

A G R E E M E N T

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 18th day of November, 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 State of Minnesota represented by the Highway Department acting by and through its Commissioner hereinafter referred to as the "State".

Witnesseth:

WHEREAS, Congress has declared that Outdoor Advertising in areas adjacent to the Interstate and Federal-aid 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 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, which may be erected within areas adjacent to the Interstate and Primary Systems (as defined in Minnesota Law Chapter 173) which are zoned industrial or commercial under authority of State Law or in unzoned commercial or industrial areas, also to be determined by this 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 Primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, the State of Minnesota 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 Highways 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 State has enacted Minnesota Statutes Chapter 173 for the purposes of zoning and for regulating and controlling the erection and maintenance of advertising devices on lands adjacent to Interstate and Primary highways throughout the State of Minnesota.

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. "Interstate Highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the Commissioner of Highways and approved by the appropriate authority of the Federal government.
- C. "Adjacent area" means any area adjacent to the right of way of an interstate or primary highway.
- D. "Business area" means any part of an adjacent area which is (a) legitimately zoned for business, industrial or commercial activities under the authority of any law of this state or any political subdivision thereof; or

- (b) not so zoned, but which constitutes an unzoned commercial or industrial area as herein defined.
- E. "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 Commissioner of Highways and approved by the appropriate authority of the Federal government, and which shall include state trunk highways designated as such by Minnesota Statutes.
- F. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way to bring into being or establishment but it shall not include any of the foregoing activities when performed as an incident to the change of advertising message or customary maintenance of an outdoor advertising structure or device.
- G. "Advertising area" means that portion of the advertising face of an advertising device which includes the border and trim thereof, but excludes the base and apron supports and other structural members.
- H. "Maintain" means to allow to exist.
- I. "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 800 feet from and beyond the edge of such activity. 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 and landscaped areas of the commercial or industrial activity, not from the property lines of the activity, and shall be along or parallel to the edge of the pavement of the highway.

J. "Commercial or industrial activity" for the purposes of unzoned commercial or industrial areas means an activity generally recognized as commercial or industrial by bonafide zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

- (1) Outdoor advertising devices
- (2) Agricultural, forestry, ranching grazing, farming and related activities, including, but not limited to, temporary 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 the right of way.
- (6) Activities conducted in a building principally used as a residence.
- (7) Railroad tracks and minor sidings.

K. "Advertising device" means any billboard, sign, notice, poster, display, or other device visible to and primarily intended to advertise and inform or to attract or which does attract the attention of operators and occupants of motor vehicles on the highways and shall include any structure erected primarily for use

in connection with the display of any such device and all lighting or other attachments used in connection therewith.

II. Presently Authorized State Control

The State hereby agrees that in all areas which are established as "scenic areas" pursuant to Minnesota Statutes Chapter 173 and in all areas not within the scope of Section III through VI of this agreement, it shall effectively control or cause to be controlled the erection and maintenance of outdoor advertising devices as permitted and required by Minnesota Statutes Chapter 173 as amended.

III. Scope of Section III through VI

Sections III through VI of this agreement shall apply to the regulation and control of outdoor advertising in the following areas:

- I. All areas zoned for commercial or industrial use; located along the Interstate and Primary Highway ~~(as defined in Section 173.02, Subdivision 5 and 6 of the Law)~~ ^{W.A.E.}
2. All other areas along the interstate and primary highway systems where the land use is established as an unzoned commercial or industrial area as defined herein.

IV. State Control

The State hereby agrees that, in all areas set forth in Section III the State shall effectively control or cause to be controlled, within at least 660 feet of the right of way and visible therefrom, 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 may certify to the Administrator as notice of effective control that there has been established and is being enforced for such areas a zoning ordinance or regulation which regulates the size, lighting and spacing of outdoor advertising signs consistent with customary usage.

B. In all other zoned and unzoned commercial and industrial areas the criteria set forth below shall apply.

V. Criteria

A. Size of Signs

1. In a business area outside corporate limits the maximum area of a sign face, whether a single sign face or each face of a back to back or V-type sign, shall not exceed 750 square feet including border and trim, but excluding base and apron supports and other structural members.
2. In a business area within a corporate limit the maximum area of a sign face, whether a single face or each face of two back to back or V-type signs, shall not exceed 1,000 square feet, including border and trim, but excluding base and apron supports and other structural members.
3. The maximum size limitation stated in this subdivision shall apply to each side of a sign structure and signs may be placed back to back, side by side, or in a V-type construction, but not more than two displays to each facing and such sign structure shall be considered as one sign.

B. Lighting

1. Advertising devices shall not be erected which contain, include or are illuminated by any flashing light or lights, except those giving public service information such as, without limiting the generality of the foregoing, time, date, temperature, weather or news;
2. Advertising devices 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 an interstate or primary highway; of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle; or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
3. Outdoor advertising devices shall not be erected or maintained which shall be so illuminated that they interfere with the effectiveness of or obscure any official traffic sign, device or signal.

C. Spacing

1. Advertising devices shall not be erected or maintained in such a place or manner as to obscure or otherwise physically interfere with an official traffic control device or a railroad safety signal or sign, or to obstruct or physically interfere with the driver's view of approaching, merging or intersecting traffic for a distance of 500 feet.
2. No advertising device shall be erected closer to any other such advertising device on the same side of the same highway than (a) 500 feet on any interstate or fully controlled access freeway in a zoned or unzoned commercial or industrial area within or outside an incorporated city, village or borough, (b) 300 feet on a primary highway

in a zoned commercial or industrial area outside an incorporated city, village or borough, (c) 400 feet on a primary highway in an unzoned commercial or industrial area outside an incorporated city, village or borough, (d) 100 feet on a primary highway inside an incorporated city, village or borough, provided, however, that spacing in this provision shall not prevent the erection of double-faced, back to back, or V-type advertising devices with a maximum of two signs per facing; provided further, however, that such spacing requirements shall not apply as between any off-premise advertising device permitted under Minnesota Statutes of 1969, Section 173.08 as amended, Subdivision 1, A,B,C,D, E,F,G.

3. The above spacing between advertising devices does not apply to structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distances is visible from the highway at any one time.

4. On interstate highways or fully controlled access freeways outside of incorporated cities, villages or boroughs, no advertising device may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. Said 500 feet shall be measured along such highway from the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

5. On primary highways outside of incorporated cities, villages, or boroughs, no advertising device may be located closer than 300 feet from the intersection of any primary highway at grade with another highway, or with a railroad; provided that advertising may be affixed to or located adjacent to a building at such intersection in such a manner as not to cause any greater obstruction of vision than that

caused by the building itself.

VI. Zoning

Local political subdivisions shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes and bonafide action of local political subdivisions in this regard consistent with customary local land use will be accepted for the purposes of this Agreement. At any time a political subdivision legitimately regulates the size, lighting and spacing of outdoor advertising in the area it has zoned commercial and/or industrial within its jurisdiction, the State may so certify to the Administrator and control of outdoor advertising in industrial or commercial areas shall be deemed to be covered by Section IV-A hereof.

VII. Advertising Devices Restricted

No advertising device, except the advertising devices described and permitted in this agreement shall be erected or maintained in an adjacent area after June 7, 1971, except the following:

- A. Directional and other official signs, including but not limited to, signs pertaining to natural wonders, scenic and historical attractions which are required or authorized by law.
- B. Advertising devices advertising the sale or lease of property upon which they are located, provided that there shall not be more than one such sign, advertising the sale or lease of the same property, visible to traffic proceeding in any one direction on any one interstate or primary highway.
- C. Advertising devices advertising activities conducted on the contiguous property on which they are located.
- D. Advertising devices stating the name and address of the owner, lessor or occupant of such property or information otherwise required or authorized by law to be posted or displayed thereon.

E. Public utility signs.

F. Service club~~s~~ and religious notices. *WAE*

G. Advertising devices of which the advertising copy or the name of the owner thereof is in no part visible from the traveled way of the highways.

H. Advertising devices which are located or which are to be located in business areas and which comply or will comply when erected, with Minnesota State Statute 173 as amended. *WAE*

2. No advertising device shall be erected or maintained within five hundred (500) feet of National Parks, State Parks, Local Parks, Historic sites and public picnic or rest areas, or within one hundred (100) feet of a church or school.

VIII. Interpretation

The standards and criteria contained herein shall constitute the minimum acceptable standards and criteria for effective State control of the signs, displays, and devices within the scope of this Agreement. Nothing contained herein shall be construed to abrogate or prohibit the State or a local jurisdiction 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. In the event the provisions of the Highway Beautification Act are amended by subsequent action of the Congress, or the provisions of the "Minnesota Outdoor Advertising Act" are amended by subsequent action of the Minnesota Legislature, the parties reserve the right to renegotiate this Agreement or to modify it to conform with any amendment.

IX. Application of Existing Signs

The standards and criteria set forth in Section III shall apply to signs erected in business areas on or after June 7, 1971. Signs lawfully in existence in business areas prior to June 7, 1971 will be considered to be conforming to the Federal standards and criteria set forth herein. All signs illegally in existence as provided by State or local laws, prior to June 7, 1971, shall be non-conforming and may be removed by amortization, or other laws relating to such signs. All signs legally in existence prior to June 7, 1971, and which fail to comply with the provisions herein shall be non-conforming and subject to just compensation.

X. Effective Date

This Agreement shall become effective when signed and executed on behalf of the State of Minnesota and the United States of America.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the dates hereinafter indicated.

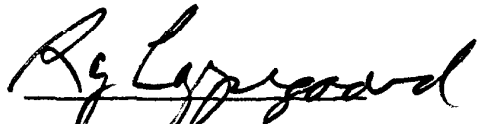
UNITED STATES OF AMERICA



Federal Highway Administrator
Department of Transportation

Date: NOV 18 1971,

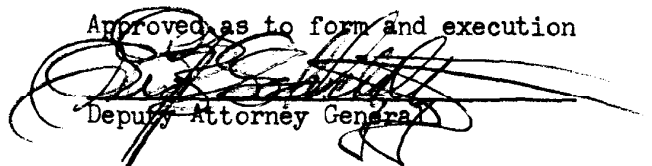
STATE OF MINNESOTA



Commissioner of Highways

Date: October 20, 1971

Approved as to form and execution


Deputy Attorney General

SUPPLEMENT NO. 1 TO 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 SUPPLEMENT AGREEMENT, entered into 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 Minnesota, Department of Transportation, hereinafter referred to as Mn/DOT, acting by and through its Commissioner of Transportation.

WITNESSETH THAT:

WHEREAS, an agreement was made and entered into on the 18th day of November, 1971, by and between the United States of America represented by the Secretary of Transportation, and the State of Minnesota, represented by the Highway Department; 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 has enacted Minnesota Statutes, Chapter 173, for the purposes of zoning and for regulating and controlling the erection and maintenance of advertising devices on lands adjacent to Interstate and Primary highways throughout the State of Minnesota; and

WHEREAS, the 1980 Legislature enacted legislation, as outlined in Chapter 494 (1980 Session Laws), amending Minnesota Statutes, Chapter 173; and

WHEREAS, said Chapter 494 does therefore affect the previously stated agreement of November 18, 1971; and

WHEREAS, Mn/DOT desires to amend said agreement to account for such legislation.

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

Section VII, Subdivision 2, (Page 10) of the present State/Federal Outdoor Advertising Agreement, dated November 18, 1971, be amended as follows:

- 2. No advertising device shall be erected or maintained:
 - A. In or within 500 feet of national parks, state parks, local parks, historic sites, and public picnic or rest areas; provided that an advertising device may be permitted within 500 feet of the park, site or area on commercially zoned property, or in the case of a ~~city~~ municipality which has no zoning ordinance, with the approval, ^{by} ~~be~~ resolution, of the municipality.
 - B. Within 100 feet of a church or school.

Except for the changes set forth in this Supplemental Agreement, all other provisions of the Agreement entered into on November 18, 1971 shall remain in full force and effect without change.

IN WITNESS WHEREOF the parties hereto have executed this Supplemental Agreement by their proper officers and representatives.

APPROVED:

UNITED STATES OF AMERICA

J. P. Garrison
 for Federal Highway Administrator
 Department of Transportation

Date: JUL 31 1981

APPROVED:

STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

M. Brummer
 Commissioner of Transportation

Date: 6-29-81

Approved as to form and execution

John C. Appeser
 Assistant Attorney General