

Section 10: Memorial Markers Within the Right of Way

Guidelines

The department may authorize the placement of a memorial marker for any traffic-related fatality. (Special programs have been set up for the victims of impaired drivers, victims of motorcycle crashes and to honor peace officers killed in the line of duty and are discussed later in this section. The information below applies only to memorial markers.)

Qualifications

Markers are limited to traffic-related fatalities occurring on the state highway system. The request to place a marker should be submitted by the victim's family. The request may be submitted by someone other than a family member as long as the request includes written permission from the family. No more than one marker will be allowed per victim.

Placement

The marker should be located in such a way that it does not distract motorists. Overly ornate markers may tend to draw motorists' attention from the road, which could present a safety hazard. The marker should be located as near the right of way line as possible, preferably near a utility pole or at the edge of a non-mow area. The marker may not be placed in medians or between the main lanes and frontage road of a controlled access highway. The marker should not be located in front of developed property unless the adjacent property owner has given written permission to the requestor. Markers should not be affixed to traffic control devices such as signs, signals, etc., or their supports. Requestors should meet with TxDOT to determine the exact placement of the marker to ensure proper and safe placement.

Fabrication and Materials

The markers may incorporate various types of symbols. The marker should be no more than 30 inches high and no wider than 18 inches. This height limitation will help prevent debris from hitting a windshield should a vehicle impact the marker. In addition, concrete footings should not be allowed.

The marker's components should be fabricated from wood no larger than a 2"x 4". Small plaques are allowed. The plaque may contain the victim's name, date of birth and date of death. The plaque **MAY NOT** state that the death was the result of intoxicated driving unless the request is accompanied by proof of a **DWI CONVICTION**. Photographs are not allowed. The photographs may encourage drivers to stop and view the victim's photo. Vehicles inappropriately parking on the roadside may create a safety hazard. The marker is primarily intended to remind passing motorists of the dangers of unsafe driving.

Hazardous or Non-Conforming Markers

The placement of non-conforming markers should be discouraged. If a marker presents a potential safety hazard to the public or an operational problem, the marker should be removed immediately or relocated on the right of way. If a marker is placed within the right of way without approval and/or does not meet the criteria stated here, TxDOT should attempt to locate the victim's family and encourage them to replace the marker with one that meets the standard requirements. If the marker is not made to meet department criteria, or if the family cannot be contacted, the marker may be removed. Markers removed from the right of way should be kept 30 days before final disposal. Attempts should be made to determine the markers' owner prior to disposal.

Sketch of Typical Marker

The following sketch illustrates the size and construction limitations for right of way markers.

MEMORIAL MARKERS WITHIN THE RIGHT OF WAY
Texas Department of Transportation
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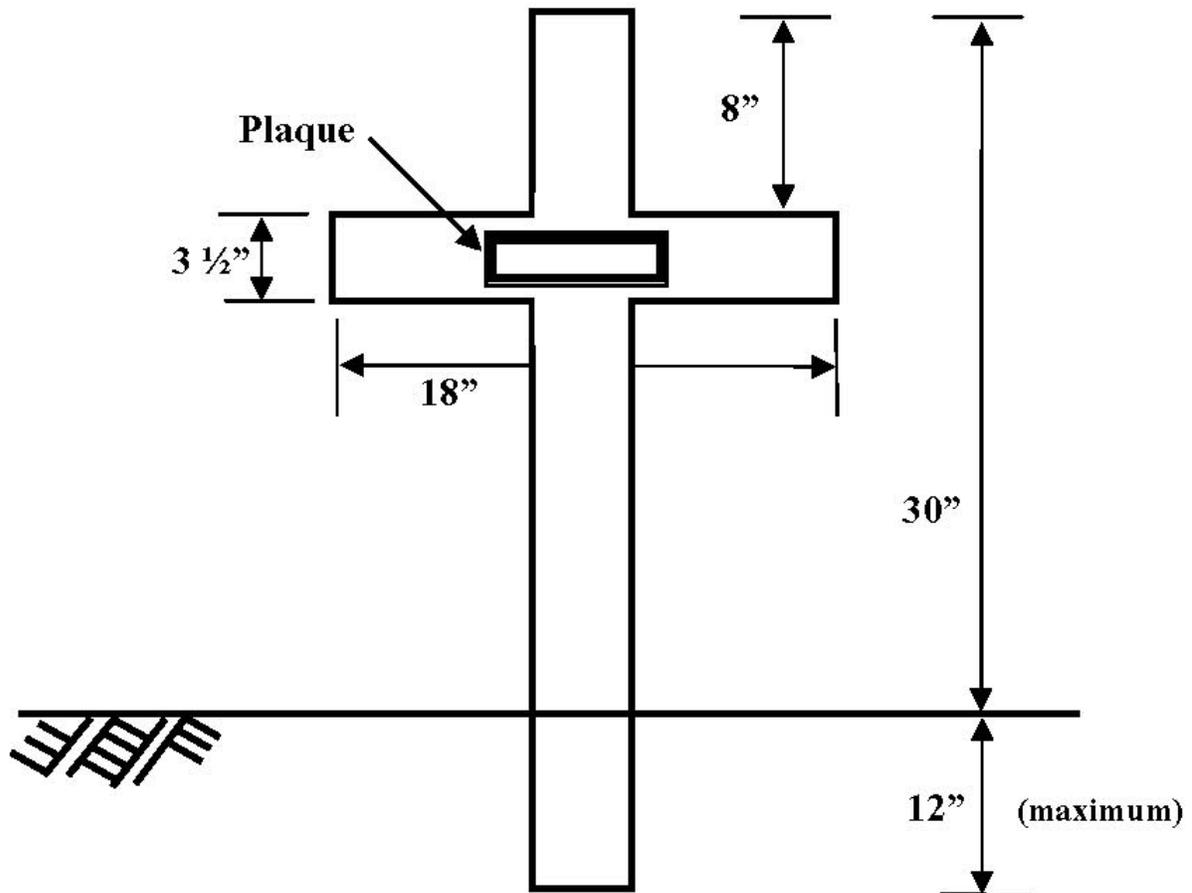


Figure 3-1. Example of a conforming marker

Vertical and horizontal members may be only of 2" X 4" construction. The use of concrete footings should not be allowed.

Other symbols may also be allowed. All types of markers should conform to the height, width, below ground depth and member (2x4) limitations shown above.

Memorial Sign Program for Victims of Impaired Driving

Transportation Code, Section [§201.909](#), requires the department to establish and administer a memorial sign program to publicly memorialize the victims of alcohol or controlled substance-related crashes. A person is not eligible for a memorial sign if the victim was operating a vehicle involved in the crash and was documented to be impaired at the time of the crash. The guidelines for the program are in Texas Administrative Code, Title 43, Chapter 25, Subchapter N.

This program is administered by the Traffic Operations Division.

Memorial Sign Program for Victims of Motorcycle Crashes

Transportation Code, Section [§201.911](#), requires the department to establish and administer a memorial sign program to publicly memorialize the victims of motorcycle crashes. To be eligible the victim must have been operating or riding on a motorcycle. The guidelines for the program are in Texas Administrative Code, Title 43, Chapter 25, Subchapter N.

This program is administered by the Traffic Operations Division.

Memorial Marker for Peace Officers

Texas Administrative Code, Title 43, Rule §22.17 authorizes the department to allow the placement of privately funded memorials honoring peace officers killed in the line of duty.

The department may execute an agreement with a non-profit corporation to fund, install, and maintain memorials honoring peace officers. Form [2372](#) is used for this purpose and contains terms and conditions the department deems necessary to protect the privacy of the deceased peace officer and to protect the public safety. These agreements are processed by the Maintenance Division.

Once a corporation has entered into an agreement, it may request to install a memorial in a specific location on the state right of way. The request for department approval should be submitted in writing to the district in which the right of way is located and include, at a minimum, the following information:

- memorial's size (not to exceed four and one-half feet in height, two feet in width, and six inches in depth) and materials
- wording on the memorial

- proposed location details
- written concurrence from the family of the deceased peace officer
- whether or not the requestor will provide any roadside signage
- written certification from the governmental entity that employed the peace officer that the officer in question was killed in the line of duty.

The district engineer will review the request and approve the installation and location, if in compliance with the rule, subject to any additional terms and conditions deemed necessary to protect the safety of the traveling public. The district engineer will send written notice describing necessary modifications if the request is not approved. The requestor may file a notice of appeal of a district engineer's disapproval by mail or facsimile to the executive director.

The department may require the relocation or removal of a memorial determined to not be installed according to the rules, agreement or without approval. If the memorial is not relocated or removed within 30 days, the department may remove or relocate the memorial. The department may immediately relocate or remove a memorial determined to pose a potential hazard.

Agreements may canceled by either party for any reason with 30 days written notice. Termination of the agreement will cancel any department approval to install a memorial not yet installed.