottles, or wire, or any lumber, boxes or other things whatever having therein any nail.

Sec. 32-5. Permits for certain uses of streets, alleys, etc.

(a) *Definition.* An event is defined as a parade, a footrace, a walk-a-thon, a rally, a march or a demonstration that will require the use of city streets, rights-of-way and/or require escort services for the safety and security of the participants.

(b) *Permit required.* Anyone wishing to conduct or sponsor an event requiring the use of city streets, right-of-way, or related property shall first obtain an event permit from the City of Temple.

(c) *Application.* Persons wishing to conduct or sponsor an event shall complete an application for an event permit at least thirty (30) days before the event. Applications for an event permit can be picked up in the Parks and Leisure Services Department at 1909 Curtis B. Elliott Drive. A ten dollar (\$10.00) processing fee will be required at the time of application.

(d) *Review of applications.* The Director of Parks and Leisure Services shall review and approve, where appropriate, all applications for a permit under this section.

(e) *Provision of city services.* Depending upon the time required or required duties that have priority, the city shall determine whether it is feasible for the city to furnish the requested services, and shall so notify the applicant at the time the application for a permit is approved or denied.

Sec. 32-6. Closing of streets and alleys for paving.

No person paving or repaving any street, avenue, alley or public square of the city shall be permitted to keep the same closed longer than is necessary to properly complete the same for use.

Sec. 32-7. Guards and signals for paving operations.

Any person engaged in paving or repaving any street, avenue, alley or public square of the city shall erect and maintain a railing, guard or rope at the end of the same so as to exclude persons from the area which is being paved, and, in the nighttime, shall also keep lights and danger signals warning persons against the use of same and the danger incident to travelling on, over or across same.

No person shall injure, interfere with or remove any railing, guard, rope, light or signal or anything used for the purpose of preventing persons, animals or vehicles from going upon any unfinished pavement.

Sec. 32-8. Use of streets or alleys being paved.

No person shall walk upon or ride or drive any animal or drive or operate any vehicle of any kind on, over or across any street, avenue, alley, or public square of the city while the same is being paved or repaved, until the same has been reopened for the purpose of travel and traffic.

Section 32-9. Residence and Building Address Numbering.

- (a) The purpose of this Section is to identify the location of a building during an emergency.
- (b) Each owner of record shall display address numbers on all new and existing residences and buildings in such a manner and in such a position as to be plainly visible and readable from the center of the street fronting the property.
- (c) Numbers shall be made of durable materials and shall be of a contrasting color to the background.
- (d) **Individual address numbers shall be:**
 - (1) At least 3" in height in areas zoned Residential;
 - (2) At least 6" in height for apartments and areas zoned Commercial or Industrial.
 - (3) Arabic numerals or alphabet letters.
 - (4) Placed in a horizontal, vertical, or 45 degree angle line.
- (e) **Residential Requirements.**
 - (1) All address numbers shall be located within a four-foot area of the front entrance.
 - (a) If the front door to a residence is more than 100 feet from the street of record, or if the landscaping makes it difficult to see the front door, the owner of record must install a name plate sign (two square feet in surface area) at the driveway entrance to the street fronting the property.
 - (b) If the front door does not face the street, the address shall appear on the corner of the building nearest the driveway.
 - (c) It is an exception to the requirements above where the resident owner maintains a brick, stone, or masonry mailbox, permanently installed in the right-of-way, containing numerals 3 inches in height or higher with contrasting background, where such is plainly visible from the center of the street fronting the property.
 - (d) It is an exception to the requirements above where the residence includes a front-load garage, connected to the residence, located closer to the street than the front door, and the garage contains address numerals 3 inches in height

or higher, with contrasting background, and which is plainly visible from the center of the street.

(f) **Rear Access and Alleyway Access.**

Where the residence or building is accessible through an alleyway or through rear access, address numbers may be placed on fence or garage, but must be plainly visible from the access road. All other requirements of size and contrast remain the same.

(g) **Mobile Homes.**

Mobile homes must be addressed as for all other residences and buildings in this section. Additionally, the location of the address shall be on the side of the mobile home directly adjacent to, i.e. in front of, the street or road providing access to the mobile home.

(h) **Numbering within multi-building complexes.**

- (1) A building of multiple structures or occupancies must have an official number assigned to each building and each unit within the building.
- (2) The official number assigned to each building must be conspicuously posted and displayed both at the front and rear of the building, if the building design permits, or so displayed that it is visible from the nearest vehicular access.
- (3) The official number for each unit within the building must be conspicuously posted on the unit and must meet the size and contrast requirements.
- (4) In a complex of multiple structures or occupancies, where the number is not visible from the street or alleyway by reason of design of the building or roadway, a sign directory shall be placed in front of the building. In such cases, a diagram of the complex shall be furnished by the owner to the fire and police departments. This shall be updated and departments notified within 30 calendar days of any changes.

(i) **Compliance.**

- (1) **New Construction:** The address conforming to this section shall be displayed on all buildings prior to the buildings being occupied.
- (2) **Existing Buildings:** The address conforming to this section shall be displayed on all existing buildings within 90 days upon approval of the ordinance by City Council.

(j) **Enforcement.**

It shall be a class C misdemeanor to fail to comply with this ordinance.

It shall be a class C misdemeanor to alter, tamper, or change addressing without the owners permission.

No culpable mental state is required under this Chapter.

(Note: Section 32-9, "Residence and Building Address Numbering," was added by adoption of Ordinance No. 2004-3962 on June 17, 2004)

Sec. 32-10. Sidewalk Preservation.

No person shall damage, demolish or remove a serviceable sidewalk on public right-of-way without repairing or rebuilding the sidewalk to meet the city's specifications and typical construction details. No person shall, in constructing or repairing any sidewalk in the city, diminish the width thereof as established by the city or elevate or lower the same above or below the grade established therefor, or in case there is no grade established therefor, elevate or lower the same above or below the sidewalks of the adjoining property.

Sec. 32-11. Maintenance of sidewalks in clean condition.

Whoever shall allow the sidewalk in front of any property owned or controlled by him to become unclean in any manner shall, after reasonable notice from the health officer or city engineer, remove such uncleanness and, in default after such notice, he shall be deemed guilty of a misdemeanor in disregarding such notice.

Sec. 32-12. Reserved.

Sec. 32-13. Gates and doors opening on streets and sidewalks generally.

No person shall erect or maintain any gate or door opening upon any street or sidewalk, unless such gate or door is constructed or hung so as to be self closing.

Sec. 32-14. Covering and doors for vaults and cellars in streets and sidewalks.

Whoever shall dig or cause to be dug in any street or sidewalk a vault and shall not arch or cover over the same, and secure the grating or covering thereof in such a manner as to prevent persons, animals and vehicles from falling therein, shall be deemed guilty of a misdemeanor.

Whoever shall keep or leave open any cellar door or covering or grating of any vault on any street or sidewalk, or suffer any such door, covering or grating belonging to the premises occupied by him on any such place to be in an insecure condition, whereby passers may be in danger of falling into a cellar or vault, shall be deemed guilty of a

misdemeanor.

Sec. 32-15. Washing vehicles on streets or sidewalks.

It shall be unlawful for any person operating any garage or service station and for any employee, agent or servant of any such operator or owner of such garage or service station to wash any vehicle on any street, alley or sidewalk of the city.

Sec. 32-16. Escape of grease, wastewater, etc., onto streets or sidewalks.

It shall be unlawful for any person to permit any wastewater, grease, or greasy or sandy water used in washing or cleaning any vehicle or machinery commercially to escape from any private premises onto any street, alley or sidewalk of the city. It shall likewise be unlawful for any operator, manager, agent or employee of any gasoline service station, garage or laundry to permit any grease or greasy or gritty water used in washing or cleaning any vehicle or machinery or laundry wastewater to escape from any private premises onto any street, alley or sidewalk in the city.

Sec. 32-17. Interfering with or injuring street lighting system.

It shall be unlawful for any person not authorized to do so to turn on or turn off any lamp used in lighting the streets or other public places of the city or to break or otherwise injure any such lamp or lampstand or lamppost; or to injure in any manner whatsoever any other light or any of the apparatus or belongings thereto used in lighting the streets of the city; or to cut any electric light wire or otherwise injure the same or to break or injure any globe or other apparatus of any electric light used in lighting the streets of the city; or to obstruct, by any awning, sign or in any other manner, the light from any such lamp or light whatsoever.

Sec. 32-18. Obstruction of sidewalks, streets, and alleys by trees or branches of trees prohibited.

(a) *Obstruction prohibited.* It shall be unlawful for the owner or occupant of any real property within the city to permit the limbs or branches of any trees located on such premises to be lower than seven (7) feet above the sidewalk immediately abutting said property or to be lower than thirteen (13) feet above any portion of a street or alley which abuts or is adjacent to said property.

(b) *Location of tree.* This section shall apply regardless of whether the tree or any portion of same is located on the premises of such owner or occupant, located in the parkway, or is located in the abutting or adjacent sidewalk, street, or alley.

(c) *Notice to remove limbs and branches.* The director of public works or his designee shall notify by certified mail, return receipt requested, the owner or occupant of any such property, which notice shall further advise said owner or occupant that he has ten

(10) days to cut and remove the limbs and branches which are in violation of this section. No such owner or occupant shall be prosecuted for violation of this section until he has been given the above ten (10) days written notice by the director of public works. If the owner or occupant does not take action to remove the obstructing limbs and branches within ten (10) days after receipt of the written notice, the City of Temple Street Department will cut the trees to comply with this ordinance and the owner or occupant shall be responsible for the reasonable costs of cutting or trimming the obstructing limbs or branches. The City of Temple shall bill the owner or occupant for the reasonable costs of removing the obstructing limbs and branches.

(d) *Penalty for violation of section.* Any such owner or occupant who shall violate the provisions of this section shall, upon conviction, be held guilty of a misdemeanor and shall be fined not less than one dollar nor more than two hundred dollars (\$200.00) and that every day or portion of a day which the violation is committed, continued, or permitted shall be considered a separate violation.

Sec. 32-19. Height obstructions at corners prohibited; penalty.

(a) It shall be unlawful to maintain or permit to remain any fence or any bushes or other plants on a corner lot within fifteen (15) feet of the intersecting point of the street right-of-way lines which obstructs the view at a height of more than three (3) feet above the level of the adjacent street pavement.

(b) It shall be unlawful to construct, rebuild, or move any structure, fence, garage, building, house, etc., upon a corner lot within fifteen (15) feet of the intersecting point of the street right-of-way lines which obstructs the view at a height of more than three (3) feet above the level of the adjacent street pavement.

(c) The central business district, as defined in the zoning ordinances of the City of Temple, shall be excluded from the provisions of this section.

(d) Any person, firm or corporation violating any provision of this section shall be fined not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00) for each offense; and a separate offense shall be deemed committed on each day during or on which any such obstruction to the view is permitted to remain after notice from the police department, or any official of the city, to remove the same.

Sec. 32-20. Prohibiting operation of vehicles larger than certain weight to operate on city streets; penalty.

(a) It shall be unlawful for any vehicle hauling ready-mixed concrete and having a tandem axle load exceeding thirty-six thousand (36,000) pounds, a single axle load exceeding twelve thousand (12,000) pounds, and a gross load which exceeds forty-eight thousand (48,000) pounds, to operate upon the public roads, streets and highways of the City of Temple, Texas.

(b) Any person violating, disobeying or refusing to comply with any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be punishable by a fine of not less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00) for each offense.

Section 32-21. Street Use or Encroachment License.

(a) **Term.** A street use or encroachment license may be granted for a term not to exceed fifteen (15) years, unless sooner terminated according to the terms and conditions of this section. At the end of the applicable period, the owner may request an extension or renewal of the license.

(b) **Fee.** Fees for street use or encroachment licenses shall be set by Resolution of the City Council.

(c) **Purpose.** A description of the property and the specific purpose for which the license is being granted shall be included in the street use license.

(d) **City Manager Authorized to Issue.** The City Manager, or his designee, shall cause such application for a street use license application to be reviewed by the City Staff, and where appropriate, by utility companies. The City Manager, or his designee, is authorized to issue a street use or encroachment license on behalf of the City of Temple provided that the license meets the terms and conditions required under this ordinance. Where an applicant seeks a variance of a material term or condition of this ordinance, or where a utility company raises an objection to the issuance of a street use license, the City Manager, or his designee, shall present such application to the City Council for a decision on whether a street use or encroachment license should be issued, and under what terms and conditions. A decision of the City Council shall be final.

(e) **Conditions of License.** A street use or encroachment license shall be granted subject to the following conditions, terms, and reservations:

1. Licensee shall be required to maintain the encroachment area at all times in a neat, attractive, and orderly manner. A sufficient area of the public street, right-of-way, easement, alley, sidewalk, or other public property shall remain open after the encroachment, unobstructed and preserved for pedestrian or vehicular traffic (including access for impaired or handicapped persons), as appropriate. The City Manager, or his designee, may authorize minor existing encroachments by fences, accessory buildings and enclosures within public right-of-way or newly-created non-enclosed encroachments, e.g., fences, decks, slabs, trellis and other landscaping improvements, or subdivision informational signs within public rights-of-way, provided access by the City or private utility companies is not substantially impaired, and the applicant agrees to all conditions of this ordinance (including specifically the requirement to remove the encroachment if required by the City). City Council approval is required for newly-created encroachments involving new buildings (whether occupied or accessory) or for existing

encroachments involving any part of an occupied building (residential, commercial or industrial). Licensee shall be required at all times to allow access to utilities and trash receptacles located within the encroachment area. Ground-mounted signs, with the exception of subdivision informational signs, may not be authorized by street use license, within street right of way, but the City Manager, or his designee, may authorize existing or proposed encroachments by on premise, ground-mounted signs in City easements or other public property, if the granting of a street use license would not unduly interfere with use of such easement by authorized utilities.

2. Licensee shall be required to restore the encroachment area to its original condition at the end of the license period, unless renewed or extended, or in the event that this license is terminated by the City as provided herein. If Licensee fails to maintain the encroachment area as provided herein, or fails to restore the encroachment area when the license is expired or terminated, the City may cause such work to be done, the costs of which shall be born by Licensee.
3. In the event that City requests removal of any encroachments in the encroachment area, Licensee shall remove said encroachments at his own expense within thirty (30) days of notice thereof. In the event that Licensee fails to remove the encroachments within the required thirty day period, the City reserves the right to remove the encroachments, and Licensee agrees to reimburse the City for the expense of removing said encroachments, and Licensee further agrees to hold the City harmless for any and all claims arising out of the removal of encroachments or maintenance of the encroachment area. City shall not be required to restore the encroachments, which shall be the sole responsibility of Licensee.

(f) ***Right of Cancellation.*** Street use or encroachment licenses are made subordinate to the right of the City to use encroachment area for a public purpose, and in addition to any other reservations made in the license, it is understood and agreed that should the City of Temple deem it in the public interest to use the encroachment area, or any portion thereof for a public purpose, or for any utility service which will require the use of said area, then in that event, the City shall give the Licensee thirty (30) days written notice of its intention to cancel the license. Licensee shall likewise have the same right of cancellation upon giving the City thirty (30) days written notice of its intention to cancel. In either event, upon the termination or cancellation by the City or Licensee, as the case may be, this license shall become null and void, and Licensee or anyone claiming any rights under this instrument shall be required to remove any improvements and encroachments from said area at Licensee's expense. Failure to do so shall subject Licensee to the provisions of subsection (d)(2) above. All work shall be done at the sole cost of the Licensee and to the satisfaction of the Director of Public Works. Any decisions of the City Council in this matter shall be final and binding upon all parties insofar as the City's determination as to the public necessity of the use of the area for public use.

(g) ***Compliance with Laws.*** Street use or encroachment licenses are subject to all State and Federal laws, the provisions of the Charter of the City of Temple as it now exists or as it may hereafter be adopted or amended, and the ordinances of the City of Temple now in effect or those which may hereafter be passed and adopted. The City of Temple shall have the right to increase or decrease the compensation to be charged for this license upon its renewal or extension.

(h) ***Hold Harmless.***

1. As a condition of a street use or encroachment license, Licensee shall agree and be bound to hold the City whole and harmless against any and all claims for damages, costs, and expenses, to persons or property that may arise out of or be occasioned by the use, occupancy and maintenance of the public property by Licensee, or from any act or omission of any representative, agent, customer, or employee of the Licensee, and such indemnity provision shall also cover any personal injury or damage suffered to City property, City employees, agents or officers. The license shall also cover any claim for damages that any utility, whether publicly or privately owned, may sustain or receive by reason of Licensee's use of the license for Licensee's improvements and equipment located thereon.
2. Licensee shall never make any claim of any kind or character against the City of Temple for damages that it may suffer by reason of the installation, construction, reconstruction, operation, and/or maintenance of any public improvement or utility, whether presently in place or which may be constructed or installed, including but not limited to, any water and/or sanitary sewer mains, and/or storm sewer facilities, and whether such damage is due to flooding, infiltration, natural causes or from any other cause of whatsoever kind or nature.
3. It is the intention of the indemnity agreement on the part of the Licensee and a condition of a street use license, that it shall be a full and total indemnity against any kind or character or claim whatsoever that may be asserted against the City of Temple by reason or a consequence of having granted permission to Licensee to use and maintain the public property described in the street use license. Licensee shall agree to defend any and all suits, claims, or causes of action brought against the City of Temple on account of same, and discharge any judgment or judgments that may be rendered against the City of Temple in connection therewith.

(i) ***Acceptance by Licensee.*** Licensee shall accept the provisions of a street use or encroachment license by signing the agreement through its duly authorized officer within thirty (30) days after the license shall have become fully effective. In the event said acceptance is not signed as provided for herein, then the license shall be of no further effect and shall be considered as having been canceled fully.

(Ordinance No. 2006-4065, 03-02-06)

Secs. 32-22--32-30. Reserved.

ARTICLE II. STREET CONTRACTORS

Sec. 32-31. Definition.

The following terms in this article shall have the following meanings:

(a) *Contractor*. A person constructing, repairing, rehabilitating, or improving, demolishing or removing streets or public ways in the city, whether doing the work for themselves or others.

(b) *Public sidewalk*. the portion of a public street between the curb lines or lateral lines of a roadway and the adjacent property lines that is improved and designed for or is ordinarily used for pedestrian travel.

Sec. 32-32. Bond--Required; amount; condition; approval.

Any person engaged in the construction, repair or improvement of the streets or public ways of the city as defined by the city map and its additions and revisions¹, shall be required to execute a good and sufficient bond in the sum of three thousand dollars (\$3,000.00), payable to the city and conditioned that such contractor will faithfully perform such work in accordance with the provisions of this article. Such bond shall be approved by the Director of Finance and deposited with him before any such contractor shall engage in the business of making, constructing, laying, removing or repairing roadbeds, surfaces or structures or other street improvements in the streets or public ways of the city.

Sec. 32-33. Same--Suits and recoveries.

Any person having a cause of action against any contractor because of defective or faulty materials or workmanship with respect to any street construction work done or performed by such contractor is hereby authorized to sue on the bond filed in accord with section 32-32, without impleading the city, or the city may maintain such suit. Such bond shall not be exhausted by the first recovery, but shall be subject to successive recoveries for damage accruing to any person or the city, by reason of any defective or faulty material used by or by reason of any defective or faulty workmanship of the contractor.

Sec. 32-34. Same--Revocation or cancellation.

Any violation of this article by a contractor shall be sufficient grounds for the City Council to revoke and cancel the bond theretofore filed by the contractor. Such revocation or cancellation shall be in addition to any penalty imposed upon the conviction for such violation.

¹ **Note--**The city map referred to above is not included herein, but is on file in the Office of the Director of Public Works.

Sec. 32-35. Work permit required.

Any contractor contracting for the construction, repair, or demolition of any of the streets and public ways of the city shall first obtain a permit from the Director of Public Works before commencing any such work.

Sec. 32-36. Work to conform to prescribed plans, specifications, lines and grades.

All street construction work by a contractor shall be performed according to the plans and specifications on file in the office of the city engineer at the time of such work and the lines and grades furnished by the Director of Public Works, or in accordance with such plans and specifications as may be prescribed and adopted by the City Council.

Sec. 32-37. Removal of unapproved improvements.

Any street subgrade, surface, structure or other street improvement not approved by the city engineer, because of any defective or faulty material or workmanship, or because such work fails to comply with the prescribed plans and specifications, shall be removed by the contractor or his bondsmen free of cost or expense to the owner or the city, and the work area restored to a condition approximating the natural condition existing prior to the beginning of the work.

Sec. 32-38. Certificate of acceptance of work required.

When the contractor completes any work done under a permit issued in accord with this article, he shall obtain a certificate of acceptance of the work from the Director of Public Works.

Secs. 32-39--32-50. Reserved.

ARTICLE III. EXCAVATIONS

Sec. 32-51. Permit required; exceptions.

No person, firm or corporation, or combination of them, shall hereafter dig any holes or trenches upon, through, or beneath the streets, avenues, alleys, squares, and public grounds of the City of Temple, nor lay any pipes, mains, laterals, or any connecting or service pipes, nor any underground sewer or underground wiring along, across or beneath, the streets, avenues, alleys, squares and public grounds of said city, without first having filed with the city engineer an application and plan in writing to do so and without having first obtained a formal written approval of such application and map and a permit to perform such work, except in the following cases:

- (1) No permit shall be required of any utility company to set utility poles in any street or alley, but each utility company shall once each calendar month make

a report in writing to the city engineer, giving the location of each utility pole which it has set in the traveled portion of any and all streets and alleys in the City of Temple during the preceding calendar month; and

- (2) In cases of emergency, utility companies may cut or puncture the traveled portions of streets and alleys without first getting a permit to do such work, provided that where such cuttings or punctures are made by any such utility company in the traveled portion of a street or alley, such company shall apply for and obtain a permit for such work on the first working day after the work is done.

Sec. 32-52. Information to be furnished with applications; repairing excavations.

Such application for a permit shall be submitted in such form as the city engineer may prescribe from time to time, and, insofar as applicable, shall follow generally the requirements prescribed by the city ordinances of the City of Temple for applications for building permits, in addition to any other information prescribed by the city engineer. Such application shall be accompanied by a map or plan of such proposed work.

- (1) The permit application shall specify that applicant (permittee) shall cause said excavation to be repaired in accordance with the terms and provisions of section 32-54(1) hereof.
- (2) Permittee may, if necessary to preserve the city street and insure it is not unnecessarily damaged by poor or delayed repair, by so requesting in the permit application, obtain the services of the City of Temple Street Department to repair said excavation. Repair of any such excavations by said city shall be limited to the required repairs from the level of backfill, as set forth in section 32-54(1) hereof, to the installation of the asphalt.
- (3) In the event permittee specifies that services of the street department are required to properly and timely repair the excavation as provided in (2) hereinabove, said specification shall be an agreement by permittee to pay the reasonable cost of labor, materials and overhead to the City of Temple for said repair.
- (4) The Superintendent of the Street Department may, based upon scheduled demands on said department, the size of the excavation and job, the unavailability of materials or labor and his judgment that repair by the city is not immediately necessary to prevent damage to said street, refuse the request to repair any such excavation. In that event, the permittee shall be notified that the City of Temple will not perform said repair work and, if a permit is issued, permittee shall cause the excavation and repair to be in accordance with the terms and provisions of section 32-54(1) hereof.

Sec. 32-53. Bond.

No such permit shall be issued to any person, firm or corporation until such person, firm or corporation shall have filed a bond in the sum of two thousand dollars (\$2,000.00) with a good and sufficient surety with the Director of Finance. Said bond shall be effective as to any permit for a period of one year after such permit is issued and shall cover all permits issued to the principal of such bond as long as such bond is on file. The form of the bond shall be as follows:

State of Texas

County of Bell

Know all men by these presents:

That we, _____, as principal and _____, as surety, are held and firmly bound unto the City of Temple, Texas, in the penal sum of two thousand dollars (\$2,000.00), to the payment of which well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns by these presents:

The condition of the above obligation is such that, whereas the above principal has obtained a permit and/or permits to puncture, open, dig, or excavate a street, alley, highway, park or public ground within the City of Temple, Texas, in accordance with an application and/or applications heretofore filed by him with said City of Temple:

Now, if the above bound principal, his heirs, executors, administrators, successors, and/or assigns, shall well and truly keep, do and perform all laws and ordinances of the City of Temple regulating excavations in and puncturing of streets, alleys, highways, parks, and/or public grounds of the City of Temple and will refill said excavations or punctures according to the ordinances and specifications prescribed by the City of Temple, and will replace all pavement as required by said specifications and will hold the City of Temple harmless from all damages that may accrue by reason of said punctures, holes or excavations made by said principal, for a period of one year from the date each said permit is issued, then this obligation shall be null and void; otherwise to be and remain in full force and effect. Successive recoveries may be made on this bond and one or more recoveries thereon shall not exhaust or terminate this bond.

Witness the execution hereof, on this the _____ day of _____, 20____.

Principal

Surety

Approved this the _____ day of _____, 20__.

Director of Finance

Sec. 32-54. Specifications for work.

Such work must be performed strictly according to the requirements of the city engineer of the City of Temple, and not otherwise; and shall be performed under his supervision and in such manner and at such times as the city engineer shall prescribe and approve. The excavations and the depth, grade, and location of any such pipes, mains, laterals, sewer or wiring shall be as prescribed by the city engineer in each case, provided that: All excavations made within the right-of-way of any street or alley or across any square or public grounds within the city limits of the City of Temple, shall be made in accordance with the following specifications:

- (1) If any excavation is made in any street that is now improved with any type of paving, no material from the excavation shall be used to backfill such excavation, except that amount necessary to bed pipe, cable, or conduit to a point six (6) inches above the top of said pipe, cable or conduit. This material shall be thoroughly tamped or compacted by a suitable means to ensure maximum compaction. The remaining excavated depth of the excavation shall be backfilled with gravel of a grade known as road gravel, and compacted either by tamping, pounding or jetting. Backfill shall be placed to the grade of the finished surface of the surrounding area and opened to traffic for a period of not less than seventy-two (72) hours. Where required, concrete slab shall be placed immediately after expiration of the seventy-two-hour compaction period. The concrete slab shall be closed to traffic not less than twenty-four (24) hours before asphalt surfacing is replaced.

Where excavation is in an improved area, all edges shall be cut to a straight line before concrete slab is poured. After backfill has reached maximum compaction, material shall be removed to a depth as specified below and an area extending six (6) inches beyond area of excavation shall be excavated to the same depth and a slab of class B concrete shall be placed over area so excavated:

- (a) If area is now improved with any type of asphalt surfacing, excavation shall be made to a depth of six and one-half (6 1/2) inches and concrete slab shall be five (5) inches in thickness.
 - (b) If area is improved with brick pavement, the concrete slab shall be of a thickness not less than the existing base and brick surface.
 - (c) If area is now improved with concrete pavement, the concrete slab shall be the same thickness and reinforced as the original pavement.
- (2) In all other streets, whether unimproved or surfaced with gravel, backfill shall

be made in the same manner as provided for other areas, but no concrete slab shall be required.

- (3) If excavation is made in any alley that is improved with any type of asphalt, brick or concrete pavement, backfilling and replacing of surfacing shall be made in the same manner as specified for excavations made in improved streets.
- (4) When excavation is made in any improved area, either streets or alleys, all unused excavated material shall be removed within twenty-four (24) hours after backfill is completed.
- (5) When excavation is made in any unimproved street or alley, the backfilling of said excavation may be made as follows:
 - (a) Excavated material may be used as backfill to a point within twelve (12) inches of the surrounding area. Backfill shall be placed in layers of not more than eight (8) inches and each layer shall be thoroughly compacted by approved methods. The remaining twelve (12) inches of backfill shall be a good grade of road gravel and said gravel backfill shall be compacted by wetting and tamping. All unused excavated material shall be removed from said alley within twenty-four (24) hours after backfilling is completed, or if feasible, it may be spread as fill in low places in the street or alley.

No excavated material that is of the consistency of mud shall be used as a backfill material.

All of said excavations, backfill and repair in streets and alleys shall be in accordance with the drawings, respectively, appearing on Exhibit A attached hereto and made a part hereof.²

- (6) When excavation is made in an area between curb line and sidewalk line, excavated material may be used for backfill, material shall be thoroughly compacted and area finished in a manner equal to that as originally existed.

Sec. 32-55. Not to be expense to city.

All such work shall be performed at the sole expense of the person, firm or corporation making such application, and without expense to the city.

Sec. 32-56. Penalty.

²**Editor's note**--Exhibit A is not included herein, but is on file with the Director of Public Works

Any person, firm or corporation which violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of, any of the provisions of section 32-51 through 32-55 shall be guilty of a misdemeanor and shall, upon conviction, be punishable by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), and each day any violation or noncompliance continues shall constitute a separate and distinct offense.

Sec. 32-57. Barricades and flares.

Any person performing any work for which a permit is required by this article shall protect the same with such barricades, fences or flares as may be required by the city engineer.

Secs. 32-58--32-69. Reserved.

ARTICLE IV. UTILITY FIXTURES IN STREETS, ALLEYS, ETC.

DIVISION 1. GENERALLY

Sec. 32-70. Inspection.

The city fire official, electrical inspector, police officers, and other persons designated by the city shall have the power and it shall be their duty to examine and inspect from time to time, all telegraph, telephone, electric light or other poles, gas pipelines, pipes and other fixtures in, across, or under the streets, alleys or other public places within the city for the purpose of seeing that all of same are in a safe and suitable condition. Whenever any such item is found to be unsafe or unsuitable for the purpose of which it is used, the person using, possessing or maintaining the same shall be notified and required to place the same in a safe and suitable condition.

Sec. 32-71. Location of poles near trees.

It shall be unlawful for any post, pole or similar contrivance to be erected nearer to the body of any tree standing upon any street, alley, sidewalk or public ground in the city than four (4) feet.

Sec. 32-72. Poles to be run on one side of street only; exception.

Each line of poles shall be run on one side of the street only, except where absolutely necessary to run such poles to the other side and then only with the permission of the City Council.

Sec. 32-73. Two lines of poles prohibited on same side of street.

Not two (2) lines of poles shall be erected on the same side of any street or avenue.

Sec. 32-74. Poles to be stamped.

All poles erected or maintained in or along any street, avenue, alley or other public place shall be stamped or branded with the initials of the company owning the same at a point not less than five (5) nor more than seven (7) feet above the surface of the sidewalk.

Sec. 32-75. Supports for electric conductors.

All supports of electric conductors located in or along any street, alley or public place must be constructed of substantial and durable material capable of sustaining a weight of ten (10) times that normally upon them.

Sec. 32-76. Number of wires permitted on poles.

Not more than forty (40) electric wires, exclusive of cables, shall be carried on any pole located in or along any street, alley or public place.

Sec. 32-77. Insulation of arc lamps.

All arc lamps located in or along any street, alley or public place must have the frames and exposed parts carefully insulated from the circuit.

Sec. 32-78. Franchises and permits subject to division.

All franchises and permits granted by the city shall be subject to the preceding sections of this division.

Secs. 32-79--32-90. Reserved.

DIVISION 2. RENTAL CHARGE

Sec. 32-91. Definitions.

For the purposes of this division, the following words and terms shall have the meanings herein ascribed to them:

Governmental users and consumers. The term "governmental users and consumers" shall be construed to mean service to federal, state, county, or city governments and subdivisions and agencies thereof.

Industrial users and consumers. The term "industrial users and consumers" shall be construed to include service to or for boiler installations and central heating plants (exclusive of residential use) and service at a location where the purchaser is engaged in an activity, such as the operation of factories, mills, machine shops, refineries, pumping plants, cleaning and dyeing works, creameries, canning establishments, stockyards, and without limitation by reason of the above enumeration, all other extractive, fabricating or

processing activities.

Sec. 32-92. Imposed; amount; when payable.

Every person occupying or using the streets, avenues, highways, easements, alleys, parks or other public ways and places in the city with electric poles, pipes or other fixtures, or with gas pipe lines, pipes or other fixtures, shall, as a condition to such further occupancy, pay to the city annually for such privilege a rental charge equal to two (2) percent of the gross receipts received by such person from the sale of electric light and power or gas within the corporate limits of the city, excluding, however, the receipts from industrial and governmental users and consumers. Such charge shall be paid on or before the first day of February of each year and shall be based upon such gross receipts during the preceding year ending December thirty-first.

Sec. 32-93. Report of gross receipts of payor.

All persons using or maintaining any electric light poles, pipes or other fixtures, or any gas pipe lines, pipes or other fixtures, in any of the streets, avenues, highways, easements, alleys, parks or other public ways or places within the corporate limits of the city, shall, on or before the first day of February of each and every year file, with the Director of Finance a sworn report showing the gross receipts, exclusive of receipts from industrial and governmental users and consumers, from the sale of electric light and power or gas within the corporation limits of the city during the preceding calendar year ending December thirty-first.

Sec. 32-94. Report of industrial and governmental customers by payor.

All persons required to file the report provided for by section 32-93 shall, on or before the first day of February of each year, file with the Director of Finance a sworn report showing by name the industrial and governmental users and consumers served by such persons during the preceding calendar year ending December thirty-first.

Sec. 32-95. Examination of books and records of payor.

The City Council may, when it sees fit, have the books and records of the person rendering the reports required in this division examined by a representative of the City to ascertain whether such reports are accurate, but nothing in this section shall be construed to prevent the city from ascertaining the facts by any other method.

Sec. 32-96. Receipt for payment.

Upon receipt of the rental charge imposed by this division by the City, the Director of Finance shall deliver to the person paying the same a receipt therefor, which receipt shall authorize such person to use and occupy the streets, avenues, highways, easements, alleys, parks and other public ways and places of the city in carrying on its business for twelve (12) months from January first of the year in which such rental is paid.

Sec. 32-97. Charge is not a tax, but is additional to taxes.

The rental charge imposed by this division is not charged as a tax but is made for the privilege now enjoyed and to be enjoyed by the persons upon whom it is imposed of using the streets, avenues, highways, easements, alleys, parks, and other public ways and places of the city in the conduct of their respective businesses, and such charge is additional to all ad valorem and franchise taxes and to all taxes of every nature whatsoever against such persons.

Sec. 32-98. Division grants no relief from other laws and ordinances.

Nothing in this division is intended to relieve any person of any condition, restriction or requirement imposed by any law or ordinance of the city.

Sec. 32-99. Division does not grant franchise; cancellation of privileges and refund of rental.

This division does not grant a franchise to any utility or person to use the streets, avenues, highways, easements, alleys, parks and other public ways and places and shall never be so construed by the courts or otherwise, and the city reserves the right to cancel the privileges granted hereunder and refund the unearned rentals paid to the city.

Sec. 32-100. Right of city to adopt restrictions, regulations, etc.

The city hereby reserved the right to put into effect at any time other restrictions and regulations as to the erection and maintenance of poles, wires, pipes, and other appurtenances in the streets, avenues, highways, easements, alleys, parks and other public ways and places of the city and from time to time to require such poles, pipes, wires and other property, equipment and fixtures as it may deem proper to be removed and to require wires to be run in conduits on such terms as the city may deem proper.

Sec. 32-101. Certain persons exempt from payment of charge.

No person who has, on the first day of February of any year, a legally enforceable contract with the city for the payment of a fixed sum of money as rental, for such calendar year, for his use of the streets, avenues, highways, easements, alleys, parks and other public ways and places, shall be subject or liable to pay, for such year, the rental charge imposed by this division. This section does not relieve any such person from the requirement to file, for any year, the reports provided for in this division.

Sec. 32-102.

Every person who shall operate any business without the payment of the rental

charge provided for in this division shall be subject to a penalty of five hundred dollars (\$500.00) for each and every day that such person shall conduct such business using and occupying the streets, avenues, highways, easements, alleys, parks or other public ways and places of the city, without the payment of such rental, which sum may be recovered by the city in a court of competent jurisdiction by a suit filed therein.

Every person and the local manager or agent for every such person failing or refusing to make the reports required by this division or failing or refusing to allow the examination provided for in this division shall, upon conviction, be fined in any sum not to exceed five hundred dollars (\$500.00) and every day's failure or refusal, as mentioned in this section, shall be deemed a separate offense.

Secs. 32-103--32-111. Reserved.

ARTICLE V. DRIVEWAYS, SIDEWALKS, CURBS AND GUTTERS

Sec. 32-112. Definitions.

The following terms in this article and in the attached Drive Approach Standards³ shall have the following meanings:

(a) *Administrator*. The administrator of this article shall be the director of public works.

(b) *Bond*. A surety approved by the Director of Finance.

(c) *Commercial drive approach*. Any drive approach serving a retail, office, or commercial business use, excluding industrial uses, and including residential development with five (5) dwelling units or more. A commercial development drive approach shall also include any institutional use.

(d) *Contractor*. Shall mean any individual, partnership, corporation or other legal entity engaged in constructing drive approaches in the City of Temple.

(e) *Corner clearance*. The straight line distance between the beginning of the drive approach and radius point or springpoint of a street intersection.

(f) *Drive approach or curb cut*. The area between the points where the curb is removed or omitted and back to the property line, excluding any flares or radii. The drive approach or curb cut connects between the traveled portion of the public street and the private property and shall be constructed of concrete or an approved equivalent material.

³**Editor's Note** --The Drive Approach Standards are not set out herein but are on file and available for inspection in the office of the city secretary.

(g) *Driveway*. A driving surface providing access between the drive approach or curb cut and the particular use on the property.

(h) *Edge clearance*. Distance between the inside edge of the curb cut and the adjacent property line.

(i) *Frontage*. The length of a single piece of property under review for a curb cut along the roadway right-of-way line or that area between the property edges. Property situated on a corner will have separate frontages along each roadway.

(j) *Industrial drive approach*. Any drive approach serving an industrial land use.

(k) *Joint access curb cuts*. A curb cut serving more than one tract.

(l) *Permit*. Shall mean the form promulgated by the city inspections department showing approval of proposed drive approaches.

(m) *Residential drive approach*. Any drive approach serving a residential use containing less than five (5) dwelling units.

(n) *Safety zone*. All parts of the street right-of-way between the curb or shoulder line and the right-of-way along a property frontage, except the areas contained in the drive approach.

(o) *Site plan*. A scaled plan of the property identifying the land use and showing in detail property lines, curblines or edges of adjacent streets, alleys, off-street parking, buildings, or structures and including vehicular access, doorways or docks on the lot, and all existing and proposed curb cuts, method of construction, and contractor.

Sec. 32-113. Permits.

(a) A drive approach permit shall be obtained from the city inspections department before any contractor removes, alters, or constructs any curb, approach or gutter on public property or right-of-way.

(b) A contractor shall obtain a permit and said permit shall expire one hundred eighty (180) days (1) after issuance if related building permit work has not been started, or (2) when a separate building permit is not necessary, if the approach has not been started within this time period. Provided, however, this time period may be extended by the administrator for good causes.

(c) The fee for such permit shall be eleven dollars and twenty-five cents (\$11.25).

Sec. 32-114. Drive approach standards adopted as an advisory guideline.

(a) Drive approach standards attached to this article as Exhibit "A" are adopted by the City Council as an advisory guideline for development in the City of Temple and are made a part of this ordinance for that purpose.

(b) In evaluating an application for a drive approach permit, the administrator will use these drive approach standards.

(c) All drive approaches authorized by the administrator shall conform to the standards attached to this article except as indicated below.

The administrator may permit or require drive approaches which deviate from these drive approach standards, but not from any other requirement of this article, if it is his judgment that such deviations are more likely to satisfy the intent of these standards, and if such deviations are compatible with the public health, welfare and safety. The administrator shall not have the authority to deviate from a drive approach approval which was the result of an approved zoning change or subdivision plat. In such instance a zoning change and/or replat shall be required to assure proper notification to effected property owners.

Whenever the administrator allows or requires curb cuts which deviate from these standards, he shall indicate on the face of the permit the approved plan and the justification for his decision. If the property owner considers the administrator's decision too restrictive, an appeal may be requested to the planning commission and, if necessary, to the City Council as provided for in section 32-115, Appeals.

Sec. 32-115. Appeals.

Any property owner contesting any decision, interpretation, or application of any regulation in this section shall have the right of filing a written request with the director of public works to request an appeal from such decision to the planning commission. The planning commission shall schedule a hearing as soon as practical and shall render a decision on the requested appeal. Issues to be evaluated by the planning commission in rendering its judgment on this article may include, but are not limited to, land uses, tract size and frontage along the street, type of street, and effect to the public safety if an appeal is granted. If the requested appeal is approved by the planning commission, a driveway approach permit shall be issued by the city inspections department.

A property owner may appeal the decision of the planning commission to the City Council after filing a written request with the director of public works. The City Council shall schedule a hearing as soon as practical and shall render a decision on the requested appeal. The decision of the City Council shall be final unless the property owner challenges that decision in a court of competent jurisdiction with thirty (30) days of the decision.

Sec. 32-116. Inspections and approval.

(a) Upon approval of an application the inspections department shall issue the permit which shall be posted at the work site.

(b) When the contractor has the drive approach ready for the pouring of concrete, he shall notify the city inspections department. An inspector shall, as soon as practical, and not longer than one working day, inspect the preparation and either approve or disapprove the preparation and note his approval or disapproval in the appropriate place upon the permit.

(c) It shall be unlawful for any contractor to pour concrete or to begin any drive approach without the approved inspections department permit being displayed on the site.

(d) Any drive approach or other improvement not approved by the city inspections department because of defective material, faulty workmanship, or failure to comply with plans and specifications shall be corrected to comply by the contractor or his bondsman free of cost or expense to the owner or the city.

Sec. 32-117. Warranty.

A contractor shall maintain any drive approach erected by him free from structural defects for a period of one year from date of final approval and acceptance by the city of the drive approach, free of cost or charge to the owner for any defect caused by defective material, faulty workmanship, or noncompliance with this article.

Sec. 32-118. Safety.

A contractor shall erect and maintain barricades, lights, and similar protective devices as necessary to protect the public from damage or injury due to the construction and shall keep the work site in as safe a condition as reasonable, including cleanup of debris and other materials not in use.

Sec. 32-119. Contractor's bond.

(a) Prior to engaging in drive approach construction, a contractor shall execute and file with the Director of Finance a bond in the sum of one thousand dollars (\$1,000.00), payable to the City of Temple and conditioned that the contractor will faithfully perform according to the provisions of this article.

(b) Any person suing a contractor because of substandard driveway construction need not implead the City of Temple.

(c) The bond shall be subject to successive recoveries for substandard driveway construction.

(d) Bonds now approved by the Director of Finance are sufficient, however, all new bonds or renewal of present bonds shall meet the above requirements.

Sec. 32-120. Construction standards.

Construction of all drive approaches, sidewalks, curbs and gutters shall be in accordance with the city's specifications and typical construction details.

Sec. 32-121. City or state control.

All construction of driveways within the City of Temple shall be pursuant to this article except roads which are controlled by the Texas Highway Department when the State Department of Highways and Public Transportation wishes to apply different standards to roads which are exclusively within its jurisdiction.

Sec. 32-122. Violations.

should any person, firm, corporation or partnership violate any of the provisions of this article, he shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00), and a violation of this article shall be sufficient grounds for the city to revoke and cancel the violator's bond. Each act done in violation of this article shall constitute a separate offense and, upon conviction, shall be punished as such.

Sec. 32-123. Defacing public structures prohibited.

It shall be unlawful for any person to place, paste or paint any words, letters, numbers, symbols, pictures, graffiti or other marks on any sidewalk, curb, gutter, street or other public structure, without first obtaining a license as required by this article or to fail to comply with the requirements of this article.

Sec. 32-124. License for pasting or painting street address numbers.

Each person desiring to secure a license under the terms of this article for placing, pasting or pointing street address numbers on public structures shall sign and file in person, a sworn, written application with the construction safety and services department of the City of Temple, giving the following information:

- (1) The full name and address of the applicant;
- (2) The state, county, city or town where the applicant has a permanent residence;
- (3) The age, height, weight, complexion, color of hair, and color of eyes of the applicant;
- (4) A complete description of the words, letters, numbers, symbols, pictures or other marks that applicant wishes to place, paste or paint on public structures;

- (5) A complete description of the locations and structures applicant desires to paste or paint, and the methods applicant intends to use;
- (6) Whether or not the applicant has ever been convicted of a felony in any state or federal court, and if so, the nature of the offense, the name of the court, the date of each conviction, and the sentence, if any, served under each conviction;
- (7) The names and addresses of five persons as references who may be contacted for information regarding the applicant.

Sec. 32-125. Application by a corporation, firm or partnership.

If the application for a license under this article is filed by a corporation, firm or partnership with the intention of having various employees work under such license, the application shall give the pertinent information required in paragraph (a) [section 32-124] with respect to the applicant, and, in addition thereto, the applicant shall furnish a list of all its employees who will work under such license and shall certify that each of such employees is a bona fide employee of the applicant, whose activities under such license will be covered by the bond filed by the applicant as provided in this article. Such applicant shall be required to obtain only one license for all its employees, but no employee of the applicant shall be allowed to work under such license until such employee has personally furnished to the construction and safety services department the information about himself required by section 32-124 of all applicants, which shall be signed and sworn to by each employee. Each applicant for a license under this article shall file with his application therefor, two (2) photographic likenesses of himself of an approximate size of one and one-half (1 1/2) by two (2) inches. Such photograph shall be furnished by each employee of a corporation, firm or partnership required to file information by the provisions of this section.

Sec. 32-126. Conditions of license.

Each applicant shall be required as a part of the issuance of the license to comply with the following conditions which shall be incorporated and made a part of his license agreement:

- (1) The applicant, his agents, representatives and employees shall at all times represent that they are private enterprises, and are not, in any way, working for or endorsed by the City of Temple.
- (2) The applicant, his agent, representatives and employees shall not place, paste or paint street addresses on any public street, sidewalk, or any public property within the city, unless the owner or occupant of the abutting private property has agreed in writing to have the applicant perform these services.
- (3) All placing, pasting or painting of street address numbers on public structures

shall be in accordance with the following requirements:

- (a) Words, letters, numbers, symbols, pictures or other marks shall be uniform and done in such a fashion that the words, letters, numbers, symbols, pictures or other marks are readily identifiable and do not detract from the overall appearance or the property values in the surrounding neighborhood.
 - (b) Street address numbers shall be painted in such a way that they are uniform in size and are painted in a reflective-color paint which is similar to the paint used on other street numbers painted in the neighborhood. All street address numbers shall be painted on a fourteen-inch blue background with white letters not more than three (3) inches high with a minimum one-inch spacing between letters.
- (4) Applicant, his agents, representatives and employees shall solicit orders for their service solely by leaving a pamphlet fully explaining their services and the fee for same securely fastened to the front door of the occupant of any residence within the city between the hours of 8:00 a.m. and 8:00 p.m. any day between Monday and Saturday of any week.

Sec. 32-127. Fees.

Each individual for a license under this article shall, at the time of filing his application, pay to the Director of Finance the sum of fifty dollars (\$50.00) as a fee. Each applicant which is a corporation, firm, partnership or association which intends to have various employees working under its license shall pay the Director of Finance a fee of fifty dollars (\$50.00), together with an additional fee of ten dollars (\$10.00) for each employee who will work under its license. All fees paid under this section shall be deposited to the general funds of the City of Temple.

The fees required by this section shall constitute the fees of the city to cover the cost of investigating the applicant and his services and to cover any additional amounts necessary to cover the administrative costs of conducting inspections, publishing notices, holding public hearings and paying any other expenses incurred by the city in connection with the processing of such application and issuing the license.

Sec. 32-128. Grant of license.

The Superintendent of Construction Safety and Services shall examine the applicant and shall review all information obtained from references furnished by the applicant in his application and shall hear all evidence for and against the issuance of the license, and, after his investigation has been concluded, render a decision.

If the Superintendent of Construction Safety and Services finds, at the conclusion of his investigation, that the applicant is the person he represents himself to be, and has never been convicted of a felony and is not a fugitive from justice, and that the services which he

intends to render are in compliance with the requirements of this article, a license shall be issued, containing the restrictions set forth in this article.

If it is found, however, that the application does not meet the requirements of this article, the application shall be denied and the applicant shall be notified in writing of the reasons for denial.

Sec. 32-129. Deposit or bond.

(a) *Required.* If the Superintendent of Construction Safety and Services has decided that an applicant is entitled to a license applied for under this article, the applicant shall be given written notice of such decision immediately, and the applicant shall then file with the Director of Finance a deposit or bond in accordance with this section.

(b) *Amount.* If the applicant for a license under this article is an individual, the amount of the deposit or the sum of the bond to be filed under this section shall be five hundred dollars (\$500.00). If such applicant is a corporation, firm, or partnership, such deposit or bond shall be in the sum of one thousand dollars (\$1,000.00).

(c) *Surety, conditions, approval, etc., of bond.* Any bond filed in accordance with this section shall be signed by a surety or bonding company incorporated under the laws of the state or authorized to do business in this state.

Such bond shall bind the principal and surety to pay to the city the sum prescribed in subsection (b) above for the use and benefit of any citizen of the city who may be damaged or injured by reason of any false representation as to any goods, wares or merchandise or services sold to such person by the applicant after he has received his license, or by reason of the breach or failure of any guaranty or warranty made or given to any citizen of the city by the applicant in the sale of such goods, wares, merchandise or services. Such bond shall further provide that it is payable at Temple, Texas, and that it is for the use and benefit of every citizen of the city and that, if any suit is filed by any citizen of the city against the applicant for false representations, fraud, breach of guaranty or warranty by reason of sales and services made under this license, the surety on such bond shall be made a party thereto and that any judgment rendered against the applicant in such suit shall also be rendered against the surety on the bond. Such bond shall be approved by the Director of Finance and shall be effective during the existence of the license.

(d) *Holding period, conditions and return of deposit.* If a cash deposit is made under this section, it shall be held for the term of the license and for ninety (90) days thereafter and such deposit shall be for the use and benefit of all the citizens of the city and shall be liable for the satisfaction of any and all claims established against the applicant by a court of competent jurisdiction for false representations, fraud, breach of warranty or breach of guaranty in the sale of goods, wares, merchandise or services under such license in favor of any citizen of the city. If the Director of Finance is not notified of a pending suit against the applicant before the expiration of ninety (90) days after the termination of the license, he shall return the deposit to the applicant. If the Director of Finance is notified of

the pendency of such a suit before the expiration of ninety (90) days after the termination of the license, he shall hold an amount equal to the amount sued for out of such deposit until final judgment is rendered therein, returning his balance, if any on hand, to the applicant.

(e) *Issuance, contents, effect, term and display.* Upon the making of the deposit or the filing of the bond and the fulfillment of the other requirements of this article, the Superintendent of Construction and Safety Services shall issue to the applicant the license to place, paste or paint street address numbers as set forth in his application, to be effective for a period of one year from the date of issuance. The license shall have the photograph of the applicant attached and shall bear the name and other identifying data of the applicant upon the face of the license. The license shall be nontransferable and nonassignable and may be used only by the person to whom it is issued. The holder of the license shall show his license to any prospective customer when requested to do so.

Only one license shall be issued to each applicant, but in the event the applicant is a corporation, firm or partnership, which will employ more than one person to work under such license, the Superintendent of Construction Safety and Services will issue to each such employee who meets the requirements of this article, and who is approved by the license board, a separate permit, which shall be known as an employee's license, which shall state that it is issued under the license theretofore granted to the employer, giving the name of the employer, and the number of the employer's license. Such employee's license shall bear the photograph of the employee and shall contain his name and other identifying data, and it shall be nontransferable and nonassignable and may not be used by any person except the employee to whom it was issued, and he shall exhibit it to any prospective customer, when requested to do so.

Only one license shall be issued to each applicant, but in the event the applicant is a corporation, firm or partnership, which will employ more than one person to work under such license, the Superintendent of Construction Safety and Services will issue to each such employee who meets the requirements of this article, and who is approved by the license board, a separate permit, which shall be known as an employee's license, which shall state that it is issued under the license theretofore granted to the employer, giving the name of the employer, and the number of the employer's license. Such employee's license shall bear the photograph of the employee and shall contain his name and other identifying data, and it shall be nontransferable and nonassignable and may not be used by any person except the employee to whom it was issued, and he shall exhibit it to any prospective customer, when requested to do so.

(f) *Renewals.* The Superintendent of Construction Safety and Services shall be authorized to renew licenses issued under this article for a successive period of one year each, upon the payment by the applicant of the renewal fee of fifty dollars (\$50.00) together with the employee's fee of ten dollars (\$10.00) for each employee of the firm, corporation, partnership, or association, and upon the furnishing of the information to him required by this article in the case of an original application, and the furnishing of the bond or cash deposit in the same manner required for the original license.

(g) *Appeals from decisions of Superintendent of Construction Safety and Services.* If the applicant for a license under this article is dissatisfied with any holding or finding concerning his application, he shall have the right to appeal to the City Council by filing a written notice of such appeal with the Superintendent of Construction Safety and Services within ten (10) days after the applicant receives notice of the decision. Upon the filing of such notice of appeal, the Superintendent of Construction Safety and Services shall notify the City Council that the same has been filed and shall immediately forward the application and all papers and data connected with the application to the City Council, and shall provide a copy of all said materials to the applicant. The City Council shall hear such appeal at its next regular meeting held after the filing of the notice of appeal. The City Council shall have the same power as an authority at the hearing of such appeal as is vested in the Superintendent of Construction Safety and Services with respect to the granting or refusal of the license. The decision of the City Council shall be final, subject only to the right of the applicant in the case of a denial by the Council to appeal to a court of competent jurisdiction, provided said appeal shall be filed within ten (10) days of the date that the City Council renders its final decision.

(h) *Records to be kept.* The Superintendent of Construction Safety and Services shall maintain a file and record of all applications for licenses under this article and evidence submitted in support thereof by each applicant, and shall maintain a record of all such licenses issued.

Sec. 32-130. Penalty.

It shall be unlawful for any person to place, paste or paint any words, letters, numbers, symbols, pictures, graffiti or other marks on any sidewalk, curb, gutter, street or other public structure, without first obtaining a license as required by this article or to fail to comply with the requirements of this article.

APPENDIX TO CHAPTER 32

Exhibit A. Drive Approach Standards

Exhibit B. Drive Approaches (construction standards)

Exhibits C and D. Typical Access Layout

EXHIBIT A. DRIVE APPROACH STANDARDS

Sec. 1. Applicability.

These drive approach standards, adopted in conjunction with Ordinance Number [1819], shall serve as an advisory guide in the determination of drive approaches in the City of Temple. These standards address factors including curb cut placement, width, angle, number of approaches per tract and other elements as appropriate to provide adequate and safe access between private property and the public street system in the city.

Sec. 2. Residential drive approaches.

(a) A new residential drive approach, as defined above, is prohibited on arterial streets, unless:

- (1) The lot is oriented in a fronting condition to an arterial street on a final subdivision plat approached prior to the adoption of this ordinance; or
 - (2) A variance is approved which allows lots fronting an arterial street on a final subdivision plat approved by the planning commission and city commission. In this case, the administrator shall review and approve drive approach location in order to minimize conflicts on the arterial street.
- (b) Joint access curb cuts are encouraged where lots are less than fifty (50) feet in width.
 - (c) A residential curb cut shall observe a minimum corner clearance of fifteen (15) feet.
 - (d) The minimum radius for a residential curb cut shall be two and one-half (2 ½) feet .
 - (e) Where a circle residential curb cut is proposed for a corner tract, both curb cuts must meet the minimum fifteen-foot corner clearance as defined herein.
 - (f) Exhibit B is provided for reference purposes.

Sec. 3. Commercial drive approaches.

(a) a commercial drive approach shall conform to the standards identified in Table 1.

TEMPLE CODE

Sec. 3

TABLE 1. COMMERCIAL DRIVE APPROACH STANDARDS
(See Exhibits C and D)

	A		B	C	D		E
Property Frontage (feet)	Curb Return Radii Minimum Maximum (feet) (feet)		Island Width Suggested Minimum (feet)	Corner Clearance Minimum (feet)	Two-Way Curb Cut Width Minimum Maximum (feet) (feet)		Maximum Number of Two-Way Curb Cuts Per Frontage
Up to 100	2.5	30	10	15	24	45	2
101-200	2.5	30	15	15	24	45	3
201-300	2.5	30	20	20	24	45	4
301-400	2.5	30	25	20	24	45	5
401-500	2.5	30	30	20	24	45	6
501-600	2.5	30	35	20	24	45	7

601 and up: The planning commission will review and approve curb cuts for commercial tract sizes in excess of six hundred (600) feet.

(b) Maximum drive approach widths and maximum number of drive approaches shall be used only where the frontage is sufficient to achieve minimum corner clearance, curb return radii, and suggested minimum island width. In no instance may the amount of curb cut exceed fifty (50) percent of the lot frontage.

(c) One-way access curb cuts are permitted, but may not be less than fifteen (15) feet in width. The combination of one-way curb cut widths shall not exceed the maximum width for a two-way curb cut based on lot frontage.

(d) A minimum edge clearance of five (5) feet shall be provided, unless a joint access drive approach is provided.

(e) Joint access curb cuts are encouraged for tracts with frontage widths less than one hundred (100) feet in conjunction with curb cut permit review.

Sec. 4. Industrial drive approaches.

(a) An industrial drive approach shall conform to the standards identified in Table 2.

TABLE 2. INDUSTRIAL DRIVE APPROACH STANDARDS
(See Exhibits C and D)

Property Frontage (feet)	A		B	C	D		E
	Curb Return Radii Minimum (feet)	Maximum (feet)	Island Width Suggested Minimum (feet)	Corner Clearance Minimum (feet)	Two-Way Curb Cut Width Minimum (feet)	Maximum (feet)	Maximum Number of Two-Way Curb Cuts Per Frontage
Up to 200	15	50	15	15	35	50	3
201-400	15	50	20	15	35	50	5
401-600	15	50	25	15	35	50	7
601-800	15	30	30	15	35	50	9
801-1,000	15	30	35	15	35	50	11

1,001 and up: The planning commission will review and approve curb cuts for industrial tract sizes in excess of 1,000 feet.

(b) Maximum drive approach widths and maximum number of drive approaches shall be used only where the frontage is sufficient to achieve minimum corner clearance, curb return radii, and suggested minimum island width.

(c) One-way access curb cuts are permitted, but may not be less than twenty-five (25) feet. The combination of one-way curb cut widths shall not exceed the maximum width for a two-way curb cut based on lot frontage.

Sec. 5 Drive approaches; special considerations.

(a) A tract with curb cuts existing at the time of the adoption of these standards which does not conform to these regulations is not to conform. If a change in curb cuts or an additional curb cut is proposed which would result in an additional conflict with these regulations, the planning commission shall determine the appropriateness of the request.

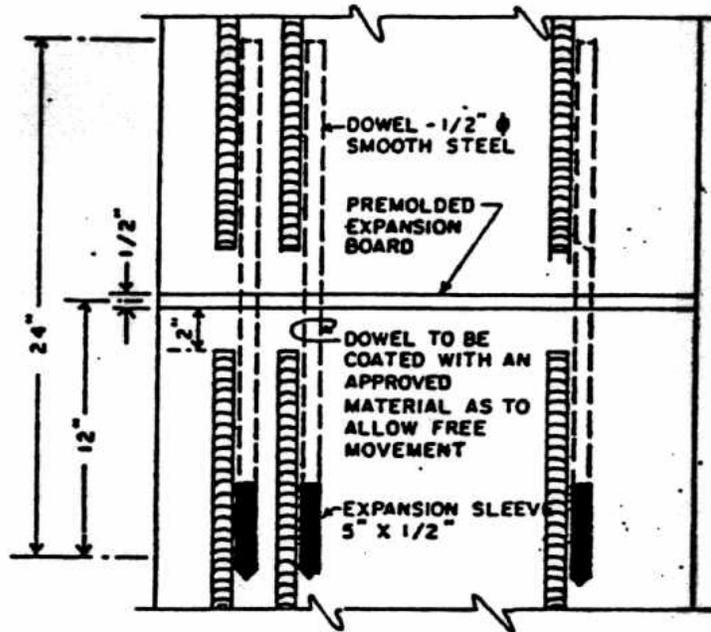
(b) Property frontage shall determine the maximum number of drive approaches allowed under this ordinance, as shown in Tables 1 and 2. Platting or replatting that reduces the frontage will make the resulting tract subject to the standards in Tables 1 and 2.

(c) In conjunction with curb cuts approved under these standards, medians, signage, striping, or other traffic control devices may be required to be installed at the time of permit approval or at some time in the future as needed for public safety and/ or welfare.

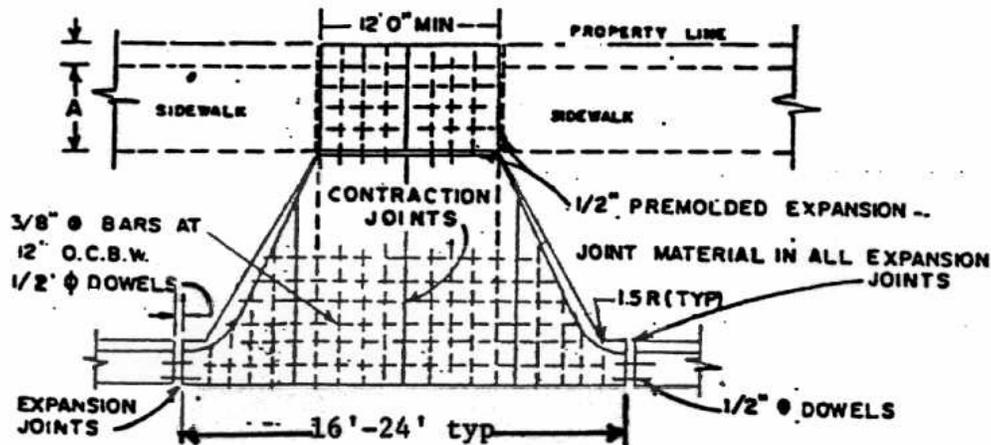
(d) Commercial and Industrial drive approaches may provide an angle of between forty-five (45) and ninety (90) degrees from two-way roadways. One-way egress or ingress drive approaches may be reduced to an angle of thirty (30) degrees.

(e) Where access to properties is desired at more frequent intervals than permitted by these standards, service roads or acceleration/ deceleration lanes may be installed by the property owner after review and approval of plans by the appropriate authorities, including the State Department of Highways and Public Transportation where it has jurisdiction, and then by the planning commission.

EXHIBIT B. DRIVE APPROACHES



PLAN OF EXPANSION JOINT



DRIVE APPROACH DETAIL

(Residential—Typical)

NOTES:

1. Sidewalk concrete shall be Class "A" 3000 PSI compressive strength at 28 days.
2. Driveway concrete shall be Class "A" 3000 PSI compressive strength at 28 days.
3. Wire mesh of #6 wire at 6" O-C's may be used in lieu of 3/8" O bars for sidewalk.
4. Wire mesh of #6 wire at 6" O-C's may be used in lieu of 3/8" O bars for drive approach.
5. All exposed corners to be tooled to a 1/4" radius.
6. Slope driveway to suit local conditions should not exceed 1' to 5'.
7. All existing curbs shall be scored before breaking.

EXHIBIT C. TYPICAL ACCESS LAYOUT

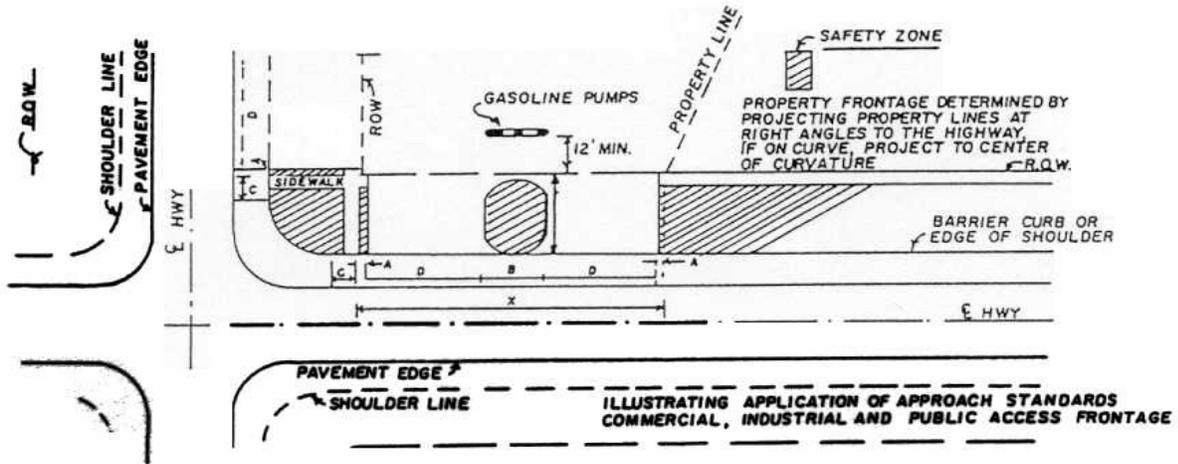
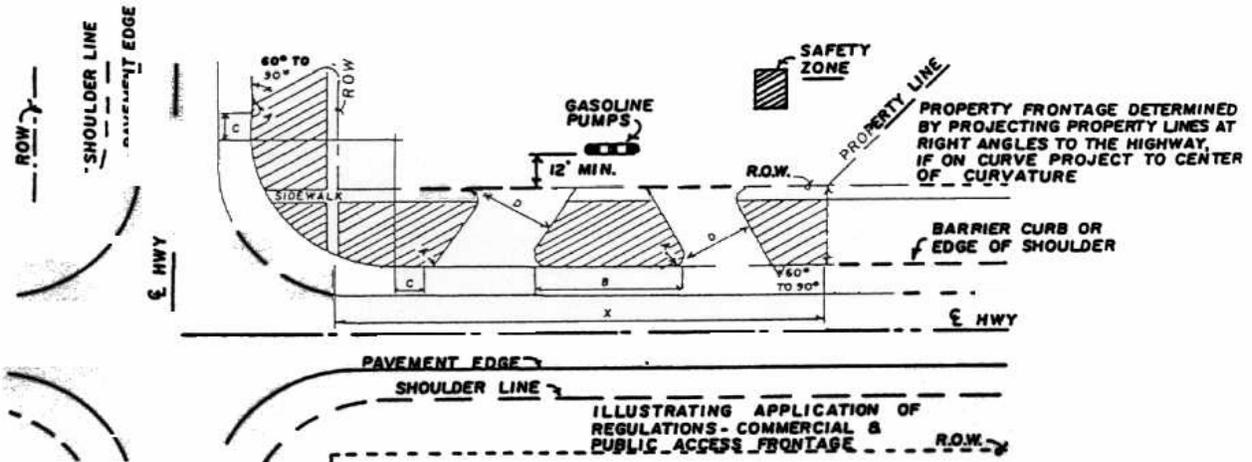


EXHIBIT D. TYPICAL ACCESS LAYOUT



IE: THE FOLLOWING CODES APPLY TO BOTH EXHIBITS

- X: LOT FRONTAGE
- A: CURB RETURN RADII
- B: ISLAND WIDTH
- C: CORNER CLEARANCE
- D: DRIVE APPROACH WIDTH