

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §§21.146-21.149, 21.151, 21.165, 21.194, 21.196, and §§21.251-21.260, amendments to §§21.141-21.145, 21.150, 21.152-21.156, 21.158-21.164, 21.166-21.182, 21.184-21.193, 21.195, 21.197-21.204; and new §§21.205 and 21.206, relating to regulation of signs along Interstate and primary highways to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed repeals, amendments, and new sections attached to this minute order as Exhibits A, B, and C, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the general counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the repeal of §§21.146-21.149, 21.151, 21.165, 21.194, 21.196, and §§21.251-21.260, amendments to §§21.141-21.145, 21.150, 21.152-21.156, 21.158-21.164, 21.166-21.182, 21.184-21.193, 21.195, 21.197-21.204; and new §§21.205 and 21.206 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:



Director, Right of Way Division

Recommended by:



Executive Director

115013 AUG 31 '17  
Minute Number Date Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes the  
3 repeal of §§21.146-21.149, 21.151, 21.165, 21.194, 21.196, and  
4 §§21.251-21.260, amendments to §§21.141-21.145, 21.150, 21.152-  
5 21.156, 21.158-21.164, 21.166-21.182, 21.184-21.193, 21.195,  
6 21.197-21.204; and new §§21.205, and 21.206, all concerning  
7 regulation of signs along Interstate and primary highways.

8

9 EXPLANATION OF PROPOSED REPEALS, AMENDMENTS, AND NEW SECTIONS

10 The Texas statutes regulating outdoor advertising were ruled  
11 unconstitutional by the Third Court of Appeals in *AusPro v.*  
12 *TxDOT*, 506 S.W.3d 688 (2016) (Tex.App.–Austin 2016, *pet. filed*).  
13 The court held that Texas Transportation Code, Chapter 391,  
14 Subchapters B and C were unconstitutional because the definition  
15 of “sign” was over inclusive, making it impossible for the court  
16 to determine which provisions applied to commercial speech and  
17 which applied to noncommercial speech. This decision is on  
18 appeal to the Texas Supreme Court.

19

20 The Texas Legislature passed Senate Bill No. 2006, 85th  
21 Legislature, Regular Session, 2017, to address the decision of  
22 *AusPro*. The bill removes the unconstitutional issue from the  
23 statute by replacing outdoor advertising with commercial sign.  
24 The statute defines commercial sign to mean a sign that is  
25 intended to be leased, or for which payment of any type is

1 intended to be received. This new definition makes it clear  
2 that the regulations only affect commercial speech and not a  
3 person's First Amendment right of freedom of speech. This  
4 statutory change addresses the court's decision by eliminating  
5 the need for a review of the content of the sign to make the  
6 determination of whether the sign is regulated. The new  
7 provisions require the department to regulate commercial signs  
8 in a content neutral manner. These statutory changes required  
9 similar changes to the department's rules. Throughout the  
10 rules, the terms "outdoor advertising" and "sign" have been  
11 replaced with "commercial sign" to correspond with the statutory  
12 change.

13  
14 Senate Bill No. 312, 85th Legislature, Regular Session, 2017  
15 amended §391.038, to legalize the height of all signs as they  
16 existed on March 1, 2017 up to a height of 85 feet, and allows  
17 those signs to be maintained at that height without the need of  
18 an amended permit. This change to the height restriction  
19 required the department to take a look at the current maximum  
20 height requirement to determine how to address the discrepancy  
21 between signs erected in violation of the current rules, those  
22 that had complied with the maximum height and those that will be  
23 built in the future.

24  
25 In addition, these rules include changes to address new

1 department procedures, including the new online application  
2 process, and merge the two divisions of Chapter 21 (Division 1,  
3 Signs, and Division 2, Electronic Signs) to eliminate repetition  
4 and confusion. The word "division" has been replaced with  
5 "subchapter" throughout the amended rules to reflect the merger  
6 of the divisions.

7  
8 Almost every rule regarding the Highway Beautification program  
9 has been amended to address either the statutory changes, the  
10 new streamlined procedures, or the merging of the rules on  
11 electronic signs, however, due to the pending Texas Supreme  
12 Court ruling on *Auspro*, the department also notes that any rule  
13 in Chapter 21, Subchapter I, not amended or repealed by this  
14 rulemaking continues in effect under new Transportation Code,  
15 Chapter 391.

16  
17 Amendments to §21.141, Purpose, replace the term "division" with  
18 "subchapter" and "outdoor advertising" with "commercial signs"  
19 to address the changes necessary to implement S.B. 2006 and to  
20 reflect the elimination of Chapter 21, Subchapter I, Division 2,  
21 Electronic Signs. With the elimination of the electronic sign  
22 division there is no longer a need for references to divisions  
23 in this subchapter. The rules under the electronic sign  
24 division have been merged into the general rules. All the rules  
25 under this subchapter apply to electronic signs unless noted in

1 the specific rule.

2

3 Amendments to §21.142, Definitions, add definitions for  
4 "commercial sign," "conforming sign," "electronic sign,"  
5 "lawfully erected," "stacked sign," and "zoned commercial or  
6 industrial area." These terms are used throughout the chapter  
7 and the department has determined that providing clear  
8 definitions will benefit the regulated community. The  
9 definition for "commercial sign" follows that of the language of  
10 new Transportation Code, §391.001. This new definition will  
11 ensure that the department is not regulating speech. The  
12 definition for "electronic sign" has been moved without change  
13 from Division 2.

14

15 In addition the department has clarified the definitions for  
16 several terms. These changes will give the regulated entities a  
17 better understanding of the department's use of these terms.  
18 The definition of "highway" was amended to include a roadway  
19 project for which the Texas Transportation Commission  
20 (commission) has authorized the purchase of right of way. With  
21 this change the department believes that we have clearly stated  
22 the time the highway is subject to sign regulations. The  
23 definition of "public park" was replaced with "public space" to  
24 include additional areas that are similar in nature to a public  
25 park.

1

2 Amendments to §21.143, Permit Required, conform to use of the  
3 term "commercial signs."

4

5 Amendments to §21.144, License Required, require the licensee to  
6 notify the department of any change to their contact information  
7 within 30 days of the change. This will provide the department  
8 with the information needed to contact the licensee for future  
9 notices.

10

11 Amendments to §21.145, Prohibited Signs, provide that a sign may  
12 not be erected or maintained on the real property of another  
13 without the property owner's permission. The property owner's  
14 permission is currently a requirement of the sign permit  
15 application. With the new online application process, the  
16 department no longer will require the property owner's signature  
17 and this change clarifies that the property owner's permission  
18 is still required. In addition, the amendments add a reference  
19 to Transportation Code §393.002, regarding the prohibition of  
20 commercial signs in the state right of way

21

22 Section 21.146, Exempt Signs, is repealed to comply with S.B.  
23 2006. Because the changes result in only commercial signs being  
24 regulated under the department's Highway Beautification program,  
25 the exemption of various types of non-commercial signs is no

1 longer needed.

2

3 Section 21.147, On-premise Sign, is repealed to comply with the  
4 changes to the statute by S.B. 2006. The distinction between  
5 on-premise and off-premise signs is not used under S.B. 2006  
6 amendments to Transportation Code, Chapter 391. The statute now  
7 requires the regulation of commercial signs only. Under the  
8 definition of "commercial sign," signs that would have been  
9 previously classified as "on-premise" are excluded from  
10 regulation.

11

12 Section 21.148, Exception to License Requirement for Nonprofit  
13 Signs, is repealed as unnecessary under S.B. 2006. Nonprofit  
14 signs do not meet the definition of commercial signs and  
15 therefore, are not regulated.

16

17 Section 21.149, Nonprofit Sign Permit, is repealed as  
18 unnecessary under S.B. 2006.

19

20 Amendments to §21.150, Continuance of Nonconforming Commercial  
21 Signs, remove references to nonprofit signs and clarify that a  
22 nonconforming sign must be maintained in accordance with the  
23 current permit to be eligible for renewal. This change makes it  
24 clear that the sign must continue to match the provisions of the  
25 permit to hold its nonconforming status and conforms the rules

1 to the department's current procedures.

2

3 Section 21.151, Time Proposed Roadway Becomes Subject to  
4 Division, is repealed to simplify the time that an existing sign  
5 comes under these regulations. The definition of "highway" was  
6 amended to include a roadway project for which the commission  
7 has authorized the purchase of right of way. With the change to  
8 the definition, this section is not needed.

9

10 Amendments to §21.152, License Application, address changes  
11 necessary to implement the new online application process. The  
12 changes require the applicant provide the applicant's email  
13 address and remove the requirement that the application be  
14 signed and notarized. The department has developed an online  
15 system to streamline the application and renewal process and the  
16 changes were necessary to implement the new process. The rules  
17 continue to provide for a written application that is mailed to  
18 the department and language is added to address the requirements  
19 for the mailed application.

20

21 Amendments to §21.153, License Issuance, provide the licensee  
22 the ability to amend a license by filing an amended application.  
23 This change streamlines the process for the department to  
24 receive updated information from the licensee.

25

1 Amendments to §21.154, License Not Transferable, merely replace  
2 the term "division" with "subchapter" to reflect the elimination  
3 of divisions within Chapter 21.

4

5 Amendments to §21.155, License Renewals, clarify that a license  
6 must be renewed annually. The department is now requiring that  
7 the license renewal application be provided to the department by  
8 the 15th day of the month in which it expires. Language is also  
9 added to clarify the fee for late renewals. The current rules  
10 include the \$100 fee for renewals that are received within 45  
11 days of the expiration but the language is only included in  
12 §21.156 regarding the fees. The department is adding the  
13 language to this section to make it clear that the department  
14 does accept late renewals if received within 45 days of the  
15 expiration. In addition changes are made to accommodate the  
16 online renewal process by eliminating the need for signatures.

17

18 Amendments to §21.156, License Fee, add credit cards to the  
19 types of payments accepted to accommodate the new online system.  
20 The changes also remove the 20-day requirement for the provision  
21 of a renewal notification. The section still requires the  
22 second renewal notification but no longer requires it within 20  
23 days. With the new system and the use of email the department  
24 believes this requirement is not necessary.

25

1 Amendments to §21.158, License Revocation, update an amended  
2 section heading and require a request for an administrative  
3 hearing to be sent to the address listed on the enforcement  
4 notice. This change will eliminate the misdirection of these  
5 requests and allow for a timely filing of the administrative  
6 action.

7  
8 Amendments to §21.159, Permit Application, make changes  
9 necessary to address the online application process. The online  
10 application requires removal of original signatures and  
11 notarization for the online application. These requirements are  
12 still applicable to a paper application. The department is also  
13 now accepting credit card payment through the online system and  
14 that change is also reflected in this section. The additional  
15 requirements for an electronic sign have been moved unchanged  
16 from §21.253, Issuance of Permits, and §21.258, Emergency  
17 Information.

18  
19 Amendments to §21.160, Applicant's Identification of a New  
20 Commercial Sign's Proposed Site, address issues relating to  
21 identification of the sign. The department has noticed that on  
22 occasions there have been discrepancies between permit  
23 application location and the stake or identifying mark placed at  
24 the sign location. The changes clarify that the stake must be  
25 on the parcel of land indicated on the application. If the

1 wrong parcel has been identified, the department may not have  
2 the required land owner information.

3

4 Amendments to §21.161, Site Owner's Consent; Withdrawal, make  
5 the changes necessary to address the online application process.

6 The amendments also replace the term "division" with  
7 "subchapter" to address the changes necessary to reflect the  
8 elimination of divisions within Chapter 21 and adds "commercial"  
9 immediately before "sign" to implement S.B. 2006.

10

11 Amendments to §21.162, Permit Application for Certain  
12 Preexisting Commercial Signs, provide additional guidance on the  
13 process for addressing preexisting signs. The section currently  
14 requires a sign owner to apply for a permit upon notification  
15 that the highway is about to come under the program, but the  
16 section does not state the consequences for failure get the  
17 permit. The amendments provide that failure to obtain the  
18 permit will result in the department issuing an order of  
19 removal. In addition, the amendments provide that the  
20 department may issue a non-conforming permit if the sign does  
21 not meet the current regulations. This is the process the  
22 department currently follows and the language was added to give  
23 the sign owner's notice of the process.

24

25 Amendments to §21.163, Permit Application Review, address the

1 issues related to a paper application. The department reviews  
2 permit application in the order received, however the department  
3 wants to make it clear that the application must be complete to  
4 hold its priority place. The timing of a permit application  
5 submission might affect the sign's location eligibility. The  
6 department does not want a licensee using the application  
7 process to hold sign locations. In addition, new language  
8 provides that the department will notify the applicant if the  
9 application is not accepted as complete. The department will  
10 not return a copy of the application. This requirement is not  
11 necessary with the new online process.

12

13 Amendments to §21.164, Decision on Application, remove language  
14 that required the department to notify the land owner if the  
15 sign application was denied. The department is not involved in  
16 the relationship between the applicant and land owner and has  
17 found this requirement to be unnecessary. Changes also address  
18 the discontinuation of the permit plate and to be consistent  
19 with the changes to §21.163, Permit Application Review.

20

21 Section 21.165, Sign Permit Plate, is repealed, as the permit  
22 plate is an outdated method of identifying and connecting the  
23 permit to the particular sign. With the new online system and  
24 electronic inventory, the department does not need to view the  
25 permit plate to access the permit for the sign. The department

1 is now able to access that information by electronic location  
2 information.

3

4 Amendments to §21.166, Commercial Sign Location Requirements,  
5 provide new direction on when the department will determine a  
6 location unavailable due to a pending construction project. If  
7 the department has received environmental clearance for a  
8 construction project, the department will not approve a location  
9 that will be within that project's boundaries. The department  
10 believes that a project with environmental clearance is advanced  
11 enough to prohibit the erection of a new sign that will have to  
12 be removed to accommodate the project. This will eliminate the  
13 expense of erecting a sign that will need to be removed once the  
14 construction project begins. In addition, provisions from  
15 §21.155, Location, have been added to this section to address  
16 the required changes to combine the two divisions. The language  
17 is unchanged except for non-substantive editing changes made to  
18 accommodate the new section.

19

20 Amendments to §21.167, Erection and Maintenance from Private  
21 Property, to Permit, add the word "commercial" immediately  
22 before "sign" to implement S.B. 2006 and change "licensee" to  
23 "license holder" for consistency with other rules in this  
24 chapter.

25

1 Amendments to §21.168, Conversion of Certain Authorization to  
2 Permit, removes the reference to the permit plate to address the  
3 repeal of §21.165, Sign Permit Plate.

4

5 Amendments to §21.169, Notice of Commercial Sign Becoming  
6 Subject to Regulations, require the sign owner to obtain a  
7 permit for the sign within 60 days of the notification of a sign  
8 becoming subject to Transportation Code, Chapter 391. The  
9 amendments provide that if the sign owner fails to obtain the  
10 permit or if the sign owner cannot be located, the department  
11 will initiate a removal action. Without this language it was  
12 difficult to determine when the department will proceed to the  
13 removal stage.

14

15 Amendments to §21.170, Appeal Process for Permit Denials,  
16 address electronic means of filing the appeal. The section  
17 currently requires an appeal request to be mailed to the  
18 executive director. The amendments provide that the request  
19 will go through to the Right of Way Division and allow the  
20 request to be emailed. The amendments delete the requirement of  
21 submitting a copy of the application as it is unnecessary for  
22 the review process. Subsection (d) is deleted as the department  
23 is able to process the appeal within 60 days of receipt, so the  
24 language requiring notification of a delay is not necessary.

25

1 Amendments to §21.171, Permit Expiration, merely replace the  
2 term "division" with "subchapter" to reflect the elimination of  
3 divisions within Chapter 21.

4

5 Amendments to §21.172, Permit Renewals, provide a clear  
6 requirement that the permit must be renewed prior to the  
7 expiration date, that by filing the renewal the permit holder is  
8 asserting that the sign meets all requirements, and that the  
9 issuance of the renewal does not indicate that the department  
10 has determined that the sign continues to meet all requirements.  
11 The department has experienced enforcement complications by  
12 issuing renewals without annually verifying the signs compliance  
13 with all requirements. The department does not have the  
14 necessary staff to review each sign prior to the annual renewal  
15 and wants to expressly provide that the issuance of the renewal  
16 is not evidence of the department's approval changes made to the  
17 sign since the last inspection. Language is also added to  
18 accommodate the new electronic application process. In addition  
19 language is added to make it clear that the department will not  
20 renew the permit if the permit holder has not demonstrated an  
21 identifiable access route from private property. This change is  
22 needed to address the continual use of highway right of way for  
23 the maintenance of the signs.

24

25 Amendments to §21.173, Transfer of Permit, address the new

1 online application process. Subsections (e) and (f) regarding  
2 nonprofit signs have been deleted as these types of signs no  
3 longer fall within the regulation of the program.

4  
5 Amendments to §21.174, Amended Permit, address the new online  
6 application process. Language has been added to provide that if  
7 the changes approved by the amended permit are not completed  
8 within one year after the date that the amended permit is  
9 issued, the permit holder must reapply. This change brings the  
10 amended permit in line with the current requirement that the  
11 sign to be erected within one year of initial issuance of a  
12 permit for the permit to be eligible for renewal. In addition,  
13 changes clarify that the structure, as built, must be as  
14 approved by the department and changes to size, height, or  
15 configuration cannot be made without an amended permit. An  
16 amended permit cannot be used to change the location of the  
17 sign. A change of location requires a new permit application  
18 because the change could affect other applications under review  
19 and may require the department to get new land owner  
20 information. Language is added to describe the additional  
21 requirements for obtaining an amended permit for conversion to  
22 an electronic sign. This change makes it clear that the  
23 approval of the city in which the sign is located is required  
24 for this type of amended permit.

25

1 Amendments to §21.175, Permit Fees, make the necessary changes  
2 to address the deletion of Division 2 regarding electronic  
3 signs, the removal of non-profit signs from the program and the  
4 new online application and renewal process. With the repeal of  
5 Division 2 regarding electronic signs the language regarding the  
6 fees for electronic sign permit is not necessary and has been  
7 removed. The fees for both static and electronic permits are  
8 the same. The late fee is clarified by adding language that  
9 states it is owed if the fee is not received prior to the  
10 expiration date. There has been some confusion as to when the  
11 late fee was required which should be clarified by the new  
12 language.

13  
14 Amendments to §21.176, Cancellation of Permit, clarify when a  
15 permit will be cancelled. Language is added to clarify that the  
16 permit will be cancelled if the sign is accessed, erected,  
17 repaired or maintained from the right of way. The current  
18 language created an additional obstacle for enforcement by  
19 stating that the sign could not be accessed from private  
20 property. The department does not need to prove that there were  
21 no available private property accesses only that right of way  
22 was used. In addition, a new cancellation provision is added  
23 for failure to pay an administrative penalty charged. If a sign  
24 owner refuses to pay the administrative penalty for a sign  
25 violation, the next action by the department will be to cancel

1 the permit. The department must be able to enforce the  
2 administrative penalties to improve compliance with the rules.

3

4 Due to confusion, language regarding notification of the  
5 violation and opportunity to cure the violation has been moved  
6 from §21.176 to new §21.205, Curable Commercial Sign Permit  
7 Violations. The department's enforcement actions have been  
8 challenged because the language currently says the department  
9 may cancel the permit. With the change to the new section the  
10 department is making it clear that failure to cure the violation  
11 as requested will result in cancellation. The landowner  
12 notification is deleted from §21.176, as the department has  
13 found this to be unnecessary.

14

15 Amendments to §21.177, Commercial or Industrial Area, merely  
16 replace the term "division" with "subchapter" to address the  
17 changes necessary to reflect the elimination of divisions within  
18 Chapter 21.

19

20 Amendments to §21.178, Zoned Commercial or Industrial Areas,  
21 merely replace the term "outdoor advertising" with "commercial  
22 signs" to address the changes necessary to implement S.B. 2006.

23

24 Amendments to §21.179, Unzoned Commercial or Industrial Areas,  
25 merely replace the term "division" with "subchapter" to address

1 the changes necessary to reflect the elimination of divisions  
2 within Chapter 21.

3  
4 Amendments to §21.180, Commercial or Industrial Activity, revise  
5 "division" and "outdoor advertising" and uses the defined term  
6 "public space" in the place of recreational facility.

7  
8 Amendments to §21.181, Abandonment of Sign, streamline the  
9 process for determining if a sign has been abandoned. The  
10 current rules provide that to be abandoned a sign must be  
11 without content for one year, overgrown by vegetation, or need  
12 repairs. The amendments remove the one year requirement for  
13 advertising or copy because it is essentially a restatement of  
14 the legible content requirement and is an impediment to  
15 enforcement. The department does not inventory every sign every  
16 year. A sign could be in the state of abandonment for some time  
17 before identified by the department and having to show that the  
18 sign was in the same state for one year from the time of the  
19 initial review creates unnecessary delay. The department has  
20 found that having pictures of the sign on four separate dates  
21 without copy has not been beneficial in establishing abandonment  
22 of the sign and this language has been removed. Subsection (e),  
23 regarding the availability of the location, is deleted as  
24 unnecessary. If the sign permit is cancelled, the availability  
25 of the location for a new sign permit would be determined under

1 the general location provisions. Subsection (h) is moved to new  
2 §21.205, Curable Commercial Sign Permit Violations. Section  
3 21.205 provides the same 60 day notice and cure provisions that  
4 currently are in subsection (h).

5  
6 Amendments to §21.182, Commercial Sign Face Size and Position,  
7 provide that an electronic sign may have two electronic sign  
8 faces but only if the faces are facing different directions.  
9 This requirement is moved from §21.155, Location, to accommodate  
10 the combining of the two divisions of this subchapter.

11  
12 Amendments to §21.184, Location of Commercial Signs Near Public  
13 Spaces, replace "public park" with the newly defined term  
14 "public space."

15  
16 Amendments to §21.185, Location of Commercial signs Near Certain  
17 Facilities, add the word "commercial" to the title of the  
18 section to make it consistent with the new terminology of these  
19 rules.

20  
21 Amendments to §21.186, Location of Signs Near Right of Way,  
22 change the title of the section to make it consistent with the  
23 new terminology of these rules and to clarify the section  
24 applies only to state-held right of way.

25

1 Amendments to §21.187, Spacing of Commercial Signs, delete  
2 subsection (h), providing exceptions for on-premise,  
3 directional, and official signs, as unnecessary because the  
4 amended rules apply only to commercial signs.

5  
6 Amendments to §21.188, Wind Load Pressure, delete the  
7 requirement that the certification be signed to accommodate the  
8 new online application process.

9  
10 Amendments to §21.189, Commercial Sign Height Restrictions,  
11 implement the provisions of S.B. 312 regarding the height of  
12 commercial signs in existence on March 1, 2017. S.B. 312 added  
13 new Transportation Code §391.038, Sign Height, which states that  
14 a sign existing on March 1, 2017 may not be higher than 85 feet,  
15 excluding cut outs. Language was also added to allow signs that  
16 a sign owner could rebuild a sign that was in existence on March  
17 1, 2017 without obtaining an amended permit provided that the  
18 sign was rebuilt at the same location and at a height that does  
19 not exceed the height the sign was on March 1, 2017. This  
20 change will not affect any signs erected after March 1, 2017.  
21 All new commercial signs will have to comply with the existing  
22 42-1/2 maximum height. In addition, these provisions allow a  
23 sign that is 85 feet or less on March 1, 2017 be rebuilt to the  
24 exact provisions of the current sign permit with exception of  
25 the height without obtaining an amended permit. Because S.B.

1 312 relates only to height an applicable sign that is  
2 nonconforming on a basis other than height remains  
3 nonconforming. If a conforming sign owner wants to change the  
4 number of faces, lighting or other physical aspects of the sign  
5 an amended permit would be required.

6  
7 Amendments to §21.190, Lighting and Movement on Commercial  
8 Signs, add provisions that were in Chapter 21, Division 2  
9 regarding electronic signs. The amendments add no new lighting  
10 restrictions. The changes were necessary to address merger of  
11 the two divisions of Chapter 21.

12  
13 Amendments to §21.191, Repair and Maintenance of commercial  
14 Signs, clarify that routine maintenance includes changing all  
15 parts of the sign structure, and not just the sign face, if the  
16 same type of materials are used. A reference to Transportation  
17 Code, §391.038, regarding the sign height requirements, is  
18 included to implement S.B. 2006. The statute provides that a  
19 sign existing on March 1, 2017, can remain at the height on that  
20 date up to 85 feet, regardless of the maximum height set by  
21 rule. The statute also provides an exception to obtaining an  
22 amended permit and therefore, a reference to that exception is  
23 needed in this rule.

24  
25 Amendments to §21.192, Permit for Relocation of a Commercial

1 Sign, require that a sign must be timely removed from the  
2 construction site to be eligible for the relocation provisions.  
3 Signs that remain in the construction area or that must be  
4 removed by the department are an added expense to the  
5 department. The relocation provisions are a benefit to the sign  
6 owner; however, the department believes the sign owner must meet  
7 its obligations to be eligible for this benefit. The language  
8 regarding waiving the permit fee is also removed. The  
9 relocation application requires the same amount of review as a  
10 new permit and therefore, to maintain the revenue neutral aspect  
11 of the program, the fee needs to be charged for this permit.

12  
13 Amendments to §21.193, Location of Relocated Commercial Sign,  
14 replace "public park" with "pubic space." References to on-  
15 premise signs have been removed to comply with S.B. 2006. The  
16 amendments delete the requirement that a sign must be relocated  
17 to the same parcel of land and the requirement's exception has  
18 been removed. The department finds this restriction to be an  
19 unnecessary step in the relocation approval process. Under the  
20 amended rule a sign owner is able to find a new location that  
21 meets the requirements without having to demonstrate that the  
22 current parcel in not feasible for use.

23  
24 Section 21.194, Construction and Appearance of Relocated Sign,  
25 is repealed as unnecessary. The necessary provisions of this

1 section are addressed under the permit requirements. The  
2 department has not found a benefit in requiring the same  
3 materials be used in the new sign. An eligible sign permit can  
4 be amended to allow for different sign faces, lighting, and  
5 other features and by prohibiting these changes from this permit  
6 process is unnecessary.

7  
8 Amendments to §21.195, Relocation of Commercial Sign with  
9 Certified Cities, replace "municipality" with "certified cities"  
10 in the section heading to clarify that the section applies to  
11 municipalities that are approved as certified cities under  
12 §21.200. Subsection (b) is deleted as the relocation benefits  
13 are an aspect of the purchase of the right of way and not  
14 handled the Highway Beautification Program.

15  
16 Section 21.196, Relocation Benefits, is repealed as relocation  
17 benefits are an aspect of the purchase of the right of way and  
18 not the sign permit process.

19  
20 Amendments to §21.197, Discontinuance of Nonconforming  
21 Commercial Sign Due to Destruction, provide for the provisions  
22 of S.B. 312 by adding a reference to Transportation Code,  
23 §391.038.

24  
25 Amendments to §21.198, Order of Removal, provide that the

1 department will notify the land owner of the removal requirement  
2 if the sign owner cannot be determined. This is needed for the  
3 instances in which the sign owner is no longer operating and  
4 cannot be identified. The land owner will then be responsible  
5 for the sign on the land owner's property.

6  
7 Amendments to §21.199, Destruction of Vegetation and Access from  
8 Right of Way Prohibited, merely replace "division" with  
9 "subchapter."

10  
11 Amendments to §21.200, Local Control of Commercial Signs, add a  
12 reference to a certified city for clarification and to use the  
13 term commonly used by the department when referring to cities  
14 that have been granted local control.

15  
16 Amendments to §21.201, Fees Nonrefundable, and §21.202, Property  
17 Right Not Created, merely replace "division" with "subchapter."

18  
19 Amendments to §21.203, Complaint Procedures, replace "outdoor  
20 advertising" with "highway beautification" and "sign" to address  
21 the changes required under S.B. 2006.

22  
23 Amendments to §21.204, Administrative Penalties for Commercial  
24 Signs, remove the penalties for no permit plate because permit  
25 plates are no longer required and revise the wording of the

1 violation for improper placement of a sign to conform to the  
2 requirements of §21.160. Subsection (d) is deleted and replaced  
3 with subsection (g) for clarity and to conform to other  
4 provisions in rules related to cancellation of a permit.

5  
6 New §21.205, Curable Commercial Sign Permit Violations, is added  
7 to address confusion caused by §21.176, Cancellation of Permit.  
8 The department has identified problems with the regulated  
9 community's understanding when a notice provides a right to cure  
10 a violation. This new section provides the department with a  
11 separate action prior to the cancellation notification. If the  
12 sign owner fails to cure the violation, department will move to  
13 the cancellation provisions of §21.176, Cancellation of Permits.  
14 The department believes that providing all of the violations  
15 that can be corrected in one section will be clearer to the  
16 affected industry.

17  
18 New §21.206, Requirements for An Electronic Sign, gathers  
19 provisions from various sections of Division 2 of Chapter 21,  
20 Subchapter I. The department has found that having the two  
21 divisions has led to confusion in the regulated community.  
22 Division 2 provided additional provisions for electronic signs,  
23 while each rule in Division 1 applied to an electronic sign  
24 unless the rule was in direct conflict with a provision of  
25 Division 2. Whether a provision was in direct conflict was

1 subject to varying interpretations. With the merging of the two  
2 divisions, the department has clarified the electronic sign  
3 process. This new section does not add new requirements but  
4 rather revises current §21.257, Requirements, §21.258, Emergency  
5 Information, and §21.259, Contact Information.

6  
7 Division 2, Electronic Signs; §§21.251 - 21.260, is repealed and  
8 the content of the sections in the division are merged into the  
9 appropriate commercial sign provisions of the amended rules for  
10 clarity and ease of understanding by the regulated community.

11  
12 FISCAL NOTE

13 Brian Ragland, Chief Financial Officer, has determined that for  
14 each of the first five years in which the repeals, amendments,  
15 or new sections as proposed are in effect, there will be no  
16 fiscal implications for state or local governments as a result  
17 of enforcing or administering the repeals, amendments, or new  
18 sections.

19  
20 Mr. Gus Cannon, Right of Way Division Director, has certified  
21 that there will be no significant impact on local economies or  
22 overall employment as a result of enforcing or administering the  
23 repeals, amendments, or new sections.

24

1 PUBLIC BENEFIT AND COST

2 Mr. Cannon has also determined that for each year of the first  
3 five years in which the sections are in effect, the public  
4 benefit anticipated as a result of enforcing or administering  
5 the revisions will be the continuation of the Highway  
6 Beautification Program in compliance with federal requirements  
7 and consistent enforcement to the regulated community. There  
8 are no anticipated economic costs for persons required to comply  
9 with the sections as proposed. There will be no adverse economic  
10 effect on small businesses.

11

12 PUBLIC HEARING

13 Pursuant to the Administrative Procedure Act, Government Code,  
14 Chapter 2001, the Texas Department of Transportation will  
15 conduct a public hearing to receive comments concerning the  
16 proposed rules. The public hearing will be held at 9:00 a.m. on  
17 September 26, 2017, in the Ric Williamson Hearing Room, First  
18 Floor, Dewitt C. Greer State Highway Building, 125 East 11th  
19 Street, Austin, Texas and will be conducted in accordance with  
20 the procedures specified in 43 TAC §1.5. Those desiring to make  
21 comments or presentations may register starting at 8:30 a.m.  
22 Any interested persons may appear and offer comments, either  
23 orally or in writing; however, questioning of those making  
24 presentations will be reserved exclusively to the presiding  
25 officer as may be necessary to ensure a complete record. While

1 any person with pertinent comments will be granted an  
2 opportunity to present them during the course of the hearing,  
3 the presiding officer reserves the right to restrict testimony  
4 in terms of time and repetitive content. Organizations,  
5 associations, or groups are encouraged to present their commonly  
6 held views and identical or similar comments through a  
7 representative member when possible. Comments on the proposed  
8 text should include appropriate citations to sections,  
9 subsections, paragraphs, etc. for proper reference. Any  
10 suggestions or requests for alternative language or other  
11 revisions to the proposed text should be submitted in written  
12 form. Presentations must remain pertinent to the issues being  
13 discussed. A person may not assign a portion of his or her time  
14 to another speaker. Persons with disabilities who plan to  
15 attend this meeting and who may need auxiliary aids or services  
16 such as interpreters for persons who are deaf or hearing  
17 impaired, readers, large print or Braille, are requested to  
18 contact the General Counsel Division, 125 East 11th Street,  
19 Austin, Texas 78701-2483, (512) 463-8630 at least five working  
20 days before the date of the hearing so that appropriate services  
21 can be provided.

22

23 SUBMITTAL OF COMMENTS

24 Written comments on the proposed repeal of §§21.146-21.149,  
25 21.151, 21.165, 21.194, 21.196, and §§21.251-21.260; amendments

1 to §§21.141-21.145, 21.150, 21.152-21.156, 21.158-21.164,  
2 21.166-21.182, 21.184-21.193, 21.195, 21.197-21.204; and new  
3 §§21.205 and 21.206, may be submitted to Rule Comments, General  
4 Counsel Division, Texas Department of Transportation, 125 East  
5 11th Street, Austin, Texas 78701-2483 or to  
6 RuleComments@txdot.gov with the subject line "Commercial sign  
7 rules." The deadline for receipt of comments is 5:00 p.m. on  
8 October 16, 2017. In accordance with Transportation Code,  
9 §201.811(a)(5), a person who submits comments must disclose, in  
10 writing with the comments, whether the person does business with  
11 the department, may benefit monetarily from the proposed  
12 revisions, or is an employee of the department.

13

14 STATUTORY AUTHORITY

15 The repeals, amendments, and new sections are proposed under  
16 Transportation Code, §201.101, which provides the commission  
17 with the authority to establish rules for the conduct of the  
18 work of the department, and more specifically, Transportation  
19 Code, §391.032, which provides authority to establish rules to  
20 regulate the orderly and effective display of commercial signs  
21 on primary roads, Transportation Code, §391.0355, which provides  
22 authority for the commission to set fees for administrative  
23 penalties in association with violation of commercial sign  
24 regulations; Transportation Code, §391.065, which provides  
25 authority to establish rules to standardize forms and regulate

1 the issuance of commercial sign licenses; and Transportation  
2 Code §391.068, which provides authority for the commission to  
3 prescribe permit requirements and set fees for commercial sign  
4 permits.

5

6 CROSS REFERENCE TO STATUTE

7 Transportation Code, Chapters 391.

1 SUBCHAPTER I. REGULATION OF SIGNS ALONG INTERSTATE AND PRIMARY  
2 HIGHWAYS

3 [~~DIVISION 1. SIGNS~~]

4 §21.141. Purpose. This subchapter [~~division~~] is established to  
5 regulate the orderly and effective display of commercial signs  
6 [~~outdoor advertising~~] along a regulated highway within the State  
7 of Texas.

8  
9 §21.142. Definitions. The following words and terms, when used  
10 in this subchapter, shall have the following meanings, unless  
11 the context clearly indicates otherwise.

12 (1) Commercial sign--A sign that is:

13 (A) at any time intended to be leased, or for  
14 which payment of any type is intended to be or is received, for  
15 the display of any good, service, brand, slogan, message,  
16 product, or company, except that the term does not include a  
17 sign that is leased to a business entity and located on the same  
18 property on which the business is located or is smaller than 50  
19 square feet; or

20 (B) located on property owned or leased for the  
21 primary purpose of displaying a sign.

22 (2) [~~+1~~] Commission--The Texas Transportation  
23 Commission.

24 (3) Conforming sign--A sign legally erected and  
25 maintained in accordance with state and federal law, including

1 rules and regulations.

2           (4)[(+2)] Department--The Texas Department of  
3 Transportation.

4           (5)Electronic sign--A commercial sign that changes its  
5 message or copy by programmable electronic or mechanical  
6 processes.

7           (6)[(+3)] Erect--To construct, build, raise, assemble,  
8 place, affix, attach, embed, create, paint, draw, or in any  
9 other way bring into being or establish.

10           (7)[(+4)] Freeway--A divided, controlled access highway  
11 for through traffic. The term includes a toll road.

12           (8)[(+5)] Highway--The width between the boundary lines  
13 of either a publicly maintained way any part of which is open to  
14 the public for vehicular travel or roadway project for which the  
15 commission has authorized the purchase of right-of-way.

16           (9)[(+6)] Interchange--A junction of two or more  
17 roadways, including frontage roads with on and off ramps, in  
18 conjunction with one or more grade separations that provides for  
19 the uninterrupted movement of traffic between two or more  
20 roadways or highways on different levels without the crossing of  
21 traffic streams.

22           (10)[(+7)] Intersection--The common area at the  
23 junction of two highways that are on the primary system. The  
24 common area includes the area within the lateral boundary lines  
25 of the roadways.

1           (11)~~(+8)~~ Interstate highway system--Highways  
2 designated officially by the commission and approved pursuant to  
3 23 United States Code §103 as part of the national system of  
4 interstate and defense highways.

5           (12) Lawfully erected--Erected before January 1, 1968  
6 or if erected after January 1, 1968, erected in compliance with  
7 law, including rules, in effect at the time of erection.

8           (13)~~(+9)~~ License-- A commercial sign [~~An outdoor~~  
9 ~~advertising~~] license issued by the department.

10           (14)~~(+10)~~ Main-traveled way--The traveled way of a  
11 highway that carries through traffic. In the case of a divided  
12 highway, the traveled way of each of the separate roadways for  
13 traffic in opposite directions is a main-traveled way. It does  
14 not include such facilities as frontage roads, turning roadways,  
15 or parking areas.

16           (15)~~(+11)~~ Military Service Member--A person who is  
17 currently serving in the Armed Forces of the United States, in a  
18 reserve component of the United States, including the National  
19 Guard, or in the state military service of any service.

20           (16)~~(+12)~~ Military spouse--A person who is married to  
21 a military service member who is currently on active duty.

22           (17)~~(+13)~~ Military veteran--A person who has served  
23 in the Army, Navy, Air Force, Marine Corps, or Coast Guard of  
24 the United States, or in an auxiliary service of one of those  
25 branches of the armed forces.

1           (18)~~(14)~~ National Highway System--Highways  
2 designated officially by the commission and approved pursuant to  
3 23 United States Code §103 as part of the national highway  
4 system.

5           (19)~~(15)~~ Nonconforming sign--A sign that was  
6 lawfully erected but that no longer complies with a law or rule  
7 because of changed conditions or because the law or rule was  
8 amended after the sign was erected or that fails to comply with  
9 a law enacted or rule adopted after the sign was erected.

10 Examples of changed conditions are discontinuance of a  
11 commercial or industrial activity, decrease in the limits of an  
12 incorporated area, reclassification of a roadway,  
13 decertification of certified city, and amendment of a  
14 comprehensive local zoning ordinance from commercial to  
15 residential.

16           ~~(16) Nonprofit sign--A sign that is erected and~~  
17 ~~maintained by a nonprofit organization under a permit issued~~  
18 ~~under §21.149 of this division (relating to Nonprofit Sign~~  
19 ~~Permit).]~~

20           (20)~~(17)~~ Permit--Written authorization granted for  
21 the erection of a commercial sign, subject to this subchapter  
22 and Transportation Code, Chapter 391.

23           (21)~~(18)~~ Person--An individual, association,  
24 partnership, limited partnership, trust, corporation, or other  
25 legal entity.

1           (22)~~(19)~~ Primary system--Highways designated by the  
2 commission as the federal-aid primary system and any highway on  
3 the National Highway System. The term includes all roads  
4 designated as part of the National Highway System as of 1991.

5           (23)~~(20)~~ Processing Area--An area where actions or  
6 operations are accomplished that contribute directly to a  
7 particular commercial or industrial purpose and are performed  
8 during established activity hours.

9           (24)~~(21)~~ Public space--Publicly-owned land that is  
10 designated as a park, forest, playground, scenic area,  
11 recreation area, wildlife or waterfowl refuge, historic site, or  
12 similar public space [~~park--A public park, forest, playground,~~  
13 ~~nature preserve, or scenic area designated and maintained by a~~  
14 ~~political subdivision or governmental agency]~~.

15           (25)~~(22)~~ Regulated highway--A highway on the  
16 interstate highway system or primary system.

17           (26)~~(23)~~ Rest area--An area of public land  
18 designated by the department as a rest area, comfort station,  
19 picnic area, or roadside park.

20           (27)~~(24)~~ Roadway--That portion of a road used for  
21 vehicular travel, exclusive of the sidewalk, berm, or shoulder.

22           (28)~~(25)~~ Sign--A structure, display, light, device,  
23 figure, painting, drawing, message, plaque, placard, poster,  
24 billboard, logo, or symbol that is designed, intended, or used  
25 to advertise or inform [~~An object that is designed, intended, or~~

1 ~~used to advertise or inform, including a sign, display, light,~~  
2 ~~device, figure, painting, drawing, message, plaque, placard,~~  
3 ~~poster, billboard, logo, or symbol].~~

4       (29)~~(+26)~~ Sign face--The part of the sign that  
5 contains ~~[advertising or]~~ information and is distinguished from  
6 other parts of the sign, including another sign face, by borders  
7 or decorative trim. The term does not include a lighting  
8 fixture, apron, or catwalk unless it displays a part of the  
9 ~~[advertising or]~~ information contents of the sign.

10       (30)~~(+27)~~ Sign structure--All of the interrelated  
11 parts and materials that are used, designed to be used, or  
12 intended to be used to support or display ~~[advertising or]~~  
13 information contents. The term includes, at a minimum, beams,  
14 poles, braces, apron, frame, catwalk, stringers, and a sign  
15 face.

16       (31) Stacked sign--A sign with two faces placed one  
17 above another on a single structure.

18       (32)~~(+28)~~ Visible--Capable of being seen, whether or  
19 not legible, or identified without visual aid by a person  
20 operating a motor vehicle on the highways of this state ~~[of~~  
21 ~~normal visual acuity].~~

22       (33) Zoned commercial or industrial area--An area that  
23 is established by a zoning authority under state law as being  
24 most appropriate for commerce, industry, or trade, regardless of  
25 how the area is labeled. Such an area is commonly labeled as

1 commercial, industrial, business, manufacturing, retail, trade,  
2 warehouse, or a similar classification.

3  
4 §21.143. Permit Required. Except as provided by this chapter,  
5 unless a person holds a permit issued under §21.164 of this  
6 subchapter [~~division~~] (relating to Decision on Application) or  
7 §21.200 of this subchapter [~~division~~] (relating to Local Control  
8 of Commercial Signs), the person may not erect or maintain a  
9 commercial [~~an outdoor~~] sign that is:

10 (1) within 660 feet of the nearest edge of the right  
11 of way of a regulated highway if any part of the sign's  
12 [~~advertising or~~] information content is visible from any place  
13 on the main-traveled way of the highway; or

14 (2) outside of the jurisdiction of an incorporated  
15 city and more than 660 feet from the nearest edge of the right  
16 of way of a regulated highway if any part of the commercial sign  
17 [~~sign's advertising or information content~~] is visible from the  
18 main-traveled way of the highway and the sign was erected for  
19 the purpose of having its [~~advertising or~~] information content  
20 seen from the main-traveled way of the highway.

21

22 §21.144. License Required.

23 (a) Except as provided by this subchapter [~~division~~], a  
24 person may not obtain a permit for a commercial sign under this  
25 subchapter [~~division~~] unless the person holds a currently valid

1 license issued under §21.153 of this subchapter [~~division~~]  
2 (relating to License Issuance) or under §21.450 of this chapter  
3 (relating to License Issuance) applicable to the county in which  
4 the sign is to be erected or maintained.

5 (b) A license is valid for one year from the date of  
6 issuance or most recent renewal.

7 (c) Each license holder shall notify the department not  
8 later than the 30th day after the date of a change in the  
9 mailing address, telephone number, or email address of the  
10 license holder.

11  
12 §21.145. Prohibited Signs.

13 (a) A sign may not be erected or maintained on the real  
14 property of another without the property owner's permission [~~a~~  
15 ~~tree or painted or drawn on a rock or other natural feature~~].

16 (b) A sign may not be erected or maintained within the  
17 right of way of a public roadway, as prohibited by  
18 Transportation Code, §393.002, or an area that would be within  
19 the right of way if the right of way boundary lines were  
20 projected across an area of railroad right of way, utility right  
21 of way, or road right of way that is not owned by the state or a  
22 political subdivision.

23 (c) A sign may not be erected or maintained on a highway or  
24 part of a highway designated under Transportation Code,  
25 §391.252.

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~~[\$21.146. Exempt Signs.]~~

~~[(a) The following signs are exempt from this division:]~~

~~[(1) an on-premise sign that meets the criteria provided by §21.147 of this division (relating to On-premise Sign) except as provided by subsection (c) of this section:]~~

~~[(2) a sign that has the purpose of protecting life or property:]~~

~~[(3) a sign that provides information about underground utility lines:]~~

~~[(4) an official sign that is erected by a public officer, public agency, or political subdivision under the officer's, agency's, or political subdivision's constitutional or statutory authority:]~~

~~[(5) a sign required by the Railroad Commission of Texas at the principal entrance to or on each oil or gas producing property, well, tank, or measuring facility to identify or to locate the property if the sign is no larger than necessary to comply with the Railroad Commission's regulations:]~~

~~[(6) a sign of a nonprofit service club, charitable association, religious organization, chamber of commerce, nonprofit museum, or governmental entity, other than an entity to which paragraph (8) of this subsection applies, that gives information about the meetings, services, events, or locations~~

1 ~~of the entity and that does not exceed an area of 32 square~~  
2 ~~feet;]~~

3 ~~[(7) a public service sign that:]~~

4 ~~[(A) is located on a school bus stop seating~~  
5 ~~bench or shelter;]~~

6 ~~[(B) identifies the donor, sponsor, or~~  
7 ~~contributor of the shelter;]~~

8 ~~[(C) contains a public service message that~~  
9 ~~occupies at least 50 percent of the area of the sign;]~~

10 ~~[(D) has no content other than that described by~~  
11 ~~subparagraphs (B) and (C) of this paragraph;]~~

12 ~~[(E) is authorized or approved by the law of the~~  
13 ~~entity that controls the highway involved, including being~~  
14 ~~located at a place approved by the entity;]~~

15 ~~[(F) has a sign face that does not exceed an area~~  
16 ~~of 32 square feet; and]~~

17 ~~[(G) is not facing the same direction as any~~  
18 ~~other sign on that seating bench or shelter;]~~

19 ~~[(8) a sign that is erected and maintained by a public~~  
20 ~~school, a college or university, or a non-profit agricultural~~  
21 ~~fair, but only if the information presented on the sign is~~  
22 ~~limited to information about the meetings, services, events, or~~  
23 ~~on premise activities of the entity, and the total area of the~~  
24 ~~sign's face facing a particular direction of travel does not~~  
25 ~~exceed 200 square feet.]~~

1           ~~[(9) a sign that shows only the name of a ranch on~~  
2 ~~which livestock are raised or a farm on which crops are grown,~~  
3 ~~and the directions to, telephone number, or internet address of~~  
4 ~~the ranch or farm, and that has a sign face that does not exceed~~  
5 ~~an area of 32 square feet;]~~

6           ~~[(10) a sign that:]~~

7                   ~~[(A) relates only to a public election;]~~

8                   ~~[(B) is located on private property;]~~

9                   ~~[(C) is erected after the 91st day before the~~  
10 ~~date of the election and is removed before the 11th day after~~  
11 ~~the election date;]~~

12                   ~~[(D) has a sign face that does not exceed an area~~  
13 ~~of 50 square feet; and]~~

14                   ~~[(E) contains no commercial endorsement;]~~

15           ~~[(11) a sign identifying the name of a recorded~~  
16 ~~subdivision located at an entrance to the subdivision or on~~  
17 ~~property owned by or assigned to the subdivision, home owners~~  
18 ~~association, or other entity associated with the subdivision;~~  
19 ~~and]~~

20           ~~[(12) a sign that:]~~

21                   ~~[(A) is located on the sign owner's real property;]~~

22                   ~~[(B) does not result in any monetary benefit for the~~  
23 ~~owner or material benefit to a third party;]~~

24                   ~~[(C) does not relate to a public election;]~~

25                   ~~[(D) has no more than a single sign face fronting a~~

1 ~~particular direction of travel; and]~~

2 ~~[(E) has no single sign face that exceeds 96 square~~  
3 ~~feet.]~~

4 ~~[(b) This division does not apply to a sign that was~~  
5 ~~erected before October 23, 1965 and that the commission, with~~  
6 ~~the approval of the Secretary of the United States Department of~~  
7 ~~Transportation, has determined to be a landmark sign of such~~  
8 ~~historic or artistic significance that preservation would be~~  
9 ~~consistent with the purposes of the Highway Beautification Act~~  
10 ~~of 1965, 23 United States Code §131.]~~

11 ~~[(c) An on-premise sign that meets the criteria provided by~~  
12 ~~§21.147 of this division (relating to On-premise Sign) cannot be~~  
13 ~~erected earlier than one year before the date that the business~~  
14 ~~for which the sign is erected will open and conduct business.]~~

15  
16 ~~[\$21.147. On-premise Sign.]~~

17 ~~[(a) An on-premise sign is a sign that:]~~

18 ~~[(1) is located on the real property of a business and~~  
19 ~~consists only of:]~~

20 ~~[(A) the name, logo, trademark, telephone number,~~  
21 ~~and internet address of that business; or]~~

22 ~~[(B) an identification of that business's~~  
23 ~~principal or accessory products or services offered on the~~  
24 ~~property;]~~

25 ~~[(2) only advertises the sale of the real property on~~

1 ~~which the sign is located and is removed within 90 days after~~  
2 ~~the date of the closing of the real property transaction; or]~~

3 ~~[(3) only advertises the lease, including a pre-lease,~~  
4 ~~of the real property on which the sign is located and is removed~~  
5 ~~within 90 days after the date of the closing of the lease~~  
6 ~~transaction.]~~

7 ~~[(b) For the purposes of this section, a sign is located on~~  
8 ~~the real property of a business if:]~~

9 ~~[(1) the real property on which the sign is located~~  
10 ~~and the real property on which the activity of the business is~~  
11 ~~conducted are one contiguous tract that is under common~~  
12 ~~ownership; or]~~

13 ~~[(2) the sign is located on the real property of a~~  
14 ~~commercial development and the businesses of the development~~  
15 ~~share the sign structure of that sign.]~~

16 ~~[(c) For the purpose of subsection (b)(1) of this section,~~  
17 ~~real property is not considered to be a part of one contiguous~~  
18 ~~tract if the real property on which the sign is located is:]~~

19 ~~[(1) separated from the real property on which the~~  
20 ~~business activity is located by a road or highway or by another~~  
21 ~~business;]~~

22 ~~[(2) devoted to a separate purpose unrelated to the~~  
23 ~~advertised business activity;]~~

24 ~~[(3) held under an easement or other lesser property~~  
25 ~~interest than the property interest in the land on which the~~

1 ~~business activity is located; or]~~

2           ~~[(4) a narrow strip or other configuration of land~~  
3 ~~that cannot be put to any reasonable use related to the~~  
4 ~~advertised business activity other than for signing purposes.]~~

5           ~~[(d) A sign is not an on-premise sign if:]~~

6           ~~[(1) the sign consists principally of brand name or~~  
7 ~~trade name advertising and the product or service advertised is~~  
8 ~~only incidental to the principal activity;]~~

9           ~~[(2) the sign advertises activities that are not~~  
10 ~~conducted on the premises; or]~~

11           ~~[(3) the sign provides rental income to the owner of~~  
12 ~~the real property on which it is located, unless the owner of~~  
13 ~~the real property receives the income from an on-premise~~  
14 ~~business for the use of the sign.]~~

15           ~~[(e) For the purposes of this subsection:]~~

16           ~~[(1) the date of the closing of a sales transaction is~~  
17 ~~the date that legal title to a property is conveyed to a~~  
18 ~~purchaser for property under a contract to buy; and]~~

19           ~~[(2) the date of the closing of a lease transaction is~~  
20 ~~the date that the landlord and tenant enter into a binding lease~~  
21 ~~of a property.]~~

22  
23 ~~[\$21.148. Exception to License Requirement for Nonprofit Signs.~~

24 ~~A nonprofit organization may erect or maintain a nonprofit sign~~  
25 ~~without obtaining an outdoor advertising license, but the~~

1 ~~organization must obtain a permit under §21.149 of this division~~  
2 ~~(relating to Nonprofit Sign Permit) to erect or maintain such a~~  
3 ~~sign.]~~

4  
5 [~~§21.149. Nonprofit Sign Permit.~~]

6 [~~(a) A nonprofit service club, charitable association,~~  
7 ~~religious organization, chamber of commerce, economic~~  
8 ~~development council, nonprofit museum, or governmental entity~~  
9 ~~may obtain a permit under this section to erect or maintain a~~  
10 ~~nonprofit sign.]~~

11 [~~(b) To qualify as a nonprofit sign, the sign must:~~]

12 [~~(1) advertise or promote only:~~]

13 [~~(A) a political subdivision in whose~~  
14 ~~jurisdiction the sign is located or a political subdivision that~~  
15 ~~is adjacent to such a political subdivision; or]~~

16 [~~(B) the entity that will hold the permit, but~~  
17 ~~may only give information about the meetings, services, events,~~  
18 ~~or location of the entity or provide a message that relates to~~  
19 ~~promotion of all or a part of the political subdivision but that~~  
20 ~~does not include identification of individual merchants; and]~~

21 [~~(2) comply with each sign requirement under this~~  
22 ~~division from which it is not specifically exempted.]~~

23 [~~(c) An application for a permit under this section must be~~  
24 ~~in a form prescribed by the department and must include, in~~  
25 ~~detail, the content of the message to be displayed on the sign.]~~

1           ~~[(d) After a permit is issued, the permit holder must~~  
2 ~~obtain approval from the department to change the message of the~~  
3 ~~sign. The department may issue an order of removal of the sign~~  
4 ~~if the permit holder fails to obtain that approval.]~~

5           ~~[(e) If a sign ceases to qualify as a nonprofit sign, the~~  
6 ~~permit for the sign is subject to cancellation under §21.176 of~~  
7 ~~this division (relating to Cancellation of Permit).]~~

8           ~~[(f) If the holder of a permit issued under this section~~  
9 ~~loses its nonprofit status or wishes to change the sign so that~~  
10 ~~it no longer qualifies as a nonprofit sign the permit holder~~  
11 ~~must:~~]

12                   ~~[(1) obtain a license under §21.153 of this division~~  
13 ~~(relating to License Issuance) or §21.450 of this chapter~~  
14 ~~(relating to License Issuance); and]~~

15                   ~~[(2) convert the sign permit to a permit for a sign~~  
16 ~~other than a nonprofit sign and pay the original permit and~~  
17 ~~renewal fees provided by §21.175 of this division (relating to~~  
18 ~~Permit Fees).]~~

19  
20 §21.150. Continuance of Nonconforming Commercial Signs.

21           (a) Notwithstanding other provisions of this subchapter  
22 ~~[division]~~, the department will renew a permit for a  
23 nonconforming sign only if the sign structure was lawfully  
24 erected and has been maintained in accordance with the permit  
25 being renewed[+]

1           ~~[(1) was lawful on the later of the date it was~~  
2 ~~erected or became subject to the control of the department; and]~~

3           ~~[(2) remains substantially the same as it was on the~~  
4 ~~later of the date it was erected, became subject to the~~  
5 ~~department's control, or became a nonconforming sign].~~

6           (b) A sign that was legally erected before March 3, 1986 in  
7 a railroad, utility, or road right of way that is not owned by  
8 the state or a political subdivision may be maintained as a  
9 nonconforming sign if all other requirements of this subchapter  
10 ~~[division]~~are met.

11           (c) A nonconforming sign may not be:

12                 (1) removed and re-erected for any reason, other than  
13 a request by a condemning authority; or

14                 (2) substantially changed, as described by §21.191 of  
15 this subchapter ~~[division]~~ (relating to Repair and Maintenance  
16 of Commercial Signs).

17           ~~[(d) A nonprofit organization that holds a permit for a~~  
18 ~~nonconforming sign that otherwise qualifies for a permit under~~  
19 ~~§21.149 of this division (relating to Nonprofit Sign Permit) may~~  
20 ~~convert the permit to one issued under that section.]~~

21  
22 ~~[\$21.151. Time Proposed Roadway Becomes Subject to Division.~~  
23 ~~For the purposes of this division, a proposed roadway becomes a~~  
24 ~~roadway or a proposed interchange becomes an interchange:]~~

25           ~~[(1) when environmental clearance and the approved~~

1 ~~alignment have been obtained from the Federal Highway~~  
2 ~~Administration; or]~~

3 ~~[(2) if environmental clearance and approved alignment~~  
4 ~~from the Federal Highway Administration are not required for a~~  
5 ~~proposed roadway, when the alignment is approved by the~~  
6 ~~department or other political subdivision responsible for~~  
7 ~~constructing the roadway.]~~

8

9 §21.152. License Application.

10 (a) To apply for a license under this subchapter  
11 ~~[division]~~, a person must file an application in a form  
12 prescribed by the department. The application must include at a  
13 minimum:

14 (1) the complete legal name, mailing address, email  
15 address, and telephone number of the applicant; and

16 (2) designation of each county in which the  
17 applicant's signs are to be erected or maintained.

18 (b) The application must be ~~[signed, notarized, and]~~ filed  
19 with the department and be accompanied by:

20 (1) a fully executed commercial sign ~~[outdoor~~  
21 ~~advertiser's]~~ surety bond:

22 (A) in the amount of \$2,500 for each county  
23 designated under subsection (a)(2) of this section up to a  
24 maximum of \$10,000;

25 (B) payable to the commission to reimburse the

1 department for removal costs of a sign that the license holder  
2 unlawfully erects or maintains; and

3 (C) in a form prescribed by the department,  
4 executed by a surety company authorized to transact business in  
5 this state;

6 (2) a duly certified power of attorney from the surety  
7 company authorizing the surety company's representative to  
8 execute the bond on the effective date of the bond;

9 (3) the license fee prescribed by §21.156 of this  
10 subchapter [~~division~~] (relating to License Fees); and

11 (4) if applicable, an indication that the applicant is  
12 a military service member, military spouse, or military veteran  
13 to ensure priority handling of application.

14 (c) If a paper application is filed, the form must be  
15 complete and the [~~The~~] documentation and the fee required under  
16 this section must be sent to: Texas Department of  
17 Transportation, Highway Beautification Section [~~Outdoor~~  
18 ~~Advertising~~], P.O. Box 13043, Austin, Texas 78711-3043.

19  
20 §21.153. License Issuance.

21 (a) The department will issue a license if the requirements  
22 of §21.152 of this subchapter [~~division~~] (relating to License  
23 Application) are satisfied.

24 (b) The department will not issue a license to an entity  
25 that is not authorized to conduct business in this state.

1        (c) To amend a license, the license holder must file an  
2 amended application in a form prescribed by the department and  
3 accompanied by a valid rider to the surety bond.

4  
5 §21.154. License Not Transferable. A license issued under this  
6 subchapter [~~division~~] is not transferable.

7  
8 §21.155. License Renewals.

9        (a) To continue a license in effect, the license must be  
10 renewed annually in accordance with Subsection (b) of this  
11 section.

12        (b) To renew a license, the license holder must submit an  
13 [~~file a written~~] application in a form prescribed by the  
14 department accompanied by each applicable license fee prescribed  
15 by §21.156 of this subchapter [~~division~~] (relating to License  
16 Fees). The application must be received by the department  
17 before the 16th day of the month in which the license expires.  
18 The renewal [~~before the 46th day after the date of the license's~~  
19 ~~expiration and~~] must include at a minimum proof of current  
20 surety bond coverage[+]

21        [~~(1) the complete legal name, mailing address, and~~  
22 ~~telephone number of the license holder;~~]

23        [~~(2) number of the license being renewed;~~]

24        [~~(3) proof of current surety bond coverage; and~~]

25        [~~(4) the signature of the license holder or person~~]

1 ~~signing on behalf of the business entity].~~

2 (c) An expired license may be reinstated if a renewal  
3 application, accompanied by proof of current surety bond and a  
4 \$100 late processing fee, is received by the department not  
5 later than the 45th day after the expiration date of the  
6 license. A license reinstated under this subsection will have  
7 the same renewal date as if the renewal had been filed timely.

8 (d)[e] A license is not eligible for renewal if the license  
9 holder is not authorized to conduct business in this state.

10 (e) If a paper renewal application is filed, it must be  
11 complete and the [~~d~~ ~~The~~] documentation and the fee required  
12 under this section must be sent to: Texas Department of  
13 Transportation, Highway Beautification Section [~~Outdoor~~  
14 ~~Advertising~~], P.O. Box 13043, Austin, Texas 78711-3043.

15  
16 §21.156. License Fees.

17 (a) The amount of the fee for the issuance of a license  
18 issued under this subchapter is \$125.

19 (b) The amount of the annual renewal fee is \$75.

20 (c) In addition to the \$75 annual renewal fee, an  
21 additional late fee of \$100 is required for a renewal license  
22 application that is received before the 45th day after the  
23 expiration date of the license.

24 (d) A license fee is payable by credit card, check,  
25 cashier's check, or money order made payable to the Texas

1 Highway Beautification Fund, and must be submitted with the  
2 application. If payment [~~the check or money order~~] is  
3 dishonored upon presentment, the license is voidable.

4 (e) The department will provide a renewal notification by  
5 mail or electronically to the license holder at least 45 days  
6 before the date of the license expiration and if the license is  
7 not renewed before it expires, the department [~~within 20 days~~  
8 ~~after the date of expiration~~] will provide notification to the  
9 license holder of the opportunity to file a late renewal  
10 application.

11  
12 §21.158. License Revocation.

13 (a) The department will revoke a license and will not issue  
14 or renew permits or transfer existing permits under the license  
15 if:

16 (1) the surety bond is not provided within the time  
17 specified by the department under §21.152 of this subchapter  
18 [~~division~~] (relating to License Application) or §21.155 of this  
19 subchapter [~~division~~] (relating to License Renewals);

20 (2) surety bond coverage is terminated under §21.157  
21 of this subchapter [~~division~~] (relating to Temporary Suspension  
22 of License);

23 (3) the total number of final enforcement actions  
24 initiated by the department against the license holder under  
25 §21.176 of this subchapter (relating to Cancellation of Permit),

1 §21.198 of this subchapter (relating to Order of Removal);  
2 §21.204 of this subchapter (relating to Administrative Penalties  
3 for Commercial Signs), §21.425 of chapter (relating to  
4 Cancellation of Permit), §21.426 of chapter (relating to  
5 Administrative Penalties), or §21.440 of chapter (relating to  
6 Order of Removal); or Transportation Code, Chapters 391 or 394,  
7 that result in the cancellation of the license holder's sign  
8 permit, payment of an amended penalty by the license holder, or  
9 the removal of the license holder's sign equal or exceed:

10 (A) 10 percent of the number of valid permits  
11 held by the license holder if the license holder holds more than  
12 1,000 sign permits;

13 (B) 20 percent of the number of valid permits  
14 held by the license holder if the license holder holds at least  
15 500 but fewer than 1,000 sign permits;

16 (C) 25 percent of the number of valid permits  
17 held by the license holder if the license holder holds at least  
18 100 but fewer than 500 sign permits; or

19 (D) 30 percent of the number of valid permits  
20 held by the license holder if the license holder holds fewer  
21 than 100 sign permits; or

22 (4) the license holder has not complied with previous  
23 final administrative enforcement actions regarding the license  
24 or any permit held under the license.

25 (b) The department will send notice by certified mail of an

1 action under this section to the address of record provided by  
2 the license holder.

3 (c) The notice will clearly state:

4 (1) the reasons for the action;

5 (2) the effective date of the action;

6 (3) the right of the license holder to request an  
7 administrative hearing; and

8 (4) the procedure for requesting a hearing including  
9 the period in which the request must be made.

10 (d) A request for an administrative hearing under this  
11 section must be made in writing to the department at the address  
12 listed on the notice letter within 45 days after the date that  
13 the notice is mailed.

14 (e) If timely requested, an administrative hearing will be  
15 conducted in accordance with Chapter 1, Subchapter E of this  
16 title (relating to Procedures in Contested Case).

17 (f) For the purposes of this section, an enforcement action  
18 is final if the time for any further review of the action or  
19 proceeding related to the action has expired.

20

21 §21.159. Permit Application.

22 (a) To obtain a permit for a commercial sign, a license  
23 holder [~~person~~] must file an application in a form prescribed by  
24 the department. The application must include, at a minimum:

25 (1) the complete name and address of the license

1 holder [~~applicant~~];

2 (2) the complete name and address of the authorized  
3 agent of the license holder if an agent is used [~~the original~~  
4 ~~signature of the applicant~~];

5 (3) the proposed location and description of the sign;

6 (4) the complete legal name and telephone number  
7 [~~address~~] of the owner of the designated site;

8 (5) the appraisal district property tax identification  
9 number of the designated site;

10 (6) [~~the original signature of the site owner or the~~  
11 ~~site owner's authorized representative, with appropriate~~  
12 ~~documentation from the site owner authorizing the person to act~~  
13 ~~as the site owner's representative on the application~~  
14 ~~demonstrating~~];

15 [~~(A) consent to the erection and maintenance of~~  
16 ~~the sign; and~~]

17 [~~(B) right of entry onto the property of the sign~~  
18 ~~location by the department or its agents.~~]

19 [~~(7)~~]city's current zoning of the sign's location; and

20 (7) [~~(8)~~] additional information the department  
21 considers necessary to determine eligibility.

22 (b) [~~If the sign is a nonprofit sign, the application must~~  
23 ~~include verification of the applicant's nonprofit status.~~]

24 [~~(e)~~] If the sign is to be located within [~~the jurisdiction~~  
25 ~~of a municipality, including~~]the extraterritorial jurisdiction

1 of ~~a~~the municipality with a population greater than 1.9  
2 million~~[7]~~ that is exercising its statutory authority to  
3 regulate commercial signs, as authorized under §21.200 of this  
4 subchapter (relating to Local Control of Commercial Signs)  
5 ~~[outdoor advertising]~~, a certified copy of the permit issued by  
6 the municipality within the preceding twelve months must be  
7 submitted with the application.~~[unless documentation is provided~~  
8 ~~to show that the municipality requires:]~~

9 ~~[(1) the issuance of a department permit before the~~  
10 ~~municipality's; or]~~

11 ~~[(2) the erection of the sign within a period of less~~  
12 ~~than twelve months after the date of the issuance of the~~  
13 ~~municipal permit.]~~

14 (c)~~[(d)]~~ The application must be~~[-]~~

15 ~~[(1) notarized;]~~

16 ~~[(2) sent to: Texas Department of Transportation,~~  
17 ~~Outdoor Advertising, P.O. Box 13043, Austin, Texas 78711-3043;~~  
18 ~~and]~~

19 ~~[(3)]~~ accompanied by the fee prescribed by §21.175 of  
20 this subchapter ~~[division]~~ (relating to Permit Fees).

21 (d) If a paper application is filed:

22 (1) the applicant must certify that the application is  
23 complete and correct;

24 (2) the application must have original signatures; and

25 (3) the application, required documentation, and the

1 fee required under this section must be sent to: Texas  
2 Department of Transportation, Highway Beautification Section,  
3 P.O. Box 13043, Austin, Texas 78711-3043.

4 (e) A permit application fee is payable by credit card or  
5 check made payable to the Texas Highway Beautification Fund.

6 (f) [(+e)] To facilitate a site's location during the  
7 initial inspection process, the application must identify the  
8 sign site marking in accordance with §21.160 of this subchapter  
9 (relating to Applicant's Identification of a New Commercial  
10 Sign's Proposed Site) by:

11 (1) GPS coordinates in latitude and longitude,  
12 accurate within 50 feet; or

13 (2) a sketch or aerial map depicting distances to  
14 nearby landmarks.

15 (g) In addition to the other requirements of this section,  
16 an application for an electronic sign must include:

17 (1) a certified copy of the permit issued by the  
18 municipality that gives permission for the electronic sign at  
19 the site specified in the permit application or if the  
20 municipality does not issue permits, a certified copy of written  
21 permission from the municipality for the electronic sign at the  
22 site specified in the permit application; and

23 (2) contact information for a person who is available  
24 to be contacted at any time and who is able to turn off the  
25 electronic sign promptly if a malfunction occurs or is able to

1 accommodate an emergency notification request from a local  
2 authority under §21.258 of this subchapter (relating to  
3 Emergency Information).

4  
5 §21.160. Applicant's Identification of a New Commercial Sign's  
6 Proposed Site.

7 (a) An applicant for a new permit [~~for a new sign~~] must  
8 identify the proposed site of the sign on the parcel number  
9 indicated in the application by setting a stake or marking the  
10 concrete at the proposed location of the edge of the sign  
11 structure, including the sign face, that is nearest to the right  
12 of way.

13 (b) At least two feet of the stake must be visible above  
14 the ground. The stake or the mark must be distinguished from  
15 any other stake or mark at the location.

16 (c) A stake or mark on the concrete may not be moved or  
17 removed until the application is denied or if approved, until  
18 the sign has been erected.

19

20 §21.161. Site Owner's Consent; Withdrawal.

21 [~~(a)~~] A site owner's consent to the erection and  
22 maintenance of a commercial [~~the~~] sign and access to the site by  
23 the department or its agent is provided with the filing of a  
24 permit application under §21.159 of this subchapter [~~division~~]  
25 (relating to Permit Application). The consent operates for the

1 life of the lease. ~~[or until the owner delivers to the~~  
2 ~~department and to the sign owner a written statement that~~  
3 ~~permission for the maintenance or inspection by the department~~  
4 ~~or its agents of the sign has been withdrawn and documentation~~  
5 ~~showing that the lease allowing the sign has been terminated in~~  
6 ~~accordance with the terms of the lease agreement or through a~~  
7 ~~court order.]~~

8 ~~[(b) If the sign owner provides documentation that the sign~~  
9 ~~owner is disputing the lease termination, the department will~~  
10 ~~not cancel the permit until a settlement signed by both parties~~  
11 ~~or a court order settling the dispute is delivered to the~~  
12 ~~department.]~~

13

14 §21.162. Permit Application for Certain Preexisting Commercial  
15 Signs.

16 (a) If a sign was in place before the time that the land on  
17 which the sign is located first became subject to Transportation  
18 Code, Chapter 391, the owner of the sign must apply for a permit  
19 for the sign within 60 days after the date on which the  
20 department sends notice by certified mail to the owner that a  
21 permit for the sign is required. Failure to obtain a permit as  
22 required by the department will result in an order of removal  
23 under §21.198 of this subchapter (relating to Order of Removal).

24 (b) The department may issue a permit with a non-conforming  
25 status if the sign was lawfully erected before the roadway

1 became subject to regulation and the conditions of the sign or  
2 location do not meet current requirements.

3

4 §21.163. Permit Application Review.

5 (a) The department will consider permit applications in the  
6 order of the receipt of completed [~~the~~] applications.

7 (b) If a paper [~~an~~] application is rejected because it is  
8 not complete, lacks documentation, or has incorrect information,  
9 the application loses its priority position. The department will  
10 notify [~~and a copy of the application will be sent to~~] the  
11 applicant of [~~outlining~~] the reasons the application was  
12 rejected.

13 (c) The department will hold an application that is for the  
14 same site as or a conflicting site with that of an application  
15 that the department previously received until the department  
16 makes a final decision on the previously received application.  
17 The department will notify the applicant that the applicant's  
18 application is being held because an application for the same or  
19 a conflicting site was previously received. For the purposes of  
20 this subsection, the date of a final decision on an application  
21 is:

22 (1) the date of the final decision on an appeal under  
23 §21.170 of this subchapter [~~division~~] (relating to Appeal  
24 Process for Permit Denials); or

25 (2) if an appeal is not filed within the period

1 provided by §21.170 of this subchapter [~~division~~], on the 46th  
2 day after the date the denial notice was received under §21.164  
3 of this subchapter [~~division~~] (relating to Decision on  
4 Application).

5 (d) The department will review the permit application for  
6 completeness, correctness, and compliance with all requirements  
7 of this subchapter. Measurements will be taken at the site to  
8 determine if the sign placement meets the spacing and location  
9 requirements.

10

11 §21.164. Decision on Application.

12 (a) The department will make a decision on an application  
13 within 60 days after the date of receipt of the application. If  
14 the decision cannot be made within the 60 day period, the  
15 department will notify the applicant of the delay and provide  
16 the reason for the delay and provide an estimate for when the  
17 decision will be made.

18 (b) If the permit application is approved, the department  
19 will issue a permit for the sign [~~by sending a copy of the~~  
20 ~~approved application and a sign permit plate to the applicant~~].

21 (c) If the permit application is not approved, the  
22 department will send to the applicant [~~a copy of the denied~~  
23 ~~application and~~] a notice that states the reason for the denial.

24 [~~(d) If the permit application is denied, the department~~  
25 ~~will notify the landowner identified on the permit application~~

1 ~~of the denial by written notice. The notice is for~~  
2 ~~informational purposes only, and does not convey any rights to~~  
3 ~~the landowner. The landowner may not appeal the denial unless~~  
4 ~~the landowner is also the applicant.]~~

5

6 [~~§21.165. Sign Permit Plate.~~]

7 [~~(a) On receipt of the sign permit plate, the sign owner~~  
8 ~~shall securely attach the sign permit plate to the part of the~~  
9 ~~sign structure that is nearest to and visible from the closest~~  
10 ~~right of way not later than the 30th day after the date that:]~~

11 [~~(1) the sign is erected; or]~~

12 [~~(2) the permit is issued if the sign is lawfully in~~  
13 ~~existence when the highway along which it is located becomes~~  
14 ~~subject to this division.]~~

15 [~~(b) The sign permit plate may not be removed from the~~  
16 ~~sign.]~~

17 [~~(c) The sign permit plate must remain visible from the~~  
18 ~~closest right of way at all times.]~~

19 [~~(d) If a sign permit plate is lost or stolen or becomes~~  
20 ~~illegible, the sign owner must submit to the department a~~  
21 ~~request for a replacement plate on a form prescribed by the~~  
22 ~~department accompanied by the replacement plate fee prescribed~~  
23 ~~by §21.175 of this division (relating to Permit Fees).]~~

24 [~~(e) Failure to apply for a replacement permit plate, to~~  
25 ~~attach a plate to the sign structure as required in subsection~~

1 ~~(a) of this section within 60 days after the department mails~~  
2 ~~the permit plate, or to ensure visibility of an attached plate~~  
3 ~~may result in the cancellation of the permit under §21.176 of~~  
4 ~~this division (relating to Cancellation of Permit).]~~

5

6 §21.166. Commercial Sign Location Requirements.

7 (a) The department will not issue a permit under this  
8 subchapter [~~division~~] unless the sign for which application is  
9 made is located along a roadway to which Transportation Code,  
10 Chapter 391, applies and is in:

11 (1) an unzoned commercial, governmental, or industrial  
12 area; or

13 (2) a zoned commercial or industrial area.

14 (b) Subsection (a) of this section does not apply to a  
15 commercial sign that was lawfully in existence when it became  
16 subject to Transportation Code, Chapter 391.

17 (c) The department will not issue a permit or approve an  
18 application for an amended permit if the location of the sign is  
19 within the corridor of a section of highway that has received  
20 environmental clearance and alignment approval by the Federal  
21 Highway Administration, but for which the construction contract  
22 has not been awarded.

23 (d) An electronic sign may be located, relocated, or  
24 upgraded only along a regulated highway and within:

25 (1) the corporate limits of a municipality that allows

1 electronic signs under its sign or zoning ordinance; or  
2 (2) the extraterritorial jurisdiction of a  
3 municipality described by paragraph (1) of this subsection that  
4 under state law has extended its municipal regulation to include  
5 and allow electronic signs in that area.

6 (e) An electronic sign may not be located within 1,500 feet  
7 of another electronic sign on the same highway if facing the  
8 same direction of travel, or if the sign will be located in a  
9 political subdivision that is authorized to exercise control  
10 under §21.200 of this subchapter (relating to Local Control of  
11 Commercial Signs) the sign spacing must comply with the Texas  
12 Federal and State Agreement on Highway Beautification.

13  
14 §21.167. Erection and Maintenance from Private Property.

15 (a) The department will not issue a permit for a commercial  
16 sign unless it can be erected and maintained from private  
17 property.

18 (b) If the department finds sufficient evidence that the  
19 license holder [~~licensee~~] destroyed vegetation on the right of  
20 way for a proposed sign site, the permit application will be  
21 denied.

22  
23 §21.168. Conversion of Certain Authorization to Permit.

24 (a) The department will convert a commercial sign  
25 registration issued under §21.409 of this chapter (relating to

1 Permit Application) or a permit issued under §21.407 of this  
2 chapter (relating to Existing Off-Premise Signs) to a commercial  
3 sign permit under this subchapter [~~division~~] if a highway  
4 previously regulated under Transportation Code, Chapter 394  
5 becomes subject to Transportation Code, Chapter 391.

6 (b) A holder of a permit or registration converted under  
7 this section is not required to pay an original permit fee under  
8 §21.175 of this subchapter [~~division~~] (relating to Permit Fees).  
9 The permit must be renewed under §21.172 of this subchapter  
10 [~~division~~] (relating to Permit Renewals), on the date the  
11 renewal of the permit or registration issued under §21.407 or  
12 §21.409 of this chapter, as appropriate, would have been due.

13 (c) If a commercial sign owner has prepaid registration  
14 fees under §21.407 of this chapter, the outstanding balance will  
15 be credited to the sign owner's annual renewal fee.

16 [~~(d) The department will issue a sign permit plate to a~~  
17 ~~holder of a permit or a registration converted under this~~  
18 ~~section at no charge. If a replacement plate is needed after~~  
19 ~~the initial issuance, a fee will be charged in accordance with~~  
20 ~~§21.175 of this division.]~~

21  
22 §21.169. Notice of Commercial Sign Becoming Subject to  
23 Regulation.

24 (a) The department will send notice by certified mail to  
25 the owner of a commercial sign that becomes subject to

1 Transportation Code, Chapter 391 [~~because of the construction of~~  
2 ~~a new highway, the change in designation of an existing highway,~~  
3 ~~or decertification of a certified city~~]. If the owner of the  
4 sign cannot be identified from the information on file with the  
5 department, the department will give notice to the landowner of  
6 record [~~by prominently posting the notice on the sign for a~~  
7 ~~period of 45 consecutive days~~].

8 (b) If the owner of a commercial sign described by  
9 subsection (a) of this section does not hold a license issued  
10 under §21.153 of this subchapter [~~division~~] (relating to License  
11 Issuance) or §21.450 of this chapter (relating to License  
12 Issuance), the owner must obtain the license within 60 days  
13 after the day that[+]

14 [+1+] the department sends notice under subsection (a)  
15 of this section[+or]

16 [~~2) the 45-day posting period under subsection (a) of~~  
17 ~~this section ends~~].

18 (c) The sign owner must obtain a permit in accordance with  
19 §21.162 of this subchapter (relating to Permit Application for  
20 Certain Preexisting Commercial Signs) within 60 days after the  
21 later of the date of receipt of the notice under subsection (a)  
22 of this section or the date of the issuance of the license in  
23 accordance with subsection (b) of this section.

24 (d) If the sign owner fails to obtain a permit from the  
25 department within the period described by subsection (c) of this

1 section, or the sign owner cannot be determined or located, the  
2 landowner will be required to remove the sign structure in  
3 accordance with § 21.198 of this subchapter (relating to Order  
4 of Removal).

5  
6 §21.170. Appeal Process for Permit Denials.

7 (a) If a commercial sign permit is denied, the applicant  
8 may file a request for an appeal with the executive director  
9 through the Right of Way Division [~~for an appeal~~].

10 (b) The request for appeal must be written and sent:

11 (1) electronically at  
12 ROW\_outdooradvertising@txdot.gov; or [~~be in writing;~~]

13 (2) by mail to: P.O. Box 5075, Austin, Texas 78704-  
14 5075, attention "Highway Beautification Section."

15 (c) The request must

16 (1) [~~2~~] contain:

17 [~~A~~] a copy of the denied permit application;

18 [~~B~~] a statement of why the denial is believed  
19 to be in error; [~~and~~]

20 (2) [~~C~~] provide evidence that supports the issuance  
21 of the permit [~~application~~], such as documents, drawings,  
22 surveys, or photographs; and

23 (3) be received within 45 days after the date the  
24 denial notice was received.

25 (d) [~~e~~] The executive director or the executive director's

1 designee who is not below the level of assistant executive  
2 director, will make a final determination on the appeal within  
3 60 days after the date that the executive director receives the  
4 request for appeal. If the final determination is that the  
5 permit is denied, the executive director or the executive  
6 director's designee will send the final determination to the  
7 applicant stating the reason for denial. If the determination  
8 is that the application be approved, the department will issue  
9 the permit in accordance with §21.164 of this subchapter  
10 [~~division~~] (relating to Decision on Application).

11 [~~(d) If the executive director or designee is unable to~~  
12 ~~make a final determination on the appeal within the 60-day~~  
13 ~~period under subsection (c) of this section, the department will~~  
14 ~~notify the applicant by mail of the delay and provide an~~  
15 ~~estimated time in which a final determination will be made.]~~

16

17 §21.171. Permit Expiration.

18 (a) A permit is valid for one year.

19 (b) A permit automatically expires on the date that the  
20 license under which the permit was issued expires or is revoked  
21 by the department under §21.158 of this subchapter [~~division~~]  
22 (relating to License Revocation).

23

24 §21.172. Permit Renewals.

25 (a) To be continued in effect, a sign permit must be

1 renewed annually on or before its expiration date.

2 (b) A permit is eligible for renewal if the sign for which  
3 it was issued continues to meet all applicable requirements of  
4 this subchapter [~~division~~] and Transportation Code, Chapter 391.

5 (c) To renew the permit, the permit holder must file with  
6 the department a renewal [~~written~~] application in a form  
7 prescribed by the department accompanied by the applicable fees  
8 prescribed by §21.175 of this subchapter [~~division~~] (relating to  
9 Permit Fees). The application with all applicable fees must be  
10 received by the department before the 46th day after the date of  
11 the permit's expiration.

12 (d) A permit may not be renewed if the sign for which it  
13 was issued is not erected to the extent that it includes a sign  
14 face or the permit holder has not demonstrated an identifiable  
15 legal access route from private property before the first  
16 anniversary of the date that the permit was issued.

17 (e) The department will provide a renewal notification to  
18 the license holder of record at least 30 days before the date of  
19 the permit expiration. If the permit is not renewed on or  
20 before its expiration date [~~it expires, not later than 30 days~~  
21 ~~after the date of expiration~~], the department will provide  
22 notification to the license holder of the opportunity to file a  
23 late renewal with all applicable fees.

24 (f) The department will inspect the sign site and the sign  
25 structure on or after the first anniversary of the date of the

1 permit's issuance for compliance with applicable law, including  
2 regulations.

3 (g) If on the date of the inspection under subsection (f)  
4 of this section, the sign structure is not built to the full  
5 extent approved by the permit with respect to dimensions,  
6 lighting, height, or number of faces, the department will adjust  
7 the permit to reflect the dimensions, lighting, height, and  
8 number of faces of the sign structure as they exist on that  
9 date. The permit will be eligible for renewal only for the  
10 dimensions, lighting, height, and number of faces as adjusted by  
11 the department.

12 (h) The documentation and fees [~~fee~~] required under this  
13 section must be sent to: Texas Department of Transportation,  
14 Highway Beautification Section [~~Outdoor Advertising~~], P.O. Box  
15 13043, Austin, Texas 78711-3043 or submitted to the department  
16 electronically through a process established by the department.

17 (i) By filing a renewal application, the sign owner is  
18 asserting to the department that the sign meets all applicable  
19 requirements of this subchapter. Renewal of a permit does not  
20 indicate that the department has determined that the sign is in  
21 compliance with applicable regulations.

22  
23 §21.173. Transfer of Permit.

24 (a) A sign permit may be transferred only with the written  
25 approval of the department.

1 (b) At the time of the transfer, both the transferor and  
2 the transferee must hold a valid license issued under §21.153 of  
3 this subchapter [~~division~~] (relating to License Issuance) or  
4 §21.450 of this chapter (relating to License Issuance), except  
5 as provided in subsections (e) - (g) of this section.

6 (c) The permit holder must send to the department a  
7 [~~written~~] request to transfer a sign permit in a form prescribed  
8 by the department accompanied by the applicable fees prescribed  
9 by §21.175 of this subchapter [~~division~~] (relating to Permit  
10 Fees). The request may be submitted online or in writing.

11 (d) If the request is submitted in writing and is approved,  
12 the department will send to the transferor and to the transferee  
13 a copy of the approved permit transfer form.

14 (e) If the request is submitted electronically, the  
15 department will send the request to the transferor for  
16 affirmation, If affirmed by transferor, the department will  
17 notify the transferee to submit applicable fees required under  
18 subsection (c) of this section. After the fee is received, the  
19 department will confirm the completed permit transfer to the  
20 transferor and transferee electronically.

21 [~~A permit issued to a nonprofit organization under §21.149~~  
22 ~~of this division (relating to Nonprofit Sign Permit) may be~~  
23 ~~transferred to another nonprofit organization that does not hold~~  
24 ~~a license issued under §21.153 of this division or §21.450 of~~  
25 ~~this chapter if the sign will be maintained as a nonprofit~~

1 ~~sign.]~~

2 (f) ~~[A permit issued to a nonprofit organization under~~  
3 ~~§21.149 of this division may be converted to a regular permit~~  
4 ~~and transferred to a person that is not a nonprofit organization~~  
5 ~~if the transferee holds a license for the county in which the~~  
6 ~~sign is located at the time of the transfer and the sign meets~~  
7 ~~all requirements of this division.]~~

8 ~~[(g)]~~ The department may approve the transfer of one or  
9 more commercial sign permits from a transferor to a person who  
10 holds a license, with or without the signature of the  
11 transferor, if the person provides to the department:

12 (1) legal documents showing the sign has been sold;

13 (2) documents that indicate that the transferor is  
14 dead or cannot be located; or

15 (3) a court order demonstrating the new ownership of  
16 the sign permit.

17 (g) ~~[(h)]~~ The department will not approve the transfer if  
18 cancellation of the permit is pending or has been abated  
19 awaiting the outcome of an administrative hearing.

20 (h) ~~[(i)]~~ The department will approve a transfer only if  
21 the permit is valid.

22 (i) ~~[(j)]~~ The documentation and fees ~~[fee]~~ required under  
23 this section must be sent to: Texas Department of  
24 Transportation, Highway Beautification Section ~~[Outdoor~~  
25 ~~Advertising]~~, P.O. Box 13043, Austin, Texas 78711-3043 or

1 submitted to the department electronically through the process  
2 established by the department.

3

4 §21.174. Amended Permit.

5 (a) To perform customary maintenance or to make substantial  
6 changes to a commercial sign [~~the sign or sign structure~~] under  
7 §21.191 of this subchapter [~~division~~](relating to Repair and  
8 Maintenance of Commercial Signs) a permit holder must obtain an  
9 amended permit before initiating any action to the sign  
10 structure. To change the sign face of an existing permitted  
11 sign to an electronic sign under [~~Division 2 of~~] this  
12 subchapter, [~~(relating to Electronic Signs)~~] a permit holder  
13 must obtain an amended permit.

14 (b) To obtain an amended permit, the permit holder must  
15 submit an amended permit application on a form prescribed by the  
16 department. The amended permit application must provide the  
17 information required under §21.159 of this subchapter [~~division~~]  
18 (relating to Permit Application) applicable to an amended permit  
19 and indicates the change from the information in the original  
20 application for the sign permit. [~~The amended application is~~  
21 ~~not required to contain the signatures of the land owner or city~~  
22 ~~representative.~~]

23 (c) The new sign face size, configuration, height, or  
24 lighting, [~~or location~~] must meet all applicable requirements of  
25 this subchapter [~~division and if the amended permit is to erect~~

1 ~~an electronic sign, the requirements of Division 2 of this~~  
2 ~~subchapter].~~

3 (d) The holder of a permit for a nonconforming sign may  
4 apply for an amended permit to perform eligible customary  
5 maintenance under §21.191(b) of this subchapter [~~division~~]. An  
6 amended permit will not be issued for a substantial change as  
7 described by §21.191(c) of this subchapter [~~division~~] to a  
8 nonconforming sign.

9 (e) Making a change to a sign, except as provided by  
10 subsection (h) of this section, without first obtaining an  
11 amended permit is a violation of this subchapter [~~division~~] and  
12 will result in an administrative enforcement action.

13 (f) The department will make a decision on an amended  
14 permit application within 60 days of the date of the receipt of  
15 the amended permit application. If the decision cannot be made  
16 within the 60 day period the department will notify the  
17 applicant of the delay, provide the reason for the delay and  
18 provide an estimate of when the decision will be made.

19 (g) If an amended permit application is denied, the  
20 applicant may file a request with the executive director for an  
21 appeal using the same procedures found in §21.170 of this  
22 subchapter [~~division~~] (relating to Appeal Process for Permit  
23 Denials).

24 (h) If maintenance or changes authorized under this section  
25 are being made on a conforming sign because of a natural

1 disaster, on request the department may waive the requirement  
2 that the required amended permit be issued before the work  
3 begins. If the department grants a waiver under this subsection,  
4 the permit holder shall submit the amended permit application  
5 within 60 days after the date that the work is completed. If the  
6 maintenance or changes violate this section or the permit holder  
7 fails to submit the amended permit application as required by  
8 this subsection, the sign is subject to enforcement and removal  
9 actions.

10 (i) An amended permit is valid for one year after the date  
11 of the department's approval of the amended permit application.  
12 If any of the changes approved in the amended permit application  
13 are not completed within one year after the date of the  
14 department's approval, the license holder must reapply to make  
15 those changes and must pay the prescribed fee. The provisions of  
16 this subchapter relating to a permit, including §21.172(g) of  
17 this subchapter [~~division~~] (relating to Permit Renewals), apply  
18 to the amended permit. The date of the department's approval of  
19 the amended permit application is considered to be the amended  
20 permit's date of issuance.

21 (j) The documentation and fee required under this section  
22 must be sent to: Texas Department of Transportation, Highway  
23 Beautification Section [~~Outdoor Advertising~~], P.O. Box 13043,  
24 Austin, Texas 78711-3043 or submitted to the department  
25 electronically through the process established by the

1 department.

2 (k) If a sign is built with a smaller face than the size  
3 shown on the permit application, with fewer faces or number of  
4 lights shown on the permit application, or if the number of  
5 faces or lights is reduced or any face is reduced in size after  
6 the sign [~~it~~] is built, an amended permit will be required to  
7 make any changes to the configuration, height, or increase the  
8 size of the face or increase the number of lights.

9 (l) An amended application will not be approved to change  
10 the location of a permitted sign structure.

11 (m) A conforming commercial sign may be modified to be an  
12 electronic sign only if an amended permit for the electronic  
13 sign is obtained from both the municipality in whose  
14 jurisdiction the sign is located and the department.

15  
16 §21.175. Permit Fees.

17 (a) The amounts of the fees related to permits under this  
18 subchapter are:

19 (1) \$100 for an original or amended permit for a sign;

20 (2) [~~\$100 for an original or amended permit issued~~  
21 ~~under Division 2 of this subchapter for an electronic sign];~~

22 [~~(3)~~]\$100 for an original permit for a sign that was  
23 lawfully in existence when the sign became subject to  
24 Transportation Code, Chapter 391;

25 (3) [~~(4)~~] \$75 for the renewal of a permit; and

1           ~~[(5) \$75 for the renewal of a permit issued under~~  
2 ~~Division 2 of this subchapter for an electronic sign;]~~

3           (4) ~~[(6)]~~ \$25 for the transfer of a permit~~[- and]~~  
4           ~~[(7) \$25 for a replacement sign permit plate].~~

5           (b) ~~[The original and renewal permit fee for a nonprofit~~  
6 ~~sign permit is \$10.]~~

7           ~~[(e)]~~ In addition to the \$75 annual renewal fee, an  
8 additional late fee of \$100 is required for a renewal of a  
9 permit if the renewal application is received by the department  
10 after the permit expiration date but before the 46th day after  
11 the permit expiration date.

12           ~~[(d) No fee is charged for the transfer of a permit issued~~  
13 ~~to a nonprofit organization to another nonprofit under §21.173~~  
14 ~~of this division (relating to Transfer of Permit). The fee~~  
15 ~~provided under subsection (a)(6) of this section applies to the~~  
16 ~~conversion and transfer of a permit issued to a nonprofit~~  
17 ~~organization to a person other than a nonprofit organization~~  
18 ~~under §21.173 of this division.]~~

19           (c) ~~[(e)]~~ A fee prescribed by this section is payable by  
20 credit card, check, cashier's check, or money order. If payment  
21 ~~[a check or money order]~~ is dishonored upon presentment, the  
22 permit, renewal, amended permit, or transfer is void.

23  
24 §21.176. Cancellation of Permit.

25           (a) The department will cancel a permit for a commercial

1 sign if the sign:

2 (1) is removed, unless the sign is removed and re-  
3 erected at the request of a condemning authority;

4 (2) is not maintained in accordance with this  
5 subchapter [~~division~~] or Transportation Code, Chapter 391;

6 (3) is damaged beyond repair, as determined under  
7 §21.197 of this subchapter [~~division~~] (relating to  
8 Discontinuance of Nonconforming Commercial Sign Due to  
9 Destruction);

10 (4) is abandoned, as determined under §21.181 of this  
11 subchapter [~~division~~] (relating to Abandonment of Sign);

12 (5) has substantial changes made to a non-conforming  
13 sign in violation of this subchapter [~~division~~] or  
14 Transportation Code, Chapter 391;

15 (6) is built by an applicant who uses false  
16 information on a material issue of the permit application;

17 (7) is erected, repaired, or maintained in violation  
18 of §21.199 of this subchapter [~~division~~] (relating to  
19 Destruction of Vegetation and Access from Right of Way  
20 Prohibited);

21 (8) has been made more visible by the permit holder  
22 clearing vegetation from the highway right of way in violation  
23 of §21.199 of this subchapter [~~division~~];

24 (9) is located in an unzoned commercial or industrial  
25 area and the department has evidence that an activity supporting

1 the unzoned commercial or industrial area was created primarily  
2 or exclusively to qualify the area as an unzoned commercial or  
3 industrial area[~~, and that no activity has been conducted at the~~  
4 ~~site within one year~~]; or

5 (10) is accessed, erected, repaired, or maintained  
6 from the right of way [~~site cannot be accessed from private~~  
7 ~~property~~].

8 (b) The department will cancel a permit for a commercial  
9 sign if the sign owner:

10 (1) fails to cure a violation in accordance with  
11 §21.205 of this subchapter, (relating to Curable Commercial Sign  
12 Permit Violations); or

13 (2) fails to pay an administrative penalty under  
14 §21.204 of this subchapter, (relating to Administrative  
15 Penalties for Commercial Signs).

16 [~~The department may cancel a permit for a sign if the~~  
17 ~~sign:~~]

18 [~~(1) is erected after the effective date of this~~  
19 ~~section and is more than twenty feet from the location described~~  
20 ~~in the permit application, or is built within twenty feet of the~~  
21 ~~location described in the permit application but at a location~~  
22 ~~that does not meet all spacing requirements of this chapter or~~  
23 ~~other assertions contained in the permit application;~~]

24 [~~(2) has customary repairs made to a non-conforming~~  
25 ~~sign, or substantial changes made to a conforming sign without~~

1 ~~obtaining a required amended permit under §21.174 of this~~  
2 ~~division (relating to Amended Permit);]~~

3 ~~[(3) is erected, repaired, or maintained from the~~  
4 ~~right of way; or]~~

5 ~~[(4) does not have the permit plate properly attached~~  
6 ~~under §21.165 of this division (relating to Sign Permit Plate).]~~

7 ~~[(c) Before initiating an enforcement action under this~~  
8 ~~section, the department will notify the sign owner in writing of~~  
9 ~~the violation of subsection (b) of this section and will give~~  
10 ~~the sign owner 60 days to correct the violation, provide proof~~  
11 ~~of the correction, and if required, obtain an amended permit~~  
12 ~~from the department.]~~

13 (c) ~~[(d)]~~ Upon determination that a permit should be  
14 canceled, the department will mail a notice of cancellation to  
15 the address of the record permit ~~[license]~~ holder. The notice  
16 must state:

17 (1) the reason for the cancellation;

18 (2) the effective date of the cancellation;

19 (3) the right of the permit holder to request an  
20 administrative hearing on the cancellation; and

21 (4) the procedure for requesting a hearing and the  
22 period for filing the request.

23 (d) ~~[(e)]~~ A request for an administrative hearing under  
24 this section must be in writing and delivered to the department  
25 within 45 days after the date that the notice of cancellation is

1 received.

2 (e) [~~(f)~~] If timely requested, an administrative hearing  
3 will be conducted in accordance with Chapter 1, Subchapter E of  
4 this title (relating to Procedures in Contested Case) and the  
5 cancellation is abated until the cancellation is affirmed by  
6 order of the commission.

7 (f) [~~(g)~~] A permit holder may voluntarily cancel a permit  
8 by submitting a request in writing after the sign has been  
9 removed. Subsections (c)-(e) [~~(d)-(f)~~] of this section do not  
10 apply to a permit voluntarily canceled under this subsection.

11 [~~(h) The department will notify the landowner identified on  
12 the permit application of a cancellation enforcement action.  
13 The notice is for informational purposes only, and does not  
14 convey any rights to the landowner. The landowner may not  
15 appeal the cancellation unless the landowner is also the holder  
16 of the permit.]~~

17  
18 §21.177. Commercial or Industrial Area. For the purposes of  
19 this subchapter [~~division~~], a commercial or industrial area is:

20 (1) a zoned commercial or industrial area described by  
21 §21.178 of this subchapter [~~division~~] (relating to Zoned  
22 Commercial or Industrial Area); or

23 (2) an unzoned commercial or industrial area described  
24 by §21.179 of this subchapter [~~division~~] (relating to Unzoned  
25 Commercial or Industrial Area).

1  
2 §21.178. Zoned Commercial or Industrial Area. A zoned  
3 commercial or industrial area is an area that is designated,  
4 through a comprehensive zoning action, for general commercial or  
5 industrial use by a political subdivision with legal authority  
6 to zone. An area is not a zoned commercial or industrial area  
7 if it is:

8 (1) an area in which limited commercial or industrial  
9 activities incident to other primary land uses is allowed;

10 (2) an area that is designated for and created  
11 primarily to allow commercial sign [~~outdoor advertising~~]  
12 structures along a regulated highway;

13 (3) an unrestricted area; or

14 (4) a small parcel or narrow strip of land that cannot  
15 be put to ordinary commercial or industrial use and that is  
16 designated for a use classification that is different from and  
17 less restrictive than its surrounding area.

18

19 §21.179. Unzoned Commercial or Industrial Area.

20 (a) An unzoned commercial or industrial area is an area  
21 that:

22 (1) is within 800 feet, measured from the nearest  
23 point along the edge of the highway right of way perpendicular  
24 to the centerline of the main-traveled way, of and on the same  
25 side of the highway as the principal part of at least two

1 adjacent recognized governmental, commercial, or industrial  
2 activities that meet the requirements of subsection (c) of this  
3 section;

4 (2) is not predominantly used for residential  
5 purposes; and

6 (3) has not been zoned under authority of law.

7 (b) A part of the regularly used buildings, parking lots,  
8 or storage or processing areas of each of the governmental,  
9 commercial, or industrial activities must be within 200 feet of  
10 the highway right of way and a portion of the permanent building  
11 in which the activity is conducted must be visible from the  
12 main-traveled way.

13 (c) For governmental, commercial, or industrial activities  
14 to be considered adjacent for the purposes of subsection (a)(1)  
15 of this section, the regularly used buildings, parking lots,  
16 storage or processing areas of the activities may not be  
17 separated by:

18 (1) a public road, or a street; or

19 (2) more than 50 feet of:

20 (A) vacant lot;

21 (B) undeveloped area; or

22 (C) a non-governmental, non-commercial, or non-  
23 industrial area.

24 (d) Two activities that occupy the same building qualify as  
25 adjacent activities for the purposes of subsection (a)(1) of

1 this section, if:

2 (1) each activity:

3 (A) has at least 400 square feet of floor space  
4 dedicated to that activity; and

5 (B) is an activity that is customarily allowed  
6 only in a zoned commercial or industrial area;

7 (2) the two activities are separated by a dividing  
8 wall constructed from floor to ceiling;

9 (3) the two activities have access to the restroom  
10 facilities during all hours the activity is staffed or opened;  
11 and

12 (4) the two activities operate independently of one  
13 another.

14 (e) For the purposes of subsection (d) of this section, two  
15 separate product lines offered by one business are not  
16 considered to be two activities.

17 (f) To determine whether an area is not predominantly used  
18 for residential purposes under subsection (a)(2) of this  
19 section, not more than 50 percent of the area, considered as a  
20 whole, may be used for residential purposes. A road or street is  
21 considered to be used for residential purposes only if  
22 residential property is located on both of its sides. The area  
23 to be considered is the total of actual or projected frontage of  
24 the commercial or industrial activities plus 800 feet on each  
25 side of that frontage, measured along the highway right of way

1 to a depth of 660 feet. The depth of an unzoned commercial or  
2 industrial area is measured from the nearest edge of the highway  
3 right of way perpendicular to the centerline of the main-  
4 traveled way of the highway.

5 (g) The length of an unzoned commercial or industrial area  
6 is measured from the outer edge of the regularly used building,  
7 parking lot, storage, or processing area of the commercial or  
8 industrial activity and along or parallel to the edge of the  
9 pavement of the highway. If the business activity does not front  
10 the highway, a projected frontage is measured from the outer  
11 edge of the regularly used building, parking lot, storage, or  
12 processing area to a point perpendicular to the centerline of  
13 the main-traveled way.

14 (h) A sign is not required to meet the requirements of  
15 subsection (d)(1)(A), (2), or (3) of this section or § 21.180 of  
16 this subchapter [~~division~~] (relating to Commercial or Industrial  
17 Activity) to maintain conforming status if the permit for the  
18 sign was issued before the effective date of this section.

19  
20 §21.180. Commercial or Industrial Activity.

21 (a) For the purposes of this subchapter [~~division~~], a  
22 governmental, commercial or industrial activity is an activity  
23 that:

24 (1) is customarily allowed only in a zoned commercial  
25 or industrial area; and

1           (2) is conducted in a permanent building or structure  
2 permanently affixed to the real property that:

3                   (A) has an indoor restroom, running water,  
4 functioning electrical connections, and permanent flooring,  
5 other than dirt, gravel, or sand;

6                   (B) is visible from the traffic lanes of the  
7 main-traveled way;

8                   (C) is not primarily used as a residence; and

9                   (D) has at least 400 square feet of its interior  
10 floor space devoted to the activity.

11           (b) For the purposes of this subchapter, a building or  
12 structure is considered permanently affixed if:

13                   (1) it has an attached septic field or is part of a  
14 sewer system, or is considered to be real property by the county  
15 appraisal district; or

16                   (2) all of the following requirements are met:

17                           (A) it has no wheels attached;

18                           (B) it does not have a towing device, such as  
19 hitch or tongue; and

20                           (C) it has anchoring straps or cables affixed to  
21 the ground using pier footing.

22           (c) The following are not commercial or industrial  
23 activities:

24                   (1) agricultural, forestry, ranching, grazing,  
25 farming, and related activities, including the operation of a

1 temporary wayside fresh produce stand;

2 (2) an activity that is conducted only seasonally;

3 (3) an activity that has not been conducted at its  
4 present location for at least 180 days;

5 (4) an activity that is not conducted by at least one  
6 person at the activity site, and that is not operated for at  
7 least 30 hours per week and on at least four days per week;

8 (5) the operation or maintenance of:

9 (A) a commercial sign [~~an outdoor advertising~~  
10 ~~structure~~];

11 (B) a public space [~~recreational facility, such~~  
12 ~~as a campground, golf course, tennis court, wild animal park, or~~  
13 ~~zoo,~~] other than the related activities conducted in a building  
14 or structure that meets the requirements of subsection (a)(2) of  
15 this section and the parking facilities for that building or  
16 structure;

17 (C) an apartment house or residential  
18 condominium;

19 (D) a public or private preschool, secondary  
20 school, college, or university, other than a trade school or  
21 corporate training campus;

22 (E) a quarry or borrow pit, other than the  
23 related activities conducted in a building or structure that  
24 meets the requirements of subsection (a)(2) of this section and  
25 the parking facilities for that building or structure;

- 1 (F) a cemetery; or  
2 (G) a place that is primarily used for worship;  
3 (6) an activity that is conducted on a railroad right  
4 of way; and  
5 (7) an activity that is created primarily or  
6 exclusively to qualify an area as an unzoned commercial or  
7 industrial area.

8 (d) For the purposes of this section, a building is not  
9 primarily used as a residence if more than 50 percent of the  
10 building's square footage is used solely for the business  
11 activity.

12 (e) A sign is not required to meet the requirements of  
13 subsection (a)(2)(C)(as clarified by subsection (d) of this  
14 section), (a)(2)(D), (c)(3), or (c)(4) of this section to  
15 maintain conforming status if the permit for the sign was issued  
16 before the effective date of this section.

17  
18 §21.181. Abandonment of Sign.

19 (a) The department may consider a sign abandoned and cancel  
20 the sign's permit if:

21 (1) all [~~the~~] sign faces are [~~face is~~] blank or  
22 without legible content; [~~advertising or copy for a period of~~  
23 ~~365 consecutive days or longer; or~~]

24 (2) the sign structure needs more than customary  
25 maintenance to be repaired; or

1           (3) the sign structure is overgrown by trees or other  
2 vegetation.

3           ~~(b) [Small temporary signs, such as garage sale signs or~~  
4 ~~campaign signs, that are attached to the structure do not~~  
5 ~~constitute legible advertising or copy for the purpose of ending~~  
6 ~~the period under subsection (a)(1) of this section.]~~

7           ~~[(e)]~~ The department will not consider the payment of  
8 property taxes or the retention of a sign as a balance sheet  
9 asset in determining whether the sign permit should be canceled  
10 under this section.

11           ~~[(d) The department may initiate the cancellation process~~  
12 ~~if the department has evidence that supports the fact that the~~  
13 ~~sign face has been blank or has been without legible~~  
14 ~~advertisement or copy for 365 days, such as photographs showing~~  
15 ~~that on at least four dates throughout the 365-day period the~~  
16 ~~sign was in the same condition or was degrading. Evidence is~~  
17 ~~not required for each of the 365 days.]~~

18           ~~[(e) If the location of the abandoned sign is allowed under~~  
19 ~~this division, the department may issue a permit for the sign~~  
20 ~~site to anyone who submits an application that meets the~~  
21 ~~requirements of this division. The department will not issue a~~  
22 ~~permit for an abandoned sign that is located in a place that~~  
23 ~~does not meet the requirements of this division.]~~

24           ~~[(f) For the purposes of this section "copy" includes any~~  
25 ~~advertisement that the sign is available for lease.]~~

1       ~~[(g) A multi-face sign is not abandoned unless all sign~~  
2 ~~faces may be considered abandoned under this section.]~~

3       ~~[(h) Before initiating a cancellation process under this~~  
4 ~~section the department will provide notice to the sign owner and~~  
5 ~~land owner as identified on the permit application of the~~  
6 ~~abandonment determination and allow the sign owner 60 days to~~  
7 ~~correct the issue.]~~

8

9       §21.182. Commercial Sign Face Size and Positioning.

10       (a) A sign face may not exceed:

11               (1) 672 square feet in area;

12               (2) 25 feet in height; and

13               (3) 60 feet in length.

14       (b) For the purposes of this section, border and trim are  
15 included as part of the sign face, and the base, apron,  
16 supports, and other structural members, are excluded as part of  
17 the sign face.

18       (c) Notwithstanding the area limitation provided by  
19 subsection (a)(1) of this section, one or more temporary  
20 protrusions may be added to a sign, provided that the sign face,  
21 including the protrusions, meets the height and length  
22 limitations of subsection (a) of this section and:

23               (1) the area of a protrusion is located exclusively  
24 inside of the sign face border and trim; or

25               (2) the area of the protrusion is outside of the sign

1 face border and trim, as indicated on the sign permit, and does  
2 not exceed 10 percent of the permitted area.

3 (d) Except as provided in subsection (g) of this section, a  
4 [A] sign may have two or more sign faces that are placed back-  
5 to-back, side-by-side, stacked, or in "V" type construction with  
6 not more than two faces presented in each direction. If such an  
7 arrangement is used, the sign structure or structures are  
8 considered to be one sign for all purposes. Two sign faces  
9 which together exceed 700 square feet in area may not face in  
10 the same direction.

11 (e) Two sign faces that face in the same direction may be  
12 presented as one face by covering both faces and the area  
13 between the faces with an advertisement, as long as the size  
14 limitations of subsection (a) of this section are not exceeded.

15 (f) A sign may not have a moveable protrusion unless  
16 authorized under [~~Division 2 of~~] this subchapter (relating to  
17 Electronic Signs).

18 (g) Two electronic sign faces may be located on the same  
19 sign structure if each sign face is visible only from a  
20 different direction of travel.

21

22 §21.184. Location of Commercial Signs Near Public Spaces  
23 [~~Parks~~].

24 (a) The center of a sign may not be located within 250 feet  
25 of the nearest point of the boundary of a public space [~~park~~].

1 (b) This subsection applies only if a public space [~~park~~]  
2 boundary abuts the right of way of a regulated highway. A sign  
3 may not be located within 1,500 feet of the boundary of the  
4 public space [~~park~~], as measured along the right of way line  
5 from the nearest common point of the space's boundary and the  
6 right of way. This limitation applies:

7 (1) on both sides of a highway that is on a nonfreeway  
8 primary system; or

9 (2) on the side of a highway on which the public space  
10 [~~park~~] is located, if the highway is on an interstate or freeway  
11 primary system.

12

13 §21.185. Location of Commercial Signs Near Certain Facilities.

14 (a) A sign may not be erected along a freeway or interstate  
15 regulated highway that is outside an incorporated municipality  
16 in an area that is adjacent to or within 1,000 feet of:

17 (1) an interchange or intersection at grade; or

18 (2) a rest area, ramp, or the highway's acceleration  
19 and deceleration lanes.

20 (b) The distance from a ramp or acceleration or  
21 deceleration lane is measured from the point of the pavement  
22 widening at the beginning of the entrance or exit ramp and from  
23 the point that the pavement widening ends at the conclusion of  
24 the entrance or exit ramp.

25 (c) The distance from a rest area is measured along the

1 right of way line from the outer edges of the rest area boundary  
2 abutting the right of way.

3 (d) An area is adjacent to a rest area or a highway's  
4 acceleration or deceleration lane if the area is between the  
5 point of the highway widening at the beginning of the entrance  
6 or exit ramp and the point that pavement widening ends at the  
7 conclusion of the entrance or exit ramp.

8 (e) All measurements are taken from a point perpendicular  
9 to the highway and along the highway right of way.

10

11 §21.186. Location of Commercial Signs Near State Right of Way.

12 A sign may not be erected so that the part of the sign face  
13 nearest a highway is within five feet of the highway's right of  
14 way line.

15

16 §21.187. Spacing of Commercial Signs.

17 (a) Permitted signs on the same side of a regulated  
18 freeway, including freeway frontage roads, may not be erected  
19 closer than 1,500 feet apart.

20 (b) For a highway on a non-freeway primary system and  
21 outside the incorporated boundaries of a municipality, permitted  
22 signs on the same side of the highway may not be erected closer  
23 than 750 feet apart.

24 (c) For a highway on a non-freeway primary system highway  
25 and within the incorporated boundaries of a municipality,

1 permitted signs on the same side of the highway may not be  
2 erected closer than 300 feet apart.

3 (d) A permitted sign that is located within the  
4 incorporated boundaries of a certified city on a highway on a  
5 freeway primary system may not be closer than:

6 (1) 1,500 feet to another sign that is on the same  
7 side of the highway and outside the incorporated boundaries of a  
8 municipality; or

9 (2) 500 feet to another sign that is on the same side  
10 of the highway and inside the incorporated boundaries of a  
11 municipality.

12 (e) A permitted sign that is located within the  
13 incorporated boundaries of a municipality on a highway that is  
14 on a non-freeway primary system may not be closer than:

15 (1) 750 feet to another sign that is on the same side  
16 of the highway and outside the incorporated boundaries of a  
17 municipality; or

18 (2) 300 feet to another sign that is on the same side  
19 of the highway and inside the incorporated boundaries of a  
20 municipality.

21 (f) For the purposes of this section, the space between  
22 commercial signs is measured between points along the right of  
23 way of the highway perpendicular to the center of the signs.

24 (g) For the purposes of this section, a municipality's  
25 extraterritorial jurisdiction is not considered to be included

1 within the boundaries of the municipality.

2 (h) [~~This section does not apply to directional signs, on-~~  
3 ~~premise signs, or official signs that are exempted from the~~  
4 ~~application of Transportation Code, §391.031.~~]

5 [(i)] The spacing requirements of this section do not apply  
6 to commercial signs separated by buildings, natural  
7 surroundings, or other obstructions in a manner that causes only  
8 one of the signs to be visible within the specified spacing  
9 area.

10 (i) [(j)] A permitted sign may not be erected within five  
11 feet of the highway right of way line. The distance shall be  
12 measured from the end of the sign face nearest the right of way  
13 line.

14 (j) [(k)] A permitted sign that is being displaced by a  
15 highway construction project will not be considered in  
16 determining the spacing for a new sign application.

17  
18 §21.188. Wind Load Pressure. An application for new commercial  
19 sign permit or a permit renewal must include a certification  
20 [~~signed~~] by the applicant that the proposed or existing sign  
21 will withstand wind load pressures in pounds per square foot as  
22 set out in the following table.

23 Figure: 43 TAC §21.188.

24

Wind Load Pressure in Pounds per Square Foot
--

Height, in feet above ground, as measured above the average level of the ground adjacent to the structure	Pressure, pounds per square foot
0 - 5	0
6 - 30	20
31 - 50	25
51 - 99	35
100 - 199	45
200 - 299	50
300 - 399	55
400 - 500	60
501 - 800	70
Over 800	77

1

2 §21.189. Commercial Sign Height Restrictions.

3 (a) Except as provided by subsections [~~subsection~~] (f) and  
4 (g) of this section, a commercial sign may not be erected that  
5 exceeds an overall height of 42-1/2 feet.

6 (b) A roof sign that has a solid sign face surface may not  
7 at any point exceed 24 feet above the roof level.

8 (c) A roof sign that has an open sign face in which the  
9 uniform open area between individual letter or shapes is not  
10 less than 40 percent of the total gross area of the sign face

1 may not at any point exceed 40 feet above the roof level.

2 (d) The lowest point of a projecting roof sign or a wall  
3 sign must be at least 14 feet above grade.

4 (e) For the purposes of this section, height is measured  
5 from the centerline of the main-traveled way closest to the sign  
6 face, at a point perpendicular to the sign location. A frontage  
7 road of a controlled access highway or freeway is not considered  
8 the main-traveled way for purposes of this subsection. In the  
9 event that the main-traveled way that is perpendicular to the  
10 sign structure is below grade, sign height will be measured from  
11 the base of the sign structure.

12 (f) The height measurement does not include any renewable  
13 energy device such as solar panels or wind turbines that are  
14 attached to the sign structure above the sign face to improve  
15 the energy efficiency of the sign structure.

16 (g) A commercial sign structure erected prior to March 1,  
17 2017 may not be higher than 85 feet, excluding a cutout that  
18 extends above the rectangular border of the sign face.

19 (h) A person may rebuild a sign structure erected prior to  
20 March 1, 2017 without obtaining a new or amended permit from the  
21 department, provided that the sign is rebuilt at the same  
22 location where the sign existed on March 1, 2017, at a height  
23 that does not exceed the height of the sign on that date and  
24 continues to complies with all other provisions of the sign  
25 permit except height.

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§21.190. Lighting of and Movement on Commercial Signs.

(a) Other than a sign permitted as an electronic sign, a  
[A] sign may not contain or be illuminated by flashing,  
intermittent, or moving lights, including any type of screen  
using animated or scrolling displays [~~, except that this~~  
~~subsection does not apply to a sign that only provides public~~  
~~service information, such as time, date, temperature, weather,~~  
~~or similar information].~~

(b) A conforming [~~Except for a relocated sign, any new~~]  
sign may be illuminated but only by:

(1) upward lighting of no more than 4 luminaires per  
direction of the sign face or faces of the structure; or

(2) downward lighting of no more than 4 luminaires per  
direction of the sign face or faces of the structure.

(c) Lights that are a part of or illuminate a sign:

(1) must be shielded, directed, and positioned to  
prevent beams or rays of light from being directed at any  
portion of the traveled ways of a regulated highway;

(2) may not be of such intensity or brilliance as to  
cause vision impairment of a driver of any motor vehicle on a  
regulated highway or otherwise interfere with the driver's  
operation of a motor vehicle; and

(3) may not obscure or interfere with the  
effectiveness of an official traffic sign, device, or signal.

1 (d) A temporary protrusion may not be illuminated by  
2 flashing or moving lights or enhanced by reflective material  
3 that creates the illusion of flashing or moving lights.

4 (e) Reflective paint or reflective disks may be used on a  
5 sign face only if the paint or disks do not:

6 (1) create the illusion of flashing or moving lights;  
7 or

8 (2) cause an undue distraction to the traveling  
9 public.

10 (f) A neon light may be used on a sign face only if:

11 (1) the light does not flash;

12 (2) the light does not cause an undue distraction to  
13 the traveling public; and

14 (3) the permit for the sign specifies that the sign is  
15 an illuminated sign.

16 (g) This subchapter [~~division~~] does not prohibit a  
17 temporary protrusion area of the sign face that displays only  
18 numerical characters and that satisfies this subsection and the  
19 requirements of §21.182 of this subchapter [~~division~~] (relating  
20 to Commercial Sign Face Size and Positioning). An electronic  
21 sign may contain a temporary protrusion described by this  
22 subsection. The display on the temporary protrusion may be a  
23 digital or other electronic display, but if so:

24 (1) it must consist of a stationary image;

25 (2) it may not change more frequently than four times

1 in any 24 hour period; and

2 (3) the process of any change of display must be  
3 completed within two minutes.

4 (h) If the department finds that an electronic sign causes  
5 glare or otherwise impairs the vision of the driver of a motor  
6 vehicle or otherwise interferes with the operation of a motor  
7 vehicle, the owner of the sign, within 12 hours of a request by  
8 the department, shall reduce the intensity of the sign to a  
9 level acceptable to the department.

10

11 §21.191. Repair and Maintenance of Commercial Signs.

12 (a) The following are considered to be routine maintenance  
13 activities that do not require an amended permit:

14 (1) the replacement of nuts and bolts;

15 (2) nailing, riveting, or welding;

16 (3) cleaning and painting;

17 (4) manipulation of the sign structure to level or  
18 plumb it;

19 (5) changing of the advertising message;

20 (6) the replacement of minor parts if the materials of  
21 the minor parts are the same type as those being replaced and  
22 the basic design or structure of the sign is not altered;

23 (7) changing all or part of the sign [~~face~~] structure  
24 but only if materials similar to those of the sign structure  
25 [~~face~~] being replaced are used; and

1           (8) upgrading existing lighting for an energy  
2 efficient lighting system.

3           (b) Except as allowed by Transportation Code, §391.038, the  
4 [~~The~~] following are considered to be customary maintenance  
5 activities that may be made but require an amended permit before  
6 the initiation of such an activity:

7           (1) replacement of poles, but only if not more than  
8 one-half of the total number of poles of the sign structure are  
9 replaced in any 12 month period and the same material is used  
10 for the replacement poles; and

11           (2) adding a catwalk to the sign structure.

12           (c) The following are examples of substantial changes that  
13 may be made but require an amended permit before the initiation  
14 of such an activity:

15           (1) adding lights to an un-illuminated sign or adding  
16 additional lights or adding more intense lighting to an  
17 illuminated sign whether or not the lights are attached to the  
18 sign structure;

19           (2) changing the number of poles in the sign  
20 structure;

21           (3) adding permanent bracing wires, guy wires, or  
22 other reinforcing devices;

23           (4) changing the material used in the construction of  
24 the sign structure, such as replacing wooden material with metal  
25 material;

1 (5) adding faces to a sign or changing the sign  
2 configuration;

3 (6) increasing the height of the sign;

4 (7) changing the configuration of the sign structure,  
5 such as changing a "V" sign to a stacked or back to back sign,  
6 or a single face sign to a back-to back sign; and

7 (8) moving the sign structure or sign face in any way  
8 unless the movement is made in accordance with §21.192 of this  
9 subchapter [~~division~~] (relating to Permit for Relocation of  
10 Sign).

11 (d) To add a catwalk to a sign structure the catwalk must  
12 meet Occupational Safety and Health Administration guidelines.

13

14 §21.192. Permit for Relocation of a Commercial Sign.

15 (a) A commercial sign that has been timely removed from a  
16 department construction project site may be relocated in  
17 accordance with this section, §21.193 of this subchapter  
18 [~~division~~] (relating to Location of Relocated Commercial Sign)[~~-~~  
19 ~~§21.194 of this division (relating to Construction and~~  
20 ~~Appearance of Relocated Sign),]~~ and §21.195 of this subchapter  
21 [~~division~~] (relating to Relocation of Sign within a Certified  
22 City [~~Municipality~~]) if the sign is legally erected and  
23 maintained and will be within the highway right of way as a  
24 result of a highway construction project or, under exceptional  
25 circumstances as determined by the executive director or the

1 executive director's deputy if the sign is legally erected and  
2 maintained and the relocation will further the intended purposes  
3 of the Highway Beautification Act of 1965 (23 U.S.C. §§131, 136,  
4 319).

5 (b) To relocate a sign under this section, the permit  
6 holder must obtain a new permit under §21.164 of this subchapter  
7 [~~division~~] (relating to Decision on Application)[~~, but the~~  
8 ~~permit fee is waived~~].

9 (c) To receive a new permit to relocate a sign under this  
10 section, the permit holder must submit a new permit application  
11 that identifies that the application is for the relocation of an  
12 existing sign due to a highway construction project. The new  
13 location must meet all local codes, ordinances, and applicable  
14 laws.

15 (d) The permit holder must receive the permit approving the  
16 relocation of the existing sign before applying for an amended  
17 permit under §21.174 of this subchapter [~~division~~] (relating to  
18 Amended Permit) to change the sign structure.

19 (e) Notwithstanding other provisions of this section, if  
20 only a part of a sign will be located within the highway right  
21 of way as a result of the construction project, the sign owner  
22 may apply to amend the existing permit for the sign to  
23 authorize:

24 (1) the adjustment of the sign face on a monopole sign  
25 that would overhang the proposed right of way and the required

1 five foot setback from that location to the land on which the  
2 sign's pole is located, including adding a second pole if  
3 required to support the adjustment for a legal non-conforming  
4 monopole sign;

5 (2) the relocation of the poles and sign face of a  
6 multiple sign structure that is located in the proposed right of  
7 way from the proposed right of way and the required five-foot  
8 setback to the land on which the other poles of the sign  
9 structure are located; or

10 (3) a reduction in the size of a sign structure that  
11 is located partially in the proposed right of way and the  
12 required five-foot setback so that the sign structure and sign  
13 face are removed from the proposed right of way and the required  
14 five-foot setback.

15 (f) A permit application for the relocation of a sign must  
16 be submitted within 36 months after the earlier of the date the  
17 original sign was removed or the date the original sign was  
18 required to move. The sign owner is required to continue to  
19 renew the sign permit and pay the permit renewal fee for the  
20 sign to remain eligible for relocation. The relocation permit  
21 issued must be maintained in accordance with §21.172 of this  
22 subchapter [~~division~~] (relating to Permit Renewals).

23 (g) To replace an issued and active relocation permit, an  
24 operator first must cancel the permit, then must reapply, pay  
25 the fee prescribed by §21.175 of this subchapter [~~division~~]

1 (relating to Permit Fees), and obtain approval for the new  
2 permit in accordance with subsection (a) of this section. The  
3 relocation process must be completed within the time  
4 requirements of subsection (f) of this section.

5  
6 §21.193. Location of Relocated Commercial Sign.

7 ~~[(a) To receive a new permit for relocation, an existing~~  
8 ~~sign must be relocated on a part of the same parcel of land on~~  
9 ~~which the sign was situated before relocation in a location that~~  
10 ~~is allowed under this section.]~~

11 ~~[(b) If the sign owner can demonstrate that the location~~  
12 ~~under subsection (a) of this section is not physically or~~  
13 ~~economically feasible for a sign structure, the sign owner, on~~  
14 ~~approval by the department, may relocate the sign to any other~~  
15 ~~location that is allowed under this subsection. The owner is not~~  
16 ~~entitled to additional relocation benefits under §21.196 of this~~  
17 ~~division (relating to Relocation Benefits) if the sign structure~~  
18 ~~is relocated further than 50 miles from the location of the~~  
19 ~~existing sign.]~~

20 (a) ~~[(e)]~~The location of the relocated sign must be within  
21 a zoned commercial or industrial area as described by §21.178 of  
22 this subchapter ~~[division]~~ (relating to Zoned Commercial or  
23 Industrial Area) or an unzoned commercial or industrial area, as  
24 described by §21.179 of this subchapter ~~[division]~~ (relating to  
25 Unzoned Commercial or Industrial Area) except that an unzoned

1 commercial or industrial area may include only one recognized  
2 commercial or industrial activity.

3 (b) [~~(d)~~] A sign may not be relocated to a place where it:

4 (1) can cause a driver to be unduly distracted in any  
5 way;

6 (2) will obscure or otherwise interfere with the  
7 effectiveness of an official traffic sign, signal, or device; or

8 (3) will obstruct or interfere with the driver's view  
9 of approaching, merging, or intersecting motor vehicle or rail  
10 traffic.

11 (c) [~~(e)~~] A sign may not be relocated to a place that is:

12 (1) within 500 feet of a public space [~~park~~] that is  
13 adjacent to a regulated highway, with the limitation provided  
14 under this paragraph applying:

15 (A) on either side of a regulated highway that is  
16 on a nonfreeway primary system; or

17 (B) on the side of the highway adjacent to the  
18 public space [~~park~~] if the regulated highway is on an  
19 interstate or freeway primary system;

20 (2) if outside of an incorporated municipality along a  
21 regulated highway, adjacent to or within 500 feet of:

22 (A) an interchange, intersection at grade, or  
23 rest area; or

24 (B) a ramp or the ramp's acceleration or  
25 deceleration lane;

1           (3) for a highway on the interstate or freeway primary  
2 system, closer than 500 feet to another permitted sign on the  
3 same side of the highway;

4           (4) for a highway on the nonfreeway primary system and  
5 outside of a municipality, closer than 300 feet to another  
6 permitted sign on the same side of the highway;

7           (5) for a highway on the nonfreeway primary system and  
8 within the incorporated boundaries of a municipality, closer  
9 than 100 feet to another permitted sign on the same side of the  
10 highway; or

11           (6) within five feet of any highway right of way line.

12       (d) ~~[(f)]~~ A sign, at the time of and after its relocation,  
13 must be within 800 feet of at least one recognized governmental,  
14 commercial, or industrial activity that is located on the same  
15 side of the highway.

16       ~~[(g) The spacing limitations provided in subsection (e) of  
17 this section do not apply to on-premise signs or directional or  
18 official signs that are exempted from the application of  
19 Transportation Code, §391.031.]~~

20       (e) ~~[(h)]~~ A sign may not be relocated from a road regulated  
21 under this subchapter ~~[division]~~ to a rural road regulated by  
22 Subchapter K of this chapter (relating to Control of Signs along  
23 Rural Roads).

24       (f) ~~[(i)]~~ A relocated sign may not be erected or maintained  
25 in a location that violates Health and Safety Code, Chapter 752.

1

2 [~~§21.194. Construction and Appearance of Relocated Sign.~~]

3 [~~(a) A relocated sign must be constructed with the same~~  
4 ~~number of poles and of the same type of materials as the~~  
5 ~~existing sign. A relocated sign may not exceed the maximum~~  
6 ~~height provided by §21.189 of this division (relating to Sign~~  
7 ~~Height Restrictions). The number of sign faces and lighting, if~~  
8 ~~any, of the relocated sign may not exceed the number of faces or~~  
9 ~~lighting, if any, of the existing sign.]~~

10 [~~(b) The size of each of the sign faces of a relocated sign~~  
11 ~~that are visible to approaching traffic may not exceed the~~  
12 ~~smaller of the size of the existing sign face or an area of~~  
13 ~~1,200 square feet, a height of 25 feet, and a length of 60~~  
14 ~~feet.]~~

15 [~~(c) The sign faces of a relocated sign may be placed back-~~  
16 ~~to-back, side-by-side, stacked, or in "V" type construction with~~  
17 ~~not more than two displays facing any direction, except that if~~  
18 ~~the area of a sign face exceeds 350 square feet, sign faces may~~  
19 ~~not be stacked or placed side-by-side. The sign structure and~~  
20 ~~sign faces are considered one sign.]~~

21

22 §21.195. Relocation of Commercial Sign within Certified Cities  
23 [Municipality].

24 [~~(a)~~] If an existing sign is located within the  
25 incorporated boundaries of a municipality that is approved by

1 the department to control commercial signs [~~outdoor~~  
2 ~~advertising~~] under §21.200 of this subchapter [~~division~~]  
3 (relating to Local Control of Commercial Signs) and the sign  
4 will be relocated within the incorporated boundaries of the same  
5 municipality, permission to relocate the sign must be obtained  
6 only from the municipality in accordance with the municipality's  
7 sign and zoning ordinances.

8 [~~(b) Permission from the municipality to relocate the sign~~  
9 ~~is required to receive relocation benefits from the department~~  
10 ~~under §21.196 of this division (relating to Relocation~~  
11 ~~Benefits).~~]

12  
13 [~~§21.196. Relocation Benefits.~~]

14 [~~(a) Relocation benefits will be paid in accordance with~~  
15 ~~Subchapter C of this chapter (relating to Relocation Assistance~~  
16 ~~and Benefits) for the relocation of a sign under §21.192 of this~~  
17 ~~division (relating to Permit for Relocation of Sign) or §21.195~~  
18 ~~of this division (relating to Relocation of Sign within~~  
19 ~~Municipality).~~]

20 [~~(b) The owner of an existing sign that is being relocated~~  
21 ~~must enter into a written agreement with the governmental entity~~  
22 ~~that is acquiring the right-of-way in which the sign is located.~~  
23 ~~In the agreement the owner, in consideration of the payment by~~  
24 ~~the governmental entity of relocation benefits, waives and~~  
25 ~~releases any claim for damages against the governmental entity~~

1 ~~and the state for any temporary or permanent taking of the~~  
2 ~~sign.]~~

3

4 §21.197. Discontinuance of Nonconforming Commercial Sign Due to  
5 Destruction.

6 (a) Except as allowed by Transportation Code, §391.038, if  
7 ~~[If]~~ a sign is partially destroyed by a natural force outside  
8 the control of the permit holder, including wind, tornado,  
9 lightening, flood, fire, or hurricane, the department will  
10 determine whether the sign can be repaired without an amended  
11 permit.

12 (b) The department may require the sign owner to submit an  
13 estimate of the proposed work, including an itemized list of the  
14 materials to be used and the manner in which the work will be  
15 done. The department will allow the sign to be repaired without  
16 an amended permit if the department determines that the damage  
17 is not substantial. If the damage is determined to be  
18 substantial the sign owner must obtain an amended permit under  
19 §21.174 of this subchapter [~~division~~] (relating to Amended  
20 Permit).

21 (c) The department will cancel the existing permit if it  
22 determines the damage to the sign is substantial under  
23 subsection (g) of this section and an amended permit is not  
24 obtained by the sign owner within one year after the date that  
25 the department first became aware of the damage.

1 (d) If a permit is canceled under this section or §21.176  
2 of this subchapter [~~division~~] (relating to Cancellation of  
3 Permit), the remaining sign structure must be dismantled and  
4 removed without cost to the state.

5 (e) A sign that is totally or partially destroyed by  
6 vandalism or a motor vehicle accident may be rebuilt as  
7 described on the most recently approved permit application.

8 (f) If a decision to cancel a permit is appealed, the sign  
9 may not be repaired during the appeal process.

10 (g) Damage is considered to be substantial if the cost to  
11 repair the sign would exceed 60 percent of the cost to replace  
12 it with a sign of the same basic construction using new  
13 materials and at the same location.

14 (h) If a sign is partially destroyed by a natural force  
15 outside the control of the sign owner in an area that receives a  
16 state or federal disaster declaration and the sign owner has  
17 documentation to show that the sign damage is not considered  
18 substantial the sign may be repaired without a prior  
19 determination by the department under subsection (b) of this  
20 section if the sign is repaired within 180 days after the date  
21 of the event and if within 60 days after the date of completion  
22 of the repairs, the owner submits to the department:

23 (1) photos of the partially destroyed sign and the  
24 repaired sign; and

25 (2) a notarized affidavit executed by the sign owner

1 containing:

2 (A) the permit number of the sign;

3 (B) a statement that the sign was damaged by the  
4 natural force;

5 (C) a statement that the cost to repair the sign  
6 was less than 60 percent of the cost of a new sign with the same  
7 basic construction; and

8 (D) a statement that the sign was repaired in the  
9 same configuration and with like materials according to the most  
10 recent approved permit.

11 (i) A sign repaired in violation of this subsection is  
12 subject to enforcement and removal.

13

14 §21.198. Order of Removal.

15 (a) If a commercial sign permit expires without renewal, or  
16 is canceled or if a [the] sign is erected or maintained in  
17 violation of this subchapter [~~division~~], the owner of the sign  
18 or, if the department cannot after reasonable effort determine  
19 the identity or location of the sign owner, the land owner, on a  
20 written demand by the department, shall remove the sign at no  
21 cost to the state.

22 (b) If the sign owner, or land owner, does not remove the  
23 sign within 45 days of the day that the demand is sent, the  
24 department will remove the sign and will charge the sign owner  
25 or land owner, as appropriate, for the cost of removal,

1 including the cost of any court proceedings.

2 (c) The department will rescind a removal demand if the  
3 department determines the demand was issued incorrectly.

4

5 §21.199. Destruction of Vegetation and Access from Right of Way  
6 Prohibited.

7 (a) A person may not:

8 (1) trim or destroy a tree or other vegetation on the  
9 right of way for any purpose related to this subchapter  
10 [~~division~~]; or

11 (2) erect or maintain a sign from the right of way.

12 (b) The department will initiate enforcement action if the  
13 permit holder, or someone acting on behalf of the permit holder,  
14 violates this section.

15 (c) Subsection (a)(2) of this section does not apply to the  
16 maintenance of a sign if:

17 (1) the state right of way is the only available  
18 access for a sign on railroad right of way to which §21.150(b)  
19 of this subchapter [~~division~~] (relating to Continuance of  
20 Nonconforming Signs) applies; and

21 (2) the sign owner notifies the department and obtains  
22 approval of the department before accessing the sign for  
23 maintenance.

24 (d) It is not a violation to trim the portion of the tree  
25 or vegetation that encroaches onto private property at the

1 private property line as long as the trimming occurs from the  
2 private property.

3

4 §21.200. Local Control of Commercial Signs.

5 (a) The department may authorize a political subdivision,  
6 as a certified city, to exercise control over commercial  
7 [~~outdoor~~] signs in its jurisdiction. If the political  
8 subdivision receives approval under this section, it will be  
9 listed as a certified city and a permit issued by that political  
10 subdivision is acceptable instead of a permit issued by the  
11 department within the approved area.

12 (b) To be considered for authorization under this section,  
13 the political subdivision must submit to the department:

14 (1) a copy of its sign regulations;

15 (2) a copy of its zoning regulations;

16 (3) information about the number of personnel who will  
17 be dedicated to the program and what type of records will be  
18 maintained, including whether the political subdivision  
19 maintains an inventory of signs that can be provided to the  
20 department in an electronic format that is acceptable to the  
21 department; and

22 (4) an enforcement plan that includes the removal of  
23 illegal signs.

24 (c) The department, after consulting with the Federal  
25 Highway Administration, shall determine whether a political

1 subdivision has established and will enforce within its  
2 corporate limits standards and criteria for size, lighting, and  
3 spacing of commercial [~~outdoor~~] signs consistent with the  
4 purposes of the Highway Beautification Act of 1965, 23 United  
5 States Code §131, and with customary use. The size, lighting,  
6 and spacing requirements of the political subdivision may be  
7 more or less restrictive than the requirements of this  
8 subchapter [~~division~~] as long as the requirements comply with  
9 the federal requirements, such as the prohibition of signs over  
10 1,200 square feet in size and spacing of less than 500 feet.  
11 The authorization does not include the area in a municipality's  
12 extraterritorial jurisdiction.

13 (d) The department may meet with a political subdivision to  
14 ensure that it is enforcing the standards and criteria in  
15 accordance with subsection (c) of this section.

16 (e) After approval under this section, the political  
17 subdivision shall:

18 (1) provide to the department:

19 (A) a copy of each amendment to its sign and  
20 zoning regulations when the amendment is proposed and adopted;  
21 and

22 (B) a copy of any change to its corporate limits  
23 and its extraterritorial jurisdiction, if covered by the  
24 approval;

25 (2) annually provide to the department:

1 (A) an electronic copy of the sign inventory; and

2 (B) report of the number of sign permits issued  
3 and the status of all pending enforcement actions; and

4 (3) participate in at least one video conference or  
5 teleconference sponsored by the department each year.

6 (f) The political subdivision may:

7 (1) set and retain the fees for issuing a sign permit;  
8 and

9 (2) establish the period for which a sign permit is  
10 effective.

11 (g) The department will conduct an on-site compliance  
12 monitoring review every two years.

13 (h) The department may withdraw the approval of a political  
14 subdivision given under this section if the department  
15 determines that the political subdivision does not have an  
16 effective sign control program. The department will consider  
17 whether:

18 (1) the standards and criteria of political  
19 subdivision's sign regulations continue to meet the requirements  
20 of subsection (c) of this section;

21 (2) the political subdivision maintains an accurate  
22 sign inventory and annually provides the inventory to the  
23 department in an electronic format; and

24 (3) the political subdivision enforces the sign  
25 regulations and annually reports enforcement actions as

1 required.

2 (i) The department may reinstate a political subdivision's  
3 authority on the showing of a new plan that meets the  
4 requirements of subsection (c) of this section.

5  
6 §21.201. Fees Nonrefundable. A fee paid to the department under  
7 this subchapter [~~division~~] is nonrefundable.

8  
9 §21.202. Property Right Not Created. Issuance of a permit or  
10 license under this subchapter [~~division~~] does not create a  
11 contract or property right in the permit or license holder.

12  
13 §21.203. Complaint Procedures.

14 (a) The department will accept and investigate all written  
15 complaints on a specific sign structure, sign company, or any  
16 other issue under the jurisdiction of the highway beautification  
17 [~~outdoor advertising~~] program.

18 (b) The complaints can be filed via the department's  
19 website or by mail.

20 (c) If the complaint involves a sign structure or a sign  
21 company the department will notify the owner of the sign  
22 structure or sign company of the complaint and the pending  
23 investigation within 15 days of receipt of the complaint. This  
24 notification will include a copy of the complaint and complaint  
25 investigation procedures.

1 (d) If the complaint included contact information, the  
2 department will provide the complainant with a copy of the  
3 complaint procedures within 15 days of the receipt of the  
4 complaint.

5 (e) If the complaint involves fewer than 10 sign structures  
6 the department will investigate the complaint and make a finding  
7 within 30 days of the receipt of the complaint. If the  
8 complaint involves 10 or more sign structures or is an  
9 investigation of a sign company or any other sign [~~outdoor~~  
10 ~~advertising~~] matter the department will make a finding within 90  
11 days of the receipt of the complaint.

12 (f) If the department is unable to meet the deadlines in  
13 subsection (e) of this section, the department will notify the  
14 complainant, the sign owner, or sign company of the delay and  
15 will provide a date for the completion of the investigation.

16 (g) The department will provide the complainant, sign  
17 owner, or sign company the findings of the investigation, which  
18 will include whether administrative enforcement actions are  
19 being initiated.

20

21 §21.204. Administrative Penalties for Commercial Signs.

22 (a) The department may impose administrative penalties  
23 against a person who intentionally violates Transportation Code,  
24 Chapter 391 or this subchapter.

25 (b) The amount of the administrative penalty may not exceed

1 the maximum amount of a civil penalty that may be imposed under  
2 Transportation Code, §391.035 and will be based on the following:

3 ~~(1)[\$150 for a violation of a permit plate requirement~~  
4 ~~under §21.165 of this division (relating to Sign Permit Plate);]~~

5 ~~[(2)]~~ \$250 for a violation of:

6 (A) a registration requirement of §21.162 of this  
7 subchapter ~~[division]~~ (relating to Permit Application for  
8 Certain Preexisting Commercial Signs); or

9 (B) erecting the sign at a location other  
10 than the location identified by stake or paint~~[specified on the~~  
11 ~~application]~~, except that if the ~~[actual]~~ sign location as built  
12 does not conform to all other requirements the department will  
13 seek cancellation of the permit;

14 (2) ~~[(3)]~~ \$500 for:

15 (A) maintaining or repairing the sign from the  
16 state right of way; or

17 (B) performing customary maintenance on any sign  
18 or substantial changes ~~[maintenance]~~ on a conforming sign  
19 without first obtaining an amended permit as required by §21.191  
20 of this subchapter (relating to Repair and Maintenance of  
21 Commercial Signs); or

22 (3) ~~[(4)]~~ \$1,000 for erecting a sign from the right of  
23 way.

24 (c) In addition to the penalties assessed under subsection  
25 (b) of this section, the department may seek to recover the cost

1 of repairing any damage to the right of way done by the sign  
2 owner or on the sign owner's behalf.

3 ~~(d) [Before initiating an enforcement action under this~~  
4 ~~section, the department will notify the sign owner in writing of~~  
5 ~~a violation of subsection (b)(1) or (2)(B) of this section and~~  
6 ~~will give the sign owner 60 days to correct the violation and~~  
7 ~~provide proof of the correction to the department.]~~

8 ~~[(e)]~~ Upon determination to seek administrative penalties  
9 the department will mail a notice of the administrative  
10 penalties to the last known address of the permit holder. The  
11 notice must clearly state:

12 (1) the reasons for the administrative penalties;

13 (2) the amount of the administrative penalty; and

14 (3) the right of the holder of the permit to request  
15 an administrative hearing.

16 (e) ~~[(f)]~~ A request for an administrative hearing under  
17 this section must be made in writing and delivered to the  
18 department within 45 days after the date of the receipt of the  
19 notice.

20 (f) ~~[(g)]~~ If timely requested, an administrative hearing  
21 shall be conducted in accordance with Chapter 1, Subchapter E of  
22 this title (relating to Procedures in Contested Case), and the  
23 imposition of administrative penalties will be abated unless and  
24 until that action is affirmed by order of the commission.

25 (g) An imposed penalty that is not paid within 60 days of

1 the later of the date of receipt of notice from the department  
2 or if an administrative hearing is conducted, the date that the  
3 imposition is confirmed, will result in the cancelation of the  
4 sign's permit as described in §21.176 of this subchapter  
5 (relating to Cancellation of Permit).

6

7 §21.205. Curable Commercial Sign Permit Violations

8 (a) A permit holder commits a curable violation if the  
9 permit holder:

10 (1) abandons a sign, as determined under §21.181 of  
11 this subchapter (relating to Abandonment of Sign);

12 (2) erects an otherwise conforming sign structure the  
13 part of which that is closest to a point perpendicular to the  
14 right of way is more than 20 feet but less than 50 feet from the  
15 location identified by GPS coordinates recorded by the  
16 department at permit issuance;

17 (3) erects a sign structure at a location that does not  
18 meet all spacing requirements of this subchapter or as described  
19 in the permit application;

20 (4) makes customary repairs or substantial changes to a  
21 conforming sign without obtaining a required amended permit  
22 under §21.174 of this subchapter (relating to Amended Permit);

23 (5) fails to establish legal access from private  
24 property in accordance with §21.167 of this subchapter (relating  
25 to Erection and Maintenance from Private Property); or

1 (6) violates any of the provisions of §21.190 of this  
2 subchapter (relating to Lighting of and Movement on Commercial  
3 Signs).

4 (b) The department will notify the permit holder in writing  
5 of a violation of this section and will give the permit holder  
6 60 days, beginning on the date of receipt of notice of the  
7 violation, to correct the violation, provide proof of the  
8 correction, and if required, obtain an amended permit from the  
9 department.

10 (c) Examples of proof of correction of a violation include:

11 (1) acceptable photographs; and

12 (2) current survey documentation.

13 (d) If a permit holder who violates this section fails to  
14 correct the violation in accordance with this section, the  
15 department will cancel the permit in accordance with §21.176 of  
16 this subchapter (relating to Cancellation of Permit).

17

18 §21.206. Requirements For An Electronic Sign

19 (a) On an electronic sign each message must be displayed  
20 for at least eight seconds. A change of message must be  
21 accomplished within two seconds and must occur simultaneously on  
22 the entire sign face.

23 (b) An electronic sign must:

24 (1) contain a default mechanism that freezes the sign  
25 in one position if a malfunction occurs; and

1           (2) automatically adjust the intensity of its display  
2 according to natural ambient light conditions.

3           (c) The owner of an electronic sign shall coordinate with  
4 local authorities to display, when appropriate, emergency  
5 information important to the traveling public, such as Amber  
6 Alerts or alerts concerning terrorist attacks or natural  
7 disasters. Emergency information messages must remain in the  
8 advertising rotation according to the protocols of the agency  
9 that issues the information.

10           (d) The department will share the contact information with  
11 the appropriate local authority that has jurisdiction over the  
12 location of the electronic sign.

SUBCHAPTER I. REGULATION OF SIGNS ALONG INTERSTATE AND PRIMARY  
HIGHWAYS

DIVISION 2. ELECTRONIC SIGNS

§21.251. Definition; Exception to Application of Division.

(a) In this division, "electronic sign" means a sign, display, or device that changes its message or copy by programmable electronic or mechanical processes.

(b) This division does not apply to a sign that is an electronic sign solely because it contains a temporary protrusion described by §21.190(g) of this subchapter (relating to Lighting of and Movement on Signs).

§21.252. Department Determination. The department has determined that the use of an electronic image on a digital display device is not the use of a flashing, intermittent, or moving light for the purposes of any rule, regulation, and standard promulgated by the department or any agreement between the department and the Secretary of the United States Department of Transportation.

§21.253. Issuance of Permit.

(a) The department will issue a permit for an electronic sign if the application for the permit:

(1) satisfies the requirements of this division and any applicable requirements of Division 1 of this subchapter (relating to Signs); and

(2) has attached to it:

(A) a certified copy of the permit issued by the municipality that gives permission for the electronic sign at the site specified in the permit application; or

(B) if the municipality does not issue permits, a certified copy of written permission from the municipality for the electronic sign at the site specified in the permit application.

(b) A permit from the department is required for the erection of an electronic sign even if the requested sign location is within a city certified under §21.200 of this subchapter (relating to Local Control).

§21.254. Prohibitions. An electronic sign may not:

- (1) be illuminated by flashing, intermittent, or moving lights;
- (2) contain or display animated, moving video, or scrolling advertising;
- (3) consist of a static image projected on a stationary object; or
- (4) be a mobile sign located on a truck or trailer.

§21.255. Location.

(a) An electronic sign may be located, relocated, or upgraded only along a regulated highway and within:

- (1) the corporate limits of a municipality that allows electronic signs under its sign or zoning ordinance; or

(2) within the extraterritorial jurisdiction of a municipality described by paragraph (1) of this subsection that under state law has extended its municipal regulation to include that area.

(b) Two electronic signs may be located on the same sign structure if each sign face is visible only from a different direction of travel. An electronic sign may not be located within 1,500 feet of another electronic sign on the same highway if facing the same direction of travel or if the sign will be located in a political subdivision that is authorized to exercise control under §21.200 of this chapter (relating to Local Control), the sign spacing may not violate the minimum spacing requirements of the applicable Texas federal and state agreement.

§21.256. Modification to Electronic Sign. A sign may be modified to be an electronic sign if a new permit for the electronic sign is obtained from both the municipality in whose jurisdiction the sign is located and the department, except that lighting may not be added to or used to illuminate a nonconforming sign.

§21.257. Requirements.

(a) Each message on an electronic sign must be displayed for at least eight seconds. A change of message must be accomplished within two seconds and must occur simultaneously on the entire sign face.

(b) An electronic sign must:

(1) contain a default mechanism that freezes the sign in one position if a malfunction occurs; and

(2) automatically adjust the intensity of its display according to natural ambient light conditions.

(c) If the department finds that an electronic sign causes glare or otherwise impairs the vision of the driver of a motor vehicle or otherwise interferes with the operation of a motor vehicle, the owner of the sign, within 12 hours of a request by the department, shall reduce the intensity of the sign to a level acceptable to the department.

§21.258. Emergency Information. The owner of an electronic sign shall coordinate with local authorities to display, when appropriate, emergency information important to the traveling public, such as Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages must remain in the advertising rotation according to the protocols of the agency that issues the information.

§21.259. Contact Information.

(a) The owner of an electronic sign shall provide to the department contact information for a person who is available to be contacted at any time and who is able to turn off the electronic sign promptly if a malfunction occurs or is able to accommodate an emergency notification request from a local

authority under §21.258 of this division (relating to Emergency Information).

(b) The department will share the contact information with the appropriate local authority that has jurisdiction over the location of the electronic sign.

§21.260. Application of Other Rules. The requirements and other provisions of Division 1 of this subchapter (relating to Signs) apply to an electronic sign, except that if this division conflicts with a provision of Division 1 of this subchapter, this division controls.

REPEALED