

STATE/FEDERAL AGREEMENT

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 27th day of January, 1972, by and between the United States of America, represented by the Secretary of Transportation, hereinafter referred to as the "SECRETARY," and the State of Montana, hereinafter referred to as the "STATE" through its Department of Highways, hereinafter referred to as "DEPARTMENT," acting by and through its Director,

W I T N E S S E T H:

WHEREAS, the Highway Commission of the State of Montana was authorized by Senate Bill No. 1, enacted by Extraordinary Session II of the Forty-second Montana State Legislature, to enter into an agreement with the SECRETARY on behalf of the State of Montana to comply with Title I of the Highway Beautification Act of 1965; and

WHEREAS, pursuant to the provisions of the Executive Reorganization Act of 1971, enacted by the Forty-second Montana State Legislature, the function of the Highway Commission were transferred to the newly created Department of Highways,; and

WHEREAS, by the executive order of Governor Forrest H. Anderson, the Department of Highways of the State of Montana, was officially activated on the 16th day of December, 1971; and

WHEREAS, Section 131(d) of Title 23, United States Code provides for agreement between the SECRETARY and 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 primary systems which are zoned industrial or commercial under authority of state law or in unzoned commercial or industrial areas, which areas are 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 interstate and primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, THE State of Montana 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 highway funds to be apportioned under Section 104 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 zone means those areas which are reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinance or regulation, or enabling state legislation, or state legislation itself, including Highway Service Areas lawfully zoned as Highway Service Zones, in which the primary use of the land is reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

C. Unzoned commercial or industrial area means those areas not zoned by state or local law, regulation or ordinance, which are occupied by one or more industrial or commercial activities, other than outdoor advertising signs, the lands along the highway for a distance of 600 feet immediately adjacent to the activities, and those lands directly opposite on the other side of the highway to the extent of the same dimensions, provided those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the COMMISSION.

All measurements shall be from the outer edge of the regularly used buildings, parking lots, storage or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway.

D. Commercial or industrial activities, for purposes of the unzoned area definition above, 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 for industrial:

1. Activities more than 660 feet from the nearest edge of the right of-way.
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 principally used as a residence.
6. Railroad tracks and minor sidings.
7. Outdoor advertising structures.

Should any commercial or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate for a period of nine (9) continuous months, any signs located within the former unzoned area shall become non-conforming.

E. Outdoor advertising means any outdoor sign, light, display, device, 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 the interstate or federal-aid primary highway.

F. Center line 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.

G. Visible means capable of being seen and legible without visual aid by a person of normal visual acuity.

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 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.

II. Scope of Agreement

This Agreement shall apply to:

A. 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 primary systems within the State of Montana in which outdoor advertising signs, display 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 hereon, in accordance with the follow criteria:

A. In zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply to signs, displays and devices erected subsequent to the effective date of this agreement.

General. 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.

Size of Signs.

1. No sign shall exceed the following dimensions:

- (a) Maximum area – 1200 square feet
 - (b) Maximum height – 40 feet, as measured from the ground or, if the sign is attached to a structure, as measured from the base of the sign itself.
 - (c) Maximum length – 60
2. Measurements shall include border and trim but exclude base or apron, support, and other structural members.
 3. A sign structure may contain no more than two facings visible and readable from the same direction on the main-traveled way on any one sign structure. Whenever two facings are so positioned, neither shall exceed 325 square feet.
 4. Back-to-back or V-type sign structures will be permitted with the maximum area being allowed for each facing; and considered as one structure and subject to spacing as hereinbelow provided, but must be erected to that no more than two facings are visible to traffic in any one direction.

Spacing of Signs

1. Signs may not be located within 500 feet of any of the following which are adjacent to the highway; unless such signs are in an incorporated area:
 - (a) Public parks
 - (b) Public forests
 - (c) Public playgrounds
 - (d) Cemeteries
 - (e) Scenic areas designated as such by the Department of Highways or other state agency having and exercising such authority.
2. Interstate Highways and Controlled Access Highways on the Primary System.

- (a) Spacing between sign structures along each side of the highway shall be a minimum of 500 feet except that this spacing shall not apply to signs which are separated by a building or other obstruction in such a manner that only one sign located within the minimum spacing distance set forth above is visible from the highway at any one time.
- (b) No structure may be located adjacent to or within 500 feet of an interchange, intersection at grade, or safety rest area. Said 500 feet to be measured along the Interstate or freeway from the beginning or ending of payment widening at the exit from or entrance to the main-traveled way.

3. Non-Limited Access Primary Highways.

The location of sign structures situated between streets, roads or highways entering into or intersecting the main-traveled way shall conform to the following minimum spacing criteria to be applied separately to each side of the primary highway:

- (a) Where the distance between centerlines of intersecting streets or highways is one thousand (1,000) feet or more, minimum spacing between sign structures shall be three hundred (300).
- (b) Where the distance between centerlines of intersecting streets or highways is less than one thousand (1,000) feet, a minimum spacing between structures of one hundred fifty (150) feet may be permitted between the intersecting streets or highways.

4. Explanatory Notes.

- (a) Alleys, undeveloped rights-of-way, private roads and 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) 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 the above spacing requirements.
- (d) The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs.

5. Lighting.

Signs may be illuminated, subject to the following restrictions:

- (a) 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.
- (b) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled way of the 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.
- (c) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

IV. Interpretation

The provisions contained herein shall constitute the acceptable standards for effective control of signs, displays and devices within the scope of this agreement.

Standards and criteria contained herein shall apply to signs erected subsequent to the effective date of the State’s agreement. Signs in zoned and unzoned commercial or industrial areas lawfully in existence, as of the date this agreement becomes binding, shall be allowed to remain and continue in place, even if non-conforming.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress, or the provisions of Senate Bill No. 1, Extraordinary Session II, Laws of Montana, 1971, are amended by subsequent action of the Montana State Legislature, the parties reserve the right to re-negotiate this Agreement or to modify it to conform with any amendment.

Whenever a bona fide state, county, or local zoning authority has made a determination of customary use, as to size, lighting and spacing, such determination may be accepted in lieu of controls by agreement in the zoned commercial and industrial area within the geographical jurisdiction of such authority.

V. Effective Date

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

IN WITNESS WHEREOF, the State has caused this Agreement to be duly executed in its behalf, and the Secretary of Transportation has likewise caused the same to be duly executed in his behalf, as of the dates specified below.

STATE OF NONTANA
DEPARTMENT OF HIGHWAYS

By _____
Director

ATTEST:

STATE HIGHWAY COMMISSION

Secretary

By _____
Chairman

ATTEST:

UNITED STATES OF AMERICA
THROUGH THE SECRETARY OF
TRANSPORTATION

By _____ By _____