

TEXAS HISTORICAL COMMISSION

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**AGENDA**  
**HISTORY PROGRAMS COMMITTEE**

Teleconference Meeting

June 16, 2020

3:00 p.m.

(or upon adjournment of the 2:30 pm. Communications committee meeting, whichever occurs later)

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*Pursuant to the Governor's March 13, 2020 state of disaster declaration due to the Coronavirus (COVID-19) and March 16, suspension of certain provisions of the Texas Open Meetings Act, the May 8, 2020 meeting of the THC History Programs Committee will be held by telephonic conference call, as authorized under Texas Government Code section 551.125. Members of the public will have access by calling (877)226-9790; code 1151608#, toll-free. Digital copies of the agenda and meeting materials will be available at [www.thc.texas.gov/teleconferences](http://www.thc.texas.gov/teleconferences). An audio recording of the meeting will be available after June 17, 2020. To obtain a copy of the recording, please contact Lynnette Cen at 512-463-6063. The members may discuss and/or take action on any of the items listed in the agenda.*

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1. Call to Order —*Committee Chair White*
  - A. Committee member introductions
  - B. Establish quorum
  - C. Recognize and/or excuse absences
2. Consider approval of the May 8, 2020 committee meeting minutes
3. Consider approval of filing authorization of proposed amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 21, Subchapter B, Section 22.4, related to Cemeteries, for first publication in the *Texas Register* (item 14.4)
4. Consider approval of text for Official Texas Historical Markers (item 6.3B)
5. History Programs Division update and committee discussion —*Division Director Charles Sadnick*
6. Adjournment

*NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Esther Garza at (512) 463-5768 at least four (4) business days prior to the meeting so that appropriate arrangements can be made*

TEXAS HISTORICAL COMMISSION

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**MINUTES**  
**HISTORY PROGRAMS COMMITTEE**  
Teleconference Meeting  
May 8, 2020  
10 a.m.

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*Note: For the full text of action items, please contact the Texas Historical Commission at P.O. Box 12276, Austin, TX 78711 or call 512.463.6100.*

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**1. Call to Order**

The meeting of the Texas Historical Commission (THC) History Programs Committee was called to order by Chair Daisy White at 10 a.m. She announced that pursuant to the Governor's March 13, 2020 state of disaster declaration due to the Coronavirus (COVID-19) and March 16, suspension of certain provisions of the Texas Open Meetings Act, the May 8, 2020 meeting of the THC History Programs Committee will be held by telephonic conference call, as authorized under Texas Government Code section 551.125. Members of the public will have access by calling (877)226-9790; code 1151608#, toll-free. Digital copies of the agenda and meeting materials will be available at [www.thc.texas.gov/teleconferences](http://www.thc.texas.gov/teleconferences). An audio recording of the meeting will be available after May 11, 2020. To obtain a copy of the recording, please contact Lynnette Cen at 512-463-6063.

**A. Committee member introductions**

Chair White welcomed everyone and called on commissioners to individually state their names and cities in which they reside. Members in attendance included Commissioners Renee Dutia, Lilia Garcia, Laurie Limbacher, Catherine McKnight, and Tom Perini.

**B. Establish quorum**

Chair White reported a quorum was present and declared the meeting open.

**C. Recognize and/or excuse absences**

Commissioner Perini moved, Commissioner Garcia seconded, and the commission voted unanimously to excuse the absence of Commissioner Monica Burdette.

**2. Consider approval of the January 28, 2020 committee meeting minutes**

Commissioner Limbacher moved, Commissioner Perini seconded, and the commission voted unanimously to approve the January 28, 2020 History Programs Committee meeting minutes.

**3. Certification of Historic Texas Cemetery Designations**

History Programs Division Director Charles Sadnick explained that the Historic Texas Cemetery designation helps cemeteries that are at least 50 years old by recording cemetery boundaries in county deed records, which alerts present and future owners of land adjacent to the cemetery of its existence. Sadnick brought forth eleven cemeteries and recommended that the committee send forward to the Commission to formally certify them as Historic Texas Cemeteries. Chair White moved, Commissioner Limbacher

seconded, and the commission voted unanimously to recommend and send forward to the Commission to formally certify the designations as Historic Texas Cemeteries.

**4. Consider approval of filing authorization of proposed amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 21, Subchapter B, Section 21.6, related to Recorded Texas Historic Landmarks (RTHL) designation, for first publication in the *Texas Register***

Sadnick brought a proposed amendment to an existing rule, Section 21.6, which concerns RTHL designation. The proposed amendment will first clarify which buildings, structures, and objects within the legal description of the property are actually being designated. The applicant will let staff know which they would like designated and staff will review and make recommendations, so there will be a back-and-forth if necessary, before the designation is brought before Commissioners for authorization. This language did not exist in any form previous to this amendment.

The second part of the proposed amendment changes when the designation occurs. Staff feels that the RTHLs should properly be recorded. Except for a few exceptions by diligent CHCs, this has never been the case. So instead of the designation becoming effective upon Commission approval, staff is proposing that from here out on, RTHL designations become effective upon recording in the county records, which will be a staff duty. Commissioner Limbacher asked whether the amendments will affect previously designated RTHLs in terms of clarifying which buildings, structures, or objects are part of the designation. Sadnick responded that staff have discussed the issue of clarifying previously designated RTHLs, but no plan of action has been decided.

Chair White moved, Commissioner Garcia seconded, and the commission voted unanimously to recommend and send forward staff recommendations for approval of the filing authorization of proposed amendments to the Texas Administrative code, Title 13, Part 2, Chapter 21, Subchapter B, Section 21.6, related to Recorded Texas Historic Landmarks (RTHL) designation for first publication in the *Texas Register*.

**5. Consider approval of text for Official Texas Historical Markers**

Sadnick brought eighteen marker inscriptions to be approved by the committee. Sadnick also gave an update on the new foundry and the markers in process. The foundry closed their doors to the public and has been working as a skeleton crew due to the social distancing with COVID-19. They have been able to continue to cast markers and the first sixteen completed markers were shipped two weeks ago. Historical Marker Program Coordinator Bob Brinkman was able to see one of the finished markers and found the quality met the agency's high standards.

Chair White moved, Commissioner Perini seconded, and the commission voted unanimously to adopt approval of the final form and text of eighteen (18) Official Texas Historical Markers with delegation authority to the Executive Director of the Texas Historical Commission, working with the Commission chair, to resolve minor textual issues arising after Commission approval.

**6. Consider approval of work plan for 2021 Official Texas Historical Markers**

Sadnick brought forth for approval a new work plan for 2021 Official Texas Historical Markers. The marker application dates are similar to the previously approved 2020 work plan. The thematic priorities will change to the following: the arts, civil rights, science and technology. Applications focusing on these topics will receive greater points as part of the scoring criteria. The maximum number of markers to be processed will be no more than 185 markers, with 15 Undertold markers and 170 regular markers.

Chair White moved, Commissioner Dutia seconded, and the commission voted unanimously to recommend and send forward staff recommendations for qualified Official Texas Historical Marker applications and adoption a work plan to complete no more than 185 new historical markers for the 2021 cycle.

**7. History Programs Division update and committee discussion**

Sadnick gave an update on the History Programs Division. Virtually all staff in the History Programs Division participated actively at the Real Places conference, and through two sessions. The first was a three-hour session prepared by CHC Outreach staff to address CHC challenges. HPD staff, as well as staff from Archeology and Historic Sites assisted in facilitating small group discussion.

Cemetery preservation staff also hosted a one-day workshop entitled, “CHCs and Cemetery Preservation,” through which they trained 44 attendees and helped pave the way for how our CHC outreach program is moving. Finally, all HPD staff attended the staff tabling and spoke with the attendees about their programs.

The division has one staff update to mention, Steve Cure was hired early March as our new military sites coordinator. He formerly held a long-time position as Chief Operation Officer of the Texas State Historical Association. He is highly regarded as a director of programs, volunteers, and staff; he is an excellent educator and historian as well. Many of our staff have worked with Cure in the past and Sadnick is very excited about him joining the Commission.

## **8. Cemetery Outreach Program update and proposed outreach activity**

Carlyn Hammons gave an update on the Cemetery Outreach Program. In addition to taking statewide inventory, designating Historic Texas Cemetery (HTC), and offering technical assistance to the public, the program has been able to update and make more efficient their work processes in recent years. More time may now be devoted to expanding their services through their Cemetery Outreach Program.

The Preservation Scholar Project last summer identified success story highlights and compiled on Google Maps, which is available on the THC website. Research and interviews for stories on four cemeteries were highlighted in in-depth articles, one of which was on the Medallion recently, as well as the THC blog publications.

The program is now focusing on improving the capacity of CHCs to develop and maintain more robust and impactful cemetery preservation programs for their counties. Annual reports demonstrate increased activity with CHCs and cemetery preservation work. This ranks just second to the Historical Marker program in the volume of activities that CHCs are taking on. A study project was conducted last year to determine the real scope of these activities and to determine how well the CHCs were addressing the collective needs of all the state’s historic cemeteries. Staff discovered that CHCs are passionate about preserving cemeteries. They are already working to establish relationships with local cemetery associations or other stewardship groups. They are already advocating support from municipal and state government. They are conducting tours and educational programs. Not all of them are doing so in a systematic or strategic way and so some of the most vulnerable are not being addressed at all. Resulted in suggested framework for a more structured County-Wide Cemetery Preservation which puts a strong emphasis on identification and assessment to ensure that all cemetery needs are being addressed.

This framework was presented at a workshop at Real Places a few months ago and was a great success. The presentation started several productive conversations and many of the attendees have begun organizing projects based on what they learned in the workshop. Staff are currently taking that one-day workshop and converting it into a series of online training sessions which will be accessible to everyone. This will be combination of webinar training accompanied by online toolkits consisting of handouts, guidance documents, and other materials that can be printed and shared easily. Other toolkits will be developed as well, which will cover a large sweep of topics that can be targeted to specific audiences.

Some upcoming activities for the program include though some have been postponed due to COVID-19: participating in CHC Regional meetings (postponed), presentations at Association for Gravestone Studies annual conference (postponed), a three-day pilot workshop at Texas Archeological Society’s Field School (postponed), coordination with Council of Texas Archeologists’ Lost Cemeteries Task Force, development of Emergency Preparedness and Response Trainings (HIM ESHPF), and increased communications via agency listservs and publications.

## **9. Adjournment**

At 10:32 a.m., Chair White called for adjournment and on the motion of Commissioner Limbacher, the committee meeting was adjourned without objection.

## Quarterly Report

History Programs Division  
March–May 2020

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### DIVISION HIGHLIGHTS

During this extraordinary time, History Programs Division (HPD) staff has continued their work in a manner as productive and effective as they had before the pandemic. Staff have found new and effective ways to accomplish their duties, including further employment of digital methods for federal and state review, oversight of historical marker casting, and presenting information vital to THC constituents via webinar and listserv. They have also mastered digital communications for both public and internal meetings. HPD staff should be commended for a quick and thorough adjustment, which in turn has helped ease concerns from the public.

### COUNTY HISTORICAL COMMISSION (CHC) OUTREACH

This quarter, Amy Hammons and Nano Calderon reviewed the 184 CHC reports received for the 2019 year of service. Content was disseminated to appropriate THC staff to share local-level preservation activity. Staff responded to concerns and questions from CHCs and gathered positive comments about THC services.

To promote HPD staff and services during this time of distancing, Outreach staff have pursued two specific listserv efforts. The first, based on CHC Outreach staff travel last year, highlighted specific CHCs by region to share accomplishments and local preservation interests. Each post included links to direct readers back to THC educational material and preservation partner websites. The second listserv effort was developed for Preservation Month in May with the intent of reminding subscribers that THC staff remained busy providing services to the public despite social distancing. Hammons and Calderon worked with HPD staff to prepare 13 posts featuring individual staff and promoting HPD programs. These received a great deal of positive feedback from subscribers and staff.

### HISTORICAL MARKERS

Marker staff has been coordinating the backlog of 196 markers with the new foundry, Eagle Sign and Design, in New Albany, Ind. The foundry has crafted new artwork and templates for each size and style of marker, based on photos and samples. Through the end of May, 169 markers are in production, ranging from proof and pattern shop stages to casting and shipping. As of May 15, 35 markers have been delivered. Stay-at-home orders slowed the rate of production, but the foundry is still on schedule to ship all backlogged markers by September 30 (as communicated to CHCs and sponsors in January). Sarah McCleskey presented a webinar on 2020 changes for the marker program and application process, and staff has been evaluating and scoring new applications, which are due June 15.

### MILITARY HISTORY

Work continues on the World War I-themed book the agency is developing to discuss Texas contributions to the war and the centennial commemoration. A formal book proposal with required draft content has been submitted to Texas A&M University Press for its review and contract to move forward. Additionally, Steve Cure coordinated with Communications staff to provide content for an upcoming World War II-focused edition of *The Medallion*. Staff also responded to a variety of inquiries ranging from the Texas Revolution to POWs held in Texas during World War II.

### MUSEUM SERVICES

Museum Services continued providing support to museums, a sector hit hard by the COVID-19 closures. Laura Casey and Emily Hermans sent frequent email communications and regularly updated the program web page with information about assistance, educational programs, and funding opportunities as they became available. With the assistance of Communications Division, staff also created templates and implemented the new GovDelivery email system. In addition to the webinars already planned for March, April, and May, staff added two more specifically addressing museums

and the COVID-19 crisis. The webinar program also saw a jump in attendance during these closures, with registrations ranging from 362 to 1,148 and attendees from 222 to 539. The webinars offered during this period were “Social Media and Your Cultural Organization: Where to Start,” “COVID-19 Resources for Texas Museums,” “Archives and Digitization,” “Museums and Millennials: Debunking Myths and Creating Strategies for Successful Engagement,” “A Case Study in Creating a Successful Case Statement,” and “Museums Beyond Reopening: Thriving in Your New Normal.” Of the six offered, THC staff instructed four. Staff also began working with The Centennial Museum and Smithsonian Traveling Exhibition Service Museums on the Main Street Program to develop summer workshops for the Water Ways exhibit that will be traveling the state in 2021. These were originally planned as in-person workshops in seven locations around Texas, but have been transitioned to an online format that will be offered in July and August.

## **FEDERAL PROGRAMS**

### **National Register of Historic Places**

National Register (NR) staff members Gregory Smith, Alyssa Gerszewski, and Bonnie Wilson presented nine National Register nominations at the May 16 State Board of Review (SBR) meeting, which was held online on the Zoom meeting platform. The board unanimously approved all nominations, including those for the Bogota Historic District in Red River County, Route 66 in Wheeler County, and the Old Bayview Cemetery in Corpus Christi. An additional 25 nominations are in process. The NPS has recently allowed electronic submission of nominations, so staff is currently working to clear the backlog of nominations that were placed on hold due to the COVID-19 pandemic. Smith also evaluated 13 federal tax credit projects (Part 1 of the federal application), and 27 state tax credit projects (Part A of the Texas application). Staff is preparing several determination of eligibility submissions to the NPS, in compliance with Hurricane Harvey grant requirements, reviewing applications for the next round of county courthouse grants, and developing significance statements for the THC easements database.

### **Review of Projects under Section 106 and the State Antiquities Code**

Despite working remotely, the Project Review Team has maintained a heavy workload, reviewing over 3,500 projects from March through late May. By comparison, the team reviewed approximately 3,600 projects the previous three months, and just under 2,600 for the

period of March–May 2019, a 30 percent year-over-year increase. Tracy Hoffman and Charles Peveto have worked with several local governments and project applicants to encourage them to use THC’s eTRAC System, which allows applicants to submit projects electronically and allows THC staff to complete their reviews remotely. Caitlin Brashear participated in several meetings on major projects, including Lake Ralph Hall (Fannin Co.) and the Turkey Peak Reservoir (Palo Pinto Co). Sarah Medwig met with FEMA staff and local consulting parties to resolve adverse effects to the Trinity Episcopal Church in Houston as a result of FEMA-funded Hurricane Harvey recovery efforts. Justin Kockritz led discussions for the THC’s interagency contract with TxDOT, which will continue to expedite review of TxDOT projects, while facilitating several training, outreach, and research programs.

## **HISTORIC HIGHWAYS AND HISTORIC RESOURCES SURVEY**

Survey Coordinator Leslie Wolfenden continues to work with volunteers across the state to gather information on resources included in historic African American travel guides (i.e., Green Book). She is also working with THC staff on a Hurricane Harvey grants mobile app for county-wide surveys. Wolfenden had a phone interview with Margaret Hoogstra of *Authentic Texas* magazine for a possible article in *Texas Highways*.

## **CEMETERY PRESERVATION**

The Cemetery Program continues to receive calls and emails relating to cemetery preservation. Carlyn Hammons is processing 34 Historic Texas Cemetery (HTC) applications and creating a four-part webpage highlighting activities from the 2020 Real Places cemetery workshop. Jenny McWilliams continues to update the Atlas. She is working with nine CHCs on county-wide cemetery inventories. Staff is also planning an online educational series on disaster preparedness supported by Hurricane Harvey grant funds.

## **YOUTH EDUCATION**

During this quarter, lead educator Linda Miller and youth specialist Ryan Craig focused on expanding online learning resources through the development of additional curriculum materials and guidelines for digital learning. Curriculum partnerships with the Communication and Historic Sites divisions resulted in new materials for classroom and community use. Digital and online offerings continue to increase through more material resources and potential new delivery platforms.

## TEXAS HISTORICAL COMMISSION

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### Item 14.2

Texas Historical Commission  
Quarterly Meeting  
June 16-17 2020

**Consider approval of filing authorization of proposed amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 21, Subchapter B, Section 21.6, related to Recorded Texas Historic Landmarks (RTHL) designation, for first publication in the *Texas Register***

**Background:**

The proposed amendments to Section 21.6 add detailed language to define conditions of and which buildings, structures, or objects on a property apply to the Recorded Texas Historic Landmarks (RTHL) designation. The amendments also define when a RTHL designation is recorded and becomes effective.

The first publication will take place after approval by the Commission. There is a 30-day comment period following the publication, therefore rules approved by the Commission for this meeting will be considered for final approval and second publication at the July 2020 meeting.

**Suggested motion:**

Move to approve the filing authorization of proposed amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 21, Subchapter B, Section 21.6, related to Recorded Texas Historic Landmarks (RTHL) designation for first publication in the *Texas Register*.

# TEXAS HISTORICAL COMMISSION

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## Item 14.2

Texas Historical Commission  
Quarterly Meeting  
June 16-17 2020

**Texas Administrative Code  
Title 13 Cultural Resources  
Part II Texas Historical Commission  
Chapter 21 History Programs  
Subchapter B Official Texas Historical Marker Program**

### **PREAMBLE**

The Texas Historical Commission (Commission) proposes amendments to §21.6, related to Recorded Texas Historic Landmarks (RTHL) designation. These amendments add detailed language to define conditions of and which buildings, structures, or objects on a property apply to the Recorded Texas Historic Landmarks (RTHL) designation. The amendments also define when a RTHL designation is recorded and becomes effective.

**FISCAL NOTE.** Mark Wolfe, Executive Director, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules.

**PUBLIC BENEFIT.** Mr. Wolfe has also determined that for the first five-year period the amended rule is in effect, the public benefit will be the preservation of and education about state historic resources. The amendments will also provide greater clarity regarding the standards for RTHL designation.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES.** Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required.

**ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT.** There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and 2001.024(a)(6).

**GOVERNMENT GROWTH IMPACT STATEMENT.** Because RTHL designation would take place only with landowner consent, during the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

**TAKINGS IMPACT ASSESSMENT.** The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his

## TEXAS HISTORICAL COMMISSION

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or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, § 2007.043.

PUBLIC COMMENT. Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code §442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission; Texas Government Code §442.006(h), which requires the Commission to adopt rules for the historical marker program; and Texas Government Code §442.006(d), which establishes Recorded Texas Historic Landmark designation requirements.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.

The Commission hereby certifies that the proposed amendments have been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

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### Chapter 13, Chapter 21, Subchapter B. OFFICIAL TEXAS HISTORICAL MARKER PROGRAM

#### 13 TAC §21.6

##### *§21.6 Recorded Texas Historic Landmark Designation*

(a) ~~[The commission may award the Recorded Texas Historic Landmark]~~ Buildings, structures, and objects as defined in Chapter 26 of this code may be designated as Recorded Texas Historic Landmarks (hereafter referred to as "RTHLs"), ~~[designation to historic structures that meet criteria set forth in program guidelines, criteria and procedures adopted by the commission.]~~ provided the following conditions are met:

(1) The property is associated with events that have made a significant contribution to the broad patterns of our history or that are associated with the lives of persons significant in our past;

(2) The property embodies the distinctive characteristics of a type, period, or method of construction, represents the work of a master, possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;

(3) The property retains integrity at the time of the nomination, as determined by the executive director of the commission;

(4) The property, including the buildings, structures, and objects subject to the designation per subsection (b) herein, is at least 50 years of age; and

(5) The owner(s) of the property at the time of nomination consents to this designation, which runs with the land and remains in effect under all future owners.

(b) At the choice of the legal owner(s) at the time of nomination, designation either applies to all buildings, structures, and objects, and their setting within the legal description of the property; or applies only to the specific buildings, structures, or objects that are the subject of the nomination and does not affect any other buildings, structures, or objects within the legal description of the property. Prior to designation, commission staff will evaluate whether each nominated building, structure, and object meets the criteria for designation and may recommend changes, subject to owner approval.

~~[(b)]~~ (c) Evidence of RTHL designation shall be recorded by the commission in the deed records for the county where the RTHL property is located. ~~[The RTHL d]~~ Designation becomes effective upon ~~[approval by the commission.]~~ recording. RTHLs designated prior to 2020 remain valid based on approval by the commission; however, if the designation is not recorded, Texas Government Code, Section 442.016 shall not apply.

~~[(c) Official Texas Historical Markers signify the RTHL designation; designation comes only through application to and approval by the commission.]~~ (d) RTHL designation shall be indicated on the Official Texas Historical Marker installed at the site after the designation has been approved by the commission and recorded. However, RTHL designation shall be effective until removed by the commission, whether or not the marker remains in place.

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~~[(e)]~~ (e) Once designated, RTHL properties are subject to provisions of the Texas Government Code, Sections §442.006(f), 442.011, and 442.016; ~~[and]~~ rules of the commission, including §21.11 of this title (relating to Review of Work on Recorded Texas Historic Landmarks); and other applicable administrative rules.



## TEXAS HISTORICAL COMMISSION

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### Item 14.3

Texas Historical Commission  
Quarterly Meeting  
June 16-17, 2020

**Consider approval of filing authorization of proposed amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 22, Section 22.4, related to Cemeteries, for first publication in the *Texas Register***

**Background:**

The proposed amendments to Section 22.4 remove duplicative language regarding how the Commission assesses verification of the existence of a cemetery.

The first publication will take place after approval by the Commission. There is a 30-day comment period following the publication, therefore rules approved by the Commission for this meeting will be considered for final approval and second publication at the October 2020 meeting.

**Suggested motion:**

Move to approve the filing authorization of proposed amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 21, Subchapter B, Section 22.4, related to Cemeteries, for first publication in the *Texas Register*.

# TEXAS HISTORICAL COMMISSION

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## Item 14.3

Texas Historical Commission  
Quarterly Meeting  
June 16-17, 2020

**Texas Administrative Code**  
**Title 13 Cultural Resources**  
**Part II Texas Historical Commission**  
**Chapter 22 Cemeteries**

The Texas Historical Commission (Commission) proposes amendments to §22.4, related to Cemeteries. These amendments remove duplicative language regarding how the Commission assesses verification of the existence of a cemetery.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules.

PUBLIC BENEFIT. Mr. Wolfe has also determined that for the first five-year period the amended rule is in effect, the public benefit will be the preservation of and education about state historic resources. The amendments will also provide greater clarity regarding verification of the existence of cemeteries.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. Because the amendments merely remove duplicative language, there are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and 2001.024(a)(6).

GOVERNMENT GROWTH IMPACT STATEMENT. Because these amendments do not change the scope of the rule, during the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, § 2007.043.

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PUBLIC COMMENT. Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code §442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission and Texas Government Code §442.017(d), which allows for the adoption of rules necessary to identify and preserve abandoned cemeteries.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.

The Commission hereby certifies that the proposed amendments have been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

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### Chapter 13, Chapter 22 CEMETERIES 13 TAC §22.4

#### *§22.4 Unknown, Abandoned, and Unverified Cemeteries*

(a) Discovery of Unknown or Abandoned Cemeteries. §711.010 of the Health and Safety Code requires that a person who discovers an unknown or abandoned cemetery shall file notice of the discovery of the cemetery with the county clerk of the county in which the cemetery is located and concurrently mail notice to the landowner on record in the county appraisal district not later than the 10th day after the date of the discovery. The notice must contain a legal description of the land on which the unknown or abandoned cemetery was found and describe the approximate location of the cemetery and the evidence of the cemetery that was discovered.

(1) The Commission may provide assistance to any party required to file this notice.

(2) The Notice of Existence of Cemetery form available on the Commission's website may be used to file this notice.

(3) The county clerk must provide a copy of the notice to the Commission within 15 days after the filing of the notice with the clerk, by mailing it to the following address: Cemetery Preservation Coordinator, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276.

(b) If one or more graves are discovered during construction of improvements on a property, construction must stop and may only proceed in a manner that would not further disturb the grave or graves unless the graves are removed in accordance with §711.0105 of the Health and Safety Code.

(c) Agricultural (including ranching), construction, utility lines, industrial, and mining operations may not be conducted in a manner that will disturb a grave or cemetery unless the graves and dedication of the cemetery are removed in accordance with §711.035 of the Health and Safety Code.

(d) Discovery of Unverified Cemeteries. Section 711.0111 of the Health and Safety Code of Texas requires that any person that discovers an unverified cemetery shall file a notice and evidence of the discovery with the commission on a form provided by the commission. Section 711.0111 also requires that any person that discovers an unverified cemetery shall concurrently provide a copy of the notice of the filing with the landowner on record in the county appraisal district on whose land the unverified cemetery is located. The commission shall evaluate the notice and the evidence submitted with the notice, and consider the response of the landowner, if any is received not later than the 30th day after notice, and shall determine whether there is sufficient evidence to support the claim of the existence of a cemetery. If the commission determines that sufficient evidence supports the existence of a cemetery, the commission shall notify the landowner and may file notice of the existence of the cemetery under §711.011 of the Health and Safety Code. If a notice of existence has already been filed under §711.011 and the commission has determined that there is not sufficient evidence of a cemetery the commission shall notify the landowner of its determination, amend the notice to include the commission's determination, and file the amendment with the county clerk to correct the dedication.

## TEXAS HISTORICAL COMMISSION

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- (1) The Commission may provide assistance to a person required to file this notice.
  - (2) The Notice of Unverified Cemetery form, which is available on the Commission's website, shall be used to file this notice.
  - (3) The Texas Historical Commission, with consent of the landowner, may investigate a suspected but unverified cemetery or may delegate the investigation to a qualified person described by Section 711.0105(a).
- (e) The commission shall use one or more of the following criteria when assessing the verification of the existence of a cemetery:
- (1) the location contains interment(s) that is/are confirmed through assessments or investigations consented by the landowner and performed by a professional archeologist or other individuals as defined by §711.0105(a) of the Health and Safety Code of Texas;
  - (2) the location contains human burial caskets or other containers or vessels that contain human remains or are contextually known to have been used to inter human remains;
  - (3) the location contains articulated human remains that were deliberately interred; or
  - (4) the location contains a burial pit or burial pit features.

~~(f) The commission shall use one or more of the following criteria when assessing the verification of the existence of a cemetery:~~

- ~~(1) the location contains interments that are confirmed through assessments or investigations performed by a professional archeologist or other individuals as defined by §711.0105(a) of the Health and Safety Code of Texas~~
- ~~(2) the location contains human burial caskets or other containers or vessels that contain human remains or are contextually known to have been used to inter human remains;~~
- ~~(3) the location contains articulated human remains that were deliberately interred~~
- ~~(4) the location contains a burial pit or burial pit features~~



## TEXAS HISTORICAL COMMISSION

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**Item 14.4**  
Texas Historical Commission  
Quarterly Meeting  
June 16-17 2020

### Consider Approval of Work Plan for 2021 Official Texas Historical Markers

**Recommendations for 2021:** For new historical markers to be considered for calendar year 2021, staff recommends application period dates of **March 1 – May 15, 2021**. This will allow sufficient time to score and rank all new applications. Staff recommends the following thematic priorities for 2021: **The Arts, Civil Rights topics, and Science and Technology**. Topics addressing these themes will receive additional points when new applications are scored. Staff recommends approving and processing no more than **170** new applications and no more than **15** markers produced through the Undertold marker program (accumulated Marker Application Funds). The total of no more than **185** historical markers to be completed by the end of fiscal year 2022 shall proceed by the following work plan schedule:

INTERNAL THC DATES		EXTERNAL CHC/SPONSOR DATES	
Feb. 2021	Marker applications posted to website	March 1 – May 15, 2021	Application period for new markers (due by 2 pm CDT)
		May 17, 2021	\$100 fee benefiting Undertold markers due by 2pm CDT
March 1 – May 15, 2021	Staff processes and scores all applications		
April 2021	Commissioners select application dates, priority themes and number of markers to be processed for 2023		
		May 16-29, 2021	Public comment period for new topics (posted on website and social media)
		May 29, 2021	Final day to submit missing or deficient components
June 2021	RTHL Meeting with DOA staff and scoring meeting with DDs, Admin staff		
July 2021	Commissioners review and comment on 2021 marker topics at quarterly meeting		
By August 2, 2021	Staff sends out payment vouchers to recommended topics	By September 16, 2021	Marker fee is due for all marker applications by 5pm CDT
Oct. 2021 – Feb. 2022	Staff gives workshops and webinars on successful marker applications and other topics		
		Oct. 1 – Nov. 15, 2021	Application period for Undertold markers

**Suggested motion:**

Move to approve staff recommendations for qualified Official Texas Historical Marker applications and adopt a work plan to complete no more than 185 new historical markers in calendar year 2021.