

INDIANA

Agreement 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.

This agreement made and entered into this 4th day of August 1971, by and between the United States of America represented by the Secretary of Transportation, hereinafter referred to as the Secretary, and the State of Indiana, represented by the Governor, hereinafter referred to as the State. Witnesseth:

Whereas, Congress has declared that outdoor advertising in areas adjacent to the Interstate and Federal Primary System should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty; and

Whereas, Section 131(d) of Title 23, United States Code, provides for agreement between the Secretary and the several States to determine the size, lighting, and spacing of signs, displays, and devices, consistent with customary use, which may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Federal-aid Primary Systems which are zoned commercial or industrial areas, under authority of State law or in unzoned commercial or industrial areas, also to be determined by agreement; and where no bona fide State, County, or local zoning authority has made any determination of customary use; and

Whereas, IC 1971, 8-12-2 authorizes the Governor of the State of Indiana to enter into an agreement with the Secretary with respect to the regulation and control of outdoor advertising; and

Whereas, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in the Interstate and Primary highways, to promote the safety and recreational value of public travel, and to preserve natural beauty; and

Whereas, the State of Indiana elects to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the national policy in order to remain eligible to receive the full amount of all Federal-aid highway funds to be apportioned to such State on or after January 1, 1968, under Section 104 of Title 23, United States Code.

Now therefore, the parties hereto do mutually agree as follows:

I. DEFINITIONS

A. "Act" means Section 131 of Title 23, United States Code, as amended, commonly referred to as Title I of the Highway Beautification Act of 1965, as amended.

B. "Commercial or industrial activities" means, for purposes of establishing unzoned commercial or industrial areas, those activities generally recognized as commercial or industrial by zoning authorities in this State, but excludes the following activities:

1. Outdoor advertising structures.
2. Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
3. Transient or temporary activities.
4. Activities not visible from the main traveled way.

(a) Within 300 feet of any building used primarily as a residence, unless the owner of the building consents in writing to the particular commercial use or uses to be made of such lands;

(b) Within 500 feet of any of the following: public park garden, recreation area or forest preserve, church, school, and officially designated historical battlefield,

5. Activities more than 660 feet from the nearest edge of the right-of-way.
6. Activities conducted in a building principally used as a residence.
7. Railroad tracks and minor sidings.

C. "Zoned commercial or industrial areas" means those areas which are zoned for business, industry, commerce, or trade pursuant to a State or local zoning ordinance or regulation.

D. "Unzoned commercial or industrial areas" means those areas which are not zoned by State or local law, regulation, or ordinance, and on which there is located one or more permanent structures devoted to a commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 600 feet from and beyond the edge of such activity on both sides of the highway. Provided however, the unzoned area shall not include land on the opposite side of an Interstate or dual-laned limited access Primary highway from the commercial or industrial activity establishing the unzoned commercial or industrial area or land on the opposite side of other Federal-aid Primary highways which land is deemed scenic by an appropriate agency of the State.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge of pavement of the highway. Such an area shall not include any area which is:

any museum or historical monument and any safety rest or recreation area, publicly owned, controlled, and maintained pursuant to Section 319 of Title 23 of the United States Code, any sanitary or other facility for the accommodation of the motorist, publicly owned, controlled, and maintained pursuant to Section 319 of Title 23 of the United States Code; or

(c) Within 750 feet of, any strip of land, an interest in which has been acquired by this State for the restoration, preservation, or enhancement of scenic beauty, and which is publicly controlled and maintained, pursuant to Section 319 of Title 23 of the United States Code.

E. "Local zoning authority" means a county or municipality authorized by law to zone areas under their respective jurisdiction which has an active zoning authority, as defined and certified by the Planning Division of the Department of Commerce of the State of Indiana.

F. "Sign" means any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard or other thing which is designated, intended or used to advertise or inform, any part of the advertising or informative contents of which is located within an adjacent area and is visible from any place on the main traveled way of any portion of any Interstate or Primary highway;

G. "Traveled way" means the portion of the roadway for the movement of vehicles exclusive of shoulders and auxiliary lanes.

H. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it shall not include any of the foregoing activities when

performed as an incident to the change of advertising message or normal maintenance or repair of a sign structure.

I. "Safety rest area" means an area or site established and maintained within or adjacent to the highway right-of-way by or under public supervision or control, for the convenience of the traveling public.

J. "Information center" means an area or site established and maintained at safety rest areas for the purpose of informing the public of places of interest within the State and providing such other information as the Indiana State Highway Commission may consider desirable.

K. "Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.

L. "Visible" means capable of being seen (whether or not legible), without visual aid by a person of normal visual acuity.

II. SCOPE OF AGREEMENT

This agreement shall apply to all zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of the Interstate and Federal-aid Primary Systems, in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of either or both of said systems.

III. STATE CONTROL

The State hereby agrees that, in all areas within the scope of this Agreement, the State shall effectively control, or cause to be controlled, the erection and maintenance of outdoor advertising signs, displays, and devices erected subsequent to the effective date of this Agreement, other than those advertising the sale or lease of the property on which they are located, or activities conducted thereon, in accordance with the following:

A. In zoned commercial and industrial areas, the State may notify the Secretary as notice of effective control that there has been established within such areas comprehensive zoning which regulates the size, lighting, and spacing of outdoor advertising signs consistent with the intent of the Act and with customary use.

B. In all other zoned and unzoned commercial and industrial areas, within the scope of this agreement, the criteria set forth below shall apply.

Size of Signs

1. The maximum area for any one sign shall be 1,000 square feet and the maximum height of 25 feet and a maximum length of 60 feet, exclusive of any border, trim, ornamental base, apron, supports, embellishments, and other structural members, if the exclusions do not exceed 20 percent of the sign area.
2. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the area affected.

3. A sign structure may contain one or two advertisements per facing, not to exceed the maximum area as defined in paragraph 1 above.
4. Double-faced structures will be permitted with the maximum area being allowed for each facing.

Spacing of Signs

1. On the Interstate System and limited access facilities on the Federal-aid Primary System:
 - a. After the effective date of this agreement no sign structure shall be erected within 500 feet of another structure on the same side of the highway.
 - b. Outside incorporated municipalities, no structure erected after the effective date of this agreement may be located adjacent to or within 500 feet of an interchange, intersection at grade, or rest area, said 500 feet to be measured along the Interstate or limited access Primary highway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.
2. On other routes on the Federal-aid Primary System:
 - a. Outside of incorporated municipalities, no sign structure shall be erected after the effective date of this Agreement within 300 feet of another sign structure on the same side of the highway.
 - b. Inside incorporated municipalities, no sign structure shall be erected after the effective date of this Agreement within 100 feet of

another sign structure on the same side of the highway.

3. a. The spacing-between-sign structure rules in paragraphs 1 and 2 shall not apply to sign structures separated by a building or other obstruction in such a manner that only one sign structure is visible from any point on the highway at any one time.
- b. Official and "on premise" signs as defined in Section 131 (c) of the Act shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.
- c. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

Lighting

Signs may be illuminated, subject to the following restrictions:

1. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
2. Signs which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled ways of the Interstate or

Federal-aid primary highway, and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle, are prohibited.

3. No sign shall be so illuminated as to obscure or interfere with the effectiveness of an official traffic sign, device, or signal.
4. All other Indiana laws relating to lighting of signs presently applicable to highways under the jurisdiction of the State of Indiana shall be applicable to signs subject to this Agreement.

C. The State and local political subdivisions shall have full authority under their own zoning laws to zone areas for commercial or industrial activities and the action of the State and local political subdivisions in this regard will be accepted for the purposes of this Agreement. At any time that a political subdivision adopts comprehensive zoning which includes the regulation of outdoor advertising in industrial or commercial areas, control will be subject to subsection A of this section.

IV. INTERPRETATION

The provisions contained herein shall constitute the minimum acceptable standards for effective control of signs, displays, and devices within the scope of this Agreement.

Nothing contained herein shall be construed to abrogate or prohibit the State or units of local government from exercising a greater degree of control of outdoor advertising than that required or contemplated by the Act or from adopting standards which are more restrictive than those in this Agreement.

In the event that the Act is amended, the parties reserve the right to renegotiate this Agreement or to modify it to conform to the amendment.

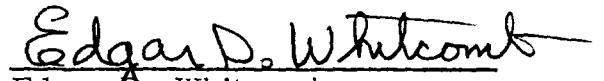
V. SEPARABILITY

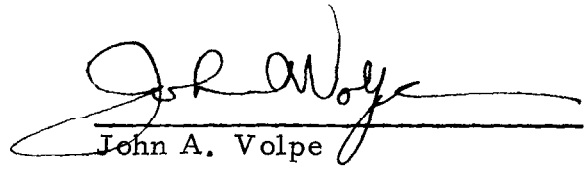
If any provision, clause, sentence or section of this Agreement shall be held void, unconstitutional, or in violation of any existing State statute, all the remaining provisions, clauses, sentences or sections which are not expressly held to be void, unconstitutional, or in violation of any State statute shall be deemed valid and shall continue in full force and effect.

VI. EFFECTIVE DATE

This Agreement shall become effective sixty days after the date of execution.


IN WITNESS WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT AS OF THE FOURTH DAY OF AUGUST 1971.


Edgar D. Whitcomb
Governor of Indiana


John A. Volpe
Secretary
Department of Transportation

APPROVED AS TO LEGALITY AND FORM

8 - 4 1971.


Deputy Attorney General