



## AGENDA MEMORANDUM

Action Item for the City Council Meeting of December 17, 2019

**DATE:** November 20, 2019

**TO:** Peter Zanoni, City Manager

**FROM:** Al Raymond, Director Development Services  
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### Certified Cities Decertification and Re-establishment of Billboard Fees

#### **CAPTION:**

Resolution decertifying the City of Corpus Christi under Texas Highway Beautification Act; and reestablishing the annual permit renewal fee for billboard signs.

#### **SUMMARY:**

The purpose of this resolution is to decertify from the Certified Cities program operated by the Texas Department of Transportation and to reinstitute annual permit fees for billboards (off-premise freestanding signs) that were repealed with the Unified Development Code adoption on May 10, 2011 but never replaced.

#### **BACKGROUND AND FINDINGS:**

On May 2, 1972, the City of Corpus Christi entered into an agreement with TxDOT for carrying out National Policy relative to control of outdoor advertising in areas adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System to enforce the Highway Beautification Act, *Section 131 of Title 23, United States Code (1965)*. This agreement authorized off-premise outdoor commercial advertising permitting and enforcement by the City of Corpus Christi in accordance with state and federal standards, and the permit is issued by the Certified City instead of TxDOT. Title 43 of the Texas Administrative Code §21.200 provides TxDOT authority to authorize a political subdivision to exercise control over these signs within its incorporated limits and within 660 feet of a regulated highway. TxDOT approved Corpus Christi as a Certified City on December 7, 1971, and the City has been a certified city for over 46 years. The Federal Highway Administration could withhold 10% of the state's federal aid if these standards are not enforced. A Certified City must, at a minimum, be as restrictive as the agreement standards.

Most of these commercial signs have been in existence for several decades on regulated highways and primary systems. On March 5, 2019, TxDOT provided an audit which concluded that the City was not in compliance with the agreement, a requirement for Certified City status. TxDOT identified 14 signs that were not listed on the City's annual report, of which four did not meet the federal requirements for spacing. An additional 64 signs out of 269 signs were found non-conforming to the minimum federal requirements. A total of 68 signs were found not to meet the minimum requirements of the highway beautification act. TxDOT requested the development of an action plan for enforcement. Upon investigation by the City, it was determined that the City had not retained the permit data showing the date of the original sign permit and associated information when the new electronic records system became operational. Also, many of these permits were possibly destroyed by flooding from Hurricane Allen in 1980. This poses challenges to ascertain original permit data for enforcement purposes. Furthermore, code enforcement would be contingent on available staff resources.

The City requested historical permit records from the sign companies and individual property owners. The City has not received sufficient permit information. Out of the 68 signs not meeting the minimum requirements of the federal Highway Beautification Act, no permits were provided demonstrating grandfathering prior to May of 1972. For the remaining 10 signs not listed in the city's annual inventory, only one permit was provided illustrating grandfathering prior to 1972.

Enforcing removal of signs that may be grandfathered due to permit issuance prior to 1972 could create City liability for the cost of removal. TxDOT certification merely benefits billboard companies by enabling those companies to avoid obtaining both TxDOT permits and City permits. Therefore, the City's lack of historical records puts the City in the position of maintaining certified status solely for the benefit of the billboard companies that have not provided the historical permit records that would allow us to comply with our certification responsibilities.

In 2010 there were 60 Certified Cities, and today there are 30. Of the 12 largest cities in Texas, San Antonio, Austin, El Paso, Laredo, Lubbock and Garland are not on the Certified Cities list. The primary advantage of certification is that it allows the sign contractors to obtain a single permit from the City for installation. If decertified, a permit would have to be obtained from both the City and TxDOT.

TxDOT may decertify a city, or a city may request decertification. Corpus Christi may voluntarily relinquish Certified City Status as defined in Title 43, Texas Administrative Code §21.200 (Relating to Local Control) and return full regulatory responsibility to the Texas Department of Transportation concerning all commercial signs located on highways regulated under Transportation Code Chapter 391 within the incorporated limits of the City. There are several advantages to decertify. TxDOT has better enforcement through district court versus the city's municipal court, and this would help bring the City back into compliance. TxDOT staff has experience working with sign companies which would facilitate enforcement efforts. In the future, if the City wanted to become a Certified City again, TxDOT may elect to reinstate the City. If decertified, the City will continue to issue permits and inspect commercial signage along freeway and primary systems. A permit for these signs would also be required from TxDOT by the applicant.

This resolution also addresses reestablishing the annual permit renewal fee for billboards per UDC 7.5.24 *Licenses, Permits and Fees for Billboards B*, which allows fees to be established from time to time by resolution of City Council. Ordinance No. 026903 approved on July 25, 2006 established the current annual renewal fees for billboards. This ordinance was repealed with the adoption of the Unified Development Code in May 10, 2011 (Ordinance 029048). However, the fees were never established by resolution per UDC 7.5.24. This resolution reestablishes the annual renewal fees from 2006, which support periodic inspections to ensure compliance with City codes.

### **ALTERNATIVES:**

The City may retain certification, provide an action plan for compliance, and commit resources to enact enforcement actions. This could prove difficult due to lack of historical records and code compliance resources. The City may elect to increase or decrease the proposed annual renewal fees for billboards.

### **FINANCIAL IMPACT:**

With decertification, there is no financial impact. If the City elects to retain certification, additional resources may be required for enforcement efforts. There is no financial impact to the City. The proposed annual renewal fees have not changed from the original fees adopted in 2006. The annual renewal fees collected have averaged about \$15,000 per year. With decertification, there is no financial impact since the City will continue to issue permits and renewal fees.

### **Funding Detail:**

Fund: 4670  
Organization/Activity: 12201  
Mission Element: 888  
Project # **(CIP Only)**:  
Account: 302150

### **RECOMMENDATION:**

Staff recommends approval of the resolution to decertifying the City of Corpus Christi under Texas Highway Beautification Act; and reestablishing the annual permit renewal fee for billboard signs.

### **LIST OF SUPPORTING DOCUMENTS:**

Resolution  
Off-Premise Freestanding Signs Location Map  
Certified Cities Listing