

THE CITY OF WINNIPEG

BY-LAW NO. 329/73

A By-law of The City of Winnipeg to regulate the construction, maintenance and removal of private approaches and private walks.

The Council of The City of Winnipeg, in Council assembled, enacts as follows:

1. This By-law shall be referred to as the "Winnipeg Private Approaches By-law".

Definitions

2. (1) Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this By-law have the same meaning as the words and expressions in The Highway Traffic Act of the Province of Manitoba.
- (2) In this By-law:
- (a) "Alley" means a street not more than twenty (20) feet in width;
 - (b) "Boulevard" means that portion of a street between a street line and the nearest curb or edge of a roadway but does not include a sidewalk;
 - (c) "City" means The City of Winnipeg;
 - (d) "Commissioner" means The Commissioner of Works and Operations of The City of Winnipeg or such Designated Officer(s) as may be authorized in writing by the said Commissioner to exercise some or all of the powers vested in him by this By-law;
 - (e) "Committee" means the Committee on Works and Operations of The City of Winnipeg;
 - (f) "Owner" means the registered owner of the property adjoining or connected with a private approach or private walk servicing the said property;
 - (g) "Private Approach" and "Approach" means a roadway culvert crossing or other structure heretofore or hereafter constructed, erected, installed or maintained in a street between the property of an owner and the nearest curb or edge of a roadway in the said street, for the use or benefit of the owner or occupant of the property adjoining or connected therewith, but does not include a roadway or other structure constructed for such purpose within an alley;

- (h) "Private Walk" and "Walk" means a pedestrian crossing between the sidewalk in front of the property of an owner, or the property itself, and the nearest curb or roadway in a street in like manner and for the like purpose, constructed, installed or maintained.
- (i) "Street" means a highway over which The City of Winnipeg has jurisdiction;
- (j) "Street Line" means the lateral boundaries of the highway.

Schedules

3. (1) The Schedules attached hereto, marked as Schedules 1, 2, 3 ~~and~~ 4, form part of this By-law. *AND 5* *W.A.Q.*
- (2) No approach shall be constructed, erected or installed in any street or section of street set forth in Schedule 1 hereto, provided that on those streets or sections of street which have service roads adjacent to the main roadways, this schedule shall apply only to the main roadways and not to the service roads.
- (3) No deletion or addition shall be made to Schedule 1 unless and until Committee has published a notice in each of two successive weeks in two newspapers having a general circulation in the Winnipeg Area stating the day on which and the time and place at which it will hear objections to the proposed deletion or addition; and the day fixed in the notice for the hearing under this subsection shall not be earlier than fourteen days after the day of the first publication of a notice in the newspapers.
- (4) No approach shall be constructed, erected or installed on any of the streets or portions of streets set forth in Schedule 2 hereto, except where two separate directional approaches, one for access to, and one for egress from the property, may be constructed where the property to be served has sufficient frontage to permit such approaches to be located in such a manner as to comply in all respects with the provisions of Section 7 of this By-law.
- (5) No approach shall be constructed, erected or installed on any of the streets or portions of streets set forth in Schedule 3 hereto, except where there is no other means of access; and in such instance the approval of any application will be on a temporary basis effective only until other streets, lanes or service roads are provided, from which access may be obtained.

- (6) The Committee, on the recommendation of the Commissioner, may approve the relocation, repair or alteration of an existing approach in a street set forth in the schedules, if the recommended relocation, repair or alteration would improve the safety and efficiency of traffic movements on the adjoining street.

Pleasure of Committee

4. Every private walk or approach, whether heretofore or hereafter constructed, shall remain at the pleasure of the Committee and shall be removed upon the Committee passing a resolution to that effect.

Powers of Commissioner

5. Subject as herein provided, the Commissioner is hereby designated as the officer to have supervision, authority and control as to location, construction, materials, workmanship and other matters in connection with the installation, construction, reinstallation, reconstruction and maintenance of private walks and private approaches.

Repairs, Alterations, Reconstructions Initiated by the Commissioner

6. Subject to Section 11:

- (a) Should it be necessary at any time, in the opinion of the Commissioner, to repair, alter, reconstruct or relocate a private approach or walk, the Commissioner, after having given seven (7) days notice in writing to the owner, shall cause the work to be done and the cost thereof, as certified by him, shall be paid by the owner. An owner who deems himself aggrieved by the decision of the Commissioner, may appeal the decision to the Committee within the said seven (7) days.
- (b) Where it is considered by the Commissioner to be in the public interest to remove an approach that is no longer in use or that is no longer required by the owner, the Commissioner shall cause the approach to be removed and the cost thereof shall be paid by the City.

General Regulations as to Design and Dimensions

7. Subject to Section 10:

- (1) No approach shall be constructed, erected or installed within an intersection, nor within twenty (20) feet of the intersecting street line projected at right angles, measured along

the street curb line or its straight projection, from the straight projection of the nearest edge of the approach.

(NOTE: See sketches illustrating conditions specified in this section.)

- (2) No approach shall be constructed, erected or installed adjoining an existing approach if the combined width of the two adjoining approaches is greater than twenty-six (26) feet measured along the street line, except where the two properties are zoned residential and are put to such use in the form of single family residences, whereupon the maximum combined width shall be thirty-six (36) feet.
- (3) No approach shall be constructed, erected or installed within fifty (50) feet from a railway right-of-way, measured along the street line.
- (4) The maximum widening to either side of an alley entrance shall be ten (10) feet measured along the street line.
- (5) The minimum width of an approach measured along the street line shall be ten (10) feet on residential streets, and twelve (12) feet elsewhere.
- (6) The maximum width of an approach measured along the street line shall be eighteen (18) feet in the case of property zoned residential and put to such use in the form of a single family residence, and twenty-six (26) feet elsewhere.
- (7) Notwithstanding the provisions of subsection (6) of this Section, where, in the opinion of the Commissioner, a larger approach width is required to safely and efficiently serve a truck or bus terminal, loading dock or similar industrial property utilized regularly by large trucks or buses, the maximum width of approach may exceed the provisions of subsection (6) and shall be as approved by the Commissioner.
- (8) The minimum distance between approaches on the same side of the street serving a property shall be fifty (50) feet measured along the street line.
- (9) No approach shall be constructed, erected or installed within ten (10) feet of an adjoining property except where the property to which access is being provided is zoned residential and is put to such use.

- (10) Where there is an alley fourteen (14) feet or more in width to serve a property, no approach shall be constructed, erected or installed to serve such property except where the property is zoned commercial or industrial and the property is put to such use.
- (11) For an approach constructed to provide egress from a driveway to, or inside a building situated less than five (5) feet from the street line, the edge of the approach nearest the building wall or, where the driveway is inside a building, the door frame shall be located as follows:

Distance of Building from Street Line	Minimum Clearance Distance between Edge of Approach and Wall or Door Frame Measured Along the Street Line
4 feet to 5 feet	1 foot
3 feet to 4 feet	2 feet
2 feet to 3 feet	3 feet
1 foot to 2 feet	4 feet
0 feet to 1 foot	5 feet

Construction

- 8. Subject to Section 10:
 - (a) Provided such approach or private walk fully complies with the provisions of subsections (4) and (5) of Section 3 and with Section 7 hereof, then, upon the receipt of a written application therefor, the Commissioner shall approve of the construction, installation, reconstruction or reinstallation of same, unless the Commissioner is of the opinion that approval of such approach or private walk would be detrimental to the public interest.
 - (b) The location, construction, materials and workmanship of any private walk or approach shall be as the Commissioner requires.
 - (c) Unless otherwise directed by the Commissioner, all private walks and approaches shall be constructed by licensed contractors.
 - (i) No permit shall be issued to construct a private walk or approach except to a person licensed under this By-law or to a City employee for work in the course of his employment by the City.

- (ii) The Commissioner may issue a licence under this By-law to any person upon application therefor, and upon payment by the applicant of a licence fee of \$2.00 and the filing of a surety bond as required by this Section.
- (iii) Every licence issued under this By-law shall remain in force until the first day of January next succeeding the issue thereof.
- (iv) The Commissioner shall keep a duplicate of every licence issued by him under this By-law and a book in which he shall enter the names of the persons licensed, the date of issue of the licence, a description of the work to be done, and the names of the sureties required hereunder.
- (v) Every person receiving a licence under this By-law shall file with the Commissioner of Finance a bond in form satisfactory to the City Solicitor issued by a surety company authorized to carry on business in the Province of Manitoba in the sum of Twenty Thousand Dollars (\$20,000.00) on condition that he will indemnify and save harmless the City from and against all accidents, suits and damages of whatever nature consequent thereupon for or by reason of any opening in any street and the restoration of the street thereafter made by him or his agents or employees and that he will replace and restore the street as required by this By-law and to the satisfaction of the Commissioner.

Application

9. Every owner desiring an approach or private walk or any relocation or widening thereof, shall make written application therefor to the Commissioner on a form approved by the City Solicitor, *AND THE PROCEDURE TO BE FOLLOWED SHALL BE AS SET OUT IN SCHEDULE 5 HERETO.* *w.a.B.*

Appeals

10. (1) No approach or private walk shall be constructed erected, or installed without a written application therefor having been made to the Commissioner by the owner and approval for the construction thereof having been given by the Commissioner or by order of the Committee as in this Section provided.

- (2) All applications for a private approach or a private walk shall be submitted to the Commissioner:
- (a) If the said application complies with Section 7 hereof the Commissioner may approve of the application. If the Commissioner refuses to approve of the application pursuant to clause (a) of Section 8, the owner may, within fourteen (14) days of the mailing of a letter of refusal by the Commissioner, appeal in writing to the Secretary of the Committee. The Committee shall then hear the appeal and make such order varying or cancelling, temporarily or otherwise, any provision of this By-law relating to the location or size of any private walk or approach as it deems proper, provided that in such hearing onus shall be upon the Commissioner to satisfy the Committee that the approval of the said walk or approach would be detrimental to the public interest.
 - (b) If the said application does not comply with subsections (4) and (5) of Section 3 and with Section 7 hereof, the Commissioner shall refuse to approve of the application. The owner may, within fourteen (14) days of the mailing of a letter of refusal by the Commissioner, appeal in writing to the Secretary of the Committee. The Committee shall then hear the appeal and make such order varying or cancelling, temporarily or otherwise, any provision of this By-law relating to the location or size of any private walk or approach as it deems proper, provided that in such hearing the onus shall be upon the owner to satisfy the Committee that:
 - (i) no feasible method of providing access is possible within the terms of Section 7, and
 - (ii) the approach is necessary for the intended use of the property, and
 - (iii) the granting of a variation of the terms of Section 7 will not be detrimental to the public interest.
- (3) If the application does not comply with subsections (4) and (5) of Section 3 and with Section 7 hereof, the Commissioner may apply in writing to the Secretary of the Committee, for an order varying or cancelling, temporarily or otherwise, any provision of this By-law relating to the location or size of any private walk or approach. The

Committee shall hear the appeal and make such order in the circumstances as it deems proper, provided that in such hearing the onus shall be upon the Commissioner to satisfy the Committee that the granting of the variation of the terms of Section 7 hereof would not be detrimental to the safe and efficient movement of traffic upon the adjoining street.

- (4) The Commissioner shall be advised of all hearings of the Committee and shall be entitled to make representations on any matter which requires the consideration of the said Committee.
- (5) Notwithstanding anything contained in this By-law, no approval shall be granted by either the Commissioner, or the Committee for any approach to be constructed, erected or installed in any street or section of street set forth in Schedule 1 hereto.
- (6) The Committee may make its own rules of procedure.
- (7) The decision of the Committee shall be final and binding.
- (8) No application for an approach or private walk shall be received, heard or dealt with by the Commissioner if, in his opinion, essentially the same application has been heard or dealt with within the preceding twelve (12) months.

Cost of Approaches or Walks

11. (1) Subject as herein otherwise provided the cost of installation, construction, reinstallation, reconstruction, repair, alteration or maintenance of a private walk or approach shall be paid by the owner; and the cost of reconstruction, repair or alteration shall include the cost of removal of an existing approach or part thereof.
- (2) Whenever the City constructs pavements or boulevards on a street upon which any property served by a private walk or approach fronts or abuts, the owner shall pay forthwith the cost of any additional work in connection therewith required by reason of the existence of a private walk or approach.
- (3) Whenever the City, a utility company or others do work in a street that damages a lawful private approach or walk the person responsible for the damage shall assume the entire cost of restoring the private approach or walk to its original condition.

- (4) Whenever the Committee passes a resolution to remove a private walk or approach the cost thereof shall be paid by the City.
- (5) Notwithstanding anything contained in Section 6 hereof, whenever the City widens, reconstructs, or resurfaces a pavement and thereby necessitates alteration or reconstruction of a lawful private approach or walk, the City shall assume the entire cost occasioned by the said widening, reconstruction or resurfacing unless the approach is not constructed to the same standard as the abutting street, in which case the City may assess the cost of improving the approach against the benefiting property.
- (6) Notwithstanding that the City may have assumed all of the cost of reconstructing, resurfacing, altering or repairing a private approach pursuant to subsection (3) of this Section,
 - (a) the said approach shall, for all other purposes of this By-law, be deemed to have been reconstructed, altered or repaired for and at the sole expense of the owner and upon his application; and
 - (b) when required, in the opinion of the Commissioner, the design and location of any approach may be altered.

Payment

- 12. (1) Subject to Sections 6 and 11 hereof, the cost of all work done by the City in the construction, reconstruction, maintenance or alteration of a private walk or approach shall be paid by the owner.
- (2) The charge, if any, made by the City in respect of any such work shall be paid by the owner of the land fronting thereon forthwith upon demand made by the City and if not so paid may be added to the taxes on that land and collected in the same manner as the general municipal taxes of the City.
- (3) Upon the application of the owner of the land fronting on any such work, the City may charge the cost of the work against the land over a term of not more than twenty (20) years with interest as in the case of an ordinary local improvement, and the charge shall be added to the taxes on the property and be collected in the same manner as the ordinary municipal rates of the City.

- (4) In computing the cost to be charged against the land as aforesaid, the City may include in the cost the items of expense usually included in computing the costs of a local improvement.

Indemnity

13. The owner of the land abutting any private walk or approach shall be directly liable to any person, including the City, sustaining damages through any cause whatsoever on account of, and shall indemnify and save harmless the City of and from all damages and costs caused by or on account of, the installation, construction, reinstallation, reconstruction, maintenance, use or failure to protect or cover, any such private walk or approach and, if required, the owner shall execute and deliver to the City an indemnity agreement in respect thereof, satisfactory to the City Solicitor.

14. This By-law shall not be construed to render unlawful a walk or approach lawfully constructed before the coming into force of this By-law.

15. A change in the use of a property shall render unlawful any private approach providing access thereto. Prior to the time of change in use, a written application shall be made to the Commissioner for continuance or alteration thereof.

16. The owner shall not, nor shall he allow others under his control to obstruct the private approach or walk or cause inconvenience or danger to pedestrians or others lawfully using the same.

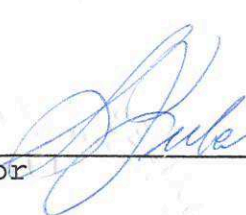
Permit Fees

17. (1) Upon application for a private walk or private approach, the owner shall pay to the City the fees that may be required as set out in Schedule 4 attached hereto.
- (2) Upon application for a permit to construct a private walk or private approach, the licensed contractor shall pay to the City the fees that may be required as set out in Schedule 4 attached hereto.

Repeal

18. All By-laws or sections of By-laws that heretofore regulated the construction, maintenance and removal of private walks and private approaches are hereby repealed.

21ST DONE AND PASSED IN COUNCIL ASSEMBLED, this
day of MARCH A.D. 1973.

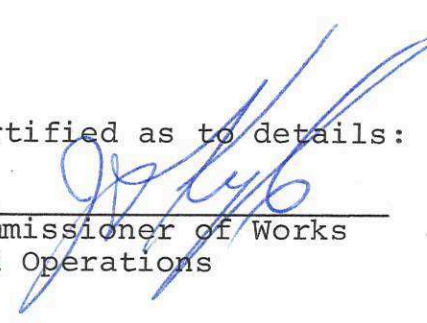


Mayor



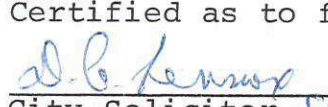
City Clerk

Certified as to details:

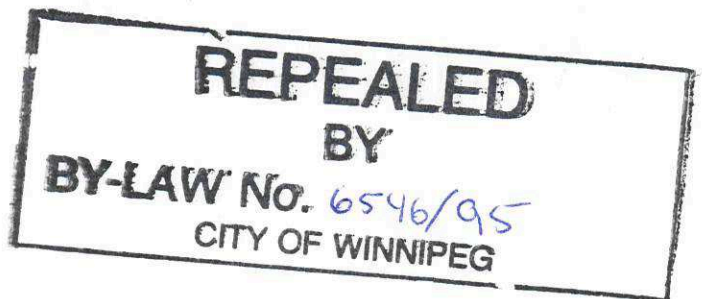


Commissioner of Works
and Operations

Certified as to form:



City Solicitor



This is Schedule 1 to By-law No. 329/73

of The City of Winnipeg

SCHEDULE 1
(Section 3)

Streets in the City of Winnipeg on which no private approaches shall be constructed, erected, or installed. On those streets which have service roads adjacent to the main highways, this schedule only applies to the main roadways and not to the service roads.

1. Broadway between Portage Avenue and Main Street
2. The Concordia Avenue-Lagimodiere Boulevard interchange and connecting roadways, except for Concordia Avenue west of a point 600 ft. east of Molson Street
3. The Disraeli Bridge and Overpass of the C.P.R. Yards and approaches thereto, including the connecting roadways to said approaches lying to the north and south of the Red River and from Main Street to the Canadian Pacific Railway Yards and Henderson Highway between Hespeler Ave. and the Red River
4. Donald Street between Corydon Avenue and Hargrave Place, and the connecting roadway between the Midtown Bridge and Smith Street
5. Dunkirk Drive between Fermor Avenue and St. Mary's Road, except on the west side between Fermor Avenue and St. Vital Road
6. Lagimodiere Boulevard between the Trans-Canada Highway and the northern boundary of the City
7. Main Street between the Red River and Sutherland Avenue
8. Portage Avenue between Main Street and Maryland Street
9. The Public Road (Suburban Beltway) between the West Limit of River Lot 11 in the Parish of St. Charles and MacDonald Road (PTH No. 3)
10. The St. James Bridges, Approaches, Interchange, and connecting roadways between Academy Road and Ness Avenue
11. The St. Vital Bridge, Approaches, Interchange and connecting roadways between Jubilee Avenue and Fermor Avenue
12. The Trans-Canada Highway between St. Anne's Road and the eastern boundary of the City.

This is Schedule 2 to By-law No. 329/73
of The City of Winnipeg

SCHEDULE 2

(Subsection (4) of Section 3)

1. Main Street between Sutherland Avenue and the northern boundary of The City of Winnipeg
2. Portage Avenue between Maryland Street and the western boundary of the City of Winnipeg

This is Schedule 3 to By-law No. 329/73
of The City of Winnipeg

SCHEDULE 3
(Subsection (5) of Section 3)

1. Bison Drive between Waverley Street and
Pembina Highway
2. Waverley Street between Mathers Avenue
and Bison Drive

This is Schedule 4 to By-law No. 329/73
of The City of Winnipeg

SCHEDULE 4
(Section 18)

1. Every owner applying for authorization of a private walk, private approach or combination thereof, on a street or portion thereof, shall pay to The City of Winnipeg the following fee:
 - (a) Private walk, approach or combination thereof \$2.00
2. Every licensed contractor applying for a permit to construct a private walk or private approach on a street or portion thereof shall pay to The City the following fee:
 - (a) For each approach constructed serving a property \$5.00

Where required, the following fee(s) may be charged:

 - (a) Survey per approach \$20.00
 - (b) Material testing \$ 6.75
3. The receipt by the City of any of the above fees shall not relieve the applicant or licensed contractor from any responsibility or liability for any accident or damage or for any breach or default resulting from or arising out of the exercise of any licence or privilege granted by any permit as aforesaid.

This is Schedule 5 to By-law No. 329/73
of The City of Winnipeg

SCHEDULE 5
(Section 9)

The Designated Officer may exercise the following powers, after providing his Community Committee with a list of private approach applications:

1. The Designated Officer may approve of private walks and private approaches that conform with those sections of the By-law which regulate the design, dimensions and locations.
2. The Designated Officer may reject applications that are conforming but which, in his opinion, would be detrimental to the public interest. In this case, the applicant must be advised in writing of his right of appeal to the Committee on Works and Operations.
3. The Designated Officer may reject applications that do not conform with the By-law, whereupon the applicant must be advised in writing of his right of appeal to the Committee on Works and Operations.
4. The Designated Officer may approve applications that do not conform with the By-law, but which in his opinion, would not be detrimental to the public interest. In each such case, a report shall be forwarded to the Commissioner of Works and Operations for his information.

In the event of appeals of decisions of the Designated Officers, he will be required to prepare reports on said applications for the consideration of the Committee on Works and Operations.

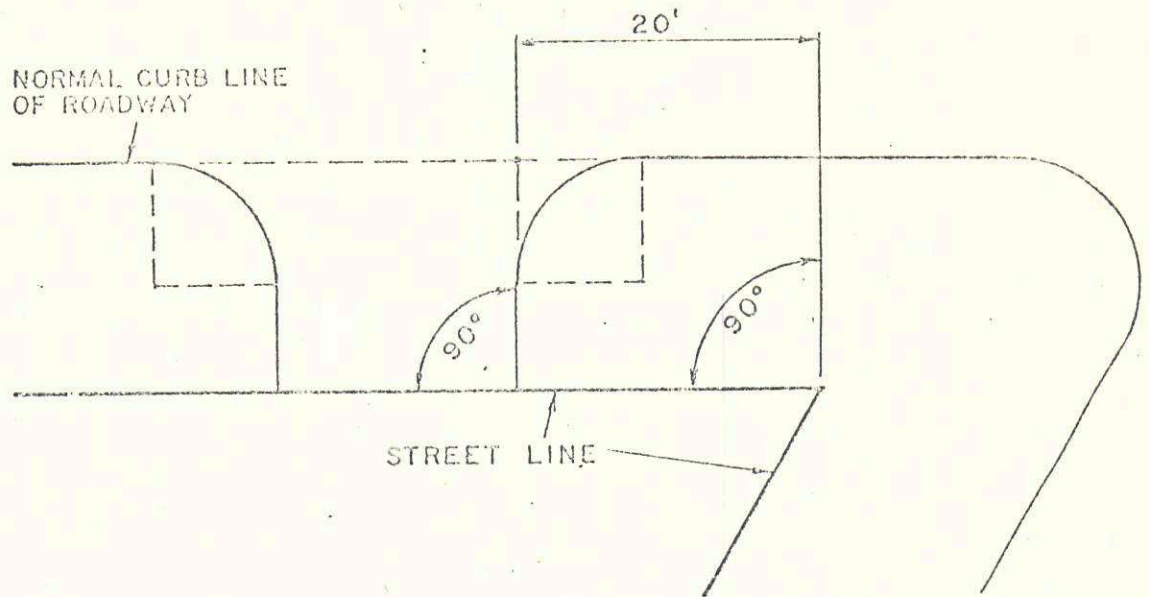
W.A.D.

ILLUSTRATION OF CONDITIONS SPECIFIED IN
SECTION 7(1) OF THE CITY OF WINNIPEG
PRIVATE APPROACHES BYLAW 329/73

EXHIBIT I

SITUATION I

PROJECTION OF EDGE OF APPROACH MEETS NORMAL CURB LINE
OF ROADWAY AT AN ANGLE OF 90°



SITUATION II

PROJECTION OF EDGE OF APPROACH MEETS NORMAL CURB LINE
AT AN ANGLE OTHER THAN 90° (⊖)

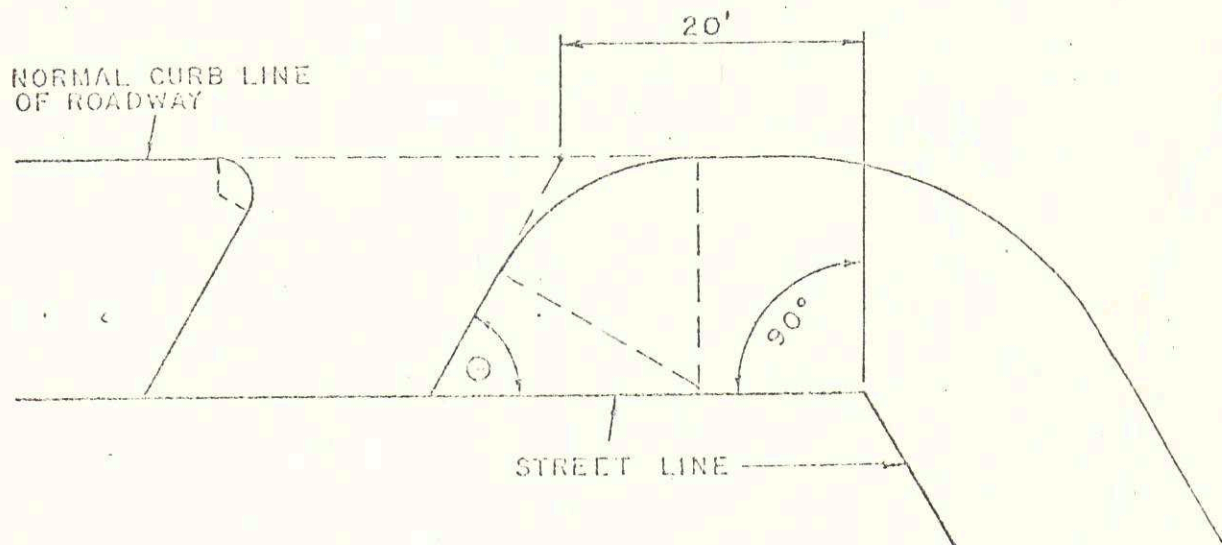
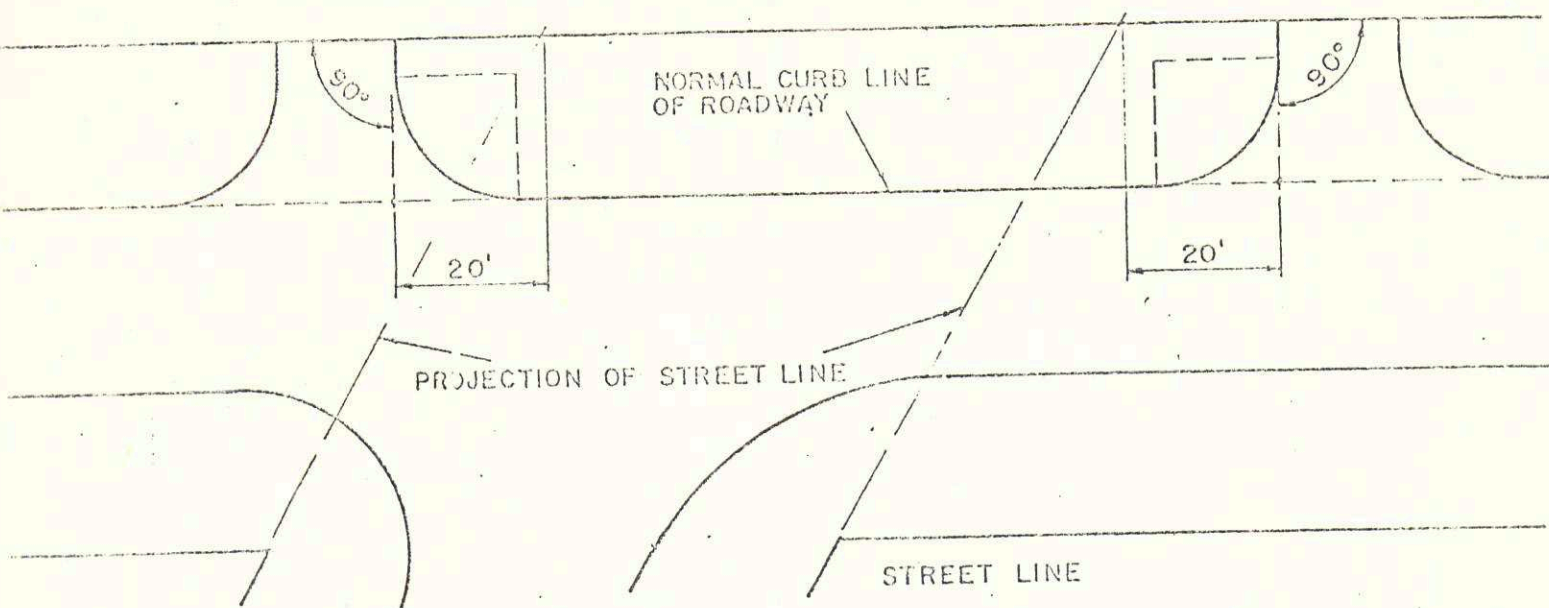


ILLUSTRATION OF CONDITIONS SPECIFIED IN
SECTION 7(1) OF THE CITY OF WINNIPEG
PRIVATE APPROACHES BYLAW 329/73

EXHIBIT II

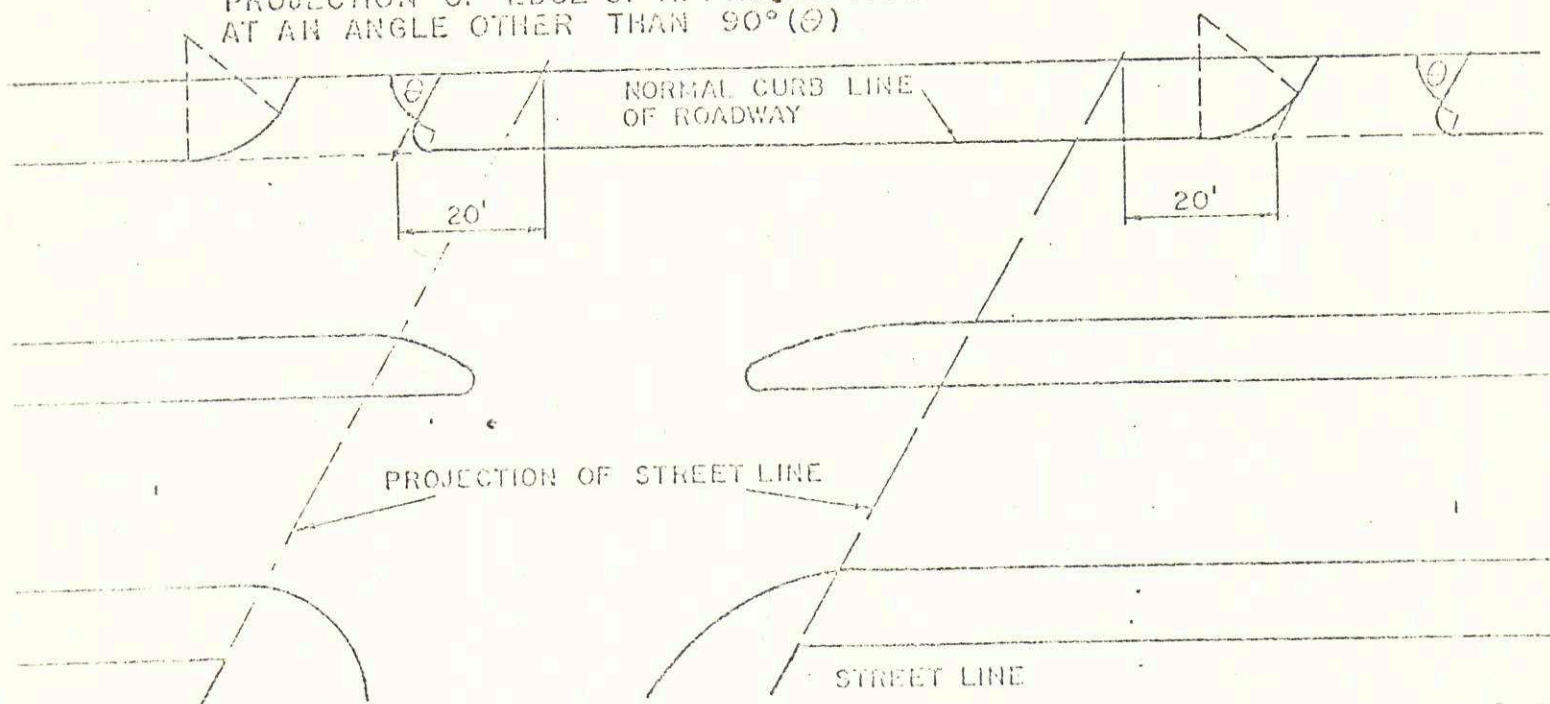
SITUATION I

PROJECTION OF EDGE OF APPROACH MEETS NORMAL CURB LINE
OF ROADWAY AT AN ANGLE OF 90°



SITUATION II

PROJECTION OF EDGE OF APPROACH MEETS NORMAL CURB LINE
AT AN ANGLE OTHER THAN 90° (θ)



By-Law No. 329/13

A BY-LAW
OF THE
CITY OF WINNIPEG

To regulate the construction,
maintenance and removal of
private approaches and private
walks.

Advertised

Posted

Entered by

REMARKS

Read a first time March 21st 1973
~~Rule-Suspended~~

Read a second time March 21st 1973
Rule Suspended

Read a third time
and passed March 21st 1973

M. A. D. [Signature]
City Clerk.

D. C. LENNOX, Q.C.,
City Solicitor.