TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to adopt amendments to §25.401 and §25.406, relating to major shopping area eligibility, to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the adopted amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the amendments to §25.401 and §25.406 are adopted and are authorized for filing with the Office of the Secretary of State.

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

Submitted and reviewed by:

Carlos A. Lopez, P.E.

Director, Traffic Operations Division

Recommended by:

M. W. Behrens

Executive Director

110779 DEC 14 06

Minute Number | Date Passed

Adoption Preamble

The Texas Department of Transportation (department) adopts amendments to §25.401, definitions, and §25.406, major shopping area eligibility. The amendments to §25.401 and §25.406 are adopted without changes to the proposed text as published in the October 13, 2006 issue of the *Texas Register* (31 TexReg 8493) and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

The adopted rules are necessary to correct the definition of highways eligible to be included in the information logo sign program. The definition currently included in the rule does not correctly reflect the statutory requirements. Transportation Code, §391.001 defines eligible highways to include only highways outside of an urbanized area with a population of 50,000 or more that qualified for a 65 mile per hour speed limit the day before 43 USC §154 was repealed. The federal statute was repealed on December 7, 1995. The current definition did not exclude controlled access highways that did not qualify for the 65 mile per hour speed limit prior to the repeal of 43 USC §154 as required by Transportation Code, §391.001.

The adopted language also corrects the types of shopping malls that qualify for a major shopping area guide sign. Transportation Code, §391.001 contains a more restrictive

definition of major shopping area than the current definition in §25.401. Section 25.401 is amended to correct the definition of eligible highways to reflect the statutory definition.

Section 25.406 is amended to correct the types of major shopping areas that qualify for a major shopping area guide sign.

COMMENTS

No comments on the proposed amendments were received.

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §391.032, which authorizes the department to establish rules to regulate the effective display of outdoor advertising.

CROSS REFERENCE TO STATUTE

Transportation Code, §391.001.

1 SUBCHAPTER G. INFORMATION LOGO SIGN AND TOURIST-ORIENTED
2 DIRECTIONAL SIGN PROGRAM
3 §25.401. Definitions. The following words and terms, when used
4 in this subchapter, shall have the following meanings, unless
5 the context clearly indicates otherwise.
6 (1) Business logo--A separate sign panel of specified
7 dimensions attached to a specific information logo sign assembly
8 and containing the commercial establishment name, symbol, brand,
9 trademark, or combination.
10 (2) Commercial establishment--A privately owned business
11 or corporation offering one or more of the primary motorist
12 services.
13 (3) Commission--The Texas Transportation Commission.
14 (4) Contractor--A person, firm, group, or association in
15 the State of Texas that acts as the authorized agent of the
16 department in the operation of the specific information logo or
17 the tourist-oriented directional (TOD) sign program.
18 (5) Department--The Texas Department of Transportation.
19 (6) Driveway access--A vehicle entrance, built in
20 compliance with state and local standards and regulations, for
21 use by the public providing access from a public street or
22 highway to a commercial establishment or major shopping area.
23 (7) Dual logo--A panel on a specific information logo

1 sign containing the names of either:

2 (A) two food establishments in a shared space under

3 common ownership; or

4 (B) a gas and food establishment in a shared space

5 under common ownership.

6 (8) Eligible highway--

7 (A) for information logo signs, a controlled access

8 highway on the designated state highway system <u>that is:</u>

9 <u>(i) located inside an urbanized area with a</u>

10 <u>population of 50,000 or more; or</u>

11 <u>(ii) located outside an urbanized area with a</u>

12 <u>population of 50,000 or more and was eligible for a 65 mile per</u>

13 <u>hour speed limit on December 7, 1995</u>; or

14 (B) for TOD signs and participating facilities, a non-

15 controlled access highway located on the designated state

16 highway system outside the corporate limits of a municipality

17 with a population of 5,000 or more.

18 (9) Executive director--The executive director of the

19 Texas Department of Transportation or his or her designee.

20 (10) Gross building area--Square footage of usable area

21 within a building, or series of buildings, that is considered

22 usable by the retail businesses and the public.

23 (11) Information logo sign--A specific information logo

1 sign assembly or a major shopping area guide sign.

2 (12) Interchange--The intersection of the centerlines of
3 an eligible highway and a crossroad.

4 (13) Major portion--Fifty-one percent or more.

5 (14) Major shopping area guide sign--A rectangular
6 supplemental sign panel imprinted with the name of the retail
7 shopping area as it is commonly known to the public and
8 containing directional information.

9 (15) Major shopping area ramp sign--A supplemental sign
10 with the common name of the major shopping area, directional
11 arrows, and/or distances placed near an eligible highway exit
12 ramp or access road.

13 (16) Multiple crossroad interchange--An interchange in
14 which one exit in a direction of travel from an eligible highway
15 provides the only point of access for two or more crossroads;
16 the center of a multiple crossroad interchange is the mid-point
17 of the intersection of the centerline of the eligible highway
18 and centerlines of the affected crossroads.

19 (17) Pharmacy services--The act of accepting and filling
20 prescriptions by or under the supervision of a pharmacist
21 licensed by the State of Texas.

22 (18) Primary motorist service--Gas, food, lodging,
23 camping, or 24-hour pharmacy services available to the traveling

public.

(19) Ramp business logo--A reduced size separate sign panel of specified dimensions attached to a ramp sign and containing the commercial establishment name, symbol, brand, trademark, or combination.

(20) Ramp sign--A supplemental sign with ramp business logos or the name of the major shopping area, directional arrows, and distances placed near an eligible highway or eligible highway exit ramp.

(21) Specific information logo sign assembly--A rectangular supplemental sign imprinted with the words "GAS," "FOOD," "LODGING," "CAMPING," or "24 HOUR Rx" or with a combination of those words, and the names (or business logos) of commercial establishments offering those services.

(22) State--the State of Texas.

(23) Texas MUTCD--Texas Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, issued by the Texas Department of Transportation.

(24) TOD sign assembly--An official sign structure erected under the TOD sign program containing one or more TOD panels and located on a TOD sign program eligible highway as defined in this subchapter.

(25) TOD sign panel--An individual sign panel of a

business or entity participating in the TOD program contained on a TOD sign assembly.

(26) TOD sign program--Tourist-oriented directional sign program.

(27) Trailblazer sign--A sign used in conjunction with the TOD sign program off of the designated state highway system that indicates the direction to the participating business or entity.

§25.406. Major Shopping Area Eligibility.

(a) Eligibility criteria. To be eligible to have a major shopping area guide sign, the major shopping area must:

(1) be a geographic area that:

(A) consists of 30 acres or more of land; and

(B) includes an enclosed retail shopping mall that contains 1 million square feet or more of gross building area;

[~~consist of a group of 10 or more retail and other commercial establishments that:~~]

[~~(A) have a gross building area of not less than 650,000 square feet;~~]

[~~(B) is located within close proximity to one another;~~]

[~~(C) employs a unifying theme carried out by individual shops in their architectural design;~~]

[~~(D) have a minimum of two anchor businesses, with a combined gross building area of not less than 150,000 square feet; and~~]

[~~(E) is planned, developed, owned, and managed as a single property;~~]

(2) be located not farther than three miles from an interchange with an eligible urban highway; and

(3) be located with driveway access to the eligible urban highway access road (frontage road), ramp, intersecting crossroad or city street.

(b) Variances.

(1) A person may request a variance from the requirements of the major shopping area guide sign program. A request for a variance will only be considered if the existing requirements preclude participation in the program.

(2) A variance may be requested for waiver of the requirement of:

(A) eligibility;

(B) location of the major shopping area;

(C) placement of the sign; or

(D) type of highway, except the highway must be on the state highway system.

(3) A person may submit a request for a variance to the

department's local district engineer indicating:

(A) which requirement of the program it does not meet; and

(B) the variance requested.

(4) The department may require additional documentation following generally accepted engineering standards, which shall include, but not be limited to:

(A) traffic studies;

(B) maps indicating ramps, major arterials, ingress and egress points, existing signs, and distances;

(C) traffic flow analysis including traffic counts to and from the major shopping area;

(D) crash data and analysis;

(E) detailed site plan of the major shopping area, including but not limited to available parking, driveways, and location in reference to eligible urban highways.

(5) The executive director may grant a variance if he or she determines it is feasible to place the sign at the location and the sign meets the requirements of the Texas MUTCD; and

(A) the variance will substantially promote traffic safety;

(B) the variance will substantially improve traffic flow;

(C) an overpass, highway sign, or other highway structure unduly obstructs the visibility of an existing commercial sign; or

(D) the variance is necessary to substantially improve the efficiency and effectiveness of communicating the information needed by people to safely and efficiently use the transportation system.

(6) The executive director will indicate the reason for granting or denying a variance in writing.

(7) A variance will not be granted if the executive director finds that:

(A) a major shopping area is located on an intersecting crossroad or city street whose name can be easily identified with the major shopping area and has existing advance and exit guide signs; or

(B) the major shopping area parking is so insufficient that it causes undue congestion of the roadway system.