

A G R E E M E N T

FOR CARRYING OUT STATE AND 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 2nd day of June 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 New Hampshire, by and through the Commissioner of the Department of Public Works and Highways, 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 this 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 Systems, to promote the safety and recreational value of public travel and to preserve natural beauty; and,

WHEREAS, Chapter 249-A of the New Hampshire Revised Statutes Annotated, authorizes and empowers the Commissioner of the Department of Public Works and Highways to enter into agreements with and to cooperate with the United States government in the construction and maintenance of public highways in accordance with Title 23, United States Code, as amended and supplemented 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 Federal-Aid 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 ten per centum of the amount 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, Section 131(j) of Title 23, United States Code provides that any state which has in effect on June 30, 1965 an agreement to control the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement but, no such state shall be entitled to such payments unless the state maintains the control required under such agreement, or the control required by this section (131), whichever control is more strict; and,

WHEREAS, the State of New Hampshire and the Federal Highway Administrator entered into an agreement dated June 14, 1963 whereby the state agreed to control the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to Interstate Highways within the state consistent with Section 131 of Title 23, United States Code as amended by Section 106 of the Federal-Aid Highway Act of 1959 (P. L. 86-342, 73 Stat. 612), and the national standards and the plan for controlling Areas Adjacent to Interstate Highways; and,

WHEREAS, the State 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 after January, 1968, under Section 104 and 131(j) of Title 23, United States Code;

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

I. 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 activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:
 - 1. Outdoor advertising structures.
 - 2. Agricultural, forestry, 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 conducted in a building used principally as a residence.
 6. Railroad tracks and minor sidings.
- C. "Zoned commercial or industrial areas", means those areas reserved for business, commerce or trade pursuant to a comprehensive State or Local zoning ordinance or regulation.
- D. "Unzoned commercial or industrial area", means any area not zoned by any municipality in which, if an advertising device is or might be located therein, such device is or would be so located that there are at any time two or more separate businesses, industrial or commercial activities of a permanent nature conducted no greater than one thousand feet apart; such one thousand feet being measured between points on the outer edge of the regularly used buildings, parking lots, or storage or parking areas, provided, however, that no such advertising device may be located more than five hundred feet from the nearest such business, industrial or commercial activity measuring from the point on the outer edge of the regularly used buildings, parking lots, storage or processing areas of such activity nearest to such device.
- E. "National System of Interstate and Defense Highways" and "Interstate System" means the system presently defined in Section 103(d) Title 23, United States Code.

- F. "Federal-Aid Primary Highway" means any highway within that portion of the State Highway System designated as such by the State and approved by the Secretary pursuant to Section 103(b), Title 23 United States Code.
- G. "Traveled way" means that portion of a roadway for the movement of vehicles exclusive of shoulders.
- H. "Main traveled way" means that portion of the traveled way upon 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 frontage roads, turning roadways or parking areas.
- I. "Sign" or "Advertising Device" means any outdoor sign, display, device, notice, 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 informative contents of which is visible from any place on the main-traveled way of any portion of an interstate or primary highway.
- J. "Erect" means to construct, build, raise, assemble, place, affix attach, create, paint, draw or in any other way bring into being or establish. It shall not include any of the foregoing activities when performed as an incident to the change of advertising.
- K. "Maintain" means to allow to exist.
- L. "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.

- M. "Information center" means an area or site established and maintained at a safety rest area for the purpose of informing the public of places of interest within the State and providing such other information as the State may consider desirable.
- N. The "built-up section" of any city or town shall be the territory within such city or town where the frontage on any highway, in the opinion of the highway commissioner, is mainly occupied by dwellings or buildings in which people live, or business is conducted, throughout the year and not for a season only.

II. SCOPE OF THE AGREEMENT

This agreement shall apply to the following areas.

A. Interstate

Advertising devices in areas adjacent to segments of the Interstate System legally zoned on September 21, 1959, as industrial or commercial: provided, however, advertising devices shall not be permitted in such areas within incorporated municipalities possessing zoning authority upon the rezoning of such areas as nonindustrial and noncommercial subsequent to September 21, 1959, so long as such areas remain zoned nonindustrial and noncommercial.

B. Primary

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 Federal-Aid Primary System within the State of New Hampshire in which outdoor advertising signs, displays and devices may be visible from the main traveled way of said system.

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 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:

SIZE OF SIGNS

- 1. The maximum area of a sign facing, including all finish mouldings, but not including lattice work or base trim used only for ornamental purposes shall be 750 square feet.
- 2. Double faced, back to back, or V type signs shall be permitted signs.
- 3. Maximum height, excluding lattice work or trim - 20 feet
- 4. Maximum length, excluding lattice work or trim - 50 feet

LOCATION OF SIGNS

- 1. No sign shall be erected or maintained which in the opinion

of the State is or would be injurious to property in the vicinity thereof or would injuriously affect any public interest or endanger the safety of persons using the highway; or which obscures or interferes with the effectiveness of an official traffic sign, signal or device.

2. No two sign structures shall be spaced less than 500 feet apart in permitted areas adjacent to the Interstate System and limited access Federal Aid Primary Highways, except that such spacing shall not apply to devices which are separated by a building or other obstruction in such manner that only one such device is visible from such highway at any one time.
3. Required spacing for advertising devices to be erected or maintained on one side of a nonlimited access federal-aid primary highway in municipalities of four thousand population or more shall be
 - (a) one hundred feet where the distance between centerlines of two highways intersecting any such highway is less than one thousand feet provided that not more than three devices shall be erected or maintained between such intersecting highways, and
 - (b) three hundred feet where the distance between centerlines of intersecting highways is one thousand feet or more.
4. Required spacing for advertising devices to be erected or maintained on both sides of a nonlimited access federal-aid primary highway in municipalities of less than four thousand population shall be three hundred feet.

5. No advertising device may be erected with respect to an interstate or limited access federal-aid primary highway within five hundred feet of an interchange or safety rest area located on the same side of the highway on which such sign might otherwise be erected. Such distance of five hundred feet shall be measured along the edge of the main-travelled way of any such highway from the point of beginning or ending of pavement widening with respect to an exit from, or an entrance to, such main-travelled way.

LIGHTING OF SIGNS

1. No device may be erected or maintained that is inconsistent with the following:
 - (a) No sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.
 - (b) No lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled way of the interstate or federal aid primary highways or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or does not otherwise interfere with any driver's operation of a motor vehicle.

(c) In no case shall any sign be permitted which is in any manner inconsistent with standards, criteria, and rules and regulations to be promulgated by the commissioner of public works and highways that are necessary in order to meet the requirements of section 131 of title 23, United States Code.

C. The State and its political subdivisions shall have full authority under their zoning laws to zone areas for commercial or industrial purposes and the action of the State and its political subdivisions in this regard will be accepted for the purposes of this agreement. At any time a political subdivision adopts comprehensive zoning which includes the regulation of outdoor advertising the State may so certify to the Administrator.

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 prohibit the State from establishing standards which are more restrictive in controlling outdoor advertising than either the provisions of this agreement or that required by the Act.

In controlling outdoor advertising adjacent to Interstate and Federal-Aid Primary Highways pursuant to the act and the Agreement, the State shall not be required to move or cause to be removed any sign advertising any natural wonders or scenic or historical attractions until a reasonable length of time subsequent to the promulgation of national standards for such signs pursuant to Section 131(c) of Title 23 United States Code.

Notwithstanding any other provision of this agreement, upon amendment or repeal of Section 131 of Title 23, United States Code, or upon amendment or repeal of any 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 New Hampshire that the State is without legal authority to perform any obligation assumed hereunder, this agreement shall be subject to renegotiation and modification.

V. EFFECTIVE DATE

This agreement shall have an effective date of JUN 8 1971, but shall not become binding on the parties hereto unless and until the provisions of the agreement have been implemented by the enactment of appropriate amendments to the existing statute by the New Hampshire General Court.

IN WITNESS WHEREOF the State has caused this Agreement to be duly executed in its behalf and the United States has likewise caused the same to be duly executed in its behalf, as of the dates specified,

May 14, 1971

STATE OF NEW HAMPSHIRE
DEPARTMENT OF PUBLIC WORKS
AND HIGHWAYS

WITNESS:

B

Robert H. Whitaker
Commissioner

JUN 8 1971

_____, 1971

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION

WITNESS:

WITNESS: 51 Dolores Mason, 1971

By

F. C. Turner

Francis C. Turner
Federal Highway Administrator