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May 22, 2025

Pat J. Daniel, City Secretary
City Secretary Department
900 Bagby St., Rm. P101
Houston, Texas 77002

*Via Messenger Delivery
and Email: citysecretary@houstontx.gov*

RE: Appeal of SignAd, Ltd. Regarding Off-Premise Sign Located at 11700 Wilcrest Dr.; Our File No. 1011-317.

Dear Ms. Daniel:

The law firm of Rothfelder & Falick, L.L.P. represents SignAd, Ltd. (“SignAd”). On March 27, 2025, the General Appeals Board denied SignAd’s appeal relative to the decision of the Houston Sign Administration regarding the Denial of Permit Application (the “Rejection Letter”), dated November 18, 2024, for an off-premise sign located at 11700 Wilcrest Dr. (the “Sign”).¹ On April 4, 2025, I sent a letter to you notifying the City Council of SignAd’s appeal of the decision of the General Appeals Board to the City Council pursuant to Section 4604(e)(1) of the Houston Sign Code.² In accordance with Section 4604(e)(2) of the Houston Sign Code³ and Rule 12 of the Houston City Council Rules of Procedure,⁴ enclosed herein is the record of the March 27, 2025 hearing before the General Appeals Board, including the written transcript of and exhibits offered at the hearing.⁵ Additionally, set out below are SignAd’s written exceptions to the facts and administrative rulings and decisions made by the General Appeals Board.⁶

¹ Exh. A – March 31, 2025 Letter from Michael Dishberger, Chairman of General Appeals Board of the City of Houston, to Christopher Rothfelder, counsel for SignAd, Ltd. Exhibits not made part of the record of the hearing before the General Appeals Board will be cited according to letters (e.g., Exhibit A).

² Exh. B – April 4, 2025 Letter from Christopher Rothfelder, counsel for SignAd, to Pat J. Daniel, City Secretary.

³ Exh. C – Houston Sign Code Sections 4604 and 4617.

⁴ Exh. D – Houston City Council Rules of Procedure, Rule 12.

⁵ The transcript of the March 27, 2025 hearing before the General Appeals Board will be cited as “GAB Hearing Transcript.” Exhibits introduced by SignAd at the hearing before the General Appeals Board will be cited as “SignAd Exh. ___,” and exhibits introduced by the City at the hearing before the General Appeals Board will be cited as “City Exh. ___.” A file share link to the written transcript of and exhibits offered at the hearing is available here: <https://www.dropbox.com/sc/fi/a0pbunqtiobvwmc5p1bd1/General-Appeals-Board-Meeting-Transcript-03-27-25.pdf?rlkey=938akkbny5s8bw22lb30yc62o&st=dndqthlp&dl=0>

⁶ “An appellant who has complied with Rule 12 shall file with the City Secretary, within 60 days following the decision appealed from, a record consisting of the written transcript of the hearing before the General Appeals Board, along with the written exceptions, if any, of each party to the proceedings to the facts and administrative rulings and decisions made by the General Appeals Board.” Houston Sign Code § 4604(e)(2).

SignAd respectfully requests that the decision of the General Appeals Board be reversed, the Rejection Letter be rescinded, and SignAd's Application be granted.

By way of background, on September 16, 2024, SignAd submitted an Off-Premise Application for a Special Permit for the continued operation of the Sign (the "Application").⁷ On November 18, 2024, the Sign Administration issued the Rejection Letter.⁸ Enclosed with the "Rejection Letter" was an "Off-Premise Site Inspection Form."⁹ The Inspection Form describes the reasons for "rejection" as follows:

SITE REJECTED. DISTANCE FROM OTHER OFF-PREMISE SIGNS DID NOT MEET REQUIRED REGULATION OF 1500'. DISTANCE FROM EDGE OF STRUCTURE TO POWER LINES WERE LESS THAN REQUIRED SPECIFICATION OF 10', MEASURED AT 6'.¹⁰

SignAd timely appealed the rejection of its Application by letter dated December 2, 2024.¹¹

On March 27, 2025, the General Appeals Board convened a hearing to consider SignAd's appeals.¹² The Board voted to uphold the decision of the Sign Administration.¹³ The transcript of and exhibits offered at the hearing are enclosed and referenced herein. Pursuant to Section 4604(e)(2), SignAd excepts to and appeals the decision of the Board, and requests that the City Council reverse the decision of the Board, order the rescission of the Rejection Letter, and overturn the denial of the Application, for the following reasons.

First, the Sign Administration failed to adhere to the spacing requirements set forth in Section 4617 of the Houston Sign Code when it denied SignAd's Application. The Board upheld the decision of the Sign Administration based on the testimony of inspector David Conde. Mr. Conde explained during the hearing before the General Appeals Board that he denied SignAd's Application because it was located within 1,500 feet of another permitted off-premise sign.¹⁴

Section 4617 of the Houston Sign Code specifies the requirements for obtaining a Special Permit.¹⁵ Special permits are issued when an off-premise sign must be removed to accommodate a highway improvement project in the City of Houston.¹⁶ While the Houston Sign Code

⁷ City Exh. 5.

⁸ SignAd Exh. 1.

⁹ SignAd Exh. 6.

¹⁰ SignAd Exh. 6. The Sign Administration did not rely on the Sign's proximity to a power line as a reason for the rejection of SignAd's Application at the March 27, 2025 General Appeals Board hearing. SignAd's Application did not propose moving the Sign or the power line, both of which have been in place since the Sign was constructed in 1997. Therefore, the Sign is grandfathered with respect to its proximity to the power line.

¹¹ SignAd Exh. 7.

¹² Exh. A.

¹³ Exh. A.

¹⁴ GAB Hearing Transcript, pgs. 41-42.

¹⁵ Exh. C.

¹⁶ Houston Sign Code § 4617(a)(2).

generally prohibits the construction of new off-premise signs in the City, a “Special Permit” allows the permit holder to “relocate” or construct a sign at a different location that complies with the spacing requirements set out in Section 4617(a)(8) of the Houston Sign Code for a period of ten years.¹⁷

The Sign was originally constructed pursuant to a Special Permit in 1997.¹⁸ SignAd submitted the Application denied by the Sign Administration, which is the subject of this appeal, pursuant to an additional, unused Special Permit, which SignAd received in connection with the removal of two other off-premise sign faces located in the City to accommodate highway construction projects.¹⁹

Mr. Conde and the General Appeals Board erred by concluding that the Sign needed to be at least 1,500 feet from another permitted off-premise sign instead of 500 feet. Signs that are to be altered or relocated pursuant to Section 4617 of the Houston Sign Code must adhere to the spacing requirements of Section 4617(a)(8)a, which provides:

For a sign that is to be altered or relocated on the remainder of the same tract on which it was previously located, or on the abutting property, under Section 4617(a)(4)a or (4)b, and is to be placed in the same relative position as to line of sight and not to exceed 1500 feet to either side of the perpendicular placement as the original sign was situated in relation to the highway, the sign must: (i) be within 800 feet of one or more commercial or industrial activities and must not be located within 500 feet of another off-premise sign on the same side of the highway, if the highway is on the interstate and freeway primary system, or within 300 feet of another off-premise sign on the same side of the highway, if the highway is on the nonfreeway primary system outside of the city limits, or within 100 feet of another off-premise sign on the same side of the highway, if the highway is on the nonfreeway primary system within the city limits; or (ii) comply with the then current criteria for location and spacing set by the state regulations, whichever is more restrictive.²⁰

Sections 4617(a)(4)a and b, in turn, state that a sign subject to Section 4617 must be located:

First, upon the remainder of the same tract or parcel of land upon which it was situated before its alteration or relocation, if any; or Second, if there is no remainder or if the remainder is not of sufficient size or suitable configuration for the alteration or relocation of the sign, then upon the property abutting the highway at the original sign location or upon the property abutting the insufficient remainder, if available . . .²¹

¹⁷ Houston Sign Code § 4617(a)(1).

¹⁸ SignAd Exh. 2.

¹⁹ City Exh. 5.

²⁰ Exh. C.

²¹ Exh. C.

SignAd submitted the Application to continue the operation of the Sign on the same tract or parcel of land upon which it was situated before the purported expiration of its original permit. As such, the Sign Administration and General Appeals Board should have applied 500 feet spacing rather than 1,500 feet spacing in the consideration of SignAd's Application. The Sign is not located within 500 feet of another off-premise Sign, as evidenced by the measurements offered by the Sign Administration to the General Appeals Board at the March 27, 2025 hearing.²² Additionally, the Sign is located within 800 feet of several commercial or industrial activities.²³ Accordingly, the decision of the General Appeals Board should be reversed, the Rejection Letter should be rescinded, and SignAd's Application should be granted.

Second, SignAd's interpretation of Sections 4617(a)(4) and (8) of the Houston Sign Code (as requiring only 500 feet of spacing for the use of a Special Permit for pre-existing off-premise signs) is consistent with the Sign Administration's historical treatment of similar applications. Indeed, for more than thirty years, the Sign Administration and City have interpreted the spacing requirements of Section 4617 to only require 500 feet spacing.²⁴

SignAd constructed the Sign at its current location in 1997, pursuant to a Special Permit, which enabled SignAd to relocate the Sign from its previous location at 11700 FM 529, to its current location at 11700 Wilcrest Drive.²⁵ Although the original sign was located elsewhere in the City (i.e., not on the same or abutting property at 11700 Wilcrest Dr.), the City only required 500 feet of spacing from the two billboards that were (and are still) located within 1,500 of the Sign.²⁶ Included with SignAd's City and State permit applications were a hand drawn "plot plan."²⁷ The "plot plan" demonstrates that there is a billboard owned by 3M (now Outfront Media) located approximately 550 feet north of SignAd's sign site.²⁸ The "plot plan" likewise shows that there is a billboard owned by Eller Media (now Clear Channel Outdoor) located approximately 600 feet south of SignAd's proposed sign site.²⁹ Both of these signs were in existence at the time SignAd constructed the Sign, and the terms of Section 4617 of the Houston Sign Code have not changed since that time.³⁰ Because the Sign Administration applied 500 feet spacing at the time SignAd submitted the original application for the Sign, it should have done so again in this instance.

Subsequently, in 2015, the City of Houston and SignAd entered into a Settlement Agreement, whereby the City agreed to extend the duration of certain Special Permits in exchange for SignAd's removal of other signs located elsewhere in the City.³¹ The Settlement

²² City Exhs. 2 & 3.

²³ SignAd Exh. 4. The photograph of the Sign included in the City's Site Inspection Form shows an on-premise sign identifying several businesses located on the same property.

²⁴ GAB Hearing Transcript, pgs. 59-61.

²⁵ SignAd Exh. 2.

²⁶ GAB Hearing Transcript, pgs. 56-61

²⁷ SignAd Exh. 4.

²⁸ SignAd Exh. 4; GAB Hearing Transcript, pgs. 59-60.

²⁹ SignAd Exh. 4; GAB Hearing Transcript, pgs. 59-60.

³⁰ GAB Hearing Transcript, pgs. 59-60.

³¹ SignAd Exh. 5.

Agreement resulted in the extension of the permit for the Sign to September 18, 2024.³² Just as in 1997, the City once again affirmed the propriety of 500 feet spacing through the extension of the Sign's permit through 2024.³³

In fact, the section of the Agreement titled, "Cooperation on Condemnation Issues," page 5, was directly applicable to SignAd's Application.³⁴ That section states:

As growth within the City and its extra-territorial jurisdiction presents challenges with undertaking infrastructure projects and with the associated condemnation proceedings by the City, the Texas Department of Transportation, and other public entities, SignAd may continue to utilize relocation options pursuant to the Sign Code. The City and SignAd may work jointly to extend by special permit any sign that is built, or has been built, by special permit in order to expedite and reduce the costs of such projects. Such extension of a special permit may be allowed for any sign whose permit has not expired, provided that such extension is agreed to by the parties. The City will consider and as appropriate, grant relocation and extension opportunities to avoid the cost to governmental entities for the taking of other signs through eminent domain.³⁵

Although SignAd requested a meeting with the City to discuss the extension of the permit for the Sign prior to the hearing before the General Appeals Board, the City would not agree to entertain such discussions.³⁶

Additionally, allowing the Sign to remain in place, in exchange for the use of un-utilized Special Permits, would benefit the City and serve the purposes of the City's Sign Code, which are to maintain control over signs and ultimately eliminate billboards located throughout the City. The approval of SignAd's Application would result in a net reduction of signs in the City, as well as SignAd's use of an un-utilized ten year permit, which SignAd could use for the construction of a new sign for a period of ten years elsewhere in the City (as opposed to a mere nine years for an extension of the Sign's existing permit through 2034).

Lastly, should the Council require additional evidence to adjudicate the merits of SignAd's appeal, SignAd respectfully requests that this matter be referred to the Sign Administration or General Appeals Board for further proceedings to complete the record.³⁷

³² SignAd Exh. 5, pg. 17; GAB Hearing Transcript, pgs. 61-63.

³³ GAB Hearing Transcript, pgs. 61-63

³⁴ SignAd Exh. 5, ¶9.

³⁵ SignAd Exh. 5, ¶9 (emphasis added).

³⁶ GAB Hearing Transcript, pgs. 62-63; 74-76.

³⁷ Rule 12 of the City Council's Rules of Procedure includes the following provision: "In the event the city council finds that the record is incomplete or inadequate, the city council may refer the matter to the officer, agency, board or commission for further proceedings to complete the record. All decisions of the council on the record, other than a referral for further proceedings, as described above, shall be final and not subject to further appeal or rehearing."

Pat J. Daniel, City Secretary
May 22, 2025
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Thank you for your consideration of SignAd's appeal. Please contact me if you have any questions or if I may provide additional information. Otherwise, please notify me when SignAd's appeal is placed on the Council's agenda.

Very truly yours,

/s/ Christopher W. Rothfelder
Christopher W. Rothfelder

CWR:mr
Enclosures

Cc: Ms. Elga Gonzalez
Administration Manager
Houston Permitting Center
1002 Washington Avenue, 4th Floor
Houston, Texas 77002

Via Email: Elga.Gonzalez@houstontx.gov

Ms. Lori Yount
Senior Assistant City Attorney
General Litigation Section
City of Houston Legal Department
900 Bagby, 4th Floor
Houston, Texas 77002

Via Email: Lori.Yount@houstontx.gov

EXHIBIT A



March 31, 2025

Via Certified Mail # 9590 9402 8220 3030 7480 92
and Email: crothfelder@rothfelderfalick.com

Mr. Christopher W. Rothfelder
Rothfelder Falick L.L.P.
1517 Heights Boulevard
Houston, Texas 77008

Re: Request for appeal by SignAd Outdoor Advertising regarding the decision of the Sign Administration for the Denial of Permit Application noticed on November 18, 2024

Dear Mr. Rothfelder:

On March 27, 2025, the General Appeals Board of the City of Houston held a hearing regarding your request for an appeal relative to the decision of the Sign Administration regarding the Denial of Permit Application (rejection letter) on November 18, 2024, respectively, for a sign relocation at 11700 Wilcrest Drive, Houston, Texas.

The General Appeals Board found that the decision of the Sign Administration should be upheld.

Any interested person aggrieved by a decision of the General Appeals Board may appeal to the City Council, provided that written notice to the City Council for such appeal is delivered to the City Secretary within 10 days following the decision of the Board.

Pursuant to Rule 12 of the City Council's Rules of Procedure (Section 2-2 of the City Code), a party appealing a decision of the General Appeals Board to City Council shall submit the complete court reporter-certified record to the city secretary within 60 days of the decision of Board. Failure to submit the requested or required records within the required time period shall constitute an untimely appeal to City Council and a waiver by the appealing party to an appeal before City Council.

SIGNED on the 31st day of March, 2025

DocuSigned by:

0268057C5B844BB...

Michael Dishberger, Chairman
General Appeals Board
Of the City of Houston

cc: Building Official

EXHIBIT B

ROTHFELDER  FALICK L.L.P.

CHRISTOPHER W. ROTHFELDER
crothfelder@rothfelderfalick.com

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April 4, 2025

Ms. Pat J. Daniel, City Secretary
City Secretary Department
900 Bagby St., Rm. P101
Houston, Texas 77002

*Via Messenger Delivery
and Email: citysecretary@houstontx.gov*

**RE: Appeal of SignAd, Ltd. Regarding Off-Premise Sign Located at 11700
Wilcrest Dr.; Our File No. 1011-317.**

Dear Ms. Daniel:

The law firm of Rothfelder & Falick, L.L.P. represents SignAd, Ltd. ("SignAd"). On November 18, 2024, Senior Inspector for the Houston Sign Administration, David Conde, issued an "official Rejection Letter" (the "Rejection") for a sign owned by SignAd and located at 11700 Wilcrest Drive. On December 2, 2024, SignAd timely appealed the Rejection to the Houston General Appeals Board pursuant to Section 4604(e)(1) of the Houston Sign Code. On March 27, 2025, the General Appeals Board voted to deny SignAd's appeal and uphold the decision of the City's Inspector. A copy of the written confirmation of the Board's decision is enclosed. Please consider this letter as SignAd's written notice of appeal of the decision of the General Appeals Board to the City Council pursuant to Section 4604(e)(1) of the Houston Sign Code.

SignAd is in the process of securing the written transcript of the hearing before the General Appeals Board. SignAd is also preparing its written exceptions, if any, of the facts and administrative rulings and decisions made by the General Appeals Board. SignAd will file the written transcript and exceptions, if any, with your office as soon as they are prepared, in accordance with Section 4604(e)(2) of the Houston Sign Code and Rule 12 of the Houston City Council Rules of Procedure.

Please contact me if you have any comments or questions. Thank you for your cooperation and assistance in this matter.

Very truly yours,

/s/ Christopher W. Rothfelder
Christopher W. Rothfelder

CWR:mr
Enclosures

Ms. Pat J. Daniel, City Secretary
April 4, 2025
Page 2

Cc: Ms. Elga Gonzalez
Administration Manager
Houston Permitting Center
1002 Washington Avenue, 4th Floor
Houston, Texas 77002

Via Email: Elga.Gonzalez@houstontx.gov

Ms. Lori Yount
Senior Assistant City Attorney
General Litigation Section
City of Houston Legal Department
900 Bagby, 4th Floor
Houston, Texas 77002

Via Email: Lori.Yount@houstontx.gov



March 31, 2025

Via Certified Mail # 9590 9402 8220 3030 7480 92
and Email: crothfelder@rothfelderfalick.com

Mr. Christopher W. Rothfelder
Rothfelder Falick L.L.P.
1517 Heights Boulevard
Houston, Texas 77008

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The General Appeals Board found that the decision of the Sign Administration should be upheld.

Any interested person aggrieved by a decision of the General Appeals Board may appeal to the City Council, provided that written notice to the City Council for such appeal is delivered to the City Secretary within 10 days following the decision of the Board.

Pursuant to Rule 12 of the City Council's Rules of Procedure (Section 2-2 of the City Code), a party appealing a decision of the General Appeals Board to City Council shall submit the complete court reporter-certified record to the city secretary within 60 days of the decision of Board. Failure to submit the requested or required records within the required time period shall constitute an untimely appeal to City Council and a waiver by the appealing party to an appeal before City Council.

SIGNED on the 31st day of March, 2025

DocuSigned by:
Mike Dishberger
0268057C5B844BB...
Michael Dishberger, Chairman
General Appeals Board
Of the City of Houston

cc: Building Official

EXHIBIT C

**CITY OF HOUSTON
BUILDING CODE
CHAPTER 46**

HOUSTON SIGN CODE

NOTE: ALTHOUGH THIS SIGN CODE CONSTITUTES CHAPTER 46 OF THE CITY OF HOUSTON BUILDING CODE (BASED UPON THE 2006 INTERNATIONAL BUILDING CODE), IT IS SEPARATELY PUBLISHED.

Current through Ordinance No. 2020-669
Effective July 29, 2020
Compiled by the City of Houston Legal Department

SECTION 4604--SIGN ADMINISTRATION AND ENFORCEMENT

(a) Sign Administrator. The director of Houston Public Works shall appoint a Sign Administrator to administer and enforce the terms and conditions of this chapter and all other provisions of law relating to signs. The Sign Administrator is empowered to delegate the duties and powers granted to and imposed upon him by this chapter to other persons serving under the Sign Administrator. The Sign Administrator and such other persons shall constitute the Sign Administration Section of Houston Public Works. The Sign Administrator is directed to enforce and carry out all provisions of this chapter.

(b) Enforcement Responsibility. The duties of the Sign Administrator shall include not only the issuance of permits as required by this chapter, but also the responsibility of ensuring that all signs comply with this chapter and any other applicable laws, and that all signs for which a permit is required do, in fact, have a permit. The Sign Administrator shall make such inspections as may be necessary and initiate appropriate action to bring about compliance with this chapter and other applicable law if such inspection discloses any instance of noncompliance. The Sign Administrator shall investigate thoroughly any complaints of alleged violations of this chapter.

(c) Powers of Sign Administrator. The Sign Administrator shall have the power and authority to administer and enforce the conditions of this chapter and all other laws relating to signs. Included among such powers are the following specific powers:

- (1) Every sign for which a permit is required shall be subject to the inspection and approval of the Sign Administrator. When deemed advisable by the Sign Administrator, a sign may be inspected at the point of manufacture if such point is within or adjacent to the sign code application area.
- (2) Upon presentation of proper identification to the owner, agent or tenant in charge of such property, the Sign Administrator or his representative may enter, for the purposes of inspecting and investigating signs or sign structures, any building, structure or other premises or property during normal business hours, provided, however, that in cases of emergency where extreme hazards are known to exist that may involve imminent injury to persons, loss of life or severe property damage, and where the owner, agent or tenant in charge of the property is not available after the Sign Administrator has made a good faith effort to locate same, the Sign Administrator may enter the aforementioned structures and premises at any time upon presentation of proper identification to any person on the premises. Whenever the Sign Administrator or his representative shall enter upon private property, under any circumstances, for the purpose of inspecting and/or investigating

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signs or sign structures, which property has management in residence, such management, or the person then in charge, shall be notified of his presence and shown his proper and official credentials. The Sign Administrator or his representative, when on private property, shall observe the establishment's rules and regulations concerning safety, internal security and fire protection. Whenever the Sign Administrator is denied admission to inspect any premises, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection for violations of this chapter. In applying for such a warrant, the Sign Administrator shall submit to the magistrate his affidavit setting forth his belief that a violation of this chapter exists with respect to the place sought to be inspected and his reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the owner, operator or occupant thereof. If the magistrate finds that probable cause exists for a search of the premises in question, he shall issue a warrant authorizing the search, such warrant describing the premises with sufficient certainty to identify the same. Any warrant so issued shall constitute authority for the Sign Administrator to enter upon and inspect the premises described therein.

- (3) Upon notice and issuance of a stop order from the Sign Administrator, work on any sign that is being conducted in a manner contrary to the provisions of this chapter or is being conducted in a dangerous or unsafe manner shall be immediately stopped. Such notice and order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the Sign Administrator. Following the issuance of a stop order, the Sign Administrator shall initiate proceedings to revoke any permit issued for the work covered by such stop order, consistent with Section 4604(c)(4), unless the cause of the stop order is resolved to the Sign Administrator's satisfaction.
- (4) The Sign Administrator shall have, and is hereby granted, the power and authority to revoke any and all licenses or permits authorized by this chapter for violation of the terms and provisions of this chapter, provided that the Sign Administrator shall conduct a hearing prior to the revocation of any license or permit authorized under this chapter to determine the facts incident to the pending revocation. The person whose license or permit is under consideration shall be given at least ten calendar days' written notice of the hearing and shall be permitted to present relevant facts and legal argument regarding the pending revocation.

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Following such hearing, the Sign Administrator shall consider the merits of the case and shall present a written opinion prior to any action. Provided further, however, that if, in the opinion of the Sign Administrator, the health, safety or welfare of the citizens of the sign code application area is endangered by any violation of this chapter, the Sign Administrator may immediately revoke any or all licenses or permits authorized by this chapter and shall conduct the necessary hearing as soon as possible thereafter, but in no case later than three business days after the effective date of the revocation unless the affected licensee or permittee shall request in writing a later date.

- (5) The Sign Administrator shall have the authority to adopt regulations required to implement the provisions of this chapter.
- (6) Pursuant to and in accordance with any agreement between the City and the State of Texas or the United States government, the Sign Administrator is hereby authorized to enforce any applicable terms and provisions of Chapter 391 of the Texas Transportation Code. The Agreement for Carrying out National Policy Relative to Control of Outdoor Advertising, entered into between the United States of America and the State of Texas by instrument dated May 2, 1972, any supplements or amendments to that agreement, and any rules or regulations promulgated by the State of Texas and/or the Texas Department of Transportation pursuant to the said act or agreements with regard to signs.

(d) Violations and Penalties. Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than \$300.00 and not more than \$500.00 for each violation. Each day in which any violation continues shall constitute a separate offense. To the extent that any violation of any provision of this chapter also constitutes a violation of state law, then it shall be punishable as provided by the applicable state law. In addition, the City Attorney is hereby authorized to take all actions, both legal and equitable, necessary to assure compliance with this chapter.

(e) Appeals.

- (1) Any person wishing to appeal a decision of the Sign Administrator on the grounds that the decision misconstrues or wrongly interprets this chapter may, within ten business days after the decision, appeal the same to the General Appeals Board, pursuant to its rules and regulations, and thence to the City Council. Either party in the appeal to the General Appeals Board, whether the original appealing party or the Sign Administrator, may appeal the decision of the General Appeals Board to the City Council by giving notice of

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appeal in writing to the City Secretary within ten days following the decision of the General Appeals Board appealed from, and provided further, that the appealing party shall comply with the Sign Administrator's decision pending appeal unless the Sign Administrator shall direct otherwise. Rule 12 of the City Council's Rules of Procedure (Section 2-2 of the City Code) shall be applicable.

- (2) An appellant who has complied with Rule 12 shall file with the City Secretary, within 60 days following the decision appealed from, a record consisting of the written transcript of the hearing before the General Appeals Board, along with the written exceptions, if any, of each party to the proceedings to the facts and administrative rulings and decisions made by the General Appeals Board. An extension of time for the preparation of the record, not to exceed 30 additional days from the last date for filing the record, may be obtained by filing a statement with the City Secretary not later than 15 days after the last date for filing the record. Such statement shall reasonably explain the need therefor and shall be executed and verified under oath by the appellant, the appellant's legal representative or the certified court reporter responsible for preparation of the transcript. Failure to comply with the provisions of this subsection shall render appellant's notice of appeal void and of no effect and the decision of the General Appeals Board shall thereupon become final and not appealable to the City Council.
- (3) This subsection (e) shall not apply and no appeal shall be granted hereunder regarding any matter under this chapter for which a citation to Municipal Court has been issued by the Sign Administrator.

(f) Sign Advisory Council

There is hereby authorized a Sign Advisory Council consisting of ten members, to serve on an ad hoc basis as the Mayor shall determine. Six members at a meeting shall constitute a quorum. The positions on said Council shall be filled as follows:

- Position 1 A representative of the on-premise sign industry
- Position 2 A representative of the off-premise sign industry
- Positions 3 & 4 Local civic group representatives
- Position 5 At-large member who shall be chair of the Sign Advisory Council
- Positions 6 & 7 Business persons located in the city who utilize signs

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- Positions 8 & 9 Land developers operating in the city
- Position 10 The Sign Administrator of the City of Houston, or his designee, who shall also serve as the Secretary of the Sign Advisory Council.

The Sign Administrator may designate, in writing, a person under his supervision to act in his place as his duly authorized representative, said representative to enjoy all rights and privileges of the position. A copy of such a designation, specifying the dates any such person shall act as representative of the Sign Administrator, shall be filed with the minutes of the Sign Advisory Council. The Mayor shall designate as chairman a member of the local business community.

Upon a determination by the Mayor that the Sign Advisory Council should be constituted, members of the Sign Advisory Council shall be appointed by the Mayor, with the approval of the City Council, and shall serve for such term as the Mayor shall designate, with the approval of the City Council, not to exceed one year.

Whenever any position on the Sign Advisory Council becomes vacant by reason of death, resignation or removal, said vacancy shall be filled for the unexpired term of the member being replaced. Should a vacancy occur on the Sign Advisory Council, the Mayor shall appoint, subject to the consent of City Council, another qualified person to serve the unexpired term of such vacancy. Any member of the Sign Advisory Council may be removed at any time by the Mayor without consent of City Council. Each member of the Sign Advisory Council shall serve without compensation.

A City employee member of the Sign Advisory Council shall not vote as a member of such Council on any motion, resolution or recommendation by the Sign Advisory Council, but shall be permitted to give a written opinion or report to the Mayor and City Council concerning any such resolution or recommendation by the Sign Advisory Council.

The duty of the Sign Advisory Council shall be to consider and make recommendations to the Mayor and City Council concerning proposals to create scenic or historical districts or rights-of-way. The Sign Advisory Council may submit a written recommendation to the City Council concerning a scenic or historic district or right-of-way proposed to be created under the provisions of Section 4610 at any time prior to final City Council action on such proposal. Any such report, opinion or recommendation of the Sign Advisory Council is advisory only.

The Sign Advisory Council shall adopt reasonable rules and regulations for the conduct of its duties. A majority of the members of the Sign Advisory Council present, and lawfully meeting, shall determine the wishes of the Sign

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Advisory Council. All reports or recommendations delivered to the Mayor and City Council shall be rendered in writing with copies to the Sign Administrator.

The Sign Advisory Council shall prepare an agenda in advance of its meetings. The agenda shall be published by conspicuously posting a copy thereof at the City Hall and in the Sign Administration Office.

SECTION 4617--SPECIAL PERMIT

(a) A special permit shall be issued for the alteration or relocation of an existing off-premise sign situated within the Sign Code application area under the following limited circumstances:

- (1) The sign to be altered or relocated must be situated, both before and after its alteration or relocation, along the federal primary system and be subject to control under Subchapter B of Chapter 391 of the Texas Transportation Code.
- (2) The alteration or relocation of the sign must be required for a publicly funded transportation system improvement project being undertaken by the State of Texas or a political subdivision of the State of Texas. The decision to offer the sign owner the option of seeking a special permit to alter or relocate a sign pursuant to this section shall be at the discretion of the undertaking unit of government. In determining whether to make such an offer, the governmental unit shall take into consideration the probable cost of compensating the sign owner, in conjunction with the probable costs of compensating other sign owners affected by the project, as it relates to the economics and timeliness of the completion of the project and its effect on the public interest.
- (3) The sign to be altered or relocated must be a sign that has been lawfully constructed and maintained in accordance with all applicable state and local regulatory and permit requirements, and it must have been constructed and maintained with the permission of the person or persons owning the tract or parcel of land upon which it is situated.
- (4) The sign must be situated after its alteration or relocation according to the following priority:
 - a. First, upon the remainder of the same tract or parcel of land upon which it was situated before its alteration or relocation, if any; or
 - b. Second, if there is no remainder or if the remainder is not of sufficient size or suitable configuration for the alteration or relocation of the sign, then upon the property abutting the highway at the original sign location or upon the property abutting the insufficient remainder, if available; or
 - c. Third, upon another tract or parcel of land owned by the same person or persons as the tract from which it was relocated; or

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- d. Fourth, any location as described in Section 4617(a)(1).
- (5) If the alteration or relocation is under Section 4617(a)(4)a or (4)c, then the person or persons who own the tract or parcel of land upon which the sign was situated must enter into a written agreement with the unit of government undertaking the transportation system improvement project waiving and releasing any claim for damages against the unit of government for the temporary or permanent taking of the real property that is based in any manner upon the relocation or alteration of the sign to accommodate the transportation system improvement project. This provision shall not be construed to preclude the payment of compensation to the real property owner for the acquisition of the real property or any other interest therein, but the use of the tract as an off-premise sign site shall not be considered in the determination of the compensation paid therefor.
 - (6) The sign owner must enter into a written agreement with the unit of government undertaking the transportation system improvement project waiving and releasing any claim for damages against the unit of government for any temporary or permanent taking of the sign in consideration of the payment by the unit of government of a mutually agreed specified amount of money calculated to cover the cost to the sign owner of the alteration or relocation of the sign.
 - (7) The sign to be relocated or altered must, after its relocation or alteration, be in full compliance with all applicable regulations promulgated by the State of Texas pursuant to Chapter 391 of the Texas Transportation Code and all applicable requirements of this code. To the extent of any difference between the requirements of this code and the state regulations, the more restrictive requirement shall apply, except that the height of a sign after its relocation or alteration shall be governed by the less restrictive requirement.
 - (8) Notwithstanding Section 4617(a)(7), signs to be altered or relocated under this section must meet the following requirements as to location and spacing following their alteration or relocation:
 - a. For a sign that is to be altered or relocated on the remainder of the same tract on which it was previously located, or on the abutting property, under Section 4617(a)(4)a or (4)b, and is to be placed in the same relative position as to line of sight and not to exceed 1500 feet to either side of the perpendicular placement as the original sign was situated in relation to the highway, the sign must: (i) be within 800 feet of one or more commercial or industrial activities and must not be located within 500 feet of another off-premise sign on

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the same side of the highway, if the highway is on the interstate and freeway primary system, or within 300 feet of another off-premise sign on the same side of the highway, if the highway is on the nonfreeway primary system outside of the city limits, or within 100 feet of another off-premise sign on the same side of the highway, if the highway is on the nonfreeway primary system within the city limits; or **(ii)** comply with the then current criteria for location and spacing set by the state regulations, whichever is more restrictive.

- b.** For a sign that is to be altered or relocated under Section 4617(a)(4)a or (4)b but is not to be placed within 1500 feet to either side of the perpendicular placement as the original sign was situated in relation to the highway, or a sign that is to be altered or relocated under Section 4617(a)(4)c or (4)d, the sign must: **(i)** be within 800 feet of two or more commercial or industrial activities and must not be located closer than 1500 feet to another off-premise sign on the same side of the highway, regardless of whether the highway is classified as an interstate, freeway or nonfreeway primary highway and is within or without the city limits; or **(ii)** comply with the then current criteria for location and spacing set by the state regulations, whichever is more restrictive.
- (9)** The sign may not be altered within or relocated to a scenic or historical right-of-way or district or on any part of the federal primary system where the Texas Transportation Commission has by minute order requested that scenic easements be acquired or to any scenic or historical right-of-way or district created by the State of Texas or any political subdivision of the State of Texas.
- (10)** A special permit issued under this section shall be effective for a period of ten years from the date of issuance and shall be nonrenewable. The owner of the sign and the owner or owners of the tract or parcel of land upon which it is altered or upon which it is to be relocated must agree in consideration of the issuance of a special permit under this section for the continued use of the sign in lieu of its immediate monetarily compensated removal to accommodate the transportation system improvement project that they will remove the sign by the expiration of ten years from the date of issuance of the special permit, during which time period they may continue to enjoy the use of the sign as altered or relocated under the special permit.

The agreement shall be accompanied by a right of entry without notice upon the tract or parcel of land upon which the sign is altered or relocated from the owner thereof, providing for the removal of the

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sign by the city if not removed by the expiration of the aforesaid ten-year period, which right of entry agreement shall be in a form approved by the City Attorney. The agreement shall additionally be secured by a bond for each sign to cover the city's costs of removal of the sign in the event that the owner fails to remove the sign by the expiration of ten years from the date of issuance of the special permit. Such bond shall be in a form approved by the City Attorney and may be provided in one of the following forms:

- a. A surety bond issued by the sign owner as principal and a corporate surety authorized to transact business in Texas in the sum of \$10,000; or
- b. A secured deposit bond in the form of an assignment of an account with a financial institution insured by the Federal Deposit Insurance Corporation to the city. The account shall have a principal deposit of not less than \$5,000. Under the terms of the assignment, the financial institution must agree not to make any payment from or otherwise divert or dispose of the funds in the account, except that it shall agree to disburse all or any portion of the funds in the account only as directed by City Council resolution. In the event that the sign owner fails to remove the sign secured by the account by the expiration of ten years from the date of issuance of the special permit, the City Council shall cause the funds or such portion thereof as may be required to accomplish the work to be utilized for the removal of the sign and shall authorize the balance, if any, to be restored to the sign owner. In the event that the sign owner removes the sign secured by the account by the expiration of ten years from the date of issuance of the special permit, the City Council shall cause the existing balance of the account to be restored to the sign owner; or
- c. A nonrefundable cash bond in the sum of \$2,000. Cash bonds shall be collectively accounted for within the Building Inspection Fund created under Section 4605(i) and the proceeds shall be used to remove the sign in the event that any holder of a special permit secured by a cash bond fails to remove the sign by the expiration of ten years from the date of issuance of the special permit. Special permit holders who tender a cash bond and who timely remove their sign shall be entitled to the sign structure for salvage purposes; however they shall not be entitled to the refund of any portion of the cash bond or any interest thereon.

- (11) Notwithstanding Section 4605(e)(5), a sign lawfully erected under a special permit that is blown down or otherwise destroyed by any casualty may be replaced for the remainder of the ten-year period during which the special permit is in effect, provided that it is rebuilt at the same location, height, size and dimensions, and with the same materials and configuration as originally altered or relocated pursuant to the special permit.
- (12) Each application for a special permit shall be referred by the Sign Administrator to the Texas Department of Transportation together with the complete plans and specifications for the alteration or relocation of the sign and any other data that may be required by the said department to determine compliance with its applicable regulations. No special permit shall be granted unless an authorized representative of the Texas Department of Transportation certifies in writing that the proposed alteration or relocation of the sign will comply with all applicable state laws, rules and regulations.
- (13) Each application for a special permit must be signed by the owner of the sign and the owner of the property upon which it is to be altered or relocated, who shall each certify that all applicable provisions of this section have been complied with, and be accompanied by written consent to the alteration or relocation of the sign, signed by the duly authorized representative of the unit of government undertaking the transportation system causing the need for the sign to be altered or relocated.

(b) Fees for special permits shall be as otherwise provided in Section 117 of this Code and the city fee schedule. The operating permit for a sign altered or relocated pursuant to a special permit issued under this section shall transfer to the sign as altered or relocated. During the period that the special permit is in effect, operating permits for signs altered or relocated pursuant to this section shall be extended for three-year periods in accordance with Section 4605(d), provided that, notwithstanding any language to the contrary contained in any operating permit renewal issued for a sign altered or relocated under a special permit, no operating permit renewal shall be construed to authorize the continued existence, operation or maintenance of any such sign for any period in excess of ten years following the date of issuance of the special permit. The provisions of this section shall not be deemed to authorize any practice otherwise prohibited under this chapter, except to the limited extent and under the limited circumstances enumerated in this section. Nothing contained in this section shall be construed to abrogate the right of a sign owner or underlying property owner to refuse to accept the proposal by the governmental unit for the alteration or relocation of a sign under this section and to choose instead to seek monetary compensation.

EXHIBIT D

Whenever individual citizens or city employees appear before the city council to speak or to present testimony relative to any item on the agenda, each council member shall limit the questions or remarks for each speaker to an initial maximum period of five minutes, including time used by the speaker to answer the council member's questions. A person answering a question shall be permitted to complete the answer, despite the expiration of the five-minute limit.

In all other deliberations by the city council, the same initial maximum period of five minutes per council member shall apply during the debate of any item on the agenda. A council member may question or remark as to each speaker, or debate any agenda item, for a second maximum period of five minutes, but only after all other council members desiring to be heard on the matter have exercised their initial opportunity for questioning, remarks or debate. Subsequent rounds may ensue in the same manner, each limited to five minutes per council member, until all questioning, remarks or debate has been completed.

During hearing of the agenda item entitled matters presented by council members' each council member shall be limited to an initial period of up to five minutes. After all council members wishing to speak have made remarks in the first round, each member who desires additional time may speak for a second period of up to five minutes. Unused time from the first round shall not carryover to the second round.

Rule 11. Readings Required of Ordinances and Resolutions.

The passage of ordinances, other than on the consent agenda, shall be by reading the same at two regular meetings by caption or title, unless a reading in full is requested by a council member; provided, however, that all ordinances that are public emergencies may be passed finally on the date of their introduction when so requested by the mayor in writing, by one reading of the caption or title thereof. This rule shall not be applicable to ordinances that are required, by virtue of their subject matter or otherwise, to be read or adopted in a different manner pursuant to applicable provisions of the Charter or state law.

Rule 12. Appeals to City Council.

Every appeal that is authorized by federal law, state law, the City Charter, or city ordinance to be made to the city council from a decision by an officer, agency, board or commission shall be reviewed by the city council, without the taking of further evidence by city council, on the basis of the record of the decision from which the appeal is taken. Consideration of appeals may be scheduled at any specific time on the agenda, irrespective of the order of business established by these rules.

The director of each department (or a designee), or the presiding officer of a board, commission or agency, or a hearing examiner (the "hearing officer"), as appropriate, shall conduct an evidentiary hearing, the record of which shall be made by a certified court reporter of any matter that may be appealed to the city council. The term "record" shall include, but is not limited to, a transcript of oral testimony, exhibits offered and considered, written or oral responses, answers or questions, and all documents reviewed or considered by a hearing examiner or officer, commission or agency, board, or department director or his designee at an evidentiary hearing.

Each presiding officer or hearing officer shall give written notice to any party appearing in an evidentiary hearing that:

- (1) A court reporter is required to prepare a record in order for there to be an appeal to the city council;
- (2) The party must request, in writing, the presence of a court reporter at the hearing before the hearing officer not less than 24 hours prior to such evidentiary hearing; and
- (3) The party requesting the court reporter agrees to pay all costs of the court reporter, including preparation of transcript(s) for appeal to city council.
- (4) Except as otherwise provided by the City Code, the party appealing to city council shall submit the complete court reporter-certified record to the city secretary as required by this Code within 60 days of the decision of