

A G R E E M E N T

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FOR CARRYING OUT NATIONAL POLICY RELATIVE TO CONTROL OF OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE NATIONAL SYSTEM OF INTER-STATE AND DEFENSE HIGHWAYS AND THE FEDERAL-AID PRIMARY SYSTEM.

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THIS AGREEMENT made and entered into this 11<sup>th</sup> 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 Tennessee, represented by the DEPARTMENT OF HIGHWAYS acting by and through its Commissioner, hereinafter referred to as the "STATE".

W I T N E S S E T H:

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 com-

mercial under authority of State law or in unzoned commercial or industrial areas, as may be determined by agreements between the several States and the Secretary of Transportation; and

WHEREAS, the purpose of said agreements 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, the STATE OF TENNESSEE desires to implement and carry out the provisions of Section 131 of Title 23, United States Code, and said National policy.

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 for purposes of unzoned industrial and commercial areas mean 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 activities:

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.

- C. Zoned commercial or industrial areas mean those areas which are reserved for business, commerce, or trade pursuant to State or local zoning regulations.
- D. Unzoned commercial or industrial areas mean those areas on which there is located one or more permanent structures devoted to a commercial or an industrial activity or on which a commercial or an 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 limited access highway when the same is not a public park, public playground, public recreational area, public forest, wildlife, or waterfowl refuge, historic

site, scenic area, cemetery, or primarily residential in character. The unzoned areas shall not include land across the highway from a commercial or an industrial activity when said highway is an Interstate or a controlled access primary highway.

All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage, processing or 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.

- E. Interstate System means that portion of the National System of Interstate and Defense Highways located within this STATE, as officially designated, or as may hereafter be so designated, by the Commissioner of Highways, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, United States Code.
- F. Primary System means that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the Commissioner of Highways, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, United States Code.
- G. Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.
- 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 each of the separated 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.

- I. Outdoor advertising or sign means any outdoor sign, display, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard or other thing which is 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 any 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.

## II. Scope of Agreement

This Agreement shall apply to all zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of the Interstate and Federal-aid Primary Systems, in which outdoor advertising signs, displays, and devices may be visible from the main-traveled way of either or both of said systems.

### 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:

A. In zoned commercial and industrial areas, the STATE may notify the Secretary 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 intent of the Act and with customary use.

B. In all other zoned and unzoned commercial and industrial areas, within the scope of this Agreement, the criteria set forth below shall apply.

#### Size of Signs

1. The maximum area for any one sign shall be 1200 square feet, however, with a maximum height of 30 feet or maximum length of 60 feet, inclusive of any border and trim but excluding ornamental base or apron supports and other structural members; provided further, however, that in counties having a population greater than 250,000, the STATE may establish standards for maximum size greater than 1200 square feet in area, provided that any such standards shall be in accord with customary use of off-premise outdoor advertising within the area in which

said standards will apply. In no instance, however, shall these standards exceed 3000 square feet, inclusive of any border and trim, and exclusive of ornamental base or apron supports and other standard members.

2. The area shall be measured by the smallest square rectangle, triangle, circle or combination thereof which will encompass the entire sign.
3. A sign structure may contain one or two signs per facing and may be placed doubled-faced, back to back or V-type, but the total area of any facing may not exceed 1200 square feet.

#### Spacing of Signs

1. Interstate Highways and Controlled Access Highways on the Federal-aid Primary System
  - (a) No two structures shall be spaced less than 500 feet apart on the same side of the highway, provided, however, that such signs may be located within 500 feet of another sign when the signs are separated by buildings or other obstructions so that only one sign located adjacent to or within the 500 feet zone is visible from the highway at any one time.
  - (b) Outside incorporated municipalities no structure may be located adjacent to, or within 500 feet of an interchange, or intersection at grade, measured along the Interstate or controlled access highways on the primary system from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.
2. Non-Controlled Access Primary Highways
  - (a) Outside of the corporate limits of a municipality no two structures shall be spaced less than 300 feet apart on the same side of the highway.
  - (b) Within the corporate limits of a municipality no two structures shall be spaced less than 100 feet apart on the same side of the highway.
  - (c) Provided, however, with respect to a and b above, that structures may be spaced closer to others when they are separated by buildings or other obstructions so that only one is visible within the otherwise applicable spacing requirement at any one time.

3. Explanatory Notes

(a) Official and "on premise" signs, as defined in Section 131(c) of Title 23, United States Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

(b) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

Lighting of Signs

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 Interstate or 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.
- C. The STATE and local governments shall have full authority under any present or future zoning laws to zone areas for commercial or industrial purposes and the action of the STATE and local governments in this regard will be accepted for the purposes of this Agreement. At any time that a local government adopts comprehensive zoning which includes the regulation of outdoor advertising, the STATE may so



certify to the ADMINISTRATOR and control of outdoor advertising in commercial or industrial zones will transfer as provided in subsection A of this section.

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 or any local government 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.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress, the parties reserve the right to re-negotiate this Agreement or to modify it to conform with any amendment.

V. Effective Date

This Agreement shall become effective upon the passage of an Act by the General Assembly authorizing the same.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officials on the day and date first above written.

STATE OF TENNESSEE  
DEPARTMENT OF HIGHWAYS

By:   
COMMISSIONER

UNITED STATES OF AMERICA

By:   
FEDERAL HIGHWAY ADMINISTRATOR