

Revised  
7-15-72

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 FEDERAIID-AID  
PRIMARY SYSTEM

This agreement made and entered into this 21<sup>st</sup> day of December, 1971, 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 Commonwealth of Kentucky, represented by the Commissioner of Highways, hereinafter referred to as the Commissioner.

WHEREAS, Section 131 (d) of Title 23, United States Code, provides for agreement between the Secretary of Transportation and the several states regarding advertising devices; and

WHEREAS, the Commonwealth 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

WHEREAS, the Commissioner and the Federal Highway Administrator entered into an agreement dated June 12, 1961, which was amended in May, 1963, whereby the Commonwealth agreed to control the erection and

maintenance of advertising devices in areas adjacent to the National System of Interstate and Defense Highways in accordance with the provisions of Section 131 of Title 23, United States Code, and the National standards as published on November 13, 1958, and as subsequently amended; and

WHEREAS, Section 131 (j) of Title 23, United States Code, provides that a State shall be entitled to receive the bonus payments as set forth in the agreement provided the State maintains the control required under such agreement or the control required by Section 131 (j); and

WHEREAS, the Commonwealth desires to remain eligible to receive payment of the one-half of one percent increase in the Federal share payable on account of any project on the Interstate System within the Commonwealth and the Administrator agrees that the Commonwealth of Kentucky will remain eligible for the bonus payments and that the existing agreement and amendment thereto shall remain in full force and effect except as amended by this agreement.

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

1. Definitions

- A. The term "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 zone" means as area zoned for business, commerce or trade pursuant to lawful ordinance or regulation.
- C. "Unzoned commercial or industrial area" means an area which is not zoned by State or local law, regulation or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located, together with the area extending along the highway for a distance of 700 feet. Each side of the highway will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway.
- D. "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas mean those activities generally recognized as commercial or industrial by zoning authorities in this State, except the none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures.
2. Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.
3. Activities normally or regularly in operation less than three months of the year.
4. Transient or temporary activities.
5. Activities not visible from the main traveled way.
6. Activities more than 300 feet from the nearest edge of the right of way.
7. Activities conducted in a building principally used as a residence.
8. Railroad tracks and minor sidings. ST

E. "Advertising device" means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the State or other public agency having jurisdiction.

- F. "Centerline of the highway" means a line equidistance from the edges of the median separating the main traveled ways of a divided highway, or the centerline of the main traveled way of a non-divided highway.
- G. "Legible" means capable of being read without visual aid by a person of normal visual acuity, or capable of conveying an advertising message to a person of normal visual acuity.
- H. "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 a separated roadway for traffic in opposite directions is a main traveled way. It does not include such facilities as frontage roads, turning roadways, or parking areas.
- I. "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders.
- J. "Turning roadway" means a connecting roadway for traffic turning between two intersecting lanes of an interchange.
- K. "Visible" means capable of being seen (whether or not legible without visual aide by a person of normal visual acuity).

- L. "Interstate highway" means any highway, road, street access facility, bridge or overpass which is designated as a portion of the National System of Interstate and Defense Highways as may be established by law, or as may be so designated by the Department of Highways in joint construction of the system by the Department of Highways and the United States Department of Transportation, Federal Highway Administration.
- M. "Federal-aid primary highway" means any highway, road street, appurtenant facility, bridge or overpass which is designated as a portion of the Federal-aid primary highway system as may be established by law or as may be so designated by the Department of Highways and the United States Department of Transportation.
- N. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any 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 an advertising device.
- O. "Maintain" means to allow to exist.

## II. Scope of Agreement

This agreement shall apply to all commercially or industrially developed areas, as provided for under KRS 177.860 (4) and established pursuant to the Kentucky Department of Highways published regulations (HIWA-AD-1) as in effect on December 11, 1967, within 660 feet of the nearest edge of the right of way of all Interstate Highways and to limited access highways on the Federal-aid Primary System as defined in KRS 177.830 within the Commonwealth of Kentucky in which advertising devices may be visible from the main traveled way of said highways. This agreement shall also apply to all zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right of way of all other portions of the Federal-aid Primary System, within the Commonwealth of Kentucky in which advertising devices may be visible from the main traveled way of said system.

## III. Kentucky Department of Highways Control

A. The Commonwealth hereby agrees that in all areas within the scope of this agreement along Interstate highways and limited access highways on the Federal-aid Primary System, the Commonwealth shall effectively control or cause to be controlled, the erection and maintenance of advertising

devices erected prior or subsequent to December 11, 1967, other than those advertising the sale or lease of the property on which they are located, or activities conducted thereon, and other than those authorized by the Act in accordance with all of the applicable provisions of KRS 177.830 to 177.890 and the published regulations of the Kentucky Department of Highways (HIWA-AD-1) as in effect on the date of this agreement.

- B. The Commonwealth hereby further agrees that, in all areas within the scope of this agreement, along all other portions of the Federal-aid Primary System, the Commonwealth shall effectively control, or cause to be controlled, the erection and maintenance of advertising devices erected prior or 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, and other than those authorized by the Act, in accordance with the following criteria:

1. In zoned commercial and industrial areas, the Commissioner may certify to the Administrator as notice of effective control that there has been established within such areas bona fide zoning which regulates the size, lighting and spacing of



advertising devices consistent with the purposes of the Act and with customary use. In such zones, the controls established by the Zoning Authority will be accepted in lieu of controls established by this agreement.

2. In all other zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply.
  - a. General - The following advertising devices shall not be permitted:
    - (1) Advertising devices advertising an activity that is illegal under State or Federal law.
    - (2) Obsolete advertising devices.
    - (3) Advertising devices that are not clean and in good repair.
    - (4) Advertising devices that are not securely affixed to a substantial structure.
    - (5) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official sign, signal, or device.

- (6) Advertising devices which prevent the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.
- (7) Advertising devices erected or maintained upon trees or painted or drawn upon rocks or other natural features.

b. Size of Advertising Devices

- (1) The maximum area for any advertising device shall be 1,250 square feet, including border and trim but excluding supports.
- (2) An advertising device structure may contain one or two advertisements per facing, not to exceed the maximum area.
- (3) Double faced structures will be permitted with the maximum area being allowed for each facing.

c. Spacing of Advertising Devices (Applies only to Federal-aid Primary Highways which are not limited access facilities). If permitted under the law and regulation, the location of advertising devices shall

conform to the following minimum spacing criteria to be applied separately to each side of the highway:

- (1) No advertising device structure designed to be primarily viewed from a non-limited access Federal-aid primary highway shall be erected within 300 feet of any other such advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway, in such manner that only one sign located within the required spacing distance is visible from the highway at any one time. Provided, however, that in an incorporated municipality such required distance shall be reduced to 100 feet.
- (2) Double faced - V - type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.
- (3) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.

(4) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon are permitted, and shall not cause any other advertising device to be in violation of this agreement, notwithstanding any contrary provision.

(5) Designed to be primarily viewed as used herein shall mean any sign whose advertising content may be identified from the highway under normal driving conditions.

d. Lighting

Advertising devices may be illuminated, subject to the following restrictions:

(1) Advertising devices 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) Advertising devices which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way of the highway which are of such intensity or brilliance as to cause 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 advertising device shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

#### IV. Interpretation

The provisions contained herein shall constitute the minimum acceptable standards for effective control of advertising devices within the scope of this agreement.

In controlling advertising in areas adjacent to the Federal-aid Primary System within the scope of this agreement, the Commonwealth shall not be required to remove or cause to be removed any advertising device lawfully in existence prior to December 11, 1967, but such

advertising device may not be replaced or relocated on such highways at any time after they have become non-conforming, except in areas otherwise allowed under the terms of this agreement.

V. Amendments

Notwithstanding any other provision of this agreement, upon amendment or repeal of Section 131 of Title 23, U.S.C., or upon amendment or repeal of the State law enacted pursuant thereto; or upon mutual agreement of the parties based upon a decision of a court of competent jurisdiction or by a ruling of the Attorney General of the Commonwealth that the Commonwealth is without legal authority to perform any obligation assumed hereunder, this agreement shall be subject to renegotiation and modification.

VI. Effective Date

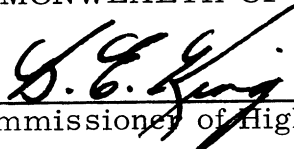
This agreement supersedes the agreement signed December 11, 1967, and shall become effective when signed and executed by the Commissioner and the Administrator.

IN WITNESS WHEREOF the parties hereto have executed this agreement as


DEC 23 1971

of \_\_\_\_\_.

DEPARTMENT OF HIGHWAYS  
COMMONWEALTH OF KENTUCKY

  
\_\_\_\_\_  
Commissioner of Highways

UNITED STATES

  
\_\_\_\_\_  
Federal Highway Administrator  
Department of Transportation