



## Traffic Guidelines Manual

ORIGINATOR State Traffic Engineer	13-26-1
CHAPTER 13	Traffic Regulations
SECTION 26	Intersection Control
SUBJECT 1	Passing on Right at Intersection

### A. BACKGROUND

Passing on the right at intersections can present enforcement problems if the marking and signing are not clear as to whether a motorist can pass on the right where there is a standing left turner at an intersection. The intersection *may* have a paved shoulder, a paved right turn lane or a gravel shoulder.

The State Statutes “Rules of Road” indicate the following:

ss 346.08 When overtaking and passing on the right permitted. The operator of a vehicle *may* overtake and pass another vehicle upon the right only under conditions permitting such the movement in safety and only if the operator can do so while remaining on either the roadway or a paved shoulder, and then only under the following conditions:

- 1) When the vehicle overtaken is making or about to make a left turn or U-turn; or
- 2) Upon a street or highway with unobstructed pavement of sufficient width to enable 2 or more lines of vehicles lawfully to proceed, at the same time, in the direction in which the passing vehicle is proceeding; or
- 3) Upon a one-way street or divided highway with unobstructed pavement of sufficient width to enable 2 or more lines of vehicles lawfully to proceed in the same direction at the same time.

This language can be misunderstood. Therefore, it is important to provide the proper signing and pavement marking for intersection lane control. Refer to [TGM 2-2-20](#) for additional lane control signage.

### **CASE LAW**

CASE LAW, 2001 Court of Appeals decision overruled the DOT General Counsel’s interpretation of 346.08, per Memorandum from WisDOT Office of General Counsel, dated July 21, 1999. The 2001 decision stated that usage of any shoulder, whether paved or unpaved was not permitted to pass another vehicle on the right. The ruling remains in effect and is printed in the footnote of publication Motor Vehicle Laws, 346.08 (Kaufman v. Postle).

The issue was the use of the term “roadway” in 346.08. The roadway is defined as the traveled portion of the road, designed for vehicular travel and specifically excludes the shoulders. Therefore, driving off the pavement of the ROADWAY, or driving off the main-traveled portion of the ROADWAY is not permitted to pass another vehicle.

A driver can only pass on the right if there is a paved auxiliary lane that is not marked or signed prohibiting it. A driver cannot cross an edgeline (fog line) to bypass a standing left turner.

## **B. POLICY**

1. Provide pavement marking in accordance with Figure 1 if the intersection is to operate with a bypass option lane where the right lane functions as a right turn lane or bypass lane. If the intersection is to operate with a bypass option lane where the right lane functions as a bypass lane, provide pavement marking in accordance with Standard Detail Drawing 15C8-10b (Intersections).
2. Provide signing and pavement marking in accordance with Figure 2 if the intersection is to operate with an exclusive right turn lane.
3. Provide signing as optional in accordance with Figure 3 or Figure 4 if you desire to restrict drivers from making the maneuver to bypass a standing left turner. Typically this sign is used only if you have a history of crash issues. The sign is intended for use at intersections.

Note: Figure 1 is used except in unusual cases, Figure 2 is used for higher crash locations. Evaluate the number of right turns versus left turns to determine the proper marking and signing for right turn only lane versus allowing the right hand lane as a bypass lane.

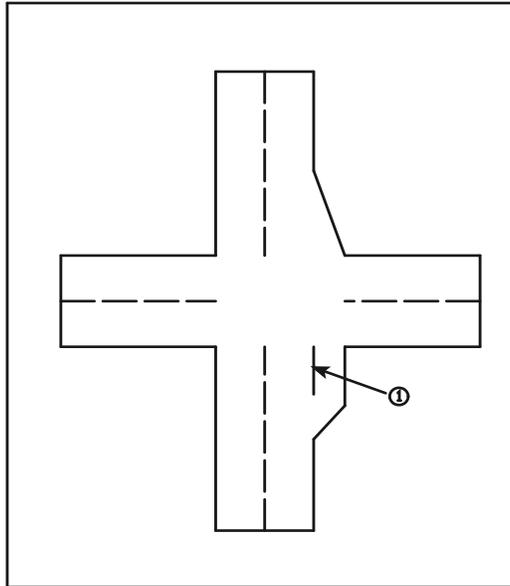


FIG. 1 PAVED BYPASS/RIGHT TURN LANE

① 8" CHANNELIZING PAYEMENT MARKING

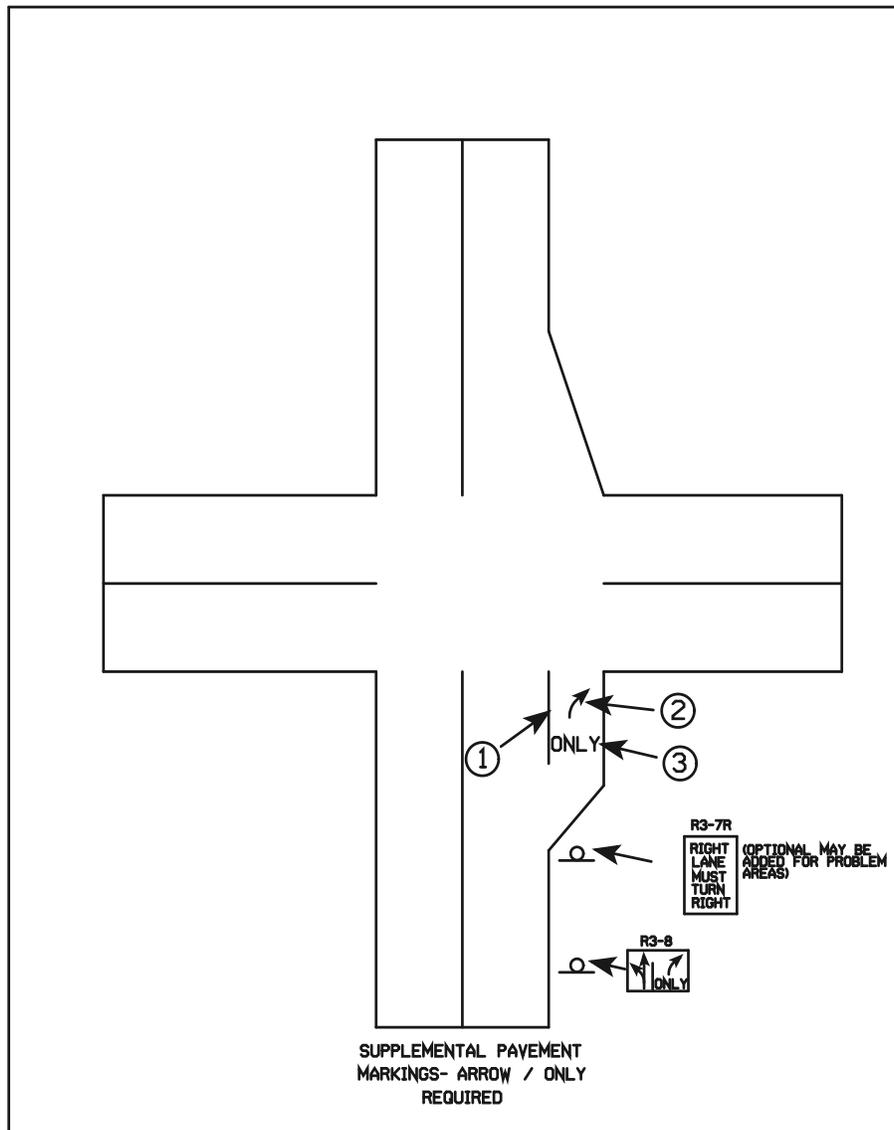


FIG. 2 EXCLUSIVE PAVED RIGHT TURN LANE

- ① 8" CHANNELIZING PAVEMENT MARKING
- ② TYPE 2 ARROW PAVEMENT MARKING
- ③ WORD PAVEMENT MARKING

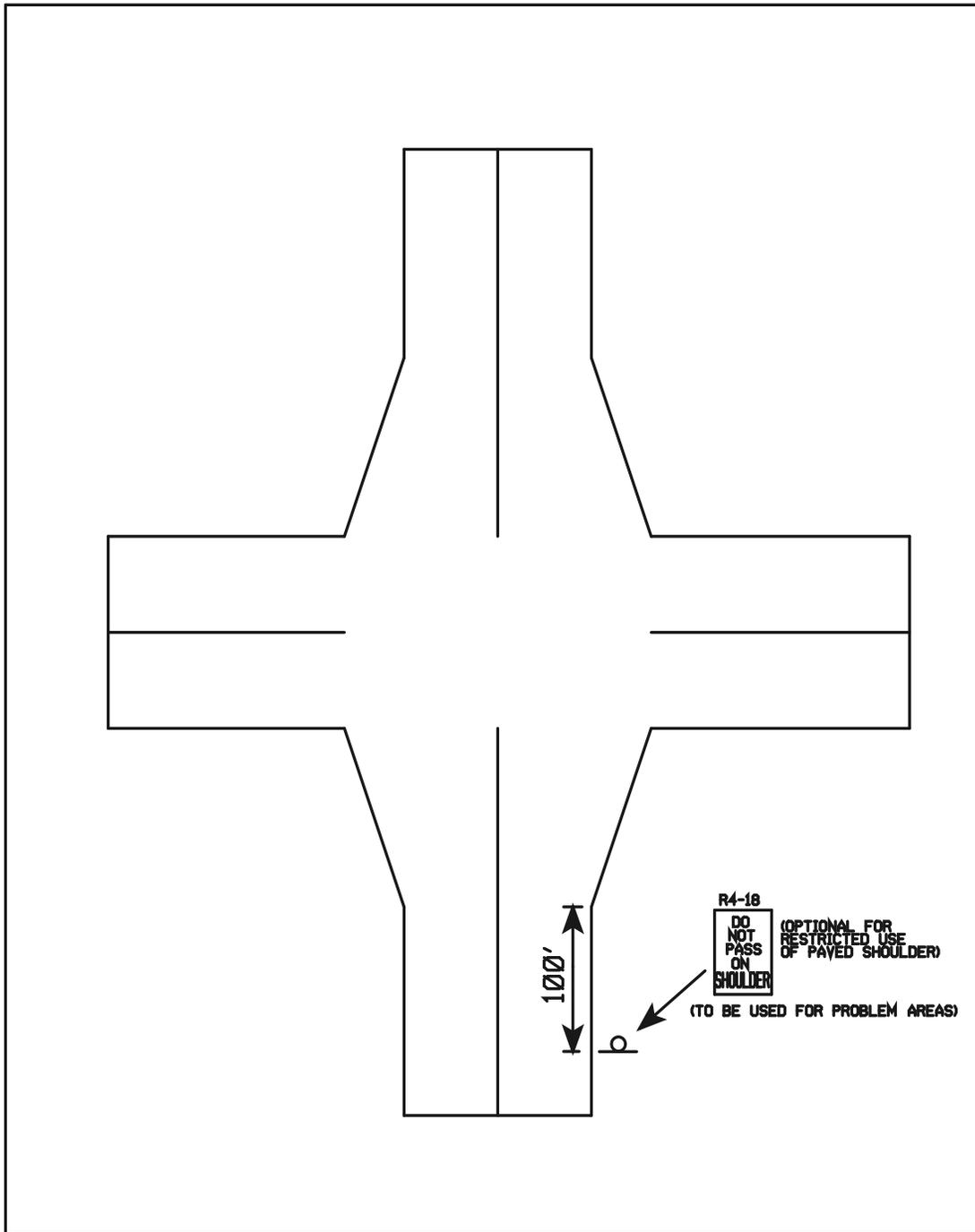


FIG. 3 PAVED RIGHT TURN LANE

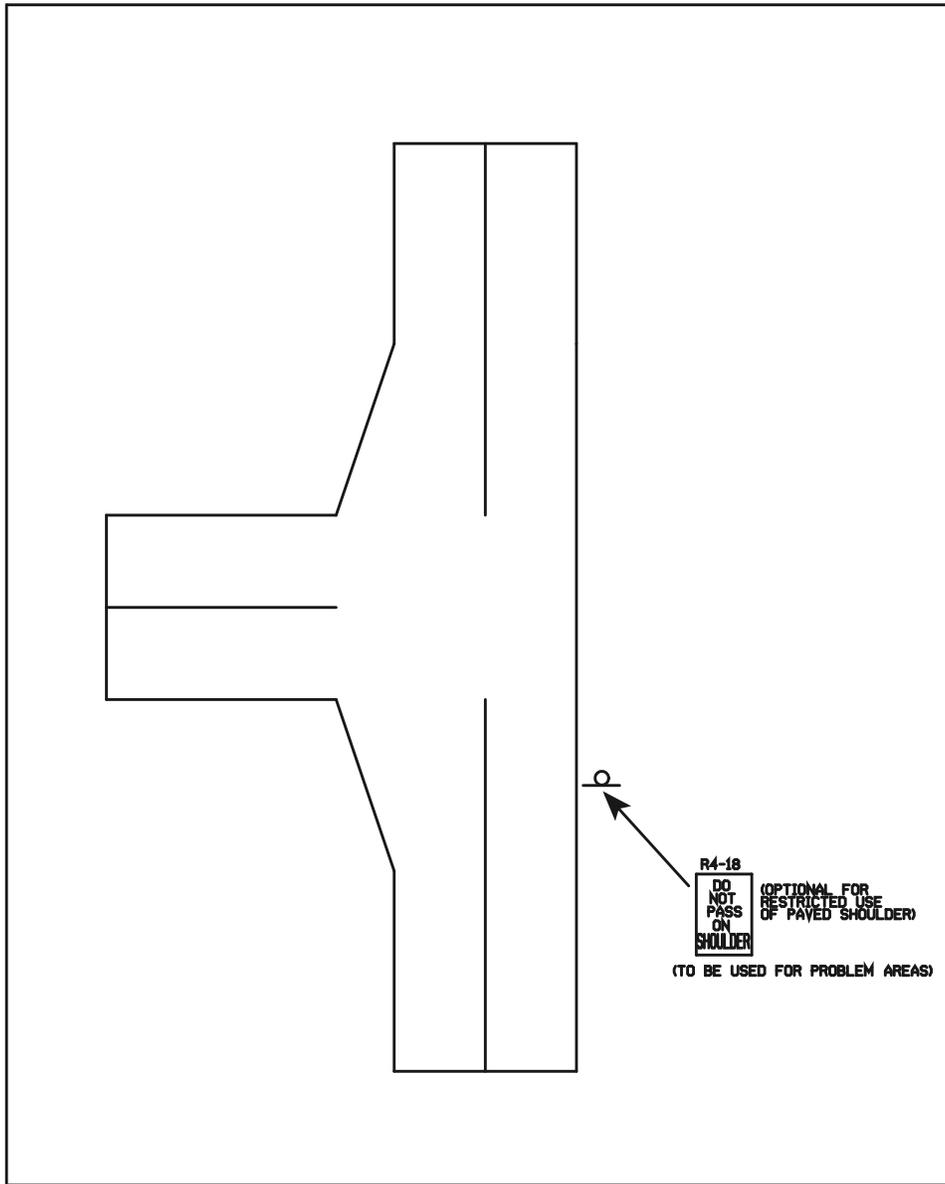


FIG. 4 T-INTERSECTION