

# ROW Beautification Manual



June 2018

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## **Manual Notice 2018-1**

**From:** Gus Cannon, CTCM, Right of Way Division Director

**Manual:** *ROW Beautification Manual*

**Effective Date:** June 15, 2018

### **Purpose**

To modify the manual to comply with rules approved by the Texas Transportation Commission according to Minute Order No. 115155, adopted on February 22, 2018, and effective March 14, 2018. Also, the manual name is being changed from *Right of Way Manual Vol. 7- Beautification* to *ROW Beautification Manual*.

### **Changes**

Changes have been made throughout the entire manual.

### **Contact**

Wendy Knox, Outdoor Advertising Regulatory Program, 512.416.2915.

### **Archives**

Past manual notices are available in a [pdf archive](#).

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# Chapter 1 — Introduction

## Contents:

[Section 1 — Overview](#)

## Section 1 — Overview

This volume provides information concerning the control of commercial signs and junkyards in Texas. Summarized in this volume are:

- ◆ Statutes enacted by the Texas Legislature governing the control of commercial signs along interstate and primary highways. These controls are implemented pursuant to Transportation Code, Chapter 391.
- ◆ Statutes enacted by the Texas Legislature governing the control of outdoor advertising signs along all other highways in Texas which are outside of the jurisdiction of any municipality. These controls are implemented pursuant to Transportation Code, Chapter 394.
- ◆ The Texas Department of Transportation (TxDOT) rules and policies governing the screening of junkyards and automobile salvage yards. The Right of Way Division (ROW Division) regulates the screening of junkyards and automobile graveyards located on interstate and primary highways. Junkyards and automobile wrecking and salvage yards are also subject to health, screening and/or public nuisance laws enforced by counties or municipalities.

The Texas Transportation Commission (the "Commission") has adopted rules to regulate and control commercial signs and the screening of junkyards. These rules are published in 43TAC Chapter 21.

Specific information relating to a particular sign, sign location, or junkyard location should be obtained from the ROW Division.

## **Chapter 2 — Authority for Sign and Junkyard Control**

### **Contents:**

[Section 1 — Federal Laws & Regulations](#)

[Section 2 — State Law](#)

[Section 3 — State Agreement with U.S. Department of Transportation](#)

[Section 4 — Commission Minute Orders](#)

## Section 1 — Federal Laws & Regulations

### Federal Law

In enacting the *Highway Beautification Act of 1965*, (Public Law 89-285), Congress declared that outdoor advertising signs and junkyards in areas adjacent to the Interstate and Federal Primary Highway Systems should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel and to preserve natural beauty. The Act authorized the Secretary of Transportation to enter into Agreements with the States to promote the reasonable, orderly and effective display of outdoor advertising.

All of the amendments to the original Act have been codified in *Title 23, United States Code Annotated, Section 131* for Outdoor Advertising and *Section 136* for Junkyards.

### Federal Regulations

To implement the *Highway Beautification Act of 1965* and the Amendments thereto, the Federal Highway Administration (FHWA) issues directives and incorporates its policy into the Code of Federal Regulations (CFR), *Parts 750 and 751*.

Each State is required to develop a statement regarding policies and procedures it proposes to follow in implementing a sign control program. Such a statement was prepared for Texas and was filed with FHWA. The original agreement is dated May 2, 1972 with supplements on July 17, 1972 and March 6, 1973.

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## Section 2 — State Law

### Authority

On September 1, 1995, *Texas Transportation Code, Chapter 391* was enacted by the Texas Legislature to supersede *Article 4477-9a*, which was repealed on September 1, 1995. These statutes govern the regulation of outdoor advertising signs and the screening of junkyards on the interstate and primary highway system.

On September 1, 1995, *Texas Transportation Codes, Chapter 394* was enacted by the Texas Legislature to supersede *Article 6674v-3*, which was repealed on September 1, 1995. These statutes govern the regulation of outdoor advertising signs on rural roads.

Rules in the Texas Administrative Code (TAC) were originally enacted by the Texas Transportation Commission on January 1, 1976. Significant amendments to Subchapters B and C of Chapter 391 during the 85th Legislature caused significant amendments to the rules in 43TAC Sections 21.141 through 21.206, which govern the control of commercial signs on interstate and primary highways. These rules were most recently amended on March 14, 2018.

Rules enacted to govern advertising signs on rural roads were originally enacted by the Texas Transportation Commission under *43TAC Sections 21.401 through 21.457*. These rules were most recently amended on April 19, 2012.

## **Section 3 — State Agreement with U.S. Department of Transportation**

### **Authority**

An Agreement between the State and the Secretary of Transportation was entered into May 2, 1972. Supplements thereto were entered into on July 17, 1972 and on March 6, 1973. The Agreement and Supplements contain several significant definitions and requirements regarding the size, lighting and spacing of outdoor advertising signs along controlled highways. Pursuant to this federal-state agreement, the Texas Legislature passed Article 4477-9a, now Chapter 391 of the Transportation Code. State requirements may be stricter than those in the Agreement.

## **Section 4 — Commission Minute Orders**

### **Authority**

The current rules by which this chapter has been written were approved by the Texas Transportation Commission according to Minute Order No. 115155 adopted on February 22, 2018 and effective March 14, 2018.

# Chapter 3 — TxDOT Organizational Responsibilities for Sign and Junkyard Control

## Contents:

[Section 1 — ROW Division Responsibilities](#)

## Section 1 — ROW Division Responsibilities

### Overview

The ROW Division of TxDOT, under the supervision of the Director of ROW Division, has been delegated the responsibility for developing policies and procedures to assure compliance with the Highway Beautification Act of the Transportation Code, Chapter 391 and 43TAC, Subchapters H, I, K, and Q pertaining to the control, acquisition and reimbursement for commercial signs and control of the screening of junkyards.

### ROW Division

The ROW Division responsibilities include, but are not limited to:

- ◆ processing of commercial sign license applications, commercial sign permit applications, commercial sign permit amendment applications, transfers of commercial sign permits;
- ◆ issuing the license, accepting the bond, and issuing the permits;
- ◆ processing the fees, received by the ROW Division;
- ◆ keeping appropriate records;
- ◆ returning incomplete applications with instructions regarding additional requirements that must be met;
- ◆ communication with commercial sign owners regarding their questions concerning commercial sign regulations;
- ◆ liaison with cities and counties which have established local control of commercial signs;
- ◆ assistance in the development of regulations and law for the control of commercial signs and the screening of junkyards;
- ◆ communication with legislators and the public on the interpretation of existing regulations and laws;
- ◆ maintenance of fiscal control of funds authorized for expenditure under the commercial sign and junkyard control;
- ◆ maintenance of commercial sign license and permit records.
- ◆ the preparation of annual inventories and maps of signs, sign sites and junkyards;
- ◆ the inspection of sign locations prior to issuance of permits;
- ◆ the issuance, renewal, transfer and cancellation of sign permits;

- ◆ referral to the various County and District Attorneys for prosecution of those persons who violate the Highway Beautification law or the rules and regulations thereunder;
- ◆ referral to the Attorney General's office for prosecution of those persons who don't bring their signs into compliance;
- ◆ monitoring each certified city's records to confirm that the certified city is exercising control of signs in compliance with the Highway Beautification laws;
- ◆ monitoring receipt and expenditure of funds for commercial signs and junkyards.
- ◆ resolving public complaints related to violation of state laws and rules.

# Chapter 4 — Control of Commercial Signs under the Highway Beautification Act

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[Section 1 — Jurisdiction](#)

## Section 1 — Jurisdiction

### Scope of Control

TxDOT regulates signs erected and maintained along interstate and primary highways. The control applies to any sign located within 660 feet of the highway right of way, which is visible from the main-traveled way of the highway. Outside of urban areas, this control extends to include any sign located more than 660 feet from the highway right of way if the sign is visible from, and erected for the purpose of being seen, whether legible or not, without visual aid by a person with normal visual acuity, from the main traveled way of the highway. Before erecting or maintaining a commercial sign along an interstate or primary highway, a sign owner must first obtain a commercial sign license from the TxDOT ROW Division. After the license is issued, the licensee may apply for a commercial sign permit. The application for a commercial sign permit is made to the ROW Division for review and inspection.

Some cities have been certified by TxDOT to control signs within their jurisdiction. The criteria for size, lighting and spacing established by a town or city having comprehensive zoning must be at least as restrictive as the criteria contained in the Agreement with the Secretary of Transportation (Federal-State Agreement), provided such control is consistent with the purposes of the Federal Highway Beautification Act of 1965 and with local customary use.

## Chapter 5 — Commercial Sign License

### Contents:

[Section 1 — Overview](#)

[Section 2 — Commercial Sign License Application](#)

[Section 3 — Commercial Sign Bond](#)

[Section 4 — License Approval, Duration, and Renewal](#)

[Section 5 — License Suspensions, Revocations, Appeals, and Amendments](#)

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## Section 1 — Overview

### General

Before erecting or maintaining a commercial sign along a regulated highway or a regulated rural road, the sign owner must first obtain a commercial sign license from the ROW Division of the Texas Department of Transportation. If a sign owner is going to erect an outdoor advertising sign along a regulated rural road, the sign owner must first obtain a commercial sign license from the ROW Division of the Texas Department of Transportation. Necessary forms may be obtained from the ROW Division or from the TxDOT website. To obtain a license, it is necessary to submit a Commercial Sign License Application (Form ROW-OA-1) or apply online, a Commercial Sign Bond (Form ROW-OA-2), and a **nonrefundable** license fee of \$125.00 made payable to **TxDOT Highway Beautification Fund**. The submission for a license application and the license fee must be paid online with application submittal or mailed with required paperwork to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

As of April 19, 2012 an outdoor advertising license is now required to erect a sign along a rural road.

## Section 2 — Commercial Sign License Application

### Overview

Commercial sign licenses can be issued only in the full **legal** name of an individual or individuals or in the **exact** name of a corporation, partnership, limited partnership, trust, bank or other legal entity. The Commercial Sign License Application must:

- ◆ be completed in the **legal** name of **each** party wishing to erect a sign or signs;
- ◆ include the mailing address, email address, and telephone number of the applicant; and
- ◆ indicate the county or counties in which the applicant plans to erect or maintain signs. If the category "More than three counties" is selected, the coverage will include the entire state.

### Individuals

A license may be issued to one or more individuals. A married woman must use her own given name and not that of her husband; (e.g., use Mary Jane Smith, rather than Mrs. John Smith.) The Social Security number of an individual applicant is required. If application is submitted by mail, the application must have the applicant's notarized signature. If more than one individual is applying for the license, as Mary Smith and John Ford, both must sign as owners at the bottom of the license application. An example of a completed Commercial Sign License Application (Form ROW-OA-1) is available.

### Corporations

Corporations, partnerships, trusts, and other legal entities must use the exact name on file with the Office of the Texas Secretary of State. In the event the legal entity is not on file with that Office, documentation from the **regulating authority** must be provided to establish the legal name of the entity. Please note that the assigned charter number required is the file number designated by the Office of the Texas Secretary of State. Each application must have the corporate officer's notarized signature. The officer's corporate title must be printed or typed beneath the signature. An example of a completed ROW-OA-1, Commercial Sign License Application is available.

If submitting by mail, the **original** license application with **original signatures** must be provided. Duplicated or stamped signatures will **not** be accepted.

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## Section 3 — Commercial Sign Bond

### Procedure

The commercial sign bond must be fully executed by a surety company authorized to transact the business of surety insurance in Texas. The purpose of the bond is to reimburse the Commission for removal costs of a sign the license holder **unlawfully** erects or maintains. The Surety Company must assign a bond number to the bond. Please note the following:

- ◆ The **sign owner/principal name** on the bond must be completed exactly as shown on the Commercial Sign License Application.
- ◆ The full name and address of the surety company is required on the bond.
- ◆ The amount of the bond required is \$2,500.00 for each county in which signs are to be erected or maintained, up to a maximum of \$10,000.00 for four or more counties (Statewide coverage).
- ◆ The effective date of the bond must be the same in both places on the bond.

If the applicant is a corporation, the bond must be signed by a corporate officer with the name of the corporation printed above the corporate officer's signature and title, and the corporate charter number printed beneath the officer's signature and title. For an individual applicant, the applicant's social security number is required.

An Attorney-in-Fact or other representative of the Surety Company must also sign the bond. The name of the Surety Company must be printed above the signature. A Power of Attorney must be attached to the bond for the surety company representative who signs the bond. A certification date is required at the bottom of the Power of Attorney attached to the bond.

The **original bond** with **original signatures** must be provided. Duplicated or stamped signatures will **not** be accepted. An example of a completed bond is available.

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## Section 4 — License Approval, Duration, and Renewal

### Procedure

Upon receipt of the license application, bond, power of attorney and fee, personnel in the ROW Division will examine the submission to determine if it is complete. The license, bearing a number by sequence of issuance, will be sent to the applicant. The license number assigned must be shown on all correspondence relating to this licensee, including all sign permit applications, permit renewals and permit transfers. A commercial sign license is not transferable and is valid only for the named licensee or licensees.

The Enterprise Permitting Solution (EPS), provides information on new licenses, license renewals, acceptance of new bonds and bond cancellations, license expirations, license revocations and other information important to ROW Division personnel. The EPS program also tracks sign permit information. When a license is no longer valid, the ROW Division must provide this information to all certified cities within the state, so that the city may take appropriate action against the sign permit holder.

If payment for the license is dishonored upon presentment by TxDOT, the license will be canceled as of the date of receipt of payment.

### Further Compliance Required on License Submission

If the license cannot be issued, due to an incomplete or improperly completed submission, the submission will be returned to the applicant, with a list of corrections that must be made before a license can be issued.

### Duration of Commercial Sign License

The commercial sign license is valid for one year, unless it is relinquished by the license holder or suspended or revoked by TxDOT.

### Renewal of Commercial Sign Licenses

A commercial sign license must be renewed each year. A license issued prior to January 1, 1991 must be renewed on or before January 1 of each succeeding year. A license issued after January 1, 1991 must be renewed each year on the anniversary date of its issuance. Notification of renewal will be sent to the license holder. Licenses that are not renewed before the 46th day after the license's expiration date will automatically expire.

To renew the license, the licensee must:

- ◆ complete Commercial Sign License Renewal Application, confirming that the commercial sign bond supporting the license remains in force, or renew the commercial sign license online through the Enterprise Permitting Solution (also known as EPS);
- ◆ provide a **nonrefundable** license renewal fee of \$75.00, made payable to **TxDOT Highway Beautification Fund**;
- ◆ The license renewal application and fee must be submitted online through EPS or mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

If the check or credit card submitted in payment of the license renewal is dishonored upon presentment by TxDOT, the renewal will be canceled as of the date of receipt of payment.

As of April 19, 2012, an outdoor advertising license is now required to erect a sign along a rural road.

## Section 5 — License Suspensions, Revocations, Appeals, and Amendments

### Temporary Suspension

In the event the ROW Division is notified by a surety company that a bond is being canceled, TxDOT will notify the license holder that either a bond reinstatement or a new bond must be obtained and filed with TxDOT within 30 days of receipt of the notice, or prior to the bond cancellation date, whichever occurs later. Notice shall be presumed to be received five days after mailing. If no bond coverage is provided prior to the bond cancellation date, TxDOT will issue a temporary suspension of the license for a specified time period, during which time **no new sign permits** can be issued and no existing sign permits can be transferred. If no bond coverage is provided prior to the end of the suspension period, the commercial sign license will be revoked.

### Permanent Revocation of License

TxDOT will revoke a license and will not issue or renew permits or transfer existing permits if:

- ◆ a valid outdoor advertiser's bond is not provided within the time specified or if the surety bond coverage is terminated;
- ◆ a corporate or business license holder ceases to be active with the Office of the Texas Secretary of State. (Banks must be authorized through the Office of the Comptroller of the Currency or the Texas Banking Department);
- ◆ the total number of final enforcement actions initiated by TxDOT that result in the cancellation of the license holder's sign permit, payment of an amended penalty by the license holder, or the removal of the license holders sign, equal or exceed:
  1. 10 percent of the number of valid permits held by the license holder if the license holder holds more than 1,000 sign permits;
  2. 20 percent of the number of valid permits held by the license holder if the license holder holds at least 500 but fewer than 1,000 sign permits;
  3. 25 percent of the number of valid permits held by the license holder if the license holder holds at least 100 but fewer than 500 sign permits; or
  4. 30 percent of the number of valid permits held by the license holder if the license holder holds fewer than 100 sign permits;
- ◆ the license holder has not complied with previous final administrative enforcement actions regarding the license or any permit held under the license.

In the event a license expires without renewal, or is revoked, any permits issued to that licensee also expire.

### Notice and Appeal of Permanent Revocation

When actions for permanent revocation are taken, notice will be sent by certified mail to the address of record provided by the license holder. The notice will clearly state the:

- ◆ reasons for the action;
- ◆ the effective date of the action, and
- ◆ the right of the license holder to request an Administrative Hearing.

When a license is revoked, the licensee may request an Administrative Hearing within forty-five (45) days after the date that the notice is mailed. TxDOT must receive the request in writing.

If requested in a timely manner, an Administrative Hearing shall be granted and will be conducted in accordance with Title 43, Chapter 1, Subchapter E relating to Procedures in Contested Case. The final decision will be made by the Texas Transportation Commission. If a lawsuit is filed to challenge that decision, it must be filed in the District Court in Travis County, Texas.

### Amendment of Commercial Sign License

A commercial sign license is **not transferable**. However, it may be amended by submitting a request through the Enterprise Permitting Solution (EPS) or submitting Form ROW-OA-24, Application for Amendment of Commercial Sign License. Documentation as to the name change must be provided. In the case of a corporate name change, the legal representatives of the ROW Division will make a determination as to whether a license may be amended, or a new license will be required. A license may also be amended to reflect a change in county coverage.

# Chapter 6 — Sign Permits - Interstate or Primary Highways

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## Section 1 — Overview

### Procedure

After a commercial sign license has been issued, the sign owner may apply for a permit from TxDOT. A permit application must be submitted for each sign. Forms are available upon request from ROW Division commercial signs staff or applications may be made online through EPS which can be found at [www.txdot.gov](http://www.txdot.gov). No sign may be lawfully erected until a permit has been obtained. A permit will not be issued until it is verified that a license has been obtained and the proposed sign location inspected.

## Section 2 — Sign Permit Application

### Requirements

The permit application for a commercial sign on an interstate or primary highway must:

- ◆ be completed in the **exact** name shown on the commercial sign license;
- ◆ clearly indicate, by GPS coordinates or sketch attached, the proposed location and all other items required by the application;
- ◆ provide verification of the applicant's nonprofit status, if the sign is a nonprofit sign;
- ◆ an application for an electronic sign must a current copy of the municipality's ordinance that demonstrates the allowance of an electronic sign; and
- ◆ be accompanied by a **nonrefundable** permit fee of \$100.00 payable to Texas Highway Beautification Fund. The permit fee for a sign already in existence along a road, which is now subject to regulation under the Transportation Code, Chapter 391, is \$100.00.
- ◆ The application submission for a commercial sign permit and the required fee must be submitted online through EPS or mailed with the application to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

If the check or credit card submitted in payment of the sign permit application(s) is dishonored upon presentment by TxDOT, the application will be returned as of the date of receipt of non-payment.

If the only issue preventing the issuance of a permit is a spacing conflict with another permitted sign owned by the applicant, TxDOT will send a notice to the applicant informing the applicant of the conflicting sign. TxDOT will deny the application unless the applicant, before the 30th day after the date that TxDOT sends notice under this subsection, provides TxDOT with proof of the removal of the conflicting sign.

NOTE: TxDOT, in its discretion, may refuse to issue a permit or approve an application for an amended permit if the location of the sign is within the corridor of a section of highway that has received environmental clearance, but for which the construction contract has not been awarded.

### **Applicant's Identification of Proposed Site**

The applicant must identify the proposed location for a new sign by setting a stake or marking the concrete at the proposed location of the edge of the sign structure, including the sign face that is nearest to the right of way. At least two feet of the stake must be visible above the ground. Identifying the site is considered part of the application, and the stake or mark on the concrete must not be moved or removed until the application is denied, or if approved, until the sign has been erected.

### **Permission from Property Owner**

No permit may be approved unless the applicant has obtained written permission from the owner of the designated site. TxDOT provides a space on the permit application for the site owner's contact information for verification purposes. The owner's permission operates as permission for the life of the permit, unless the owner provides a written statement that permission for the maintenance of the sign has been withdrawn and documentation showing that the lease allowing the sign has been terminated in accordance with the terms of the lease agreement or through a court order. If the sign owner disputes the lease termination in court with the site owner, TxDOT will not cancel the permit until a court order is provided or a settlement signed by both parties is delivered to TxDOT.

### **Inspection**

Inspecting the sign site prior to approving a permit is the responsibility of the ROW Division commercial sign field compliance staff. The ROW Division commercial sign field compliance staff will complete a field inspection log citing their findings and decisions.

Permits cannot be approved for new signs unless those signs will conform to the current approved Texas Administrative Code (TAC) and laws regarding standards and criteria, including location, size, lighting and spacing.

## Section 3 — Permit Renewal, Duration, and Transfer

### Renewal of Commercial Sign Permits

A sign permit must be renewed each year. All sign permits that were issued prior to September 6, 1985 require renewal annually on October 1. A sign permit issued after September 5, 1985 must be renewed on the anniversary date of its issuance but no later than the 46th day after the permit's expiration date. Permits that are not renewed will automatically expire. To renew the permit, the permit holder must:

- ◆ complete permit renewal application for commercial signs as provided by TxDOT; or renew the commercial permit through the EPS online renewal application;
- ◆ the applicant's name is to be shown exactly as it appears on the commercial sign license;
- ◆ the renewal application must be properly signed if submitted by paper to TxDOT;
- ◆ submit a **nonrefundable** permit renewal fee of \$75.00, made payable to Texas Highway Beautification Fund;
- ◆ if the renewal is submitted after the expiration date but before the 46th day after the expiration date, a late fee of \$100.00 is required to be submitted along with the required renewal fee of \$75.00 to TxDOT; and
- ◆ The submission of a permit renewal application and the fee must be submitted online through EPS or submitted by mail to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

NOTE: A permit is not eligible for renewal if the sign has not been built. The sign owner may apply for a new sign permit for the location. A permit is eligible for renewal if the sign for which it was issued continues to meet all applicable requirements and Transportation Code, Chapter 391.

If the check or credit card submitted in payment of the permit renewal is dishonored upon presentment by TxDOT, the permit renewal will be voided as of the date of renewal.

### Duration of State Commercial Sign Permits

A permit issued or renewed is only valid for the location indicated on the original permit application and as described by inspection for permit issuance. A permit is valid for one year from the date it is issued by TxDOT, provided the sign is erected and maintained in

accordance with the law and all applicable rules, unless it is canceled sooner. The permit will automatically terminate if:

- ◆ the State or political subdivision of the State acquires the sign for which the permit was issued and is no longer in compliance with the regulations;
- ◆ commercial sign license held by the permit holder is not renewed due to failure to maintain a valid bond or corporate franchise, expires for non-payment or is revoked; or
- ◆ the permit is canceled by the permit holder;
- ◆ The permit will automatically expire if:
  - the permit is not renewed; or
  - the sign is not built within one year of the permit issuance date
- ◆ By filing a renewal application, the sign owner is asserting to TxDOT that the sign meets all applicable requirements. Renewal of a permit does not indicate that TxDOT has determined that the sign is in compliance with applicable regulations.

### City Permits

If a city has been certified by the State to exercise control of commercial signs under the Highway Beautification laws, a state permit is not required for signs within the city limits.

Before a sign may be erected inside a city, and sometimes the extraterritorial jurisdiction (ETJ) of a city, it may be necessary for the owner to obtain a sign permit from the city in addition to obtaining a sign permit from the State. Further information on [Municipal Control](#) of Signs is available.

### Transfer of State Advertising Sign Permits

State sign permits cannot be transferred without TxDOT approval; only valid permits may be transferred.

In requesting transfer of a valid sign permit, the following actions must be taken:

- ◆ The buyer must initiate a transfer form online through EPS. The seller will validate online in EPS the transfer request from the buyer, and then the buyer of the sign permits must submit a non-refundable transfer fee of \$25.00 for each permit to be transferred online through EPS.
- ◆ If the transfer is going to be done on paper, use form ROW-OA-16, Application for Transfer of Commercial Sign Permits. The form must be completed and must have the notarized signatures of the seller and the buyer. If either party is a corporation, the notarized signature must be that of a corporate officer.

- ◆ A **non-refundable** transfer fee of \$25.00 for **each permit** to be transferred must be submitted. The fee should be made payable to Texas Highway Beautification Fund and may be paid by either the seller or the buyer.
- ◆ the submission for transfer and the fee must be mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

TxDOT is authorized to approve the transfer of the sign permit(s) when the application has been found to be in compliance with State regulations.

TxDOT will not approve the transfer unless both the seller and the buyer hold valid commercial sign licenses at the time of approval. Each license must provide coverage for the county in which the sign is located.

TxDOT can approve the transfer of one or more sign permits from a lapsed commercial sign license to a valid commercial sign license, with or without the signature of the transferor, if:

- ◆ legal documents showing the sale of the sign are provided, and
- ◆ documents are provided that indicate the transferor is dead or cannot be located.

A permit that has an unresolved permit violation will not be transferred. An unresolved permit violation means that a permit cancellation is impending or a cancellation is being held in abeyance pending the outcome of an administrative hearing.

### Amending a Sign Permit

To perform customary maintenance or to make substantial changes to a permitted sign the permit holder must obtain an amended permit.

The permit holder will fill out the amended permit application online through EPS or fill out the form ROW-OA-4A. The amended permit application for a commercial sign on an interstate or primary highway, must:

- ◆ be completed in the exact name shown on the commercial sign license;
- ◆ clearly show the previous construction of the sign along with the new potential configuration changes and description of the sign and all other items required by the application;
- ◆ provide verification of the applicant's nonprofit status, if the sign is a nonprofit sign;
- ◆ have a notarized signature of each individual applicant or a corporate officer if the applicant is a corporation or the managing partner if the applicant is a limited partnership if submitting application by paper; and
- ◆ submit online through EPS with a nonrefundable amended permit fee of \$100.00, or if submitting the application on paper, payment made payable to TxDOT Highway Beautification Fund.

- ◆ The paper submission for the amended permit application and the fee must be mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

If the check or credit card submitted in payment for the amended sign permit is dishonored upon presentment by TxDOT, the amended permit application will be returned as of the date of receipt of payment.

Making a change to a sign that requires an amended permit without first obtaining an amended permit approval is a violation and will result in an administrative penalty and an administrative enforcement action.

If an amended permit application is denied, the applicant may file a request with the executive director for an appeal using the same procedures found in §21.170.

If maintenance or changes authorized under this section are being made on a conforming sign because of a natural disaster, TxDOT may waive the requirement that the required amended permit be issued before the work begins. If TxDOT grants a waiver under this subsection, the permit holder shall submit the amended permit application within 60 days after the date that the work is completed. If the maintenance or changes violate this section or the permit holder fails to submit the amended permit application as required by this subsection, the sign is subject to enforcement and removal actions.

An amended permit is valid for one year after the date of TxDOT's approval of the amended permit application. The date of the TxDOT's approval of the amended permit application is considered to be the amended permit's date of issuance.

## Section 4 — Conversion of Rural Road Permits and Registrations

### Procedure

In the event a rural road is reclassified as a primary highway, TxDOT will convert a registration or a permit for a rural road sign to a permit for a primary highway only if the owner has a valid commercial sign license. A holder of a permit or registration converted under this subsection will not be required to pay an original permit fee; however, the permit must be renewed annually on the date the renewal of the rural road permit or registration would have been due. In the event a sign owner has prepaid registration fees, the outstanding prepayment will be credited to the sign owner's annual renewal fee.

## **Section 5 — New Highway or Change in Highway Designation**

Owners of signs that become subject to regulation because of the construction of a new highway or the change in classification of an existing highway must apply to TxDOT for a commercial sign license and commercial sign permit within 60 days after being notified that the sign has become subject to control. If the owner of the sign cannot be identified from information on the sign, notice may be given to the landowner.

# Chapter 7 — Local Control of Signs

## Contents:

[Section 1 — Local Control](#)

[Section 2 — Transfer of Municipal Control](#)

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## Section 1 — Local Control

### Overview

A political subdivision may elect to control commercial signs erected along highways within the geographical jurisdiction of that political subdivision in lieu of control by the State. The political subdivision will be listed as a certified city and a permit issued by that political subdivision is acceptable instead of a permit issued by TxDOT within the approved area. The certified city will enforce the established standards and criteria for size, lighting and spacing of commercial signs according to the Texas Transportation Code, Chapter 391. "Geographical jurisdiction" means within the corporate limits of a municipality. This certification **shall not apply** within the ETJ of a political subdivision. If a municipality ceases to control the commercial signs, then the control must be exercised by the State.

The exception to the above is that if a sign is to be erected within the jurisdiction of a municipality with a population of 1.9 million or more that is exercising its authority to regulate commercial signs, a certified copy of the permit issued by the municipality is required before the issuance of a State permit in the extra territorial jurisdiction of the municipality.

### Division Responsibility

The ROW Division is responsible for keeping in contact with all certified cities within the State and should keep them informed of the current commercial sign license list and should encourage their participation in the regulation of signs, including the issuance of permits. TxDOT is obligated to determine that each certified city, which has elected to control commercial sign, is actually controlling the signs.

### Minimum Controls

Each certified city shall provide at least the following minimum controls:

- ◆ A zoning ordinance or other regulation establishing standards and criteria for size, lighting and spacing consistent with the requirements of the Federal Highway Beautification Act, and local customary use.
- ◆ Ensure that only authorized signs are erected and maintained. A permit system is required. Permit tags are not required. Any permit fees collected by a city or town may be retained by that city or town.
- ◆ As previously stated, if a sign is to be erected within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate commercial signs, a certified copy of the permit issued by the municipality is required before the

issuance of a State permit in the extra territorial jurisdiction of the municipality.

### **Municipal Criteria**

The criteria for size, lighting and spacing established by a certified city having comprehensive zoning must be at least as restrictive as the criteria contained in the Agreement with the Secretary of Transportation (Federal-State Agreement), provided such control is consistent with the purposes of the *Federal Highway Beautification Act of 1965* and with local customary use.

### **Observation and Documentation**

Where a town or city has elected to become a certified city and control commercial signs within its city limits, the following information shall be submitted to the ROW Division to assure that effective controls are being maintained:

- ◆ a copy of its sign regulations;
- ◆ a copy of its zoning regulations;
- ◆ information about the number of personnel who will be dedicated to the program and what type of records will be maintained, including whether the political subdivision maintains an inventory of commercial signs that can be provided to TxDOT in an electronic format that is acceptable to TxDOT; and
- ◆ an enforcement plan that includes the removal of illegal signs.

Copies of any amendment to its sign and zoning ordinances shall be provided to the ROW Division when the amendments are proposed and adopted.

A copy of any changes to its corporate limits must be provided to the ROW Division.

Certified cities should participate in at least one video conference or teleconference sponsored by TxDOT each year.

Certified cities should be advised of the licensing and enforcement provisions of the Highway Beautification law and made aware of the State's responsibility for periodic review of their control and procedures. Certified cities without adequate means of control should be encouraged to adopt adequate controls. An annual inventory of all permitted signs should be made by the Certified city and furnished to TxDOT .

Records shall be maintained by the ROW Division on the status of control being taken by each certified city within the State. The ROW Division should conduct an annual review of each certified city.

**Decertification**

TxDOT may decertify a municipality if it does not have an effective sign control program. TxDOT may consider whether:

The political subdivision maintains an accurate sign inventory and requires the removal of illegal commercial signs, and;

The local sign ordinance contains standards and criteria for signs in accordance with the provisions of the *Federal Highway Beautification Act of 1965* and TxDOT Commission rules.

**Reinstatement**

TxDOT may elect to reinstate a municipality when it shows a new plan that complies with the requirements of the *Federal Highway Beautification Act of 1965* and TxDOT Commission rules.

## Section 2 — Transfer of Municipal Control

### Transfer of Control to the State

When a certified city that has elected to control signs relinquishes that control, a date for transfer of authority should be established as soon as possible. Signs erected under certified city permits prior to the transfer date will be considered properly permitted provided the sign has been erected or substantially constructed prior to assumption of State control. Sign owners should be contacted at the earliest possible date and advised of the change in jurisdiction.

### Requirements Subsequent to Transfer of Control

State permits will be required for all new signs to be erected after the transfer date and such signs must comply with the State's commercial sign regulations.

Control by the State does not preclude the necessity for the sign owner to meet the requirements for city ordinances, in addition to those required by the Highway Beautification law. The city or town should refrain from issuing a building permit for a sign along a controlled highway until a State permit is obtained.

When a certified city relinquishes control to the State, the inventory of existing signs along controlled highways within the town or city should be updated as soon as possible after the transfer date. Such signs should be classified as conforming or nonconforming in accordance with the State's criteria in lieu of the city's standards.

Renewal of permits for these signs will begin one year from the date of transfer from the city. The procedure and form used will be the same as that for permits issued by the State.

Documentation (letter or transfer forms) of transfer must be kept on file in the ROW Division.

# Chapter 8 — Control of Commercial Signs along Interstate or Primary Highways

## Contents:

[Section 1 — Sign Standards](#)

[Section 2 — Continuance of Nonconforming Signs](#)

[Section 3 — Destruction of Trees/Violation of Control of Access](#)

[Section 4 — Cancellation of Permits](#)

[Section 5 — Appeal Process for Permit Denials](#)

[Section 6 — Enforcement](#)

[Section 7 — Prohibited Signs](#)

[Section 8 — Directional Signs](#)

[Section 9 — Nonprofit Signs](#)

[Section 10 — Relocation](#)

## Section 1 — Sign Standards

### Overview

The following standards apply to signs controlled by the State. To be eligible for a permit, new signs must conform to the following standards. Existing signs that are legally in place, but do not meet the standards, are classified as legal nonconforming signs.

### Establishing Commercial and Industrial Areas

All signs except official or directional signs must be located in either:

- ◆ an area zoned for commercial or industrial use; or
- ◆ an unzoned commercial or industrial area.

### Zoned Commercial or Industrial Areas

A zoned commercial or industrial area is an area designated, through a comprehensive zoning action, for general commercial or industrial use by a political subdivision with legal authority to zone regardless of the specific label used by the zoning authority.

The following areas are not zoned areas:

- ◆ has no actual development of the property for commercial or industrial activity, as described in §21.180, other than specifically sign-related infrastructure;
- ◆ areas designated for and created primarily to permit commercial sign structures along a regulated highway;
- ◆ unrestricted areas; and
- ◆ small parcels or narrow strips of land that cannot be put to ordinary commercial or industrial use and are designated for a use classified different from and less restrictive than that of the surrounding area.

Industrial Districts are **not recognized** as industrial zones.

### Unzoned Commercial and Industrial Areas

An unzoned commercial or industrial area is an:

- ◆ area along the highway right of way that has not been zoned under authority of law;
- ◆ which is not predominantly used for residential purposes; and

- ◆ which is within 800 feet, measured along the edge of the highway right of way perpendicular to the centerline of the main traveled way, of and on the same side of the highway as the principal part of at least two adjacent recognized governmental, commercial, or industrial activities.

### **Proximity to Right of Way**

A portion of the regularly used buildings, parking lots, storage and processing areas, where each respective business activity is conducted, must be within 200 feet of the highway right of way, and the permanent building where the activity is conducted must be visible from the main-traveled way.

### **Two Separate and Adjacent Activities**

To be considered adjacent, there must be no separation of the regularly used buildings, parking lots, storage or processing areas of the two activities by vacant lots, undeveloped areas over 50 feet wide, roads, or streets, or a non-governmental, non-commercial, or non-industrial area. Two activities may occupy one building as long as each has 400 square feet of floor space dedicated to that activity and otherwise meets the definition of a commercial or industrial activity. There must be separation of the two activities by a dividing wall constructed from floor to ceiling, the two activities must have access to the restroom facilities during all hours the activity is open, and the two activities must operate independently of one another. A separate product line offered by one business will not be considered two activities.

### **Measurements**

An unzoned commercial or industrial area is more specifically identified as follows:

- ◆ The area to be considered, based upon the qualifying activities, is 1,600 feet (800 feet on each side) plus the actual or projected frontage of the commercial or industrial activities, measured along the highway right of way by a depth of 660 feet.
- ◆ The area shall be located on the same side of the highway as the principal part of the qualifying activities.
- ◆ The depth of an unzoned commercial or industrial area is measured from the nearest edge of the highway right of way perpendicular to the centerline of the main-traveled way of the highway. See graphic below:

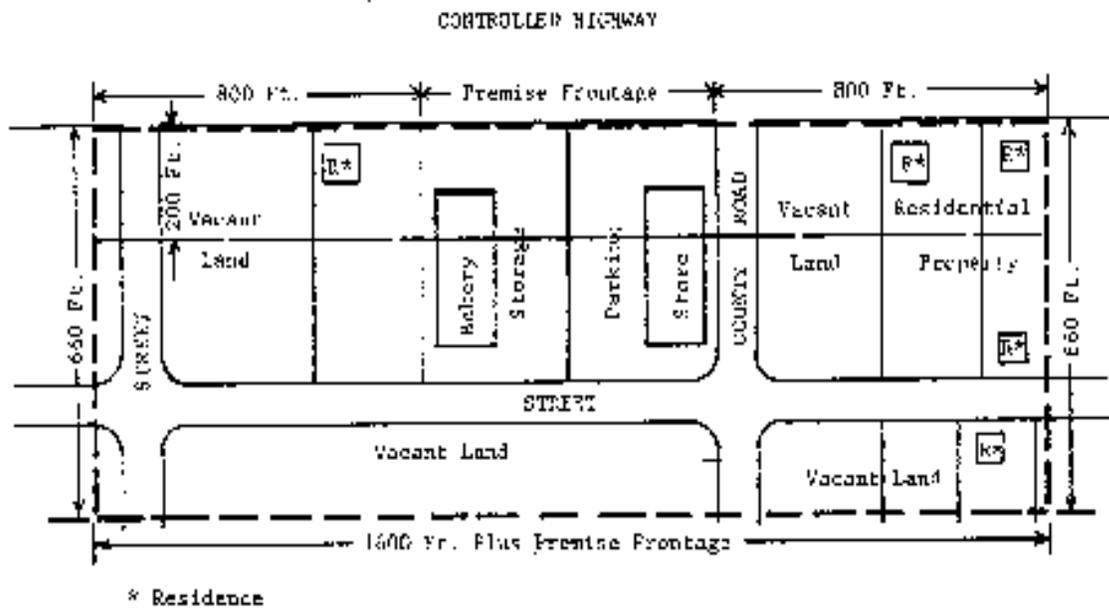


Figure 8-1. Example of an Unzoned Commercial Area

### Test for Residential

The area must be considered as a whole prior to the application of the test for predominantly residential.

An area will be considered to be predominantly residential if more than 50% of the area is being used for residential purposes. Roads and streets with residential property on both sides shall be considered as being used for residential purposes. Other roads and streets will be considered nonresidential.

### Commercial or Industrial Activities

Commercial or industrial activities are those activities customarily permitted only in zoned commercial or industrial areas, except that none of the following shall be considered commercial or industrial activities:

- ◆ commercial sign structures;
- ◆ agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, temporary wayside fresh produce stands;
- ◆ activities not:
  - housed in a permanent building or structure affixed to real property;
  - having an indoor restroom, running water, and functioning electrical connections;

- having permanent flooring other than material such as dirt, gravel, or sand;
- ◆ activities not housed in a permanent building that is visible from the traffic lanes of the main-traveled way;
- ◆ activities conducted in a building primarily used as a residence;
- ◆ railroad right of way;
- ◆ activities that do not have a portion of the regularly used buildings, parking lots, storage or processing areas within 200 feet from the edge of the right of way;
- ◆ activities conducted only seasonally;
- ◆ activities conducted in a building having less than 400 square feet of floor space devoted to the activities;
- ◆ activities that do not have at least one person who is at the activity site, performing work, an average of at least 30 hours per week and on at least four days per week;
- ◆ activities which have not been conducted at its present location for at least 180 days;
- ◆ recreational facilities such as campgrounds, golf courses, tennis courts, wild animal parks, and zoos, except for the portion of the activities occupied by permanent buildings which otherwise meet the criteria in this subsection, and parking lots;
- ◆ apartment houses and residential condominiums;
- ◆ areas used by public or private preschools, secondary schools, colleges and universities for education or recreation (this does not preclude trade schools or corporate training campuses);
- ◆ quarries or borrow pits, except for any portion of the activities occupied by permanent buildings which otherwise meet the criteria in this subsection, and parking lots; and
- ◆ places primarily used for worship.

### Effect of Cessation of Activities

When a commercial or industrial activity ceases, causing an off-premise sign to no longer be located within 800 feet of at least two adjacent recognized commercial or industrial activities located on the same side of the highway as the sign, such sign shall become nonconforming.

If TxDOT has evidence that an activity supporting an unzoned commercial or industrial area was created primarily or exclusively to qualify an area as an unzoned commercial or industrial area; and no business has been conducted at the activity site within one year, TxDOT may cancel the permit.

### Spacing

No sign may be located in a manner that creates a safety hazard, including:

- ◆ causing a driver to be unduly distracted in any way;

- ◆ obscuring or otherwise interfering with the effectiveness of an official traffic sign, signal or device; or
- ◆ obstructing or interfering with the driver's view of approaching, merging or intersecting traffic.

The center of a sign may not be located within 250 feet of the nearest point of the boundary of a public space.

This section applies only if a public space boundary abuts the right of way of a regulated highway. Signs may not be located within 1,500 feet of the boundary of a public space that is adjacent to a regulated highway. This prohibition shall apply:

- ◆ on either side of the highway on a non-freeway primary system; and
- ◆ on the side of the highway to which the public space is located, if the highway is on an interstate or freeway primary system.

The following spacing limitations apply to signs that will be erected outside incorporated municipalities along a freeway or interstate regulated highway. Signs may not be erected:

- ◆ in areas adjacent to or within 1,000 feet of interchanges, intersections at grade, or rest areas; or
- ◆ in areas adjacent to or within 1,000 feet of ramps or their acceleration and deceleration lanes. (Such distances shall be measured along the highway from the nearest point of beginning or ending of pavement widening at the exit from, or entrance to, the main-traveled way). See graphics below.

**The following figures depict the prohibited areas based on the spacing and measurements TxDOT follows.**

### Area of sign prohibition at an intersection at grade

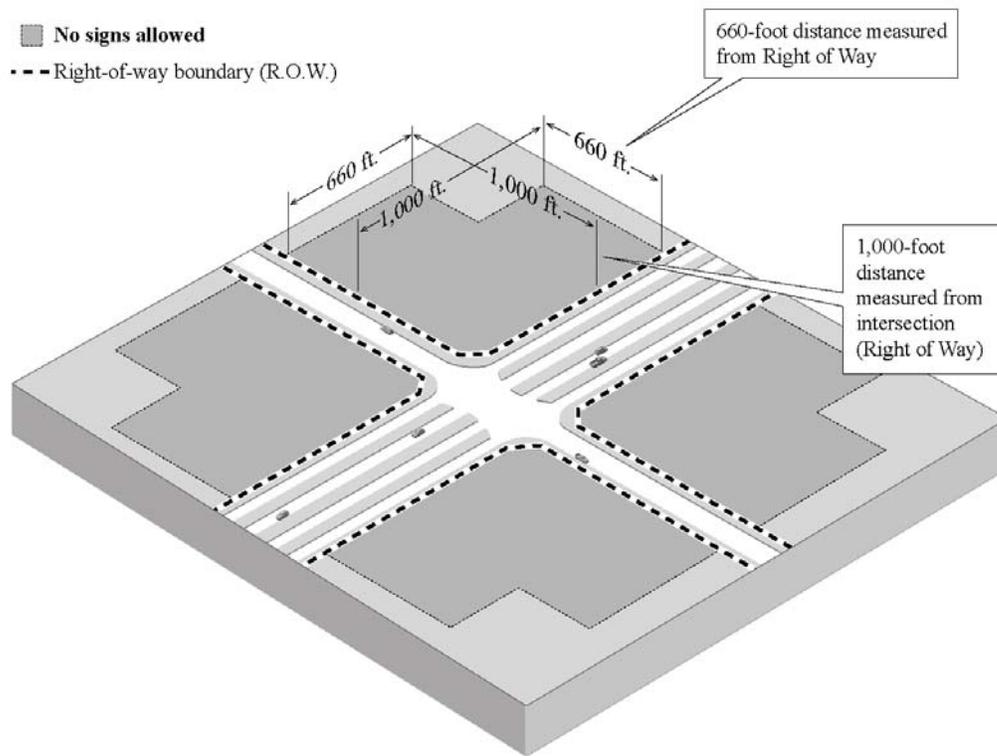


Figure 8-2. Example of an area of sign prohibition at an intersection at grade

**Area of sign prohibition at an intersection with overpass**

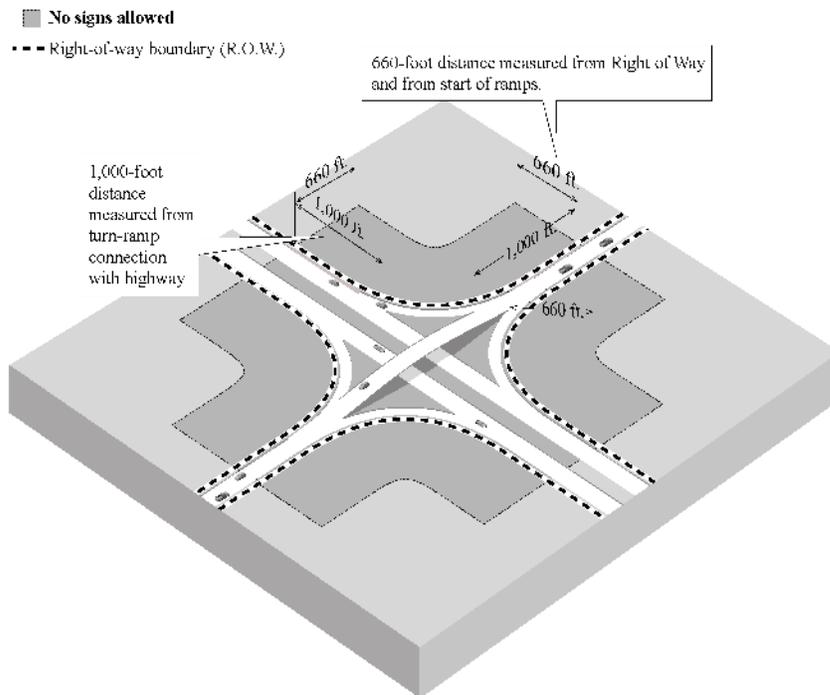


Figure 8-3. Example of an area of sign prohibition at an intersection with overpass

**Area of sign prohibition at an intersection with turn ramps**

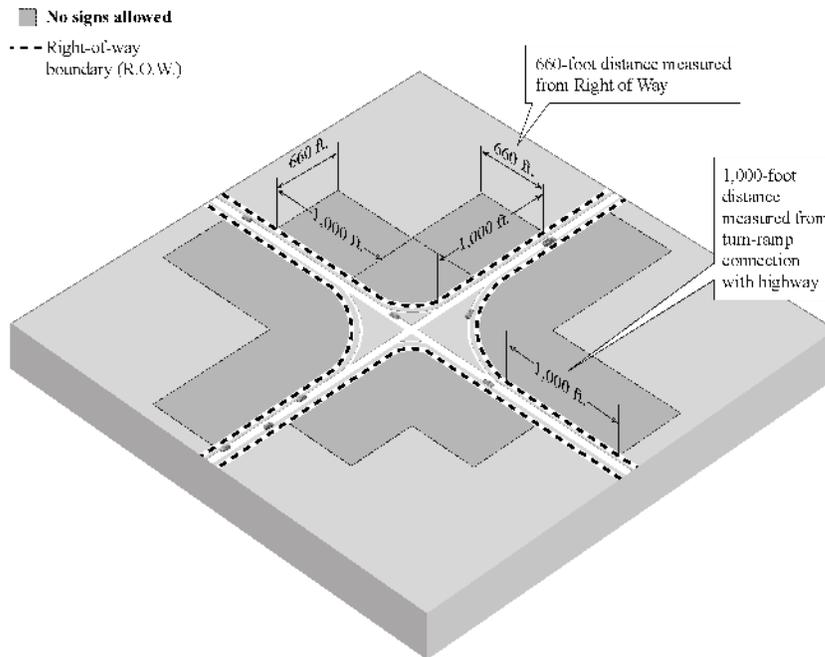


Figure 8-4. Example of an area of sign prohibition at an intersection with turn ramps

### Area of sign prohibition at a rest stop

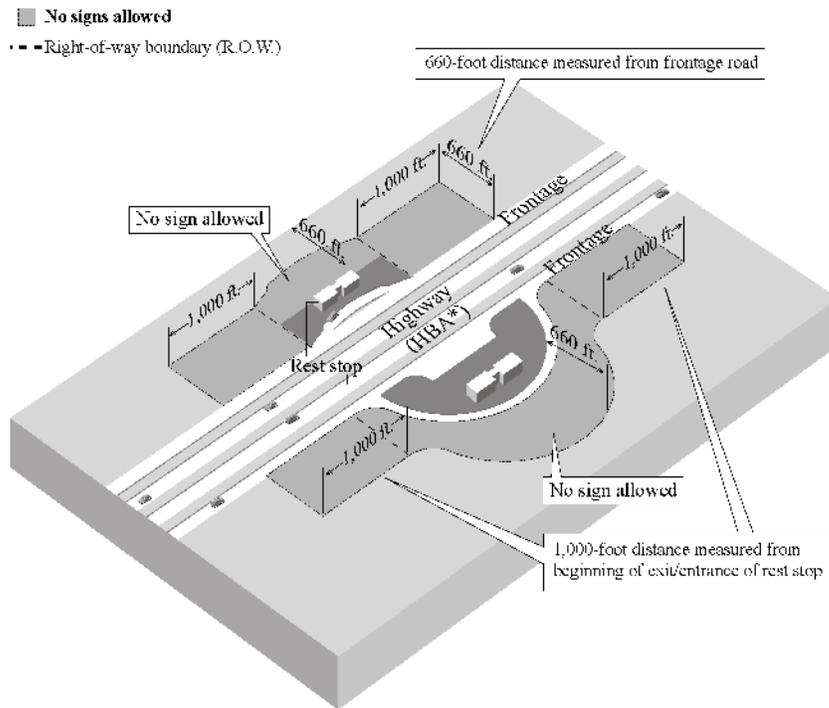


Figure 8-5. Example of an area of sign prohibition at a rest stop

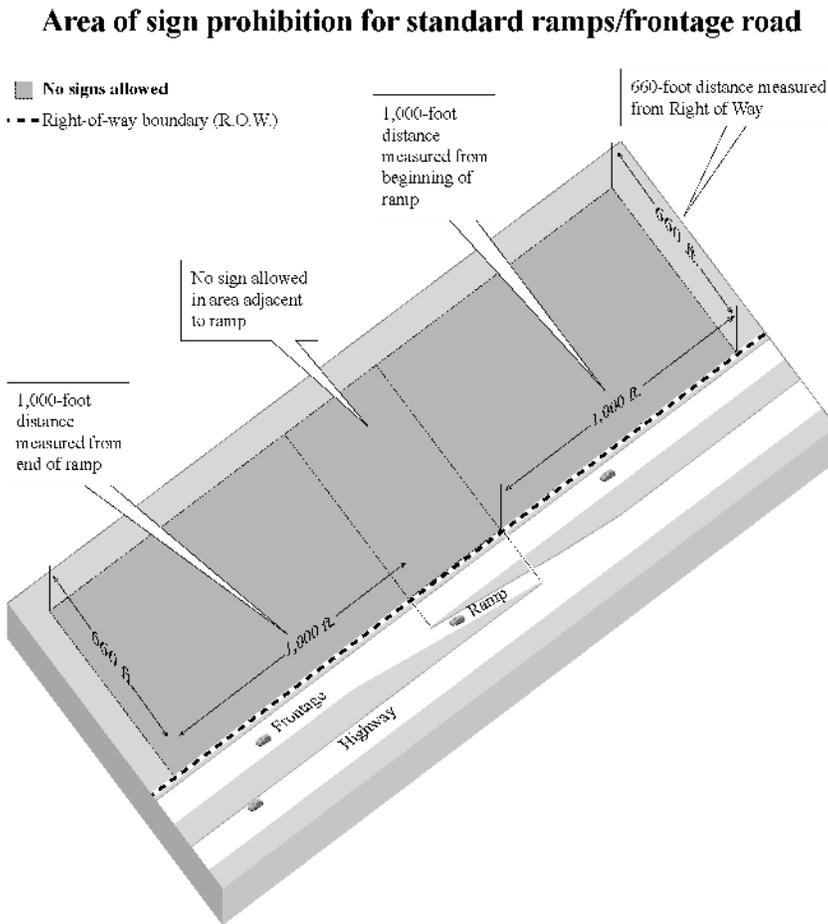


Figure 8-6. Examples of spacing limitations

Signs may not be erected closer than 1,500 feet apart on the same side of a regulated highway.

Signs erected outside of incorporated municipalities along the non-freeway primary system may not be closer than 750 feet apart on the same side of the highway.

Signs erected in incorporated municipalities along the non-freeway primary system may not be closer than 300 feet apart on the same side of the highway.

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

1. 1,500 feet to another sign that is on the same side of the highway and outside the incorporated boundaries of a municipality; or
2. 500 feet to another sign that is on the same side of the highway and inside the incorporated boundaries of a municipality.

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

1. 750 feet to another sign that is on the same side of the highway and outside the incorporated boundaries of a municipality; or
2. 300 feet to another sign that is on the same side of the highway and inside the incorporated boundaries of a municipality.

For the purposes of this section, the space between commercial signs is measured between points along the right of way of the highway perpendicular to the center of the signs.

For the purposes of this section, a municipality's extraterritorial jurisdiction is not considered to be included within the boundaries of the municipality.

The spacing between signs shall not apply to signs separated by buildings, natural surroundings, or other obstructions, which cause only one sign located within the specified spacing to be visible at any one time.

No commercial sign may be erected within five feet of any highway right of way line. This distance shall be measured from any part of the sign face nearest the right of way.

A permitted sign that is being displaced by a highway construction project will not be considered in determining the spacing for a new sign application.

### Size

An off-premise sign face may not exceed 672 square feet, with a maximum sign face height of 25 feet and a maximum sign face length of 60 feet, inclusive of borders and trims. Temporary protrusions also known as cutouts, may not exceed 10% of the area indicated on the sign permit. Temporary protrusions may be added to a commercial sign, provided that no commercial sign to which one or more temporary protrusion or cutouts have been added shall have an area greater than 907 square feet.

The maximum size limitations shall apply to each side of the sign structure or structures visible to approaching traffic on the main-traveled way of the regulated highway.

The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign face.

Sign faces may be placed back-to-back, side-by-side, stacked, or in V-type construction with no more than two faces presented in each direction. The sign structure or structures shall be considered one sign. Two sign faces facing one direction may be presented as one face by covering both faces and the area between the faces with an advertisement, as long as the size limitations for a single face set forth above are not exceeded.

Signs, which exceed 336 square feet in area, including cutouts, may not be stacked or placed side-by-side.

A sign face may be permanently enlarged by 10% of the size shown on the permit without a new permit, if the enlargement does not cause the face to exceed the maximum size limitations set forth above. If a sign is built with a smaller face than the size shown on the permit, or if the face is reduced in size after it is built, a new permit will be required to increase the size of the face beyond the allowed 10%.

A new permit will not be issued for a nonconforming sign.

## Overall Height

Except as provided by this subsection and subsections (f) and (g) of this section, a commercial sign may not be erected that exceeds an overall height of 42-1/2 feet. If the legislature does not establish a maximum overall height of commercial signs before September 3, 2019, effective September 3, 2019, a commercial sign may not be erected that exceeds an overall height of 85 feet.

A roof sign having a solid sign face surface may not at any point exceed 24 feet above the roof level.

Open sign faces on roof signs in which the uniform open area between individual letter or shapes is not less than 40% of the total gross area of the sign face may be erected to a height of 40 feet above the roof level. The lowest point of a projecting roof or wall sign must be at least 14 feet above grade.

For the purposes of this section, height is measured from TxDOT's determination of grade level of the centerline of the main-traveled way closest to the sign face, at a point perpendicular to the sign location. A frontage road of a controlled access highway or

freeway is not considered the main-traveled way for purposes of this subsection. In the event that the main-traveled way that is perpendicular to the sign structure is below grade, sign height will be measured from the base of the sign structure.

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

In accordance with Transportation Code, Section 391.038, a sign that existed on March 1, 2017, and that satisfies the requirements of Section 391.038, may be rebuilt, without obtaining a new or amended permit from TxDOT, at the location where the sign existed on March 1, 2017, and at a height that does not exceed the height of the sign on that date. A sign structure described by this subsection must otherwise comply with this subchapter.

### Lighting and Movement of Signs

**Lighting.** Signs may be illuminated **except** for signs that contain, include, or are illuminated by:

- ◆ any flashing, intermittent, or moving light or lights, including any type of screen using animated or scrolling displays, such as an LED (light emitting diode) screen or any other type of video display, even if the message is stationary, except those giving only public service information such as time, date, temperature or weather;
- ◆ lights that are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of a regulated highway; and
- ◆ lights of such intensity or brilliance as to cause glare or vision impairment to the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle; and
- ◆ lights that interfere with the effectiveness of, or obscure an official traffic sign, device, or signal.

A temporary protrusion may not be illuminated by flashing or moving lights or enhanced by reflective material that creates the illusion of flashing or moving lights.

A conforming sign may be illuminated but only by:

- ◆ upward lighting of no more than 4 luminaires per direction of the sign face or faces of the structure; or
- ◆ downward lighting of no more than 4 luminaires per direction of the sign face or faces of the structure.

This subchapter does not prohibit a temporary protrusion area of the sign face that displays only numerical characters and that satisfies this subsection and the requirements of section 21.182 of this subchapter (relating to commercial sign face size and positioning). An electronic sign may contain a temporary protrusion described by this subsection. The display on the temporary protrusion may be a digital or other electronic display, but if so:

1. it must consist of a stationary image;
2. it may not change more frequently than four times in any 24 hour period; and
3. the process of any change of display must be completed within two minutes.

**Reflective Materials.** Reflective paint and reflective disks may be used on a sign face unless they are determined by TxDOT to create the illusion of flashing or moving lights; or cause an undue distraction to the traveling public.

**Neon.** Non-flashing neon lights may be used on sign faces, unless the sign permit specifies an unilluminated sign structure; or the lights are determined by TxDOT to cause an undue distraction to the traveling public.

## Electronic Signs

TxDOT 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 TxDOT or any agreement between TxDOT and the Secretary of Transportation of the United States.

State rules effective June 1, 2008 allow the erection of LED and Rotating Slat Signs with the following prohibitions that the signs shall not;

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

Electronic signs may only be located, relocated, or upgraded along a regulated highway within the corporate limits of a municipality or within the extraterritorial jurisdiction of a municipality that pursuant to state law has extended its municipal sign ordinance regulation to include that area and is allowed by the municipality's sign or zoning ordinance.

Electronic signs may not be relocated so that any part of the relocated sign would be within 1,500 feet of another off-premise electronic sign on the same side of a regulated highway.

Non-conforming signs cannot be upgraded to or used to illuminate non-conforming signs. However, a legally conforming sign may be modified to an electronic sign if a new permit for the electronic sign is obtained from TxDOT. Lighting shall not be added to or used to illuminate a sign if prohibited by the municipality's sign or zoning ordinance.

Electronic signs may be located on either side of the highway; however, each sign must only be visible from one direction of travel. Each message on an electronic sign shall be displayed for at least eight seconds and a change of message shall be accomplished within two seconds. A change of message must occur simultaneously on the entire sign face.

An electronic sign must contain a default mechanism that freezes the sign in one position if a malfunction occurs; and automatically adjust the intensity of its display according to natural ambient light conditions.

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 shall remain in the advertising rotation according to the protocols of the agency that issues the information. The sign owner shall provide to TxDOT 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 after a malfunction occurs.

If TxDOT 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 TxDOT, shall reduce the intensity of the sign to a level acceptable to TxDOT.

TxDOT will grant a permit for an electronic sign if the application for the permit satisfies the requirements of 43 TAC, Subchapter I and has attached a current copy of the municipality's sign ordinance that gives permission for an electronic sign.

## Wind Load Pressure

Permit applications for new signs and permit renewals must include a certification signed by the applicant that the proposed or existing sign will withstand wind load pressures in pounds per square foot as set out in the table below.

**Wind Load Pressure in Pounds Per Square Foot**

<b>Height, in feet above ground, as measured above the average level of the ground adjacent to the structure</b>	<b>Pressure, pounds per square foot</b>
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

## Section 2 — Continuance of Nonconforming Signs

### Overview

In order for a nonconforming sign structure to be maintained and continued the sign structure must:

- ◆ have existed at the time the conditions changed to make the sign nonconforming;
- ◆ have been lawful on the date it became subject to control by TxDOT; and
- ◆ remain substantially the same as it was on the date it became subject to TxDOT 's control.

The permit holder's sign:

- ◆ may not be relocated even if the sign is sold, leased, or otherwise transferred, without affecting its status, unless the relocation is a result of a right of way acquisition requiring relocation to a conforming area;
- ◆ may not be destroyed, abandoned, or discontinued;
- ◆ may not be removed or re-erected for any reason, including repair; and
- ◆ may not be substantially changed.

### Routine Maintenance

The following are considered to be routine, normal, or reasonable maintenance activities that do not require an amended permit:

- ◆ replacement of nuts and bolts; nailing, riveting or welding; cleaning and painting; and manipulation to level or plumb the sign structure;
- ◆ replacement of minor parts, as long as the basic design or structure of the sign is not altered and materials of the same type are used;
- ◆ changing the advertising message, including changing the sign face, as long as similar materials are used to replace the sign face;
- ◆ upgrading existing lighting for an energy efficient lighting system.

### Customary Maintenance

The following are considered to be customary maintenance activities that may be made, but require an amended permit before the initiation of such an activity:

- ◆ replacement of poles, as long as no more than one-half of the poles are replaced in any 12-month period and the poles are replaced with the same type of materials as the original poles; and

- ◆ adding a catwalk to the sign structure must meet Occupational Safety and Health Administration guidelines.

### Substantial Change

Substantial changes that require an amended permit application before the initiation of such activity are:

- ◆ adding lights to an un-illuminated sign or adding more intense lighting to an illuminated sign whether or not the lights are attached to the sign structure;
- ◆ changing the size of the sign beyond what is allowed (see Sign Standards - Size);
- ◆ changing the number of poles in the sign structure;
- ◆ changing the materials used in the construction of the sign, such as replacing wooden materials with metal materials;
- ◆ adding faces or changing the sign configuration, such as changing from a "V" configuration to a stacked configuration, or from a "V" configuration to a back-to-back configuration;
- ◆ increasing the height of the sign;
- ◆ moving the sign structure or sign face in any way unless the movement is made in accordance with TxDOT 's relocation provisions, as a result of a transportation project;
- ◆ replacing more than one-half of the poles in a multiple pole sign structure in any 12-month period; or
- ◆ making repairs that exceed 60% of the cost to erect a new sign of the same type at the same location.

A new permit will **not** be issued for a nonconforming sign.

### Damage

Except as allowed by Transportation Code, Section 391.038, if a sign is partially destroyed by natural forces, including wind, tornadoes, hurricanes, or other occurrences outside the control of the permit holder, TxDOT will determine whether the sign can be repaired without a new permit.

TxDOT may require the permit holder to submit an estimate of the proposed work, including an itemized list of materials to be used and the manner in which the work will be done. TxDOT may allow the sign to be repaired without issuing a new permit if TxDOT determines that the repairs would constitute normal or reasonable repair and maintenance, if the damage to the sign is not substantial. If the damage is determined to be substantial, the sign owner must obtain an amended permit under section 21.174 relating to Amended Permit.

TxDOT will cancel the existing permit if it determines the damage to the sign is substantial and an amended permit is not obtained by the sign owner within one year after the date that TxDOT first became aware of the damage.

A sign that is totally or partially destroyed by vandalism or a motor vehicle accident may be rebuilt as described on the most recently approved permit.

If a sign is partially destroyed by a natural force outside the control of the sign owner in an area that receives a state or federal disaster declaration and the sign owner has documentation to show that the sign damage is not considered substantial the sign may be repaired without a prior determination by TxDOT if the sign is repaired within 180 days after the date of the event and if within 60 days after the date of completion of the repairs, the owner submits to TxDOT:

- ◆ photos of the partially destroyed sign and the repaired sign;
- ◆ a notarized affidavit executed by the sign owner containing the permit number of the sign; a statement that the sign was damaged by the natural force; a statement that the cost to repair the sign was less than 60 percent of the cost of a new sign with the same basic construction; and a statement that the sign was repaired in the same configuration and with like materials according to the most recent approved permit.

After the permit is canceled, the remaining sign structure must be dismantled and removed without cost to TxDOT, unless a new permit for the location can be issued. TxDOT will not issue a new permit to repair or rebuild the sign if the sign location is nonconforming.

If a decision to cancel a permit is appealed, the sign may not be repaired during the appeal process.

The damage will be considered substantial if:

- ◆ the cost to repair the sign would exceed 60% of the cost to replace it with a sign of the same basic construction at the same location; or
- ◆ the repairs would not constitute normal or reasonable repair and maintenance, as described above.

## Abandonment

TxDOT may consider a sign abandoned and cancel the permit if:

- ◆ all sign faces are blank or without legible content;
- ◆ the sign structure needs more than customary maintenance to be repaired; or
- ◆ the sign structure is overgrown by trees or other vegetation.

TxDOT will not consider the payment of property taxes or the retention of a sign as a balance sheet asset in determining whether the sign permit should be canceled under this section.

Small temporary signs such as garage sale signs or campaign signs attached to the structure do not constitute legible advertising matter.

The payment of property taxes or retention of the sign as a balance sheet asset will not be considered in determining whether the sign permit should be canceled.

An abandoned sign in a nonconforming sign location may not be re-permitted. If the location of the abandoned sign is conforming, a new permit may be issued to anyone who submits an application meeting requirements.

TxDOT may initiate the cancellation process if TxDOT has evidence that supports the fact that the sign has been abandoned.

Before initiating the cancellation process TxDOT will provide notice to the sign owner and land owner as identified on the permit application of the abandonment determination and allow the sign owner 60 days to correct the issue.

## Removal

Actions constituting removal include, but are not limited to:

- ◆ Removal of the structure, regardless of whether it was removed by someone other than the permit holder. This includes removal of the structure for repairs. Repairs must be conducted at the sign site. The face may be temporarily removed for repainting.
- ◆ Removal of the structure when it is replaced with a different structure.
- ◆ Removal of the structure when it is moved to another location.

## Section 3 — Destruction of Trees/Violation of Control of Access

### Overview

Trees and vegetation on the TxDOT 's right of way may not be destroyed or cut for any purpose. TxDOT will not issue a permit for a sign if existing vegetation or landscaping along the highway right of way has been damaged by the permit holder or someone acting on behalf of the licensee.

TxDOT will **not** issue a permit for a sign unless it can be erected or maintained from private property.

TxDOT will cancel a permit for the erection and maintenance of a commercial sign if the owner, or someone acting on behalf of the owner, does not comply with state law or regulations. TxDOT may further seek all other relief made available by law to recover damages and costs to enforce this provision.

It is not a violation to trim the portion of the tree or vegetation that encroaches onto private property at the private property line as long as the trimming occurs from the private property.

## Section 4 — Cancellation of Permits

### Requirements

TxDOT will cancel a permit if the sign:

- ◆ is removed, unless the sign is removed and re-erected at the request of a condemning authority;
- ◆ is not maintained in accordance with this subchapter or Transportation Code 391;
- ◆ is damaged beyond the repair, as determined under section 21.197 relating to Discontinuance of a Nonconforming Commercial Sign Due to Destruction;
- ◆ is abandoned as determined under section 21.181 relating to Abandonment of Sign;
- ◆ is built by an applicant who uses false or materially misleading information on the permit application;
- ◆ has substantial changes made to a non-conforming sign in violation of the regulations or Transportation Code, Chapter 391;
- ◆ is located on property owned by a person who withdraws, in writing, the permission to occupy the property;
- ◆ is located in an unzoned commercial or industrial area and TxDOT has evidence that an activity supporting the unzoned commercial or industrial area was created primarily or exclusively to qualify the area as an unzoned commercial or industrial area, or;
- ◆ is accessed, erected, repaired, or maintained from highway right of way;
- ◆ has been made more visible by the permit holder clearing vegetation from the highway right of way; or
- ◆ fails to cure a violation; or
- ◆ fails to pay an administrative penalty.

Upon determination that a permit should be canceled, TxDOT will mail a notice of cancellation to the address of the record permit holder by certified mail. The notice will clearly state the:

- ◆ reasons for the cancellation;
- ◆ effective date of the cancellation; **and**

- ◆ right of the permit holder to request an administrative hearing on the cancellation. The request for the hearing must be made in writing and delivered to TxDOT within forty-five(45) days after the date that the notice of cancellation is received.

Upon written notification by TxDOT, the owner of a sign is required to remove the sign at no cost to the State if a:

- ◆ permit expires without renewal; **or**
- ◆ permit is canceled without reinstatement; **or**
- ◆ sign is erected or maintained without a permit .

If requested timely, an administrative hearing will be conducted in accordance with Chapter 1, Subchapter E (relating to Procedures in Contested Case) and the cancellation is abated until the cancellation is affirmed by order of the commission.

A permit holder may voluntarily cancel a permit by submitting a request in writing after the sign has been removed. The administrative hearing procedures outlined above do not apply to a permit voluntarily canceled by the permit holder.

## Section 5 — Appeal Process for Permit Denials

### Procedure

An applicant may file a written request for an appeal with the Executive Director to appeal a denied permit through the ROW Division. The request for appeal must be written and sent to the ROW Division and should contain (1) a statement of facts as to why the denial is believed to be in error, and (2) supporting documentation such as drawings, surveys, or photographs.

The appeal request must be received within forty-five (45) days after the date the denial notice was received. The Executive Director or designee will make a final determination on the appeal within sixty (60) days after the date that the Executive Director receives the request for appeal. If the petition is denied, TxDOT will send a written decision to the applicant stating the reason for denial.

If the Executive Director or designee is unable to make a final determination on the appeal within the 60-days TxDOT will notify the applicant by mail of the delay and provide an estimated time in which a final determination will be made.

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## Section 6 — Enforcement

### Administrative Hearing

If a commercial sign license is permanently suspended or revoked or if an existing sign permit is canceled by TxDOT, the licensee will have an opportunity to request an administrative hearing.

### Removal of Sign

If a permit expires without renewal, is canceled without reinstatement, or if a commercial sign is erected or maintained without a permit, the owner of the commercial sign structure shall, upon written notification by TxDOT, remove the sign structure at no cost to the State.

If the owner does not remove the sign within forty-five (45) days of the day that the demand is sent, TxDOT will remove the sign and will charge the sign owner for the cost of removal, including the cost of any court proceedings.

### Penalties for Erecting a Sign without a Permit

Any person who willfully violates any provision of the *Transportation Code, Chapter 391*, or a rule adopted by the Texas Transportation Commission under *Chapter 391*, is subject to a fine for a misdemeanor, punishable by a fine of not less than \$500.00 nor more than \$1,000.00 for each violation. Each day a person is in violation constitutes a separate offense.

Further, if the owner of a commercial sign erected or maintained in violation of applicable laws and regulations does not remove the structure within 45 days of the date of the violation notice, TxDOT may direct the Office of the Attorney General to seek an injunction (1) to prohibit the owner from maintaining the advertising, and (2) to require removal of the structure.

The State is entitled to recover from the owner all administrative and legal costs and expenses incurred to remove the sign structure, including court costs and reasonable attorney's fees.

In addition to being subject to a criminal penalty and injunctive action, a person who intentionally erects or maintains a commercial sign in violation of the law and/or regulations is liable to the State for a civil penalty, which the Office of the Attorney General may sue to collect. The amount of the civil penalty is not less than \$500.00 or more than \$1,000.00 for each violation, depending upon the seriousness of the violation. A separate penalty may be collected for each day a continuing violation occurs.

## Administrative Penalties

TxDOT may impose administrative penalties against a person who intentionally violates the Transportation Code or Chapter 391.

The amount of the administrative penalty may not exceed the maximum amount of a civil penalty that may be imposed under Transportation Code, §391.035 and will be based on the following:

- ◆ \$250 for a sign not having been properly registered;
- ◆ \$250 for erecting a sign at the location other than the location identified by stake or paint, except that if the actual sign location does not conform then TxDOT will seek cancellation of the permit;
- ◆ \$500 for maintaining or repairing signs from the state right of way or for performing customary maintenance on any sign or substantial changes on a conforming sign without first obtaining an amended permit;
- ◆ \$1,000 for erecting a sign from the right of way.

In addition to the penalties assessed under subsection (b) of this section, TxDOT may seek to recover the cost of repairing any damage to the right of way done by the sign owner or on the sign owner's behalf.

An imposed penalty that is not paid within 60 days of the later of the date of receipt of notice from TxDOT or if an administrative hearing is conducted, the date that the imposition is confirmed, will result in the cancellation of the sign's permit.

## Curable Violations

A permit holder commits a curable violation if the permit holder:

- ◆ abandons a sign;
- ◆ erects an otherwise conforming sign structure that is not on the parcel of land indicated on the permit;
- ◆ erects a sign structure at a location that does not meet all spacing requirements of this subchapter or as described in the permit application;
- ◆ makes customary repairs or substantial changes to a conforming sign without obtaining a required amended permit;
- ◆ fails to establish legal access from private property;

- ◆ violates any of the provisions of this subchapter relating to Lighting of and Movement on Commercial Signs; or
- ◆ violates the subchapter relating to Commercial Sign Height Restrictions.

TxDOT will notify the permit holder in writing of a violation of this section and will give the permit holder 60 days, beginning on the date of receipt of notice of the violation, to correct the violation, provide proof of the correction, and if required, obtain an amended permit from TxDOT. Examples of proof of correction of a violation include, (1) acceptable photographs; and (2) current survey documentation.

If a permit holder who violates this section fails to correct the violation in accordance with this section, TxDOT will cancel the permit.

## Section 7 — Prohibited Signs

### Prohibited Types

The following types of commercial signs shall not be erected or maintained along, or be visible from, the main-traveled way of a regulated highway unless otherwise authorized by law:

- ◆ signs that are erected or maintained upon trees or painted or drawn upon rocks or other natural features;
- ◆ signs that are erected or maintained within the right of way of a public roadway or within what would be the right of way if the right of way boundary lines were projected across an area of railroad right of way, utility right of way, or road right of way not owned by the State or any political subdivision. Legally erected and permitted signs may be maintained as nonconforming signs in areas used jointly by TxDOT and a railroad or utility company if they were erected prior to March 3, 1986;
- ◆ signs erected or maintained without a permit or operated without a license;
- ◆ signs prohibited by *Transportation Code, §544.006*, governing the display of unauthorized signs, signals and markings. These include:
  - signs with flashing lights within 1000 feet of an intersection;
  - signs that imitate or resemble official traffic-control devices or railroad signs or signals;
  - signs that attempt to direct the movement of traffic; or
  - signs that hide from view or hinder the effectiveness of an official traffic-control device or railroad sign or signal.

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## Section 8 — Directional Signs

### Definition

A directional sign is a sign that contains only a message that identifies an attraction or activity that meets the requirements of this section and provides directional information, such as mileage, route number, or exit number, useful to the traveler in locating the attraction or activity. A directional sign may not contain descriptive words or phrases or pictorial or photographic representations of the activity or its environs.

### Registration

A directional sign may be erected and maintained without a license and permit. However, prior to erecting a directional sign, the owner must obtain approval of TxDOT. To obtain the approval from TxDOT, the sign owner must file an application on a form prescribed by TxDOT showing the location, message content, construction, and dimensions of the sign. There will be no fee associated with this registration.

The following criteria are applicable to directional signs.

### Message Content

The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

### Selection Method and Criteria

Privately owned activities or attractions eligible for directional signing are limited to the following:

- ◆ natural phenomena;
- ◆ scenic attractions;
- ◆ historic, educational, cultural, scientific, and religious sites; and
- ◆ outdoor recreational areas.

To be eligible, privately owned attractions or activities must be nationally or regionally known, and of outstanding interest to the traveling public. Examples of these sites may be found in the *National Register of Historic Places*, the *National Registry of Natural Landmarks* published by the U.S. Department of Interior, and the **Texas State Travel Guide** published by the State of Texas .

### **Prohibited Directional Signs**

The following directional signs are prohibited:

- ◆ signs advertising activities that are illegal under Federal and State law or regulation in effect at the location of those signs or activities;
- ◆ signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic;
- ◆ signs erected or maintained upon trees, or painted or drawn upon rocks or other natural features;
- ◆ obsolete signs;
- ◆ signs that are structurally unsafe or in disrepair;
- ◆ signs that move or have animated or moving parts; and
- ◆ signs located in rest areas, parklands or scenic areas.

### **Size**

No sign shall exceed the maximum area of 150 square feet, maximum height of 20 feet and maximum length of 20 feet. All dimensions include border and trim, but exclude supports.

### **Lighting and Movement**

Directional signs must not contain, include or be illuminated by flashing, intermittent, or moving lights.

Lights that are part of or illuminate a directional sign must be shielded so that beams or rays of light are not being directed at any portion of the traveled way that could cause distractions or safety hazards. Lights should not interfere with the effectiveness of an official traffic sign, device, or signal.

### **Spacing**

TxDOT must approve each location of a directional sign.

No directional sign may be located within 2,000 feet of an interchange or intersection at grade along the interstate system or other primary system. The measurement is made from the nearest point of the beginning, ending, or pavement widening at the exit from or the entrance to the main-traveled way.

No directional sign may be located within 2,000 feet of a rest area, public park, or scenic area.

No two directional signs facing the same direction of travel shall be spaced less than one mile apart.

No more than three directional signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity.

Signs located adjacent to the Interstate System shall be within 75 air miles of the activity.

Signs located adjacent to the primary system shall be within 50 air miles of the activity.

## Section 9 — Nonprofit Signs

### Procedure

A nonprofit organization may obtain a permit to erect or maintain a nonprofit sign, with a reduced original fee of \$10.00, and a \$10.00 annual renewal fee.

No commercial sign license is required to obtain a nonprofit sign permit, or to maintain a nonprofit sign.

In order to qualify for a non-profit sign permit issued under this subsection, a sign must comply with all applicable requirements from which it is not specifically exempted, be in a conforming location, and it must meet the definition of a nonprofit sign.

An application for a nonprofit sign permit must include, in detail, the content of the message to be displayed on the sign.

If at any time the sign ceases to meet the requirements for a nonprofit sign, the permit will be subject to cancellation.

If the holder of a nonprofit permit loses its nonprofit status or wishes to advertise or promote something other than the municipality or political subdivision, a commercial sign license must be obtained and the permit must be converted to a permit for a commercial sign other than a nonprofit sign. The license and permit applications and fees can be found on the TxDOT website.

A nonprofit organization holding a valid permit for a nonconforming sign that would otherwise qualify for a permit under this subsection may convert its permit to a nonprofit permit by filing an application with the ROW Division. No fee is charged for the conversion; the permit may be renewed for \$10.00 per year.

## Section 10 — Relocation

### Overview

A commercial sign that has been timely removed from a TxDOT construction project site may be relocated if the sign is legally erected and maintained and will be within the highway right of way as a result of a highway construction project or, under exceptional circumstances as determined by the executive director or the executive director's deputy if the sign is legally erected and maintained and the relocation will further the intended purposes of the Highway Beautification Act of 1965.

### Permit

When a sign within the proposed highway right of way is to be impacted to accommodate a transportation project, TxDOT may issue a permit for the new sign location if the location meets the following requirements.

To receive a new permit to relocate a sign under this section, the permit holder must submit a new permit application to the Right of Way Division through EPS that identifies that the application is for the relocation of an existing sign due to a highway construction project. The new location must meet all local codes, ordinances, and applicable laws.

If the sign is relocated to a county that is not covered by the existing license and bond, the license must be amended to include that county prior to obtaining approval of TxDOT. No fee is required to amend a license.

The relocated sign must be within a zoned commercial or industrial area or an unzoned commercial or industrial area, except that an unzoned commercial or industrial area may include only one recognized commercial or industrial activity.

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

1. the adjustment of the sign face on a monopole sign that would overhang the proposed right of way and the required five foot setback from that location to the land on which the sign's pole

- is located, including adding a second pole if required to support the adjustment for a legal non-conforming monopole sign;
2. the relocation of the poles and sign face of a multiple sign structure that is located in the proposed right of way from the proposed right of way and the required five-foot setback to the land on which the other poles of the sign structure are located; or
  3. a reduction in the size of a sign structure that is located partially in the proposed right of way and the required five-foot setback so that the sign structure and sign face are removed from the proposed right of way and the required five-foot setback.

A permit application for the relocation of a sign must be submitted within 48 months after the earlier of the date the original sign was removed or the date the original sign was required to move. The sign owner is required to continue to renew the sign permit and pay the permit renewal fee for the sign to remain eligible for relocation.

To replace an issued and active relocation permit, an operator first must cancel the permit, then must reapply, pay the fee prescribed, and obtain approval for the new permit in accordance with this section. The relocation process must be completed within the time requirements of subsection.

## Spacing

The relocated sign location must meet the following spacing criteria:

- ◆ The sign may not be placed where it is likely to cause a driver to be unduly distracted in any way or where it will obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic, whether the intersection be of two or more highways or the intersection of a highway with a railroad.
- ◆ The sign may not be placed within 500 feet of a public space that is adjacent to a regulated highway. This prohibition applies on either side of the highway on a nonfreeway primary system; and on the side of the highway adjacent to the public space on an interstate or freeway primary system.
- ◆ If the sign is to be placed outside an incorporated municipality along an interstate or freeway highway, the sign may not be located in areas adjacent to or within 500 feet of:

- interchanges, intersections at grade and rest areas; or
- ramps, their acceleration and deceleration lanes. (Such distances shall be measured along the highway from the nearest point of beginning or ending of pavement widening at the exit from, or entrance to, the main-traveled way).
- ◆ The sign may not be erected along the interstate and freeway primary systems closer than 500 feet apart on the same side of the highway.
- ◆ The sign may not be erected along the nonfreeway primary system located outside of municipalities closer than 300 feet apart on the same side of the highway.
- ◆ The sign may not be erected along the nonfreeway primary system in municipalities closer than 100 feet apart on the same side of the highway.
- ◆ The sign may not be erected within five feet of any highway right of way line.
- ◆ A sign may not be relocated from a regulated rural road.
- ◆ A relocated sign may not be erected or maintained in a location that violates Health and Safety Code, Chapter 752.

### Size, Configuration and Construction

The size, configuration and construction of the relocated sign must conform to the following provisions:

- ◆ The maximum area for any one sign face shall be 672 square feet, with a maximum height of 25 feet and a maximum length of 60 feet.
- ◆ The maximum size limitations shall apply to each sign face visible to approaching traffic.
- ◆ The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign.
- ◆ Sign faces may be placed back-to-back, side-by-side, stacked, or in "V" type construction with not more than two faces presented in each direction. The sign structure and faces shall be considered one sign.
- ◆ Two faces which together exceed 700 square feet in area may not face in the same direction.

The spacing requirements set forth above do not apply to signs separated by buildings, natural surroundings, or other obstructions which cause only one sign located within the specified spacing to be visible at any one time; or directional or official signs, nor shall measurements be made from these signs.

### **Cessation of Activities**

When a commercial or industrial activity ceases, and a sign is located within 800 feet of at least one recognized commercial or industrial activity located on the same side of the highway as the sign, the sign will be considered nonconforming.

### **Relocation within a Certified City**

If a displaced sign is subject to the jurisdiction of a municipality certified to control commercial signs pursuant to 43TAC Section 21.200 relating to Local Control, and the sign will be relocated within that municipality, permission to relocate the sign must be obtained only from the certified municipality, in accordance with the municipality's sign and zoning ordinances. A separate permit from TxDOT is not required and the specific requirements for a relocation permit need not be met.

# Chapter 9 — Control of OAS along Rural Roads

## Contents:

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## Section 1 — Authority for Sign Control on Rural Roads

### State Statute and Commission Rules

In 1985 the Legislature of the State of Texas enacted *House Bill 1330*. *Article 2* of *House Bill 1330* is codified as *Article 6674v-3, V.A.C.S. Article 2* of such legislation provides for control of outdoor advertising signs along all roads outside the corporate limits of cities, towns and villages in the State of Texas. *Article 2* also directed the Texas Transportation Commission to administer and enforce that Article and authorized the Commission to adopt rules to regulate the erection and maintenance of signs covered under the Article; the Commission has adopted rules in accordance with the statute.

### Administration of Program

Except as otherwise described in the sections that follow, the Rural Road Sign Control Program is administered in essentially the same manner as the Highway Beautification Sign Control Program. However, there is no provision in *Article 6674v-3, V.A.C.S.* for acquisition of signs. On-premise signs, as well as off-premise signs, are subject to regulation under this program.

### TxDOT Control

TxDOT controls signs erected and maintained along rural roads located outside the corporate limits of cities, towns and villages in Texas. The control extends to any sign visible from the main-traveled way of a rural road.

Certain signs may be exempt from TxDOT control under the rural road program. These are:

- ◆ certain roads in the Extra Territorial Jurisdiction (ETJ) of a city, town or village that has adopted an ordinance to control signs in that area, and
- ◆ off-premise portable signs in certain counties.

The ROW Division outdoor advertising field compliance staff should contact all cities within their jurisdiction, to find out if the city wishes to exercise local control of sign permits within their ETJ. If a city opts to control it, it must provide a copy of their ordinance to the ROW Division, which will check it for compliance and keep it on file.

Additional exemptions are defined under [Exempt Signs](#) in this chapter

### **City Extraterritorial Jurisdiction**

*Article 3 of Article 6674v-3, V.A.C.S.* provides for regulation in city extraterritorial jurisdictions. The law provides that a municipality may extend the provisions of its outdoor sign control ordinance into its ETJ and enforce the ordinance in that area. The law further provides that a municipality may, in lieu of regulatory ordinances, allow TxDOT to regulate outdoor signs in its ETJ by filing a written notice with the Commission.

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## Section 2 — Sign Permits

### Preliminary Requirements

Before erecting or maintaining an outdoor advertising sign, other than an exempt sign, outside the corporate limits and, where applicable, ETJ of a city, the sign owner must apply for a permit from TxDOT. A separate permit application is required for each sign. No sign may be lawfully erected unless a permit has been obtained.

As of April 19, 2012 a commercial sign license is now required to erect a sign along a rural road.

A person may not obtain a permit for a sign under this subchapter unless the person holds a currently valid license applicable to the county in which the sign is to be erected or maintained.

A license is valid for one year after its date of issuance or most recent renewal (refer to Chapter 5 - Commercial Sign License).

### State Rural Road Off-Premise Sign Permits

A permit is required before erecting an off-premise sign, other than an exempt sign, that is visible from the main-traveled way of a rural road. The applicant must submit a Permit Application for Proposed Rural Road Sign, to the ROW Division. The Permit Application for Proposed Rural Road Sign, must:

- ◆ be completed in the full legal name of each owner of the sign, or if the applicant is a corporation, in the exact name on file with the Office of the Texas Secretary of State;
- ◆ clearly show the location of the sign and all other items required by the application; and
- ◆ be submitted with a nonrefundable permit application fee of \$100.00 made payable to the Texas Highway Beautification Fund. If the payment submitted is not honored upon presentment, the permit application will be rejected for non-payment.
- ◆ The submission of the permit application and the required fee may be made online through the Enterprise Permitting Solution (EPS).
- ◆ If the submission is made on paper for a permit, the permit application and the permit fee must be mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

If the application from a corporation is signed by someone other than a corporate officer, the applicant must submit a copy of a resolution adopted by the board of directors of the corporation that

authorizes the person who signed the application to have signature authority. The authority must bind the corporation to the representations and assurances contained in the application.

### Inspection

Before approving a permit application, the ROW Division field compliance staff shall perform an inspection to determine that the proposed sign site will:

- ◆ be located within 800 feet of one adjacent recognized commercial or industrial activity;
- ◆ be located along a roadway subject to control under these Sections;
- ◆ meet all applicable requirements of *43TAC, Rural Road Rules*; and
- ◆ not be subject to control under the *Highway Beautification Act*.

### Sign Permit Plate

The sign owner shall securely attach the sign permit plate to the part of the sign structure that is nearest to the rural road and visible from the closest right of way not later than the 30th day after the date that the sign is erected.

- ◆ the sign permit plate may not be removed from the sign.
- ◆ the sign permit plate must remain visible from the closest right of way at all times.
- ◆ if a sign permit plate is lost or stolen or becomes illegible, the sign owner must submit to TxDOT a request for a replacement plate in a form prescribed by TxDOT accompanied by the replacement plate fee of \$25.

Failure to apply for a replacement permit or attach the plate to the sign structure as required in subsection (a) of this section within 60 days of the date of written notification from TxDOT that the permit plate is not visible or attached may result in an enforcement action.

### Duration of State Rural Road Sign Permits

A permit issued or renewed is valid only for (1) the location indicated, and (2) the sign described on the original permit application. A permit is valid for one year, provided the sign is erected and maintained in accordance with the law and all applicable rules. A permit holder may voluntarily cancel a permit. The permit may be canceled if the permit holder:

- ◆ violates any provision or requirement of the *Rural Road Act*; or
- ◆ violates a Commission rule adopted by the Commission under the *Rural Road Act*.

## Renewal of Rural Road Sign Permits

Sign permits must be renewed each year before the date the existing permit expires. Permits that are not renewed will automatically expire. To renew the permit, the permit holder must:

- ◆ submit a **nonrefundable** renewal fee of \$75.00 payable to the Texas Highway Beautification Fund; if the renewal is submitted after the expiration date but before the 46th day after the expiration date, a late fee of \$100.00 is required to be submitted along with the required renewal fee of \$75.00 to TxDOT; and
- ◆ The submission for a renewal and the renewal fee must be submitted online through EPS or be mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

The permit may be renewed for one year. If the payment is not honored upon presentment, the permit renewal will be voided.

NOTE: A permit is not eligible for renewal if the sign has not been built. The sign owner may apply for a new sign permit for the location. A permit is eligible for renewal if the sign for which it was issued continues to meet all applicable requirements and Transportation Code, Chapter 394. By filing a renewal application, the sign owner is asserting to TxDOT that the sign meets all applicable requirements. Renewal of a permit does not indicate that TxDOT has determined that the sign is in compliance with applicable regulations.

## Transfer of State Rural Road Sign Permits

State rural road sign permits cannot be transferred without TxDOT approval; only active permits may be transferred. At the time of the transfer, both the transferor and the transferee must hold a valid license.

In requesting transfer of a valid sign permit, the following actions must be taken:

- ◆ The buyer must initiate a transfer form online through EPS, the seller will validate online in EPS the transfer request from the buyer, then the buyer of the sign permits must submit nonrefundable transfer fee of \$25.00 for each permit to be transferred online through EPS.
- ◆ If the transfer is going to be done on paper, Form ROW-OA-RR16, Application for Transfer of Rural Road Sign Permits, must be completed. The application must

contain the notarized signatures of the seller and the buyer. If either party is a corporation, the application must be signed by a corporate officer.

- ◆ A **nonrefundable** transfer fee of \$25.00 per transferred permit must be submitted. The fee should be made payable to the Texas Highway Beautification Fund and must be paid by the buyer. If the payment is not honored upon presentment, the transfer will be voided.
- ◆ If the submission for a transfer of a permit is being submitted on paper, then transfer application and the transfer fee must be mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

The transferor and transferee will each be provided with copy of the approved permit transfer application if submitted on paper.

### Registrations of Existing Off-Premise Rural Road Signs

Signs erected prior to September 1, 1985, other than exempt signs, were required to be registered no later than December 30, 1985. The sign registration is valid only for the location indicated on the original registration application and only for the sign described on that application. A sign registration renewal may be prepaid for up to five years. Sign registrations must be renewed on or before January 1 of the year of expiration. The registration will automatically terminate if:

- ◆ the sign is removed for any reason other than to remove the face to change the advertising; or
- ◆ the registration is not renewed; or
- ◆ the sign is replaced with another structure.

A valid sign registration may be renewed before it terminates. To renew the registration, the holder:

- ◆ must file the request to renew the registration with TxDOT;
- ◆ must submit a **nonrefundable** renewal fee of \$10.00 made payable to the Texas Highway Beautification Fund; and
- ◆ The submission of the registration and the fee must be submitted online through EPS or mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

If the payment is not honored upon presentment, the registration renewal will be canceled from the date of receipt of payment.

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## Transfer of State Rural Road Sign Registrations

State sign registrations cannot be transferred without TxDOT approval; only active registrations may be transferred. At the time of the transfer, both the transferor and the transferee must hold a valid license.

In requesting transfer of a valid sign registration:

- ◆ The buyer must initiate a transfer form online through EPS, the seller will validate online in EPS the transfer request from the buyer, then the buyer of the sign permits must submit nonrefundable transfer fee of \$25.00 for each permit to be transferred online through EPS.
- ◆ If submitted on paper, an Application for Transfer of Rural Road Sign Registrations, must be completed and must have the notarized signatures of the seller and the buyer. If either party is a corporation, the notarized signature must be that of a corporate officer.
- ◆ A **nonrefundable** transfer fee of \$25.00 **per transferred registration** must be submitted. The fee should be made payable to the Texas Highway Beautification Fund and must be paid by the new owner. If the payment is not honored upon presentment, the transfer will be voided as of the date of receipt of payment.
- ◆ If submitted on paper, the submission for the transfer and the fee must be mailed to the Texas Department of Transportation, ROW Division, P.O. Box 13043, Austin, Texas 78711-3043.

## Transmittal of Fees

Fees collected should be deposited into Fund 6, Cost Center 06991, and Object 3053.

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## Section 3 — Exempt Signs

### Exempt Types

The following types of signs do not require a State Rural Road Sign Permit to be erected or maintained:

- ◆ Signs allowed under the Highway Beautification Act.
- ◆ Signs in existence before September 1, 1985, provided the sign has a valid sign registration.
- ◆ Signs erected for the protection of life or property.
- ◆ Directional or other official signs authorized by law, including signs pertaining to natural wonders and scenic or historic attractions.
- ◆ Signs or markers giving information about the location of underground electric transmission lines, telegraph or telephone properties and facilities, pipelines, public sewers or waterlines.
- ◆ Signs erected by a governmental entity.
- ◆ Signs erected solely for and relating to public elections if:
  - the sign is on private property;
  - the sign is erected no sooner than the 90th day before the election and is removed no later than the 10th day after the election;
  - the sign is constructed of lightweight material;
  - the surface is not larger than 50 square feet;
  - the sign is not visible from the main-traveled way of an interstate or primary highway.
- ◆ On-premise and off-premise signs that are no larger than eight (8) square feet.
- ◆ Off-premise signs that are no larger than 32 square feet and show only the name of a place or activity and directions to the place or activity.
- ◆ Signs of a nonprofit service club, charitable association, religious organization, chamber of commerce, or nonprofit museum that gives information about the meetings, services, events, or locations of the entity and that does not exceed an area of 32 square feet.
- ◆ Off-premise signs on private property which are no larger than 50 square feet, advertising the name of a small business and directions to same.
- ◆ Signs required by the Texas Railroad Commission at the principal entrance to or on each oil or gas producing property, well, tank, or measuring facility to identify or locate such property; such signs shall be no larger in size than is necessary to comply with Texas Railroad Commission regulations and will have no advertising messages other than the name or logo of the company and necessary directions.

- ◆ Signs owned by a Chamber of Commerce organization which are no larger than 150 square feet, if the message is limited to public service information, does not mention any specific person, service or product, and if the sign is located within the ETJ of the city supported by the organization, or within the county in the case of a county Chamber of Commerce organization.
- ◆ Off-premise portable signs in the unincorporated area of a county with a population of 2.4 million or more, according to the most recent federal census, provided such county is either prohibiting such signs or is regulating the location, height, size, anchoring, or use of such portable signs.
- ◆ Signs in the ETJ of a municipality, unless the municipality allows the Commission to regulate outdoor signs in the municipality's ETJ by filing a written notice with the Commission.
- ◆ On-premise signs in the unincorporated area of a county with a population of more than 2.4 million, or of a county that borders a county with that population, if such a county has adopted an ordinance to regulate on-premise signs. In lieu of adopting an ordinance, a Commissioners Court of the county, by order, may allow the Commission to regulate on-premise signs in the unincorporated area of the county in accordance with a municipal or county regulation.

The following types of signs are exempt from requirements related to face restrictions:

- ◆ signs advertising the sale or lease of property on which they are located, and;
- ◆ on-premise wall signs.

## Section 4 — Prohibited Signs

### Prohibitions

No sign may be erected within the right of way of any rural road nor within what would be the right of way if the right of way boundary lines were projected across an area of railroad right of way, utility right of way, or road right of way not owned by the state or any political subdivision thereof.

No sign shall be erected which contains or is illuminated by any flashing, intermittent, or moving light except a sign giving solely public service information such as time, date, temperature, or weather.

No sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal.

No sign shall be erected or contain a display which imitates or resembles any official traffic sign, signal, or device.

No sign may be erected or maintained upon a tree or painted or drawn upon rocks or other natural features.

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## Section 5 — Sign Standards

### Overview

The following standards apply to signs controlled by the State along rural roads that are not otherwise exempt.

### Location

Written permission must be obtained from the landowner before erecting a sign on someone else's property. All signs, except on-premise signs, must be located within 800 feet of at least one adjacent recognized commercial or industrial activity or the office of a governmental entity. The commercial or industrial activity or office building must be located on the same side of the road as the sign. The commercial or industrial activity must be located within 200 feet of the road right of way. The following activities do not qualify as commercial or industrial activities:

- ◆ Outdoor advertising structures.
- ◆ Agricultural, forestry, ranching, grazing, farming and related activities.
- ◆ Activities not housed in a permanent building or structure with functioning water, sewage and electrical connections.
- ◆ Activities conducted in a building primarily used as a residence.
- ◆ Railroad right of way.
- ◆ Activities that are not within 200 feet of the edge of the right of way.
- ◆ Seasonal activities or activities not conducted at least 25 hours per week on at least 5 days per week.
- ◆ Activities conducted in a building that has less than 400 square feet of floor space devoted to such activities.
- ◆ Activities not conducted by human beings (for example, automatic teller machines).
- ◆ Activities which have not been conducted at its present location for at least 180 days.

### Face Restrictions

The maximum face area for an on-premise sign, other than an on-premise wall sign, is 400 square feet, including cutouts, but excluding uprights, trim and apron.

The maximum face area for an off-premise sign is 672 square feet, excluding uprights, base, trim and apron, with a maximum length of 60 feet and a maximum height of 25 feet.

Neither an on-premise sign face nor an off-premise sign face may have a cutout with an area larger than 20 percent of the surface copy area of the sign face.

No sign may have more than two faces fronting a particular direction of travel on the main traveled way.

Signs may not be placed back-to-back or in a V-type configuration with more than one face facing a particular direction of travel.

Faces consisting of commercial electronic variable message signs (CEVMS) - otherwise referred to as rotating slat signs or tri-vision signs - may be used, provided that the rotation is completed within one second and the message is stationary for at least 10 seconds following a rotation.

Each face area of a double-faced, back-to-back, or V-type sign is considered to be a separate sign for the purpose of computing the face area.

## Height

The maximum overall height is 42-1/2 feet, excluding cutouts extending above the rectangular border, measured from the highest point of the sign to the grade level of the roadway from which the sign is to be viewed.

The maximum height of an open roof sign having a tight or solid surface is 24 feet above the roof level.

The maximum height of an open roof sign, in which the uniform open area is not less than 40% of the total gross area, is 40 feet above the roof level.

The lowest point of a projecting sign must be at least 14 feet above grade.

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

## Spacing

An off-premise sign with a face area of 301 square feet or more may not be closer than 1,500 feet to another off-premise sign on the same side of the roadway.

An off-premise sign having a sign face area of at least 100 but less than 301 square feet may not be located within 500 feet of another permitted off-premise sign having a sign face within that range or within 1500 feet of a permitted off-premise sign that has a sign face of at least 301 square feet and is on the same side of the roadway.

An off-premise sign having a face area of less than 100 square feet may not be located within 150 feet of another permitted off-premise sign having a sign face of less than 100 square feet, within 500 feet of a permitted sign with a face area of at least 100 but less than 301 square feet, or within 1,500 feet of a permitted off-premise sign with a face area of at least 301 square feet that is on the same side of the roadway.

The above spacing rules do not apply to signs located at the same intersection, provided (1) they are located so their messages are directed towards traffic flowing in different directions, and (2) they are not visible from the main traveled way of an interstate or primary highway.

An off-premise sign may only be erected within 800 feet of at least one recognized commercial or industrial activity, or the office of a governmental entity. The commercial or industrial activity or office building must be on the same side of the rural road as the sign.

Off-premise signs may not be erected within 5 feet of any rural road right of way line.

Signs may not be located in such a manner as to:

- ◆ create a safety hazard;
- ◆ obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device;
- ◆ obstruct or interfere with the driver's view of approaching, merging or intersecting traffic; or
- ◆ be likely to cause a driver to be unduly distracted in any way.

For spacing purposes, multiple faced off-premise signs under common ownership, whether double-faced, back-to-back, or of V-type construction, shall be considered to be one sign provided they are either:

- ◆ physically contiguous;
- ◆ connected by the same structure or by cross-bracing; or
- ◆ located in close proximity to each other, but in no event more than 15 feet apart at their nearest point.

## Lighting

Signs may be illuminated, subject to the following restrictions:

- ◆ signs that contain, include or are illuminated by any flashing, intermittent or moving light or lights are prohibited, except those giving only public service information such as time, date, temperature, weather or similar information;
- ◆ contain upward lighting of no more than four luminaires per direction of the sign face or faces of the structure;

- ◆ contain downward lighting of no more than four luminaires per direction of the sign face or faces of the structure;
- ◆ no sign shall be so illuminated that it interferes with the effectiveness of, or obscures, an official traffic sign, device or signal;
- ◆ may not be of such intensity or brilliance as to cause vision impairment of a driver of any motor vehicle on a regulated rural road or otherwise interfere with the driver's operation of a motor vehicle;
- ◆ reflective paint or reflective disks may not be used if they create the illusion of flashing or moving lights;
- ◆ neon lights may not be used if they flash, or cause undue distraction to the traveling public.

### Wind Load Pressure

Signs, other than exempt signs, must meet the wind load pressure requirements set out in [Wind Load Pressure](#) for signs on interstate or primary highways. The sign owner must certify that a sign will withstand wind load pressures as specified.

**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

### Repair and Maintenance

Signs should be kept in good repair. Sign facings may be removed and replaced or repainted.

The following are considered to be **routine maintenance** activities that do not require an amended permit:

- ◆ the replacement of nuts and bolts;
- ◆ nailing, riveting, or welding;
- ◆ cleaning and painting;
- ◆ manipulation of the sign structure to level or plumb it;
- ◆ changing of the advertising message;
- ◆ the replacement of minor parts if the materials of the minor parts are the same type as those being replaced and the basic design or structure of the sign is not altered;
- ◆ changing all or part of the sign face structure but only if materials similar to those of the sign face being replaced are used; and
- ◆ upgrading existing lighting for an energy efficient lighting system.

The following are considered to be customary **maintenance activities** that may be made but require an amended permit prior to the initiation of such an activity:

- ◆ replacement of poles, but only if not more than one-half of the total number of poles of the sign structure are replaced in any 12 month period and the same material is used for the replacement poles; and
- ◆ adding a catwalk to the sign structure.

The following are examples of **substantial changes** that may be made but require an amended permit application before the initiation of such an activity. Each of the following actions requires an Amended Permit Application:

- ◆ adding lights to an unilluminated sign or adding more intense lighting to an illuminated sign whether or not the lights are attached to the sign structure;
- ◆ changing the number of poles in the sign structure;
- ◆ adding permanent bracing wires, guy wires, or other reinforcing devices;
- ◆ changing the material used in the construction of the sign structure, such as replacing wooden material with metal material;
- ◆ adding faces to a sign or changing the sign configuration;
- ◆ increasing the height of the sign;
- ◆ changing the configuration of the sign structure, such as changing a "V" sign to a stacked or back to back sign, or a single face sign to a back-to back sign; and
- ◆ moving the sign structure or sign face in any way.

If the sign is nonconforming, a new sign permit cannot be issued.

**No person may erect, repair or maintain a sign while that person or the equipment being used is on the highway right of way.**

## Section 6 — On-Premise Signs

### Overview

On-premise signs do not require a permit. However, they are subject to rules pertaining to size, height and lighting, and a business may not maintain more than five (5) on-premise signs along each frontage on a single rural road at a single business location. Also, any proposed sign structure must be able to withstand wind load pressures as set out in [Wind Load Pressure](#) for signs on interstate or primary highways.

An on-premise sign is a sign that:

- ◆ is located on the real property of a business and consists only of the name, logo, trademark, telephone number, and internet address of that business; or an identification of that business's principal and accessory products or services offered on the property; or
- ◆ only advertises the sale or lease of the real property on which the sign is located and is removed within 90 days after the date of the closing of the real property transaction.

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## Section 7 — Request for a Variance

### Overview

A board of variance shall meet and consider appeals from actions taken under *Transportation Code, Chapter 394*, or any of TxDOT 's rules thereunder.

An applicant may request that the Executive Director approve a variance from the requirements of this subchapter if the applicant believes that a minor exception to this subchapter is required to prevent a substantial injustice.

The Executive Director or the Executive Director's designee, who must be a person who holds a senior leadership position of TxDOT and reports directly to the Executive Director, will consider all relevant written evidence submitted by the applicant and collected by TxDOT relating to the request.

The Executive Director or the designee will make a final determination on the request for a variance within 60 days of the receipt of the request.

If the Executive Director or the designee is unable to make a final determination on the request within the 60-day period, TxDOT will notify the applicant by mail of the delay and provide an estimated time in which a final determination will be made.

If the variance is granted and the other applicable requirements are satisfied, TxDOT will issue the permit.

A denial of a variance is final and is not appealable.

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## Section 8 — Enforcement

### Notice

Before initiating an enforcement action under this section, TxDOT will notify a sign owner in writing of the violation and will give the sign owner 60 days to correct the violation and provide proof of the correction to TxDOT.

Upon determination that a permit should be canceled, TxDOT will mail a notice of cancellation to the address of the record license holder. The notice must state:

- ◆ the reason for the cancellation;
- ◆ the effective date of the cancellation; and
- ◆ the right of the permit holder to request an administrative hearing on the cancellation.

### Request for Administrative Hearing

The holder of the permit will have an opportunity to request an administrative hearing if a sign permit is canceled. A request for an administrative hearing under this section must be in writing and delivered to TxDOT within 45 days after the date that the notice of cancellation is received.

If requested timely, an administrative hearing will be conducted in accordance with this chapter and the cancellation will be abated until the cancellation is affirmed by order of the commission.

A permit holder may voluntarily cancel a permit by submitting a request in writing after the sign has been removed. The administrative hearing procedures outlined above do not apply to a permit voluntarily canceled by the permit holder.

### Removal of Sign

Upon written notification by TxDOT, any off-premise sign, other than an exempt sign, erected on or after September 1, 1985, must be removed if:

- ◆ the sign was erected or maintained without a permit;
- ◆ the permit is not renewed; or
- ◆ the permit is revoked by the Executive Director or designee.

Signs erected prior to September 1, 1985, must be removed if the registration is not kept renewed.

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## Penalties for Violations

Any person who intentionally violates the *Rural Road Act*, *Texas Transportation Code*, Chapter 394, or any of TxDOT's rules thereunder, is liable to the State for a civil penalty of not less than \$150.00 nor more than \$1,000.00. A separate penalty may be collected for each day on which a continuing violation occurs.

In lieu of a suit to collect a civil penalty, the Texas Transportation Commission, after notice and an opportunity for a hearing before the Commission, may impose an administrative penalty against a person who intentionally violates the Rural Road Act or a rule adopted by the Commission. Each day a violation continues is considered a separate violation.

The amount of the administrative penalty may not exceed the maximum amount of a civil penalty that may be imposed under Transportation Code, §391.081 and will be based on the following:

- ◆ \$150 for not having a permit plate attached to the sign structure;
- ◆ \$250 for a sign not having been properly registered;
- ◆ \$250 for erecting a sign at the location other than the location specified on the permit application, except that if the actual sign location does not conform then TxDOT will seek cancellation of the permit;
- ◆ \$500 for maintaining or repairing signs from the state right of way or for performing maintenance on a conforming sign without first obtaining an amended permit;
- ◆ \$1,000 for erecting a sign from the right of way.

## Displacement of Signs Outside Highway ROW under the Highway Beautification Act

Current TxDOT policy is to use no funds to acquire outdoor advertising signs under the **Highway Beautification Act of 1965**.

# Chapter 10 — Control of Junkyards

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## Section 1 — Introduction

### Overview

The State of Texas is responsible for administering two sets of laws relating to the operation of junkyards and automobile salvage yards. The Department of Motor Vehicles regulates the licensing of salvage dealers and the surrender of certificates of title and unexpired license plates. TxDOT's ROW Division regulates the screening of [junkyards](#) and automobile graveyards from Interstate and Primary highways. Junkyards and automobile wrecking and salvage yards may also be subject to screening and/or public nuisance laws enforced by counties or municipalities.

Complaints concerning TxDOT's regulation of the screening of junkyards from Interstate and Primary highways should be directed to the Texas Department of Transportation, ROW Division.

### Regulation

The Highway Beautification Act contains provisions for the control of junkyards by the States. The information regarding what is required for a junkyard to be in compliance is located in Transportation Code, Chapter 391, Subchapters A and E. The Texas Transportation Commission has also adopted rules governing the location, planting, construction and maintenance of the materials used in screening junkyards. These rules are published in the 43TAC §§ 21.131 - 21.133, inclusive.

### Controlled Area

The area controlled by TxDOT pursuant to Transportation Code, Chapter 391 is the area within 1,000 feet of the ROW of a controlled highway. The screening of junkyards located more than 1,000 feet from those highways, or along other state highways, is not regulated by the Texas Department of Transportation.

### New Junkyards

No junkyards may be established within 1,000 feet of a controlled highway except:

- ◆ those located in zoned or unzoned industrial areas; or
- ◆ those screened by appropriate means, including natural objects, planting, or fences so that the junkyard is not visible from the main traveled way of any controlled highway.

Screening is to be installed and maintained by the junkyard owner and must meet the State's screening standards.

**Existing Junkyards**

Junkyards which were in existence on June 29, 1972, and which are outside of zoned or unzoned industrial areas, may continue at such locations until funds are available to the State to either screen the junkyards or to remove, relocate or dispose of them. Although more material may be stored or dumped within the existing boundaries of such junkyards, they may not be expanded within the controlled area to a height above nor to land beyond that which the junkyard encompassed on June 29, 1972, unless such expanded height or area is screened and maintained by the junkyard operator so that the junk in the expanded height or area is not visible to the motoring public traveling in a standard size automobile along the main traveled way of the controlled highway. All screening must meet the State's screening standards.

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## Section 2 — Screening Standards

### Overview

Before any screening is commenced, the plans and specifications must be submitted by the junkyard owner to, and approved by, the TxDOT District Engineer who serves the county in which the screening is to be placed.

Junkyard screening must be located so that it will not interfere in any way with traffic or traffic signs along any highway or roadway. Unless it is constructed or planted by the State, it will not be located within the highway right of way. Screening may be accomplished by means of:

- ◆ earthen berms,
- ◆ plantings,
- ◆ fences,
- ◆ walls, or
- ◆ other durable materials.

The screening must effectively block the view of the junkyard or automobile graveyard from the motoring public traveling in a standard size automobile along the main traveled way of the controlled highway. The height and density of the screening must effectively block the view at all times. Screening shall be designed and landscaped so the junkyard or automobile graveyard area is inconspicuous and pleasing to the motoring public in accordance with the purposes of the Federal Highway Beautification Act of 1965.

### Measurements

If the industrial activity does not front the highway, the width of the activity measured parallel to the highway at its widest point and within 1,000 feet of the right of way will be considered to be its highway frontage. All measurements shall be made from the outer edges of the regularly used buildings, parking lots, storage, or processing areas of the industrial activity, and shall be along or parallel to the edge of the pavement of the highway. Measurements shall not be from the property lines of the activity unless the property lines coincide with the regularly used buildings, parking lots, storage, or processing areas.

### Compliance

Junkyards which were in lawful existence when the site became subject to control under the Highway Beautification law, but which are neither screened nor located in either zoned or unzoned industrial areas, may be brought into compliance with the law by being either screened, removed,

or relocated, or by disposal of the junk. The owner of each junkyard may bring it into compliance with the law or the State may do so as funds are available.

### **Owner Action**

If the owner elects to bring the junkyard into compliance with the law, the owner may relocate, remove or dispose of the junk as the owner wishes. If the owner elects to screen the junkyard, the owner shall first submit the screening plans and specifications to the District which serves the county in which the junkyard is located. The District must approve the screening plans and specifications to ensure that the junkyard owner will be in compliance with the law.

### **Screening Requirements**

Junkyard screening must be located so that it will not interfere in any way with traffic or traffic signs along any highway or roadway. Unless it is constructed by the State, it cannot be located within the highway right of way. Screening may be accomplished by means of earthen berms, plants, fences, walls, or other durable materials provided they are effective in blocking the view of such junkyard or automobile graveyard from the motoring public traveling in a standard size automobile along the main traveled way of the controlled highway. The height and density of such screening must effectively block the view of the junkyard or automobile graveyard at all times.

A sanitary landfill may be appropriately screened by:

- ◆ fencing the landfill area;
- ◆ confining the refuse to the smallest practical area;
- ◆ reducing the refuse to the smallest practical volume; and
- ◆ covering the refuse with a layer of earth at the conclusion of each day's operation or at more frequent intervals if necessary.

When landfill operations have ceased, the area is to be landscaped by the owner of the landfill unless it is then used for immediate development purposes.

### **Section 3 — State Action and Control Measures**

#### **State Action**

If the owner of a junkyard which was in lawful existence when the site became subject to control under the Highway Beautification law does not elect to bring the junkyard into compliance at the owner's expense, the State may do so as funds are available.

#### **Control Measures**

The following control measures may be used to bring a nonconforming junkyard into conformance:

- ◆ Recycle or dispose of junk that is not usable as stock-in-trade in the owner's ongoing business. Recycling should be considered in conjunction with other control measures. Junk or scrap should be moved to a scrap processor or put to some other useful purpose when feasible.
- ◆ Every effort should be made to screen when the junkyard is to continue as an ongoing business. When not otherwise feasible, screening may be accomplished by relocating inventory on the site to utilize an existing natural screen or a screenable portion of the site.
- ◆ The State may acquire the inventory and dispose of it by selling it to the highest bidder, provided it is to be removed from the junkyard site and the site is to be restored to a condition as though no junkyard had ever existed there.
- ◆ The junkyard may be relocated to a site at a conforming location in an industrial area or out of sight from a controlled highway.

## Section 4 — Impractical Screening Situations

### Situations

The following junkyard situations should be considered to be impractical to screen:

- ◆ Abandoned or discontinued junkyard establishments.
- ◆ Vacant land which has become a dumping ground for abandoned junk.
- ◆ A portion of a junkyard which contains inventory having no economic or resale value to the owner.
- ◆ Junkyards which will be terminated within a five-year period.
- ◆ Where the junkyard, at its location, is a hazard to public safety or health under Texas law.
- ◆ Where it can be shown that the benefits of screening are far outweighed by the benefits of removal, taking into account community preferences, existing land uses in the area, traffic conditions, planning, aesthetics, cost, zoning, etc.
- ◆ Where a junkyard owner volunteers all or a substantial portion of the property for removal.
- ◆ Where the topography of the land will not permit adequate screening.
- ◆ Where screening would block out a scenic vista or other significant landmark.

## Section 5 — Means of Screening

### Overview

Screening should be relatively maintenance free and should be as compatible with the general area as possible. Climate, soil conditions, extent of land area available, types of interests which may be required and the availability of materials are pertinent factors to be considered.

Consideration should be given to all means of accomplishing effective screening according to the characteristics of each site. Existing natural screens should be used to the maximum extent possible and should compliment the adjacent environment.

### Alternative Means

Alternatives to natural screening that should be considered include:

- ◆ Plant materials
  - Evergreen trees and shrubs may be used; no deciduous plants should be used.
  - Plants which require minimum maintenance are preferred.
  - Plants should have high density growth from the ground to eight feet or more.
- ◆ Earthen berms:
  - should be provided with adequate area to aesthetically shape earth mounds and embankments;
  - should have no adverse drainage problems created by their construction;
  - with plants should be used when feasible to produce a natural appearance; and
  - must be provided with adequate erosion control.
- ◆ Architectural barriers
  - Walls may be constructed with concrete blocks, bricks, stone, or other material. Economics is to be considered along with aesthetics.
- ◆ Fences
  - Slatted chain link is acceptable only when supplemented by evergreen natural plantings. The slats may be either metal, wood, plastic or other durable material. The color of the slats should blend with the adjacent environment.
  - Wood boards - redwood or cedar are preferred. Boards should be vertical and tight fitting. Where wind is a factor, a vertical or horizontal shadow box design may be used.
  - Metal - painted galvanized steel sheets may be used. Aluminum siding with sufficient structural strength may also be used. Reclaimed scrap is to be avoided. Special consider-

ation should be given to visual impact where a metal fence is used. The color of the metal fence must be compatible with the surrounding environment.

Buildings which are in existence may be incorporated in the screening plans if they provide assistance in blocking the view of the junk.

Signs may not be used for junkyard screens or placed on junkyard screens.

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## Section 6 — Enforcement

### Inspection

The ROW Division is conducting periodic inspections of controlled highways, if any new junkyard has been commenced in an area which is neither in a zoned nor an unzoned industrial area or if any nonconforming junkyard has been expanded, a photograph of the offending activity should be taken and a notation made in the inspector's records. The records should be reviewed by Division supervisory personnel and appropriate action taken to correct the violation.

### Injunction to Require Screening

If a junkyard is found to be in violation of *Transportation Code, Chapter 391, Subchapter E*, or any rule adopted thereunder, TxDOT will notify the owner of the junkyard by certified mail of the requirement of screening the junkyard.

If the owner does not screen the junkyard within 45 days of the date of notice, TxDOT may request an injunction against the owner from the Office of the Attorney General.

If an injunction is necessary, the owner will be responsible for paying all administrative, legal costs and expenses, courts costs and reasonable attorney's fees incurred by the State.

### Violations

If the Division supervisory personnel determine that a violation of the Highway Beautification law has occurred, the owner of the junkyard business should be contacted in person or by telephone and informed of the improper activity. The offender should be given the opportunity to comply with the law by either removing the junk from the area within 1,000 feet of the edge of the ROW of the controlled highway or to screen the junk from view. The personal contact should be followed up by Illegal Junkyard Notice. If a favorable response is not received, Final Notice of Violation, Illegal Junkyard, should be sent by certified mail, return receipt requested. In the event the violation is not corrected within thirty days from the date of the notice sent, the Division should contact the County Attorney of the county in which the junkyard is located and determine whether the County Attorney is willing to accept and prosecute a complaint against the owner of the junkyard. A copy of all correspondence and file memoranda concerning contacts with the offending junkyard owner and the status of the junkyard should be maintained by the ROW Division. The ROW Division will also advise the Office of the Attorney General that the filing of the complaint has been authorized in order that the Office of the Attorney General make take whatever action is deemed appropriate.

### **Penalties for Violations**

Any person who willfully violates any provision of *Transportation Code, Chapter 391*, or any TxDOT 's regulations thereunder, is subject to a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

## **Section 7 — Funding Junkyard Control Projects**

### **Policy**

Current TxDOT policy is to use no funds to acquire junkyards under the Highway Beautification Act of 1965.

### **Eminent Domain**

Due to no funding of the Junkyard Control Program, it is not contemplated that any eminent domain actions will be instituted in the foreseeable future to compel a junkyard operator and landowner to provide the screening, relocation or other control measures to a nonconforming junkyard. When such an action becomes necessary, the procedure to be followed will be established by agreement between the ROW Division and the Office of the Attorney General. The procedure will be similar to the procedure for acquisition of highway right of way by TxDOT through condemnation proceedings. Eminent domain procedures will not be used to acquire a residence or to acquire a temporary easement on land other than the junkyard land in order to erect a screen.