

**68-2232. Definitions.** As used in this act the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Adjacent area" "controlled area" means an area which is adjacent to the right-of-way on any interstate or primary highway and is visible from the main traveled way.

(b) "Business area" means any part of an adjacent area, except areas adjacent to scenic byways, designated by the secretary of transportation, which is:

- (1) Zoned for industrial or commercial activities under the authority of any law or by a local zoning authority; or
- (2) an unzoned commercial or industrial area as herein defined.

(c) "Center line of the highway" means a line equidistant from the edges of the median separating the main traveled ways on a divided highway, or the center line of the main traveled way on a nondivided highway.

(d) "Commercial or industrial activities" means, for the purpose of establishing unzoned commercial or industrial areas, those activities generally recognized as commercial or industrial by local zoning authorities in this state, but excludes the following 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 traffic lanes of the main traveled way;
- (5) activities more than 660 feet from the nearest edge of a highway right-of-way;
- (6) activities conducted in a building principally used as a residence;
- (7) railroad tracks and minor sidings;
- (8) on-premise or on-property signs as provided for in subsection (c) of K.S.A. 68-2233, and amendments thereto, if the on-premise or on-property sign is the only part of the commercial or industrial activity that is visible from the main traveled way;

(9) any outdoor advertising activity or any other business or commercial activity carried on in connection with an outdoor advertising activity; and

(10) illegal junkyards as provided for in K.S.A. 68-2201 through 68-2215, and amendments thereto, and junkyards lawfully in existence pursuant to K.S.A. 68-2207, and amendments thereto.

(e) "Comprehensive zoning" means zoning by local zoning authorities of each parcel of land under the jurisdiction of the local zoning authority placed in a zoning classification pursuant to a comprehensive plan or reserved for future classification.

(f) "Department" means the Kansas department of transportation.

(g) "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 an incident to the change of advertising message or customary maintenance or repair of a sign structure.

(h) "Freeway" means any primary highway which is a divided arterial highway with four or more lanes available for through traffic with full control of access and grade separation at intersections.

(i) "Highway" means a highway as defined by K.S.A. 8-1424, and amendments thereto. For the purpose of this act, a highway shall be considered a highway when the project for improvement and final alignment has been approved by the appropriate authorities.

(j) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the secretary of transportation and approved by the appropriate authority of the federal government.

(k) "Local zoning authority" means an incorporated city or a county which is authorized by law to zone areas within its jurisdiction and which has an active zoning authority.

(l) "Main traveled way" means the traveled way of a highway on which through traffic is carried. On a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main traveled way, but such term does not include such facilities as frontage roads, turning roadways or parking areas.

(m) "Maintain" means to keep in a state of continuing existence. A sign must remain substantially the same as it was when permitted on the effective date of compliance with state law. Customary maintenance of a sign includes only change of message, replacing electrical wiring and bulbs, painting of the face and structure, clearing of vegetation on the parcel the sign is located, reinforcing the structure and repairing the apron or catwalks or any addition or enhancements to safety equipment on structures including safety cables, railings and other modifications necessary to meet current safety standards. An increase in dimension, a change in dimension, any change in location, increase in height or the addition of lighting does not constitute customary maintenance. Additional maintenance activities, other than customary maintenance, require a new sign permit.

(n) "Primary highway" means any highway, other than an interstate highway, that was part of the federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the national highway system.

(o) "Safety rest area" means an area or site established and maintained within or adjacent to the highway right-of-way, which area is under public supervision or control and for the convenience of the traveling public.

(p) "Sign" or "outdoor advertising device" means any outdoor sign structure, display, light, device, notice, bulletin, figure, painting, drawing, message, placard, poster, billboard, vehicle or other thing which is designed, intended or used to advertise or inform, any part of the advertising or informative contents which is visible from any place on the main traveled way or any portion of an interstate or primary highway.

(q) "Sign facing" means and includes a sign display or displays at the same location and facing the same direction.

(r) "Sign display" means a single panel or part of the sign, including trim and background, which contains a message or messages.

(s) "Sign structure" means and includes all components of the sign, which may include poles, bracings, lateral supports, vehicles, displays and other materials of every kind and nature used to support a facing or facings on which advertising is placed.

(t) "Traveled way" means the portion of a roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(u) "Unzoned commercial or industrial area" means an area which is not zoned by state or local law, regulation or ordinance, which is within 660 feet of the nearest edge of the right-of-way of the controlled area, 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, which meets all the requirements specified in subsection (h) of K.S.A. 68-2234, and amendments thereto.

(v) "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

(w) "Zoned commercial or industrial areas" means those areas which are comprehensively zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or resolution or an area which is zoned for business, industry, commerce or trade pursuant to a state or local zoning ordinance or regulation. Local zoning action must be taken pursuant to the state's zoning enabling statute or constitutional authority in accordance therewith. Zoning which is not part of comprehensive zoning or which is created primarily to permit advertising devices or structures shall not be recognized as valid zoning for purposes of the Kansas highway advertising control act and the rules and regulations promulgated thereunder, unless there actually exists a commercial or industrial activity as defined under subsection (d) of K.S.A. 68-2232, and amendments thereto.

(x) "Secretary" means the secretary of transportation.

(y) "Vegetation control" means a program authorized hereunder, providing for the control of vegetation on state rights-of-way which shall be of benefit to the state as well as providing assistance to sign owners. Vegetation control is recognized as part of the maintenance of the state's highway right-of-way as it relates to safety and other highway operations. The secretary shall adopt policies and procedures for the creation of a vegetation control program within 12 months of the effective date of this act.

**History:** L. 1972, ch. 251, § 2; L. 1975, ch. 33, § 10; L. 1975, ch. 427, § 219; L. 2000, ch. 44, § 1; L. 2006, ch. 141, § 1; July 1.