

## 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 AGREEMENT made and entered into this 26 day of JUNE, 1968, 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 Ohio, represented by the Department of Highways acting by and through its 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 5531.04 of the Revised Code of Ohio authorizes the Director of Highways to cooperate with the United States or any department or agency thereof in carrying out provisions of the Defense Highway Act of 1941 and any amendments thereof or supplements thereto, in accordance with the procedural provisions of the Ohio Revised Code; 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 six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, may be reduced by amounts equal to 10 percentum 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 Ohio desires and intends 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 State of Ohio and the Federal Highway Administrator entered into an agreement signed on June 28, 1961, by the Director of Highways and on June 29, 1961, by the Federal Highway Administrator, whereby the State agreed to control the erection and maintenance of outdoor advertising signs, displays, and 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 in effect on March 26, 1960; 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 the Section whichever control is stricter; and

WHEREAS, the State of Ohio desires to implement and carry out the stricter provisions in order 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 State.

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

I. 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. Zoned commercial or industrial areas means those areas which are reserved for business, commerce or trade, pursuant to local zoning laws, regulations, or enabling State legislation.

C. Unzoned commercial or industrial areas means those areas not zoned by State or local law, regulation or ordinance, which are occupied by one or more commercial or industrial activities, and the lands along the highway for a distance of 850 feet immediately adjacent to such activities.

All measurements shall be from the buildings, parking lots, storage or processing areas of the activities, and shall be measured along or parallel to the near edge of the main traveled way of the highway.

Unzoned commercial or industrial areas shall not include land on the opposite side of the highway from said activities, nor land predominately used for residential purposes. Each side of the Highway will be considered separately in applying this definition.

D. Commercial or industrial activities, for purposes of the above unzoned area definition, mean those activities generally recognized as commercial or industrial by zoning authorities of this State, except that 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. 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.

8. Highways, roads and streets.

E. Interstate System means the system of highways as presently defined in subsection (d) 23 U.S.C.A. 103, 74 Stat. 411 (1960).

F. Federal-aid primary highway system means 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) 23 U.S.C.A. 103, 70 Stat. 374 (1956).

G. Freeway means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access.  
[Revised Code Section 4511.01 (WW)]

H. Traveled way means the portion of a roadway for the movement of vehicles including ramps and turning roadways but exclusive of shoulders.

I. Main traveled way means the traveled way of a highway on which through traffic is carried, but exclusive of frontage roads, turning roadways, ramps, or parking areas.

J. Advertising device means any outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, or any other contrivance designed, intended, or used to advertise or to give information in the nature of advertising, any part of the

advertising or informative contents of which is visible from any place on the main traveled way of the Interstate or Federal-aid primary highway system.

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 part of the change of an advertising message or the normal maintenance of the sign structure.

L. Maintain means to preserve, keep in repair, continue, restore, or allow to exist.

M. Visible means capable of being seen, whether or not legible, without visual aid by a person of normal acuity.

N. On-premise advertising device means devices advertising the sale or lease of the property upon which they are located, or devices indicating the name of the business or profession conducted on such property or which identify the goods produced, sold, or services rendered on such property.

O. Business district means the territory fronting upon a street or highway, including the street or highway, between successive intersections within incorporated municipalities where fifty percent or more of the frontage between successive intersections is occupied by buildings in use for business, or within incorporated municipalities where fifty percent or more of the frontage for a distance of three hundred feet or more is occupied by buildings in use for business,

and the character of such territory is indicated by official traffic control devices. [Revised Code Section 4511.01 (LL)]

## II. SCOPE OF AGREEMENT

This agreement shall apply to the following areas:

- A. All commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, and all other areas where the land use as of September 21, 1959, was clearly established by State law as commercial or industrial within 660 feet of the nearest edge of the right-of-way of all portions of the Interstate System within the State of Ohio in which outdoor advertising devices may be visible from the main traveled way of said system.
- B. All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of the portions of the Interstate System which are constructed upon right-of-way, any part of which was acquired on or before July 1, 1956, in which outdoor advertising devices may be visible from the main traveled way of said system.
- C. 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 highway system within the State of Ohio in which outdoor advertising devices may be visible from the main traveled way of said system, except as hereinafter provided.

This agreement shall not apply to the following:

- A. Areas covered by the Agreement between the Secretary of Commerce and the Director of Highways, dated June 29, 1961, for Carrying Out the National Policy Relative to Advertising Adjacent to the National System of Interstate and Defense Highways, but such Agreement shall remain in full force and effect, as provided by Section 131 (j) of Title 23, United States Code.
- B. Official signs or notices that are required or authorized by law.
- C. Precautionary signs relating to the premises.
- D. Signs, displays or devices which locate, identify, mark or warn of the presence of pipe lines, utility lines, or rail lines and appurtenances thereof, including but not limited to markers used in the maintenance, operation, observation and safety of said lines.

### 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 devices, other than on-premise advertising devices, erected subsequent to the date this agreement becomes binding as provided in Section V herein, and in accordance with the following criteria;

- A. In zoned commercial and industrial areas, the State may

*grandfather  
clause*

certify to the Administrator, as notice of effective control, that comprehensive zoning has been established within such areas which regulates the size, lighting, and spacing of outdoor advertising devices consistent with the intent 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 ADVERTISING DEVICES

1. The maximum area for any advertising device shall be 1200 square feet, excluding decorative bases and supports.
2. Two advertising devices may be permitted at a single location facing the same direction, provided that they are immediately adjacent to each other and their total combined area does not exceed 1200 square feet.
3. The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire advertising device including border, trim, cutout and extension.

#### SPACING OF ADVERTISING DEVICES

1. On the portions of the Interstate system described in Section II A of this agreement and on the freeway portions of the Federal-aid primary system within the

boundaries of incorporated municipalities, as such boundaries exist at the time that this agreement becomes binding as provided in Section V hereof, the following spacing requirements shall apply:

(a) No advertising device shall be erected at interchanges or within 500 feet thereof.

(b) Advertising devices visible to approaching traffic on either or both sides of the main traveled way shall be no less than 500 feet apart.

2. Subsequent to the time that this agreement becomes binding as provided in Section V hereof, no advertising device shall be erected adjacent to the portions of the Interstate system described in Section II B of this agreement nor adjacent to the freeway portions of the Federal-aid primary system outside the boundaries of incorporated municipalities as such boundaries exist at the time this agreement becomes binding as provided in Section V hereof.

3. On the non-freeway portion of the Federal-aid primary highway system outside of incorporated municipalities, the following spacing requirements shall apply:

(a) No advertising device shall be erected at interchanges or within 500 feet thereof.

(b) No advertising device shall be located within 500 feet of the following:

(1) Any safety rest area designated by the Director of Highways which is publicly owned, controlled or maintained.

(2) Any park, garden, forest preserve, playground, picnic ground, or swimming beach which is publicly owned, controlled or maintained.

(3) Any scenic area designated by the Director of Highways or constituted local authority.

(c) Advertising devices visible to approaching traffic on either or both sides of the main traveled way shall be no less than 500 feet apart.

4. On the non-freeway portions of the Federal-aid primary highway system inside incorporated municipalities, other than within business districts, advertising devices visible to approaching traffic, on either or both sides of the main traveled way, shall be no less than 250 feet apart.

5. No advertising device, including those in business districts, may be located in such a manner as to obscure, or otherwise interfere with the effectiveness of

an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

(6) For purposes of this section:

(a) All distances shall be measured along the right edge of the main traveled way in the direction of travel.

(b) At interchanges, the 500 foot dimension shall be measured from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

(c) On-premise advertising devices shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

#### LIGHTING OF ADVERTISING DEVICES

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 in business districts, and 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 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 any 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.

4. All such lighting shall be subject to any other provisions relating to the lighting of advertising devices applicable to highways under the jurisdiction of the State.

C. The State and local political subdivisions shall have full authority under their respective zoning laws to zone areas for commercial or industrial purposes and the action of the State or 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, the State may so certify to the Administrator and control of outdoor advertising in industrial or commercial areas will transfer to subsection A of this section.

#### IV. INTERPRETATION

The provisions contained herein shall constitute the minimum acceptable

standards for effective control of advertising 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 Ohio General Assembly.

In controlling outdoor advertising adjacent to Interstate and Federal-aid primary highways pursuant to the Highway Beautification Act of 1965 and this agreement, the State shall not be required to remove or cause to be removed any device advertising any natural wonders or scenic or historical attractions until a reasonable length of time subsequent to the promulgation of national standards for such devices pursuant to Section 131 (c) of Title 23, United States Code, 79 stat. (1028) 1965.

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 Ohio 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 JUNE 26, 1968. but shall not become binding on the parties hereto unless and until the

provisions of this Agreement have been implemented by an appropriate  
Act of the Ohio General Assembly.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of

JUNE 26, 1968.

STATE OF OHIO  
Department of Highways

Attest:

Nell A. Brannon  
Secretary

6-26-68  
Date

P. E. Moschetti  
Director

UNITED STATES OF AMERICA

James R. Bridwell  
Federal Highway Administrator