

A G R E E M E N T

STATE OF KANSAS

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 3rd day of ~~March~~ ^{April}, 1972, by and between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator, hereinafter referred to as the "Administrator," and the State of Kansas, represented by the State Highway Commission of Kansas acting by and through its Assistant State Highway Director hereinafter referred to as the "State".

Witnesseth:

WHEREAS, Congress has declared that Outdoor Advertising in areas adjacent to the Interstate and Federal-aid primary systems 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, authorizes the Secretary of Transportation to enter into agreements with 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 industrial or commercial under authority of State law or in unzoned commercial or industrial areas, also to be determined by agreement; 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 Federal-aid primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, Section 131(b) of Title 23, United States Code, provides that Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within 660 feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under Section 104 of Title 23, United States Code, until such time as such State shall provide for such effective control; and

WHEREAS, the State of Kansas desires 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 and has during its 1972 Legislative Session enacted into law Senate Bill No. 462, as amended, known as the "Highway Advertising Control Act of 1972". That this act meets with the requirements of the Department of Transportation so that an agreement can be signed between the parties hereto.

NOW THEREFORE, the parties hereto do mutually agree as follows:

Section I

1. Definitions

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

B. Commercial or industrial activities for purposes of unzoned commercial or industrial areas mean those activities generally recognized as commercial or industrial by local 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.

5. Activities more than 660 feet from the nearest edge of a highway 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 mean those areas which are zoned for business, industry, commerce, or trade pursuant to a State or local zoning ordinance, regulation or resolution.
- D. Unzoned commercial or industrial areas mean those areas which are not zoned by State or local law, regulation, resolution 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, That the unzoned area shall not include land on the opposite side of a freeway or interstate highway from the commercial or industrial activity establishing the unzoned commercial or industrial area, nor shall it include land on the opposite side of any other primary highway, which land is deemed scenic by an appropriate agency of the state. All measurement of distances hereunder 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 the highway pavement.

Such term shall not include any area which is within five hundred (500) feet of any of the following: Public park, garden, recreation area or forest preserve; church; school; any public museum or historical monument; any safety rest or recreation area which is publicly owned, controlled and maintained pursuant to section 319 of title 23 of the United States code; or any sanitary or other facility for the accommodation of the motorist which is publicly owned, controlled and maintained pursuant to section 319 of title 23 of the United States code. Nor shall such term include any area which is within five hundred (500) feet of any strip of land, an interest in which has been acquired by the state of Kansas 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. Interstate highway means any highway at any time officially designated as a part of the national system of interstate and defense highways by the commission and approved by the appropriate authority of the federal government.
- F. Primary highway means any highway, other than an interstate highway, at any time officially designated as a part of the federal aid primary system by the state

Highway Commission and approved by the appropriate authority of the federal government.

- G. Freeway means any primary highway which is either:
- (1) A controlled-access highway, as defined by K.S.A. 1971 Supp. 8-501;
 - (2) a controlled access facility constructed pursuant to K.S.A. 68-1901, et seq.; or
 - (3) a modern express highway or freeway constructed pursuant to K.S.A. 1971 Supp. 68-2301.
- H. Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.
- I. Main-traveled way means the traveled way of a highway on which through traffic is carried. On a divided highway the traveled way of each of the separated roadways for traffic in opposite directions is a main-traveled way, but said term does not include such facilities as frontage roads, turning roadways, or parking areas.
- J. Sign means any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or information contents of which is located within an adjacent area and is visible from any place on the main-traveled way of any portion of a Interstate or Federal-aid Primary Highway Systems.

- K. 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 customary maintenance or repair of a sign structure.
- L. Maintain means to allow to exist.
- M. Safety rest area means an area or site established and maintained within or adjacent to the highway right-of-way which area is under public supervision or control, for the convenience of the traveling public.
- N. Visible means that the advertising copy or informative contents are capable of being seen without visual aid by a person of normal visual acuity.
- O. Local zoning authority means an incorporated city or a county which is authorized by law to zone areas within its jurisdiction and which has an active zoning authority.
- P. Adjacent area means an area which is adjacent to and within 660 feet of the nearest edge of the right-of-way on any interstate or primary highway, which distance shall be measured horizontally along a line perpendicular to, or at an angle of ninety (90) degrees to, the center line of the highway.

Section 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 all portions of the Interstate and Primary Systems

within the State of Kansas in which outdoor advertising signs may be visible from the main-traveled way of either or both of said systems.

Section 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 criteria:

- A. In zoned commercial and industrial areas, the State Highway Commission may notify the Administrator as notice of effective control that there has been established within such areas regulations which are enforced with respect to the size, lighting, and spacing of outdoor advertising signs consistent with the intent of the Highway Beautification Act of 1965 and with customary use. In such areas, the size, lighting, and spacing requirements set forth below shall not apply.
- B. In all other zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply.

1. Size of Signs

- (1) The maximum area for any one sign shall be 1,200 square feet with a maximum height of 30 feet and maximum length of 60 feet, inclusive of any border, trim and embellishments but not including the base

or apron, supports, and other structural members.

- (2) The maximum size limitations shall apply to each sign facing.
- (3) Two signs not exceeding 600 square feet each may be erected in a facing, side by side or "double decked", and double-faced, back-to-back or V-type signs shall be permitted and shall be treated as one structure with a maximum area of twelve hundred (1200) square feet permitted for each side or facing. To be classified as "back-to-back" there must not be more than fifteen (15) feet between structures or faces, to allow for cross-bracing.
- (4) The area of any sign shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the area affected.

2. Spacing of Signs

- (1) Interstate and Federal-aid Primary Highways
 - a. Signs shall not be erected or maintained in such a manner as to obscure, or otherwise physically interfere with an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.
- (2) Interstate Highways and Freeways on the Federal-aid Primary System
 - a. Signs visible from a freeway or interstate highway shall not be erected within (500) five

hundred feet of another such sign on the same side of the highway.

- b. Outside of the limits of an incorporated city, no such sign shall be located adjacent to or within five hundred (500) feet of an interchange, intersection at grade or a safety rest area, with such distance to be measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

(3) Non-freeway Federal-aid Primary Highways

Signs visible from a primary highway shall not be erected within the limits of an incorporated city less than one hundred (100) feet, and outside the limits of an incorporated city less than three hundred (300) feet, of another such sign on the same side of the highway.

- (4) The above spacing-between-structures provisions do not apply to structures separated by a building, structure, roadway or other obstruction in such a manner that only one sign facing located within the above spacing distances is visible from the highway at any one time.

(5) Excluded Signs

Official and "on-premise" signs, as defined in Section 131(c) of Title 23, United States Code, and Kansas Highway Advertising Control Act of 1972,

Section 3(a), (b) and (c), and structures that are not lawfully maintained shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

(6) Measurements

The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

3. Lighting

Signs may be illuminated, subject to the following restrictions:

- (1) Signs shall not be erected which contain, include or are illuminated by any flashing, intermittent, revolving or moving light, except those giving public service information such as, but not limited to, time, date, temperature, weather, news or similar information; steadily burning lights in configuration of letters or pictures are not prohibited.
- (2) Signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any

motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle.

- (3) Signs shall not be erected or maintained which shall be so illuminated that they obscure any official traffic sign, device or signal, or imitate or may be confused with any such official traffic sign, device or signal.
- (4) All such lighting shall be subject to any other provisions relating to lighting of signs presently applicable to all highways under the jurisdiction of the State, or the State Highway Commission.
- (5) At any time that a bona fide county or local zoning authority adopts regulations which include the size, lighting, and spacing of outdoor advertising, the State may so notify the Administrator and control of outdoor advertising in the commercial or industrial zones within the geographical jurisdiction of said authority will transfer to subsection A of this section.
- (6) Signs in lawful existence.
 - a. Any sign lawfully in existence along the interstate system or the federal aid primary system which is not located in an adjacent zoned or unzoned commercial or industrial area and which is not in conformity with the provisions of the Kansas Highway Advertising Control Act of 1972 shall not be required to be removed until

March 31, 1974. Any other sign which is lawfully erected but which does not conform to the Kansas Highway Advertising Control Act of 1972 by reason of a highway being made a part of the federal aid primary or interstate highway system subsequent to March 31, 1972, shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

- b. The standards prescribed by the Kansas Highway Advertising Control Act of 1972, concerning the size, lighting or spacing of signs permitted in an adjacent zoned or unzoned commercial or industrial area, shall apply only to those signs erected subsequent to March 31, 1972.

Section IV. Interpretation

- A. The provisions contained herein shall constitute the standards for effective control of signs, displays, and devices within the scope of this agreement.
- B. The provisions contained herein pertaining to the size, lighting, and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas shall apply only to those signs erected subsequent to the effective date of this agreement, ~~except for those signs erected within 6 months after the effective date of this agreement in zoned or unzoned commercial or industrial areas on land leased prior to such effective date, provided that a copy of such lease be filed with the State Highway Commission within 30 days following such effective date.~~

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C. In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress or the State legislation is amended, the parties reserve the right to re-negotiate this agreement or to modify it to conform with any amendment.

Section V. Effective Date

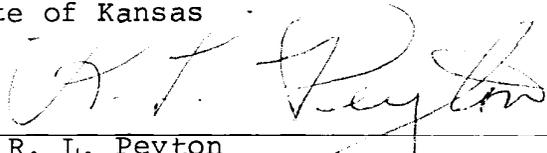
This Agreement shall have an effective date of March 31, 1972.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

Executed in Triplicate.

State Highway Commission of Kansas
State of Kansas

Dated MAR 17 1972

By 
R. L. Peyton
Assistant State Highway Director

Attachments:

- Copy - Senate Bill No. 462
- Copy - Official Publication
Notice in Topeka Daily Capital
Dated March 14, 1972
- Copy - Certified Copy of Resolution
of State Highway Commission
Authorizing R. L. Peyton, Asst.
State Highway Director to Sign
Agreement in Behalf of the
Commission.

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION

Dated APR 3 1972

By 
Federal Highway Administrator