

AN AGREEMENT FOR THE PURPOSE OF CARRYING OUT NATIONAL AND STATE 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 WITHIN THE STATE OF MISSISSIPPI.

This Agreement is made and entered into on this the 6th day of March, 1972, by and between the United States of America represented by the Secretary of Transportation who is acting by and through the Federal Highway Administrator, hereinafter referred to as the ADMINISTRATOR, and the State of Mississippi represented by the Mississippi State Highway Commission acting by and through its Director, hereinafter referred to as STATE.

WITNESSETH:

WHEREAS, Congress and the Mississippi Legislature have 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 law or in unzoned commercial or industrial areas, also to be determined by agreement; and

WHEREAS, Chapter 497 of the General Laws of Mississippi, 1966, and particularly Section 14 thereof, authorizes the State Highway Commission to enter into an Agreement with the Secretary of Transportation for the purpose of carrying out the policy of the laws cited, provided said agreement shall not be more restrictive of the subject matter than that provided in said Chapter 497; and

WHEREAS, Section 8038, Mississippi Code of 1942, as amended, vests in the State Highway Commission of Mississippi the responsibility for and the authority to construct, maintain and manage the highways of the State of Mississippi for the business, pleasure, convenience and safety of the traveling public, and particularly does this section authorize the Commission to establish and enforce set-back regulations; and

WHEREAS, the purpose of this Agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the National and State 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.

NOW, THEREFORE, the ADMINISTRATOR and the STATE do hereby agree as follows:

I. DEFINITIONS.

- A. The definitions contained in Section 2, Chapter 497, Mississippi Laws of 1966, are incorporated herein for use when appropriate and are believed to be basically consistent with the Federal Act and will be interpreted by the parties consistent with the intent of the Legislature, which is as follows:

"It is the intention of the Legislature in this act to provide a statutory basis for regulation of outdoor advertising consistent with the public policy declared by Congress in areas adjacent to the interstate and primary highway systems."

- B. The term "Federal Act" means Section 131 of Title 23, United States Code (1965) commonly referred to as Title I of the Highway Beautification Act of 1965.
- C. The Term "State Act" means Chapter 497, General Laws of Mississippi, 1966.
- D. Commercial or industrial activities for purposes of unzoned industrial and commercial areas mean those activities generally recognized as commercial or industrial by local

zoning authorities in this State, except that none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising structures, devices, farming, farm buildings, agricultural, forestry, ranching, grazing and related activities, including but not limited to wayside fresh produce stands, shall not be commercial, industrial, marketing or mercantile activities for the purposes of this definition.
 2. Activities normally or regularly in operation less than six months of the year.
 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 sidings.
- E. Zoned commercial or industrial areas mean those areas which are zoned for commercial or industrial purposes pursuant to local zoning ordinances or regulations.
- F. An unzoned commercial or industrial area means those areas which are not zoned by State or local 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 in each direction and a corresponding zone directly across a primary highway which is not also a freeway. Each side of the highway on the

interstate system or a freeway on the primary system 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 activities, not from the property lines of the activities, and shall be along or parallel to the edge of pavement of the highway.

- G. Federal-Aid primary highway means any highway within that portion of the State Highway System as designated, or as may hereafter be so designated by the State, which has been approved by the Secretary of Transportation pursuant to subsection (b) of Section 103 of Title 23, United States Code.
- H. Interstate System means the National System of Interstate and Defense Highways described in subsection (d) of Section 103 of Title 23, United States Code.
- I. Traveled way means the portion of roadway for the movement of vehicles, exclusive of shoulders.
- J. 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 separate 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.
- K. Business sign means any sign used to advertise or identify the principal activity being conducted on the premises where the sign is located, commonly referred to as an "on-premise" sign.
- L. Advertising sign means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designated, intended, or used to advertise, the contents of which are visible from and located within 660 feet of the Interstate or Federal-Aid Primary Highway.

- M. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish an advertising message.
- N. Centerline of the Highway means a line equidistant from the edges of the median separating the main-traveled ways of a divided interstate or other limited access highway; or the centerline of the main-traveled way of a non-divided highway.
- O. Visible means capable of being seen without visual aid by a person of normal visual acuity.
- P. Interchange means a grade separated intersection with one or more turning roadways for travel between intersection legs.
- Q. Intersection means the general area where two or more highways join or cross, within which are included the roadway and roadside facilities for traffic movements in that area.

II. This Agreement shall apply to the following areas:

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 Federal-Aid Primary Systems within the State of Mississippi in which outdoor advertising signs, displays, and devices may be visible from the main traveled way of said systems.

III. 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 may certify to the ADMINISTRATOR 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 purposes of the Highway Beautification Act of 1965 and with customary use.
- B. In all other zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply.

THE FOLLOWING SIGNS SHALL NOT BE PERMITTED:

- 1. Signs which imitate or resemble any official traffic sign, signal, or device.
- 2. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.
- 3. Signs which are erected or maintained in such a manner as to obscure, or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

SIZES AND STANDARDS CONSISTENT WITH CUSTOMARY USE IN MISSISSIPPI ARE RECOGNIZED AS FOLLOWS:

- 1. All advertising signs, displays, and devices located in areas which are zoned industrial or commercial, or which are located in unzoned commercial or industrial areas determined by actual land use shall comply with the following standards:
 - a. The maximum size of any outdoor sign or other advertising device shall be twelve hundred (1200) square feet.

- b. All illuminated outdoor signs or other advertising devices shall be so illuminated as to adhere to the customary practices of industry in Mississippi, providing that no lighting devices shall be used which in any way imitate any traffic control device, railroad sign or signal or highway directional signs.
 - c. All outdoor signs and other advertising devices located within one-half (1/2) mile of an intersection of two (2) or more primary highways or an interchange on the interstate system, shall be erected and/or maintained with a minimum spacing between structures of two hundred fifty (250) feet, unless separated by another commercial building or structure other than outdoor advertising, in which case outdoor advertising may be permitted on one (1) or more sides of building or buildings.
 - d. No two (2) signs shall be spaced less than three hundred fifty (350) feet apart, provided, however, this spacing limitation shall not apply to areas within incorporated cities towns, villages, and in areas zoned industrial or commercial.
2. It is recognized that there are outdoor signs and other advertising devices located within intersections and interchanges as defined in paragraph I, sub-paragraph P and sub-paragraph Q (Page 5) above, and Paragraph 5, a., (Page 9) below, which have been erected by proper permit, and for purposes of orderly and equitable administration they will not be required to be removed unless it has

been found to be a safety hazard. However, from and after the effective date of this agreement, no outdoor signs or other advertising devices will be permitted within the interchange as hereinabove defined.

Notwithstanding any of the foregoing spacing criteria, the criteria which appears hereinafter shall apply to those signs to be erected after the effective date of this agreement in commercial and industrial zones and unzoned areas and are considered to be less restrictive than the foregoing, in accordance with Section 14, Chapter 497, General Laws of Mississippi, 1966, as amended.

SPACING OF SIGNS

1. Public parks, playgrounds, and cemeteries shall not be considered an unzoned business or commercial area as the basis for erecting a sign, device, or display.
2. No advertising devices shall be erected within Six Hundred Sixty (660) feet of the nearest edge of the right-of-way of the Interstate System and the Federal-Aid Primary System subsequent to the date this Agreement becomes binding except as authorized by law or the terms of this Agreement.
3. Within incorporated cities, towns, and villages sign structures situated between streets, roads, or highways entering into or intersecting the main traveled way shall conform to the following minimum spacing to be applied separately to each side of the Primary highway:
 - a. Where the distance between centerlines of intersecting streets or highways is less than One Thousand (1000) feet, three sign structures, with a minimum spacing between any two structures of One Hundred (100) feet may be permitted between such intersecting streets or highways.
 - b. Where the distance between centerlines of intersecting streets or highways is One Thousand (1000) feet or more, spacing between sign ~~structures~~ structures shall be not less than Two Hundred Fifty (250) feet.

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4. Signs along Interstate and Federal-Aid Primary Highways may not be located in such a manner as to obscure, or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, obstruct or physically interfere with the driver's view of approaching, merging, or intersecting traffic.
5. No two sign structures along Interstate Highways and Freeways on the Federal-Aid Primary System shall be spaced less than Five Hundred (500) feet apart on each side of the highway.
 - a. No structure may be located adjacent to or within Five Hundred (500) feet of an interchange, intersection at grade, or safety rest area, on any Interstate Highway, Freeway, or Primary Highway on the Federal Aid Primary System. Said Five Hundred (500) feet to be measured along the Interstate or Freeway from the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.
6. Outside of incorporated cities, towns, and villages sign structures shall be spaced along Federal-Aid Primary Highways not less than Three Hundred Fifty (350) feet apart.
7. The above spacing-between-structures provisions do not apply to sign structures separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time.
8. Explanatory Notes:
 - a. Alleys, undeveloped rights-of-way, private roads, driveways shall not be regarded as intersecting streets, roads, or highways.

- b. Only roads, streets, and highways which enter directly into the main traveled way of the primary highway shall be regarded as intersecting.
- c. The minimum distance between signs shall be measured along the nearest edge of the traveled way between points directly opposite the signs.

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 as to prevent beams or rays of light from being directed at any portion of the traveled ways of the 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 that it interferes with the effectiveness of, or obscures an 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.

C. Local political subdivisions shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes and the action of the 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 consistent with the intent of the law and the terms of this Agreement the STATE may so certify to the ADMINISTRATOR and control of outdoor advertising in industrial or commercial areas will transfer to the local political subdivision.

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 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 controlling outdoor advertising than the provisions of this Agreement if so authorized by the State Legislature.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress or the provisions of this Agreement are amended and/or nullified by subsequent action of the Mississippi State Legislature, the parties reserve the right to renegotiate this Agreement or to modify it to conform with any amendment or action by the Mississippi State Legislature.

The STATE shall not be required to compel the removal of non-conforming signs until the end of the fifth year after they become non-conforming.

The STATE shall not expend any funds to control outdoor advertising pursuant to the Highway Beautification Act of 1965 and this Agreement until appropriate matching Federal funds are available under the Highway Beautification Act of 1965.

IN WITNESS WHEREOF the parties hereto have executed and delivered this Agreement on the day and date set out above.

STATE OF MISSISSIPPI REPRESENTED
BY THE STATE HIGHWAY COMMISSION
ACTING BY AND THROUGH ITS DIRECTOR

E. P. Bowen

DIRECTOR

UNITED STATES OF AMERICA REPRESENTED
BY THE SECRETARY OF TRANSPORTATION
ACTING BY AND THROUGH THE FEDERAL
HIGHWAY ADMINISTRATOR

A. J. Turner

ADMINISTRATOR