

CHAPTER 41C
ROADSIDE SIGN CONTROL AND
OUTDOOR ADVERTISING

Authority

N.J.S.A. 27:1A-5, 27:1A-6, and 27:5-5 et seq.

Source and Effective Date

R.2007 d.241, effective August 6, 2007.
See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 41C, Roadside Sign Control and Outdoor Advertising, expires on February 2, 2015. See: 46 N.J.R. 1946(a).

Chapter Historical Note

Rules on outdoor advertising, formerly codified at N.J.A.C. 16:41-8 and 16:41A, were repealed and replaced by Chapter 41C, Roadside Sign Control and Outdoor Advertising, by R.1992 d.206, effective May 4, 1992. See: 24 N.J.R. 695(a), 24 N.J.R. 1807(a).

Petition for Rulemaking: Notice of Receipt of Petition for Rulemaking. See: 25 N.J.R. 1895(a).

Pursuant to Executive Order No. 66(1978), Chapter 41C, Roadside Sign Control and Outdoor Advertising, was readopted as R.1997 d.77, effective January 23, 1997. As part of R.1997 d.77, effective February 18, 1997 (operative March 3, 1997), Subchapter 1, Definitions, was recodified as Subchapter 2, Definitions; Subchapter 2, General Provisions, was recodified as Subchapter 1, Declaration of Policy; Subchapter 3, Restrictions, was repealed and a new Subchapter 3, Restrictions, was adopted as new rules. See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Chapter 41C, Roadside Sign Control and Outdoor Advertising, was readopted as R.2002 d.21, effective December 20, 2001. See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 41C, Roadside Sign Control and Outdoor Advertising, expired on June 18, 2007. See: 39 N.J.R. 164(a).

Chapter 41C, Roadside Sign Control and Outdoor Advertising, was adopted as new rules by R.2007 d.241, effective August 6, 2007. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 41C, Roadside Sign Control and Outdoor Advertising, was scheduled to expire on August 6, 2014. See: 43 N.J.R. 1203(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DECLARATION OF POLICY

16:41C-1.1 Purpose

SUBCHAPTER 2. DEFINITIONS

16:41C-2.1 Definitions
16:41C-2.2 (Reserved)

SUBCHAPTER 3. RESTRICTIONS

16:41C-3.1 General restrictions

SUBCHAPTER 4. LICENSE PROVISIONS

16:41C-4.1 When license required
16:41C-4.2 Bond for non-resident
16:41C-4.3 License expiration date
16:41C-4.4 Disclosure statement requirement for license holders

SUBCHAPTER 5. SIGNS AND PERMITS

16:41C-5.1 Types of signs allowed
16:41C-5.2 Permit requirements

16:41C-5.3 Permit applications
16:41C-5.4 Issuance of permit
16:41C-5.5 Alteration of permit area
16:41C-5.6 Permit holders
16:41C-5.7 Appeal of denial of application

SUBCHAPTER 6. FEES

16:41C-6.1 Permit application fees
16:41C-6.2 Permit fees
16:41C-6.3 Renewal of permits and late renewal charges
16:41C-6.4 Fee for name or ownership change

SUBCHAPTER 7. VEGETATION CONTROL

16:41C-7.1 Vegetation control

SUBCHAPTER 8. STANDARD REQUIREMENTS

16:41C-8.1 General requirements
16:41C-8.2 Directional signs
16:41C-8.3 Public utility signs
16:41C-8.4 Service club and religious notices
16:41C-8.5 Signs on school bus stop shelters
16:41C-8.6 On-premise signs
16:41C-8.7 Off-premise signs
16:41C-8.8 Off-premise multiple message signs
16:41C-8.9 Signs on State property
16:41C-8.10 Signs on transit bus shelters

SUBCHAPTER 9. NONCONFORMING SIGNS

16:41C-9.1 General provisions

SUBCHAPTER 10. VIOLATIONS AND PENALTIES

16:41C-10.1 Notice, protests and hearings
16:41C-10.2 Causes for revocation of license or permit or for suspension of a license
16:41C-10.3 Removal provisions
16:41C-10.4 Penalties

APPENDIX

SUBCHAPTER 1. DECLARATION OF POLICY

16:41C-1.1 Purpose

(a) The purpose of this chapter is to balance the need to control and regulate roadside signs and outdoor advertising, promote the scenic beauty of the State, provide for the safety and convenience of the public, and the need to stimulate economic and commercial activity within the State of New Jersey. This chapter requires and provides for the issuing of licenses and permits for roadside signs and outdoor advertising and the establishment, use, maintenance and removal of such signs.

(b) Consistent with Federal law, the State Act and the Agreement as presently existing and hereafter amended, the Commissioner is authorized to promulgate rules, in a manner consistent with the Administrative Procedure Act, governing outdoor advertising including spacing, size, lighting and other requirements pertaining to the issuance or denial of permits for the erection or maintenance of outdoor advertising signs along limited access and non-limited access highways, prescribing the number, locations and types of and specifications

for outdoor advertising signs, and designating the conditions under which outdoor advertising signs may be erected and maintained.

(c) Consistent with the State Act, the Commissioner is authorized to charge and collect fees for the issuance of permits and related costs. The moneys received from such fees shall be deposited with the State Treasurer, and be subject to disbursement on order of the Commissioner to defray the expense of administering the provisions of this chapter.

(d) The Commissioner is authorized to designate certain roadside areas as "safety rest areas" or "informational sites" and to provide by rules for the erection and maintenance of signs in such areas.

(e) The Commissioner is authorized to acquire by gift, purchase or condemnation, real and personal property or the right to maintain outdoor advertising signs in any protected area or protected zone of limited access and non-limited access highways for the purpose of implementing the rules in this chapter. All persons whose property is purchased or otherwise acquired, except by gift to the State of New Jersey, shall receive just compensation therefor.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

In (a), added text "of such signs" at end; in (b) substituted "Federal law ... and hereafter amended" for "the Act and Outdoor Advertising Act" and "advertising signs along" for "advertising signs within protected areas"; substantially amended (c); and in (e), inserted text "or protected zone".

Case Notes

Commissioner of the Department of Transportation affirmed the New Jersey Department of Transportation's (NJDOT's) denial of an application for an outdoor advertising permit. The relevant portion was a limited access highway pursuant to N.J.S.A. 27:5-7 and N.J.A.C. 16:41C-1.1 because the abutters did not have the right of direct access to Route 3, eastbound, except for a grand-fathered Shell Station as a non-conforming use. Because the relevant portion was a limited access highway, pursuant to the spacing requirements of N.J.A.C. 16:41C-8.7(b)2 and N.J.A.C. 16:41C-8.7(b)3, the NJDOT correctly denied the application. *Atkins Outdoor LLC v. New Jersey Dep't. of Transp. Applications NOS. 69379 and 70112, OAL DKT. NO. TRP 03964-07, 2012 N.J. AGEN LEXIS 699, Final Decision (December 2, 2011).*

Advertising sign in area of federal interstate system was subject to state zoning regulation. *New York Outdoor v. Department of Transportation, 95 N.J.A.R.2d (TRP) 21.*

SUBCHAPTER 2. DEFINITIONS

16:41C-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Abandoned" means any sign which has not had an advertisement on it, or the advertisement is in need of repair, or the structure is missing components necessary for an advertisement for a period of three months. A sign in good repair containing the message "available" or other similar sales information shall not be considered abandoned.

"Administrator" means the Administrator of Outdoor Advertising of the New Jersey Department of Transportation.

"Advertisement" means any message placed on a sign.

"Advertising structure" means any rigid or semi-rigid material, with or without advertisement displayed thereon, situated upon or attached to real property outdoors, primarily or principally for the purpose of furnishing a background or base or support upon which an advertisement may be displayed.

"Advertising surface area" means the total surface area of a sign face as measured by the smallest rectangle which will encompass the entire area as indicated on the approved application and permit. All dimensions include border, trim and cutouts, but exclude decorative bases and supports.

"Agreement" means the Agreement between the U.S. Secretary of Transportation and the Department establishing size, spacing and lighting standards for effective control of outdoor advertising signs along interstate and Federal aid primary highways as adopted in 1971 and as may be subsequently amended.

"Atlantic City Casino-Recreation District" means that area within the city limits of the City of Atlantic City which is zoned RS-C (Resort Commercial Development District), RS (Resort Service), CBD (Central Business District), URT (Urban Renewal Tract) or Beach (boardwalk) as defined by the City of Atlantic City.

"Beginning of pavement widening" means that point where a highway begins to widen beyond the width of the main-traveled way, leading toward an exit ramp or another highway.

"Business of outdoor advertising" means the display of an advertisement in exchange for any compensation or item or service of value by any person through the erection, use or maintenance of a sign.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation.

"Customary maintenance" means all manner of repair or maintenance of a permitted sign, which is done to keep the sign structurally sound and in good repair. Customary maintenance applies to all parts of a sign including its foundation, supporting structure and sign face. Customary maintenance does not include:

1. Any repair, maintenance or improvement of a non-conforming sign that has been removed, abandoned, or totally destroyed;
2. Any repair, maintenance or improvement that changes the sign's setback and/or height;
3. Any repair, maintenance or improvement that causes the sign to be erected in a manner contrary to its permit or approved application;
4. Any repair, maintenance or improvement that results in a change in the material of the sign's supporting structure; or

5. Any enlargement of an existing sign, exclusive of cut-outs or extensions.

“Cutouts/extensions” means any attachment or addition to the advertising surface area that increases or enhances the advertisement on the sign. Cutouts/extensions shall be included in calculating the advertising surface area of a sign.

“Department” means the New Jersey Department of Transportation.

“Directional signs” means signs containing directional information about publicly owned places, natural phenomena, historic, cultural, scientific, educational, and religious sites; or areas of natural scenic beauty or naturally suited for outdoor recreation, deemed, by the Commissioner, to be in the interest of the traveling public.

“Embellishments” means objects, such as letters, figures or other devices attached to the advertising surface area of a sign which create a three-dimensional effect but do not extend beyond the vertical or horizontal planes of the advertising surface area.

“Ending of pavement widening” means that point where a highway returns to the width of the main-traveled way after the merging from an entrance ramp or other highway.

“Federal law” means Section 131 of Title 23, United States Code (1965) (23 U.S.C. § 131), commonly referred to as Title 1 or the Highway Beautification Act of 1965, and the Intermodal Surface Transportation Efficiency Act of 1991, as amended and hereafter amended, and regulations adopted pursuant thereto.

“Federal-aid primary highway” means any highway within 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 of the United States pursuant to subsection (b) of Section 103 of Title 23, United States Code.

“Ground structure” means any advertising structure or display erected upon the ground, however supported thereon.

“Highway” means any road, thoroughfare, street, boulevard, lane, court, trailway, right-of-way or easement used for, or laid out and intended for public passage of vehicles or people.

“Incorporated municipalities” means cities, towns, townships, villages, boroughs and any other municipal corporations of this State.

“Interchange” means a junction of two or more highways that allows for the movement of traffic between such highways, typically by means of one or more entrance and/or exit ramps.

“Interstate System” means those highways constructed within this State and approved by the Secretary of Transportation of the United States as an official portion of the

National System of Interstate and Defense Highways pursuant to the provisions of Title 23, “Highways” of the United States Code, as amended.

“Licensee” means any person, as defined by these rules, who is the holder of any valid and unrevoked license to engage in outdoor advertising business in this State.

“Limited access highway” means a highway, or any portion thereof, especially designed for through traffic, over which abutters have no easement or right of light, air or direct access by reason of the fact that their property abuts upon such limited access highway. For purposes of these rules, interstate highways, parkways, expressways and freeways, including, but not limited to, the Atlantic City Expressway, the Garden State Parkway, and the New Jersey Turnpike, shall be considered limited access highways.

“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 separate roadway carrying through traffic is a main-traveled way. The main-traveled way shall not include frontage roads.

“Multiple message sign” means a sign, which changes message or copy electronically or by the movement or rotation of panels or slats.

“Nonconforming sign” means a sign which fails to comply with the requirements of the State Act and any rules promulgated pursuant thereto, and which had been lawfully erected, pursuant to a valid outdoor advertising permit, and maintained prior to the enactment, revision, or amendment of the State Act and the rules promulgated pursuant thereto.

“Official signs and notices” means signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in Federal, State, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by State law and erected by State or local government agencies or nonprofit historical societies may be considered official signs.

“On-premise sign” means a sign that identifies an actual and bona fide principal activity, product or service that is conducted, available, offered or produced on the property where the sign is located including a sign that exclusively advertises the sale or lease of the property on which the sign is located. The storage of supplies or materials on the property does not indicate of itself an actual bona fide principal activity, product, or use of the property. When a sign consists principally of a brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or when it brings any compensation to the property owner or to the owner of the sign, the sign shall be considered an off-premise sign used for the purpose of the business of outdoor advertising.

“Permit” means a certificate issued by the Department authorizing the erection and maintenance of a sign at the location described thereon. The issuance of an outdoor advertising permit does not supersede municipal or other agency sign requirements or restrictions.

“Permit holder” means any person holding a valid and unrevoked outdoor advertising permit.

“Permitted location” means a place, spot, site or space for which an outdoor advertising permit has been duly issued for the erection or maintenance of a sign without regard to whether the same has actually been constructed, painted or posted.

“Person” means any individual, group, corporation, limited liability company, partnership, association, any public entity, as the context may require, or combination thereof.

“Point of gore” means the point where the main-traveled way and a ramp or another highway come together. Where a physical obstruction exists, such as curb, guide rail, or impact attenuator, that physical obstruction shall be considered the point of gore.

“Prevalent land use” means the existing land use that is predominant in an area that is within 800 feet of the sign location, on the same side of the highway as the sign location, and within the same zoning district as the sign location, if the area is zoned by State or local law, rule or ordinance. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the commercial or industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway. None of the following activities shall be considered an existing business, industry, commerce, office, or trade land use in the determination of the prevalent land use:

1. Outdoor advertising signs;
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 primarily used as a residence; and
7. Railroad tracks and minor sidings, pipelines, and electric transmission lines.

“Premises” means that portion of the property wherein any industry, commerce, business, occupation, trade or service is conducted.

“Primary system” means any highway on the National Highway System as defined by the U.S. Congress, or any highway on the Federal-aid primary system in existence on June 1, 1991, as enacted in the 1991 Intermodal Surface Transportation Efficiency Act, as amended.

“Protected area” means all areas inside the boundaries of this State, which are adjacent to and within 660 feet of the edge of the right-of-way of highways in the Interstate and Primary Systems, and those areas inside the boundaries of this State, which are outside urban areas and visible from such highways, but beyond 660 feet of the edge of the right-of-way of highways in the Interstate and Primary Systems.

“Protected zone” means all areas inside the boundaries of this State, which are adjacent to and within 660 feet of the edge of the right-of-way of highways not in the Interstate and Primary Systems, and those areas inside the boundaries of this State, which are outside urban areas and visible from such highways, but beyond 660 feet of the edge of the right-of-way of highways not in the Interstate and Primary Systems.

“Public service signs” mean signs located off the Department’s right-of-way on school bus shelters that are authorized or approved by city, county or State law, regulation or ordinance, and at places approved by the city, county or State agency controlling the highway involved.

“Public utility signs” means warning signs, information signs, notices or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.

“Religious notice signs” see “service club and religious notices.”

“Safety rest area” means an area or site established and maintained within or adjacent to the highway right-of-way and under public supervision or control, for the convenience of the traveling public.

“Scenic area” means any public park or area of scenic beauty or historical significance, as designated by the Commissioner of Transportation or other State agency having and exercising such control.

“Scenic byway” means any highway or portion thereof that has been nominated and designated as a scenic byway by the Department.

“Scenic corridor” means any highway or portion thereof that has been designated as a scenic corridor by the Department (see Appendix A, Table 1, incorporated herein by reference).

“Service area sign” means a sign in a facility that is:

1. Within the right-of-way of a limited access highway;
2. Under public supervision or control;

3. In continuous operation; and
4. Offers all of the following services to motorists using the highway:
 - i. Vehicle services including air, fuel, and oil;
 - ii. Food, other than from vending machines;
 - iii. Public restroom facilities; and
 - iv. Public telephone.

No service area signs shall be erected along or be visible to the main-traveled way or ramp of any highway.

“Service club and religious notices” means signs and notices whose erection is authorized by law, relating to the meetings of nonprofit service clubs or charitable associations, or religious services.

“Sign” means any structure including, but not limited to, an advertising structure and sign face used outdoors and affixed to or upon property to display messages and/or images within public view which is designed to attract, or does attract, the attention of pedestrians or operators or passengers of motor vehicles using the roads, highways, and other public thoroughfares and places, and shall include any writing, printing, painting, display, emblem, drawing, or other device whether placed on the ground, rocks, trees, tree stumps or other natural structures, or on a building, structure, signboard, billboard, wallboard, roofboard, frame, support, fence, or elsewhere, and any lighting or other accessories used in conjunction therewith.

“Signs on transit bus shelters” means signs on a shelter located on public property at a stop on a designated bus route.

“Space or sign face” means the advertising surface area used or to be used for each advertisement. A double face sign is deemed to have two spaces.

“State Act” means the Roadside Sign Control and Outdoor Advertising Act, P.L. 1991, c.413.

“State entity” means a State department or agency, board, commission, corporation or authority.

“Supporting structure” means the structural elements of a sign, which are intended to support the sign.

“Totally destroyed” means the supporting structure of the sign has been destroyed or has failed to the extent that it no longer supports the sign face(s) as intended.

“Trade name” means the brand name, trademark, distinctive symbol or any other device used to identify particular products or services.

“Unzoned commercial or industrial areas” means those areas which are not zoned by State or local law, rule or ordinance, and where the prevalent land use is business, industry, commerce, office, or trade. The granting of a use or any other variance by a local zoning or governing body shall not change the zoning of the property as defined in these rules.

“Urban area” means a place designated by the U.S. Bureau of the Census as having a population of 5,000 or more within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary of Transportation of the United States. The boundaries shall, at a minimum, encompass the entire place designated by the U.S. Bureau of the Census.

“Visible” means the advertisement can be seen and comprehended without visual aid by persons traveling in the motor vehicle on the highway.

“V-type construction” means a single structure having two faces in the shape of the letter “V” when viewed from above, with the faces oriented in opposite directions.

“Zoned commercial or industrial areas” means those areas which are zoned for business, industry, commerce, office, or trade pursuant to a State or local zoning ordinance or rule, or those areas other than areas exclusively zoned for residential, agricultural, forest, conservation, recreation, education or preservation where the prevalent land use is business, industry, commerce, office or trade. The granting of a use or any other variance by a municipal zoning board of adjustment or governing body shall not change the zoning of the property as defined in these rules.

Emergency Amendment, R.1993 d.652, effective November 17, 1993 (to expire January 16, 1994).

See: 25 N.J.R. 5699(a).

Adopted Concurrent Proposal, R.1994 d.76, effective January 14, 1994.

See: 25 N.J.R. 5699(a), 26 N.J.R. 823(c).

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Added, deleted, or amended numerous definitions.

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Inserted “Beginning of pavement widening”, “Ending of pavement widening” and “Point of gore”; rewrote “Interchange”, “Modernize”, “On-premise sign” and “Public service signs”; deleted “Thickly settled district”.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Deleted definitions “Commercial or industrial activities for purposes of unzoned commercial or industrial areas” and “Modernize”; rewrote definitions “Customary maintenance” and “Unzoned commercial or industrial areas”; in definition “Main-traveled way”, deleted “in opposite directions” following “traffic” and “, turning roadways, or parking areas” following “frontage roads”; added definitions “Prevalent land use”, “Scenic corridor”, “Signs on transit bus shelters”, “State entity”, “Supporting structure” and “Totally destroyed”; substituted definition “Protected area” for definition “Protected areas”; in definition “Protected area”, deleted metric references throughout, deleted “not” following the third occurrence of “highways” and inserted commas following both occurrences of “State” and following “such highways”; substituted definition “Protected zone” for definition “Protected zones”; and in definition “Protected zone”, deleted metric references throughout and inserted commas following both occurrences of “State” and following “such highways”.

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 339) adopted, which concluded that an applicant for a billboard permit did not meet the requirements of N.J.A.C. 16:41C-8.7(b)2i, since the proposed site was less than 1,000 feet from a point of gore on a section of “limited access highway” where there was no point of pavement widening. JAM Outdoor, LLC v.

N.J. Dep't of Transp., OAL Dkt. No. TRP 05429-07, 2008 N.J. AGEN LEXIS 689, Final Decision (May 22, 2008).

16:41C-2.2 (Reserved)

Repealed by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section was "License and permit effectiveness and expiration date".

SUBCHAPTER 3. RESTRICTIONS

16:41C-3.1 General restrictions

(a) Signs which contain, include or are illuminated by any flashing, intermittent, scrolling or moving light or lights shall be prohibited, except those giving time, date and/or temperature.

(b) A permit for a new or enlarged sign shall not be issued if such permit would conflict with public policy relating to roadside signs or outdoor advertising as declared by the Congress of the United States, or as reflected in the statutory enactments and judicial decisions of this State. In determining whether such public policy is contravened, the Department shall consider the law of this State, and the United States, including the Highway Beautification Act, the Outdoor Advertising Act, and these regulations.

(c) Except where specifically authorized by the Department, no outdoor advertising signs shall be erected or maintained within the Department's right-of-way of any portion of limited access or non-limited access highways within the State of New Jersey. This prohibition shall not apply to signs, public notices or markers erected or maintained by the Department of Transportation.

(d) No outdoor advertising sign shall interfere with the ability of the operator of a motor vehicle to have a clear and unobstructed view of streets or highways ahead, approaching, merging or intersecting traffic, or official signs, signals or traffic control devices.

(e) No outdoor advertising sign shall interfere with or contain advertisements that resemble any official traffic sign, signal or device.

(f) No outdoor advertising sign shall be painted, drawn, erected or maintained upon trees, rocks, other natural features, or public utility poles.

(g) No outdoor advertising sign shall be of such a type, size, or character or placed at a location that will endanger or injure public safety, or health, or pose a physical threat to property in the vicinity thereof.

(h) No outdoor advertising sign shall advertise activities that are illegal under Federal, State or local law in effect at the location of those signs or at the location of those activities.

(i) No outdoor advertising sign shall have any animated or moving parts or have reflectorized materials which may

impair the vision of a motorist. The components of mechanical signs used to change the advertisement in multiple message signs, which are regulated at N.J.A.C. 16:41C-8.8, shall not be considered a moving part.

(j) No off-premise outdoor advertising sign shall be erected along or be visible to the main-traveled way or any ramp of the Garden State Parkway.

(k) No off-premise outdoor advertising sign shall be erected along or be visible to the main-traveled way or any ramp of that portion of the New Jersey Turnpike not incorporated into the Federal Aid Interstate Highway System.

(l) No off-premise advertising sign shall be located on a scenic corridor or within the protected area or protected zone of a scenic corridor where it can be seen from any point within any portion of a scenic corridor. No off-premise sign shall be visible to any scenic corridor.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (h), substituted "advertise" for "be permitted which advertises"; in (i), substituted "have any animated or moving parts or have" for "be permitted which has any animated or moving parts or has" and inserted the last sentence; in (j), inserted "main-traveled way or any ramp of the"; in (k), inserted "the main-traveled way or any ramp of"; and added (l).

SUBCHAPTER 4. LICENSE PROVISIONS

16:41C-4.1 When license required

(a) Any person holding an outdoor advertising permit pursuant to N.J.A.C. 16:41C-5.2 for a sign to be used to advertise anything other than the business of the permit holder shall obtain a license to engage in the business of outdoor advertising, without regard to whether the sign is built.

(b) An application for a license shall be obtained from the New Jersey Department of Transportation, Office of Outdoor Advertising.

(c) The annual fee for an outdoor advertising license shall be as follows:

<u>Number of Permits</u>	<u>Annual Fee</u>
0 to 5	\$ 50.00
6 to 50	\$250.00
51 and over	\$500.00

(d) A late charge of \$50.00, in addition to the annual license fee, shall be imposed for the renewal of an outdoor advertising license postmarked after May 1.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section combined with former N.J.A.C. 16:41C-4.2 and substantially amended.

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote (a); in (c), rewrote the table.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (d), substituted "annual license" for "regular" and "the" for "an application for" preceding "renewal".

16:41C-4.2 Bond for non-resident

If a licensee does not reside in New Jersey or is a foreign corporation not authorized to do business in this State, it shall file with its application a bond of \$5,000 in favor of the State satisfactory to the Commissioner and issued by an approved surety, conditioned upon the observing and fulfilling by the applicant of all the provisions of the law and the rules contained in this chapter. Upon default in the condition of such bond, appropriate action shall be taken to enforce the collection thereof in a court of competent jurisdiction. A bond shall remain in full force and effect so long as any obligation to the State in such license shall remain unsatisfied.

Recodified from 16:41C-4.4 and amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Former section, "Applications and fees", merged into N.J.A.C. 16:41C-4.1.

16:41C-4.3 License expiration date

Unless revoked or canceled, all licenses will expire on May 15 following the date of issuance or renewal. An application for renewal of a license shall be made to the Department on or before May 1 immediately preceding the expiration date.

Repeal and New Rule, R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section was "Duration".

16:41C-4.4 Disclosure statement requirement for license holders

(a) Any person holding a license to engage in the business of outdoor advertising shall be subject to revocation of that license, unless that person annually files a disclosure statement with the Department.

(b) The disclosure statement shall include:

1. The full name and business address of the person holding the license to engage in the business of outdoor advertising, the full names of any officers, directors, or partners of the person holding the license to engage in the business of outdoor advertising and all persons holding any equity in or debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization; or if the holder is a publicly traded corporation, all persons having more than 10 percent of the equity in or the debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization, except that where the debt liability is held by a chartered lending institution, the person need only supply the name and business address of the lending institution; and

2. The full name and business address of all officers, directors, or partners of any corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization disclosed in the disclosure statement, and the names and addresses of all persons holding any equity in or the debt liability of any corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization so disclosed, or, if the corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization is a publicly traded corporation, all persons holding more than 10 percent of the equity in or the debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization, except that where the debt liability is held by a chartered lending institution, the person need only supply the name and business address of the lending institution.

(c) The disclosure statement shall be filed within 60 days of the issuance of the license.

(d) If the information in a licensee's disclosure statement changes, the licensee shall file an updated disclosure statement within 60 days of that change.

New Rule, R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

SUBCHAPTER 5. SIGNS AND PERMITS

16:41C-5.1 Types of signs allowed

(a) The following signs are allowed in accordance with this chapter and require the issuance and maintenance of a permit:

1. Directional signs (N.J.A.C. 16:41C-8.2);
2. Service club signs and religious notices (N.J.A.C. 16:41C-8.4);
3. Public service signs (N.J.A.C. 16:41C-8.5);
4. Off-premise signs (N.J.A.C. 16:41C-8.7);
5. Multiple message signs (N.J.A.C. 16:41C-8.8); and
6. Signs on transit bus shelters (N.J.A.C. 16:41C-8.10).

(b) The following signs are allowed in accordance with this chapter, but do not require the issuance of a permit:

1. On-premise signs (N.J.A.C. 16:41C-8.6);
2. Public utility signs (N.J.A.C. 16:41C-8.3);
3. Official signs and notices; and
4. Service area signs.

(c) No sign shall be erected or maintained that is visible from the main-traveled way of any portion of limited access

or non-limited access highways except those allowed in (a) and (b) above.

(d) As authorized under N.J.S.A. 27:5-11c in those instances where the Commissioner deems it to be in the public interest, a permit may be issued for a sign on a public property, which would not otherwise be allowed by the State Act and pursuant to this chapter and impose conditions as deemed appropriate, provided that the State House Commission shall review and approve the issuance of such a permit. The public entity shall be responsible for preparing and submitting, to the Commissioner and the State House Commission, the request for waiver and all supporting documentation. Requests for waivers from the sign requirements of this chapter shall be reviewed on a case-by-case basis. In approving waivers, the Commissioner shall weigh the benefit to the public, evaluate the need for the sign, assure the public safety, and remain in compliance with Federal rules and the 1971 Federal Agreement.

Repeal and New Rule, R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section was "Types of signs permitted".

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (a)4, deleted "and" from the end; in (a)5, substituted "; and" for a period at the end; added (a)6; in (b)2, deleted "and" from the end; in (b)3, substituted "; and" for a period at the end; added (b)4; and rewrote (d).

Case Notes

Commissioner of Transportation's action in issuing permit for outdoor advertising sign was arbitrary, capricious and unreasonable; Commissioner gave no weight to state expressway authority's experts, who painstakingly described high volume and dangerous quality of traffic in vicinity of proposed site, noting numerous hazardous maneuvers made by motorist using exit, dangerous quality of expressway-parkway interchange, and fact that a motorist's view of the exit ramp was obstructed until it passed under an overpass, as well as describing existing traffic signs at or near proposed billboard which would demand a motorist's attention. Philadelphia Outdoor v. New Jersey Expressway Authority, 221 N.J.Super. 207, 534 A.2d 77 (A.D.1987) appeal dismissed 114 N.J. 470, 555 A.2d 598.

16:41C-5.2 Permit requirements

(a) Except where a permit is not required by this chapter, each person shall obtain a permit from the Department for each sign before its erection or use. In the event that a permit holder wishes to modify the sign in a manner that exceeds customary maintenance, a new application shall be filed to obtain a permit for the new outdoor advertising sign.

(b) No permit issued to a person required to obtain a license pursuant to this chapter shall be valid unless the license of such person is in full force and effect.

(c) Unless revoked or canceled, a permit shall be in force from the date issued to the following May 15.

(d) If the name or address of a permit holder changes, written notice of the change shall be filed with the Department's Office of Outdoor Advertising within 30 days of the change.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Rewrote (a); in (c), inserted reference to canceled permits; and added (d).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (a), deleted ", maintenance" following "erection" and inserted the last sentence.

Case Notes

Outdoor advertising billboard was not within protection of nonconforming use at location. Rosentock v. Department of Transportation, 93 N.J.A.R.2d (TRP) 9.

Outdoor advertising sign within 2000 feet of skyway interchange was in violation of controlling, more restrictive state regulations. New York Outdoor v. Department of Transportation, 93 N.J.A.R.2d (TRP) 1, affirmed 95 N.J.A.R.2d (TRP) 21.

Sign with no clear access to gas station was in violation of proscription against off-premises advertising. New Jersey v. Star Enterprises, 92 N.J.A.R.2d (TRP) 13.

Football billboard posed no danger to traveling public and was proper subject of permit. Gannett v. Turnpike Authority, 92 N.J.A.R.2d (TRP) 1.

16:41C-5.3 Permit applications

(a) An application for a permit shall be submitted to the Office of Outdoor Advertising Services on a form printed by the Department. The Department will accept copies of that form, provided that those copies are legible and of the same quality as the Department's original document.

(b) Each application shall specify the location where the sign is to be erected and maintained. The application shall depict graphically the location of the proposed sign by showing its distance from the nearest intersecting road, railroad crossing, bridge, or other permanent point of reference. If a sign is built at a location other than that specified in an approved application, the sign shall be deemed to be unauthorized by a permit.

(c) A single application shall cover a double-faced, back-to-back, side-by-side or V-type sign, provided that those signs are physically contiguous, connected by the same structure or cross-bracing, or located not more than 15 feet apart at their nearest point. The fee charged will be for the total advertising surface area at that location.

(d) The Department shall return to the applicant for completion or correction an application that is incomplete or that contains incorrect or conflicting information. If the applicant does not complete or correct, and resubmit, the application within 30 days, the Department shall deny the application.

(e) Upon the submission of a completed application for a sign not yet built on an Interstate highway or other limited access highway, the Department will review and evaluate the application for conformance with the provisions of this chapter. Where the Department has determined that the appli-

cation meets the provisions of this chapter, the Department shall notify the applicant that a scaled drawing prepared by a professional land surveyor of New Jersey must be submitted prior to the approval of the application.

1. Within 45 days of the notification pursuant to (e) above, the applicant shall submit a scaled drawing prepared by a professional land surveyor of New Jersey and bearing the professional land surveyor's signature and raised seal, in which all distances are measured to the closest foot, that shows:

- i. The county, municipality, block, and lot of the property on which the proposed sign is to be erected;
- ii. The name of the property owner;
- iii. The distance from the proposed sign to the permanent point of reference the applicant has specified in the application pursuant to (b) above as measured along the nearest edge of pavement;
- iv. The distance the sign will be from the right-of-way line;
- v. The route numbers and names of all highways shown on the drawing;
- vi. An arrow indicating north; and
- vii. The scale of the drawing.

2. If the location shown in the drawing required by (e)1 above is the same as the location specified in the application pursuant to (b) above, the Department shall approve the application.

3. If the applicant does not submit the drawing required by (e)1 above within 45 days or if the location shown in the drawing required by (e)1 above is the not same as the location specified in the application pursuant to (b) above, the Department shall deny the application.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended section.

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote (a) and (b); added (d) and (e).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Rewrote (a), (c) and (e).

16:41C-5.4 Issuance of permit

(a) Prior to the issuance of a permit, applications completed pursuant to N.J.A.C. 16:41C-5.3, shall be reviewed and evaluated for conformance with the provisions of this chapter.

(b) Except as provided at (b)2i and (d) below, all permits shall be issued as conditional, pending compliance with the following requirements:

1. When the permit applicant is a public entity, including, but not limited to, any State, county or local department, agency, board, commission, authority, or instrumentally, and the sign is to be erected on land owned or controlled by a public entity, the permit applicant shall refer the matter to the planning board or zoning board of the municipality within which the land is located for a public hearing, affording the opportunity for public comment; or

2. When the permit applicant is a private entity, and the sign is to be erected on land owned or controlled by either a public entity or a private entity, the permit applicant shall refer the matter to the planning board or zoning board of the municipality within which the land is located for a public hearing, affording the opportunity for public comment, and obtain all relevant necessary approvals of the municipality in which the land is located in accordance with ordinances adopted pursuant to the provisions of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

i. The requirements in (b)2 above shall not apply when the applicant submits documentation to the Department from an authorized municipal official indicating that the municipal ordinances do not require a public hearing or local approval for the proposed sign.

(c) A sign cannot be built or modified until the conditional status has been removed from the permit. The conditional status shall be removed upon acceptance by the Department of documentation that demonstrates compliance with the provisions of (b) above.

(d) The requirements in (b) above shall not apply where:

1. The permit is issued for an administrative purpose, such as, but, not limited to, the consolidation of multiple valid permits or the renewal of an existing permit;

2. The permit is issued for the reduction of the advertising surface of any permitted sign;

3. The permit is issued for service club and religious notices; and

4. The permit is issued for the replacement of a conforming sign located on property owned or controlled by a State entity where:

i. The sign exists at the time of the application for a permit;

ii. Prior to the issuance of the permit, the applicant has documented the location, mounting height, setback, number of sign faces, orientation of sign faces and method of structural support of the existing sign and states on the application that these existing features will not be changed;

iii. Prior to the issuance of the permit, the applicant has notified the local municipality of its intention to replace the existing sign; and

iv. The replacement sign is erected within 90 days of the issuance of the permit.

New Rule, R.2007 d.241, effective August 6, 2007.
See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Former N.J.A.C. 16:41C-5.4, Alteration of permit area, recodified to N.J.A.C. 16:41C-5.5.

16:41C-5.5 Alteration of permit area

(a) Multiple message signs are limited to the restrictions of N.J.A.C. 16:41C-8.8.

(b) When a permittee desires to enlarge or reconfigure the dimensions of the advertising surface area of a sign, an application for a new permit shall be made and the applicable application and permit fees shall be paid.

(c) Embellishments may be added to, or made a part of, any permitted outdoor advertising sign without further application to the Office of Outdoor Advertising.

(d) Cutouts and/or extensions may be added to an existing conforming sign, provided the sign permit authorizes an advertising surface area equal to or larger than the smallest rectangle enclosing the sign and all cutouts.

1. If the addition of cutouts and/or extensions cause the sign to exceed its permitted dimensions, the advertising surface shall be structurally reduced to accommodate such cutouts and/or extensions within the rectangular envelope authorized by the sign's permit. Painting or covering a portion of a sign face shall not be an acceptable method of structural change.

(e) When a permittee desires to enlarge or reconfigure the dimensions of the existing sign face, exclusive of the addition of cut-outs or extensions, the permittee must demonstrate compliance with the requirements of N.J.A.C. 16:41C-5.4(b), except as provided at N.J.A.C. 16:41C-5.4(b)2i and (d).

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

In (a), amended N.J.A.C. reference; in (b), substituted "or reconfigure the dimensions of the advertising" for "the"; and rewrote (c) and (d).

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote (d).

Recodified from N.J.A.C. 16:41C-5.4 and amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Added (e).

Former N.J.A.C. 16:41C-5.5, Permit holders, recodified to N.J.A.C. 16:41C-5.6.

16:41C-5.6 Permit holders

(a) The name of the permittee and the application number of the sign shall be placed in a conspicuous location on the sign structure so that it is visible from the highway to which it advertises. The minimum size letters and numbers to be used shall be at least two inches high. The name and number shall be installed within 30 days after issuance of the permit or the

erection of the sign, whichever is sooner, except as specified in (b) below.

(b) If a ground structure is not built within 60 days of the date of issuance of the permit, the permittee shall place a sign 10 inches by 24 inches at the site parallel to the roadway and within 10 feet of the right-of-way line. If the property of the proposed site is not adjacent to the right-of-way line, the sign shall be placed as near as possible to the right-of-way line. The sign shall be fabricated on aluminum, fiberglass or approved equal with two inch black letters on a white background. It shall contain the name of the permit holder and application number for the sign. The sign shall be mounted on a post at a height seven feet above ground.

(c) If a person holding a permit fails to file a disclosure statement with the Department, all of that person's permits shall be subject to revocation. The disclosure statement shall include:

1. The full name and business address of the person holding the permit, the full names of any officers, directors, or partners of the person holding the permit and all persons holding any equity in or debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization; or if the holder is a publicly traded corporation, all persons having more than 10 percent of the equity in or the debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization, except that where the debt liability is held by a chartered lending institution, the person need only supply the name and business address of the lending institution; and

2. The full name and business address of all officers, directors, or partners of any corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization disclosed in the disclosure statement, and the names and addresses of all persons holding any equity in or the debt liability of any corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization so disclosed, or, if the corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization is a publicly traded corporation, all persons holding more than 10 percent of the equity in or the debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization, except that where the debt liability is held by a chartered lending institution, the person need only supply the name and business address of the lending institution.

(d) The disclosure statement shall be filed within 60 days of the issuance of the permit.

(e) If the information in a permittee's disclosure statement changes, the permittee shall file an updated disclosure statement within 60 days of that change.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

In (a), inserted text "so that it is visible ... shall be installed"; in (b), amended dimension and distance references, inserted text "If the property ... right-of-way line.", and deleted "steel" preceding "post".

Recodified from N.J.A.C. 16:41C-5.5 and amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Deleted metric references throughout; and added (c) through (e).

Former N.J.A.C. 16:41C-5.6, Appeal of denial of application, recodified to N.J.A.C. 16:41C-5.7.

16:41C-5.7 Appeal of denial of application

(a) If an application for an outdoor advertising permit is denied, the applicant may protest the decision by submitting a written request to the Administrator for an informal hearing, a formal hearing or both within 30 days of the issuance of the denial. The request shall state the reasons why the applicant believes the denial was incorrect. The denial shall become the final administrative decision of the Department unless a written request is filed with the Administrator within 30 days of the issuance of the denial.

(b) An informal hearing shall be scheduled within 30 days of receipt of a written request. Within 15 days after the conclusion of the informal hearing, a written decision shall be issued confirming, modifying or vacating the denial of the application. This decision shall become the Department's final administrative decision unless a written request for a formal hearing is filed with the Administrator within 30 days of the issuance of the decision.

(c) Upon a request for a formal hearing, the Administrator shall transmit the matter to the Office of Administrative Law. Formal hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) The applicant or his or her duly authorized agent shall sign all requests.

New Rule, R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Added (c).

Recodified from N.J.A.C. 16:41C-5.6 and amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Rewrote the section.

SUBCHAPTER 6. FEES

16:41C-6.1 Permit application fees

(a) A \$50.00 application fee shall be submitted with each new application for an off-premise outdoor advertising permit for a sign with a proposed advertising surface area of 100 square feet or less.

(b) A \$200.00 application fee shall be submitted with each new application for an off-premise outdoor advertising permit for a sign with a proposed advertising surface area exceeding 100 square feet.

(c) No application fee will be charged for a change of name or address or no-fee permits.

(d) No refund will be made after an application for a permit has been filed.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Deleted (e).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (a) and (b), deleted metric references; and in (c), substituted "no-fee" for "no fee".

16:41C-6.2 Permit fees

(a) If an application for an off-premise advertising permit is approved, the Department shall mail to the applicant an invoice, which shows the permit fee and any other required fees that are due. All fees must be submitted to the Department within 30 days of the approval date. If the fees are not submitted within 30 days, the application shall be canceled unless the applicant did not receive a billing from the Department, or the applicant can produce documentation to support that they are attempting to comply with the fee submittal.

(b) The annual permit fee for each sign requiring a permit will be based upon the size of the approved advertising surface area as follows:

Advertising Surface Area		
In Square Feet		
Over	Not More Than	Annual Fee
0	100	\$ 25.00
100	300	\$ 70.00
300	600	\$170.00
600	1,000	\$460.00
1,000		\$635.00

(c) Permits issued for directional signs and service club or religious notices meeting the requirements contained in N.J.A.C. 16:41C-8 for those types of signs shall not require a fee and shall be considered no-fee permits.

1. No-fee permits shall continue to be valid provided the sign remains in conformance with the original terms and conditions of the permit application.

2. Before a no-fee permit is issued, the sign must be in conformance with the applicable provisions of the law and this chapter. The permit is subject to the same terms and conditions regarding revocation set forth in this chapter.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended (a); in (b), inserted "approved" preceding "advertising surface area" and amended fee table; and substantially amended (d).

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Deleted (c); recodified former (d) as (c) and rewrote the introductory paragraph.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Rewrote (a); in (b), rewrote the table; in the introductory paragraph of (c), substituted "not require a fee and shall be considered" for "be"; in (c)1, substituted "No-fee" for "No fee"; and in (c)2, substituted "no-fee" for "no fee".

16:41C-6.3 Renewal of permits and late renewal charges

(a) Permits for signs erected and maintained with a valid permit shall be renewed annually unless the permit has been revoked pursuant to this chapter.

(b) The fee to renew a permit is the same as the annual permit fee set forth in N.J.A.C. 16:41C-6.2(b).

(c) If the invoice and payment for the renewal of a permit are received by the Department after the expiration date of the last valid permit, a \$20.00 reinstatement charge for each permit shall be imposed in addition to the annual permit fee.

(d) A permittee who chooses not to renew a permit shall notify the Office of Outdoor Advertising in writing and remove the entire sign not later than the expiration date of the permit.

(e) Extensions of time to submit renewal invoices and payments shall only be granted if the Department has not mailed out the invoices by March 20.

(f) The Department shall not refund a permit renewal fee payment.

(g) If a person fails to renew a permit, that permit shall be deemed canceled.

(h) Permittees shall not make unauthorized additions to the invoice. A permittee who believes that the invoice is incomplete shall notify the Department in writing immediately in order to resolve the discrepancy. Permittees shall not delay the submission of the invoice to the extent that it causes payment to be received after May 15.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended (a); deleted (b); recodified former (c) and (d) as (b) and (c); in (b) substituted single fee for multiple fee levels; in (c), inserted notification provision and inserted text "entire"; and added new (d).

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Added (e).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Added new (b); recodified former (b) as new (c); in (c), deleted "returned" preceding "invoice", inserted "by the Department" and substituted "annual permit" for "regular"; recodified former (c) through (e) as (d) through (f); and added (g) and (h).

16:41C-6.4 Fee for name or ownership change

(a) A permit holder who wishes to change the name under which he or she is conducting business shall submit a completed application for each permit to the Department at no fee within 30 days of the change.

(b) An individual or business that acquires a permitted location from another permittee shall submit a completed application for its own permit at that location to the Department within 30 days of the acquisition accompanied by a \$10.00 administrative fee, a document signed by the current permittee that indicates the current permittee's agreement to the issuance of a new permit to the applicant, and a disclosure statement. If a previously submitted disclosure statement is still current, then no additional disclosure statement is required. Upon receipt of these items, the Department will record the change of ownership to appear on the next printing of invoices and permits. Amended permits will not be issued between printings.

New Rule, R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

In (a), substituted "30" for "60"; rewrote (b).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (a), inserted "for each permit"; and rewrote (b).

SUBCHAPTER 7. VEGETATION CONTROL

16:41C-7.1 Vegetation control

Adjustment, alteration or removal of existing landscape within the Department's right-of-way is prohibited unless authorized by a permit issued by a Department Regional Maintenance Office pursuant to N.J.A.C. 16:41.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Rewrote section.

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote the section.

SUBCHAPTER 8. STANDARD REQUIREMENTS

16:41C-8.1 General requirements

(a) A sign is subject to the requirements of its type as indicated in this subchapter. In those cases where a sign is erected or proposed to be erected, so that it is visible to more than one highway, the requirements for each highway shall apply.

(b) A sign shall be in conformance with the conditions set forth in its permit and the requirements set forth below:

1. Illumination of signs shall be shielded so as to prevent light from being directed at any portion of the main-traveled way of any highway, or shall be of such low intensity or brilliance as not to cause glare or impair the vision of operators of motor vehicles on any highway, or otherwise impair the operation of a motor vehicle. All such lighting shall also be subject to any other provision relating to lighting of signs applicable to highways under the jurisdiction of the State of New Jersey.

2. All signs shall be kept structurally sound and in good repair.

3. The advertising surface area of any sign affixed to or painted upon the wall of any building or a structure, other than an outdoor advertising structure, shall be stationary. The advertising surface area of a wall sign shall be defined by a contrasting border or paint color that readily distinguishes the advertising surface area from the remaining part of the wall.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

In (a), inserted reference to proposed signs and substituted "requirements for each highway shall apply" for "more stringent requirements shall be applicable"; and added (b).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (b)2, substituted "structurally sound and in good repair" for "in a safe and well-maintained condition with due regard for climate, weather and terrain".

16:41C-8.2 Directional signs

(a) Activities or attractions eligible for directional signing shall be limited to natural wonders, scenic attractions, historical attractions, educational, cultural, scientific and religious institutions or activities, and outdoor recreational areas.

(b) To be eligible, privately-owned attractions or activities must be nationally or regionally known and of outstanding interest to the traveling public. Final determination of eligibility shall be made by the Commissioner.

(c) The message on directional signs shall be limited to the identification of the attraction or activity and directional information which is useful to the traveler in locating the attraction. Superfluous information or pictorial or photographic representation of the activity or its environs shall be prohibited.

(d) Directional signs shall not exceed 20 feet in length, width or height, or 150 square feet in area including border, trim, cutouts and extensions, but excluding decorative bases and supports.

(e) Each location of a directional sign shall be submitted to the Administrator for approval.

(f) A directional sign shall not be located within 2,000 feet of an interchange or intersection at grade along a limited access highway.

(g) Directional signs shall not be located within 2,000 feet of any of the following areas or sites which are adjacent to limited access highways or within 500 feet of any of the following areas or sites which are adjacent to non-limited access highways:

1. Scenic areas designated as such by the Commissioner or other State agency having and exercising such authority;
2. Safety rest areas;
3. Informational sites;
4. Scenic corridors; or
5. Scenic byways.

(h) No two directional signs facing the same direction of travel shall be spaced less than one mile apart.

(i) Not more than three directional signs pertaining to the same activity and facing the same direction shall be erected along a single route approaching the activity.

(j) Directional signs on limited access highways shall be within 75 miles of the activity and directional signs on non-limited access highways shall be within 50 miles of the activity.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Inserted metric references throughout; deleted (e) and (f); recodified former (g) through (l) as (e) through (j); in (e), substituted "Administrator" for "Commissioner"; in (g), inserted text "Directional" and "which are adjacent to non-limited access highways".

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Deleted metric references throughout; in (g)2, deleted "or" from the end; in (g)3, substituted a semicolon for the period at the end; and added (g)4 and (g)5.

16:41C-8.3 Public utility signs

(a) The Commissioner shall determine the size, spacing, lighting, location and the number of public utility signs, notices or markers on limited access and non-limited access highways, essential to the operation of a public utility installation.

(b) In no event shall public utility signs exceed 10 feet in length, width or height or 100 square feet in area, including border, trim, cutouts and extensions, but excluding decorative bases and supports.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Inserted metric references.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (b), deleted metric references throughout.

16:41C-8.4 Service club and religious notices

(a) No more than one service club or religious sign or notice shall be erected on each side of a highway.

(b) Such signs shall be located no further than two miles from the organization or activity and shall not exceed eight square feet in area.

(c) No sign shall be located within 2,000 feet of an interchange or intersection at grade along a limited access highway (measured along the highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way).

(d) No sign shall be located within 500 feet of any of the following areas or sites adjacent to the highway:

1. Scenic areas designated as such by the Commissioner or other State agency authorized to make such determinations;
2. Safety rest areas;
3. Informational sites;
4. Scenic corridors; or
5. Scenic byways.

(e) Double-faced, back-to-back or V-type signs shall be prohibited.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Inserted metric references throughout; substantially amended (c); deleted (d); recodified former (e) and (f) as (d) and (e).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Deleted metric references throughout; in (d)2, deleted "or" from the end; in (d)3, substituted a semicolon for the period at the end; and added (d)4 and (d)5.

16:41C-8.5 Signs on school bus stop shelters

(a) Public service signs on school bus stop shelters are not permitted on the Interstate System.

(b) Each public service sign on school bus stop shelters adjacent to the Primary System shall not exceed 32 square feet, 50 percent of which must contain safety slogans or messages.

(c) Signs on school bus stop shelters adjacent to all other roads shall be allowed at locations approved by the governmental agency, authority or subdivision having jurisdiction therefor. Each advertising face shall not exceed 32 square feet and no more than one sign on each shelter shall face in any one direction.

(d) Nothing in this section shall require a sign affixed to a school bus stop shelter to meet the standards for a public service sign, if the school bus stop shelter would otherwise meet the requirements for an off-premise sign and is located in a location at which an off-premise sign would be permitted.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

In (b), inserted metric references; and rewrote (c) and (d).

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

In (a), substituted "Public" for "No public" and "are not" for "shall be"; inserted "school" preceding "bus stop" throughout.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (b) and (c), deleted metric references.

16:41C-8.6 On-premise signs

(a) A sign shall be classified as an on-premise sign if it identifies the principal activity located, or principal product produced or sold, or services sold or conducted, on the premises, or the sale or lease of the property on which the sign is located.

(b) When a sign consists principally of brand name or trade name advertising and the product or service advertised is only incidental to the principal activity, or when it brings rental income to the property owner, the sign shall be considered an off-premise sign used for the purpose of the business of outdoor advertising.

(c) The premises on which an activity is conducted shall be determined by physical facts rather than property lines. The following are not part of the premises on which an activity is conducted and any signs located on such lands shall be deemed off-premises advertising:

1. Land separated by a roadway, highway or other obstruction; or
2. Narrow strips of land that are contiguous to the property but separated from the activity.

(d) Along interstate highways, not more than one on-premise sign per direction of travel shall be erected at a distance greater than 50 feet from the advertised activity. Such signs shall not exceed 150 square feet in area. If, however, such property fronts on more than one street, one sign may be erected on each street frontage.

(e) When the advertised activity is a business, commercial or industrial land use, the sign distance shall be measured from the regularly used buildings, parking lots, ingress and/or egress driveways, storage or other structures which are essential and customary to the conduct of the business.

(f) No fees shall be required or permits issued for on-premise signs.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended section.

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

In (c), substituted "are not" for "will not be considered to be" and "shall be deemed" for "will be considered" in the introductory paragraph.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (d), deleted metric references.

16:41C-8.7 Off-premise signs

(a) The following general standards shall apply to off-premise signs:

1. Directional, official, public service, and on-premise signs shall not be counted, for purposes of determining compliance with spacing requirements between permitted locations. Signs painted on or attached to the structural components of bridges within a highway right-of-way shall not be counted in determining compliance with spacing requirements between permitted locations on that same highway.

2. The minimum distance (spacing) between permitted locations shall be measured along the nearest edge of the pavement between points directly opposite the edge of the sign face nearest the pavement edge, and shall apply only to permitted locations on the same side of the highway. The point of measurement for back-to-back signs shall be the midpoint between the nearest edge of the back-to-back sign faces.

3. Not more than two sign faces at a permitted location shall be visible to traffic traveling in the same direction. If two sign faces are placed to be visible to traffic traveling in the same direction (that is, side-by-side or one above another), the total combined area and dimensions of the advertising surfaces shall not exceed the maximum area and dimensions allowed. If sign faces are placed back-to-back or in a V-type construction, the maximum area and dimensions shall apply to the sign faces on each side of the sign.

4. Signs that are painted on or attached to bridges within the highway right-of-way shall not exceed the limits of the structural steel, or the maximum dimensions as specified for the highway involved, whichever is less. Each side of a bridge shall be permitted separately, and only one permit shall be issued per side.

5. No signs shall be allowed that are painted on or attached to bridges within the right-of-way of any Interstate highway.

6. No off-premise sign will be permitted which will be visible to any highway or portion of a highway that has been designated as a scenic byway, or has been nominated for designation as a scenic byway.

7. No off-premise sign will be permitted beyond 660 feet of the nearest edge of the right-of-way of an Interstate or Primary system highway outside of urban areas for the purpose of their message being read from the main-traveled way.

(b) Off-premise signs that are visible to the main-traveled way of any portion of an Interstate highway or other limited access highway within 660 feet of the right-of-way shall comply with the following:

1. Off-premise signs within 660 feet of the nearest edge of the right-of-way will only be permitted in zoned and unzoned commercial or industrial areas.

2. In a municipality with a population of 40,000 or fewer, a sign shall not be located within 500 feet of an interchange, intersection at grade, or safety rest area. This restriction prohibits any sign on either side of the highway in those municipalities that would be visible to a main-traveled way where it would be within 500 feet of the beginning or ending of pavement widening, within 500 feet of the point of gore, or any point between those features where the pavement is widened. This distance shall be measured along the pavement edge of the highway nearest those points. The population shall be determined by the official decennial census count of the United States Census Bureau, most recent to the determination, incorporated herein by reference, as amended and supplemented, for the first five years after its publication; after that five-year date, the official population estimate of the United States Census Bureau for the sixth year after the issuance of the official decennial census count shall be used, until the next publication of the official decennial census count. Census information may be obtained from either the U.S. Census Bureau website at www.census.gov or by contacting the Philadelphia Regional Office at 833 Chestnut Street, Suite 504 Philadelphia, PA. 19107, (215) 717-1800 or 1-800-262-4236; Fax: (215) 717-0755; TDD: (215) 717-0894 or email: Philadelphia.Regional.Office@census.gov or by contacting the New York Regional Office at 395 Hudson Street, Suite 800 New York, NY, 10014-7451, (212) 584-3400 or 1-800-991-2520; Fax: (212) 478-4800; TDD: (212) 478-4783 or email: new.york.regional.office@census.gov.

i. If an interchange lacks a point of pavement widening, a sign shall not be located in that direction within 1,000 feet of the point of gore.

3. The minimum spacing between permitted locations shall be 1,000 feet.

4. The maximum width of the advertising surface area of any sign shall be 60 feet. The maximum height of the advertising surface area of any sign shall be 25 feet, and the maximum advertising surface area 1,000 square feet, except where the sign is erected upon or attached to a building. In such event, the maximum height of the advertising surface area of a wall or roof mounted sign shall be 30 feet, and the maximum advertising surface area shall be 1,200 square feet.

(c) Off-premise signs that are visible to the main-traveled way of any portion of a non-limited access highway on the Primary System within 660 feet of the right-of-way shall comply with the following:

1. Off-premise signs within 660 feet of the nearest edge of the right-of-way will only be permitted in zoned and unzoned commercial or industrial areas.

2. The minimum spacing between permitted locations shall be 300 feet.

3. The maximum width of the advertising surface area of any sign shall be 60 feet. The maximum height of the advertising surface area of any sign shall be 25 feet, and

the maximum advertising surface area 1,000 square feet, except where the sign is erected upon or attached to a building. In such event, the maximum height of the advertising surface area of a wall or roof mounted sign shall be 30 feet, and the maximum advertising surface area shall be 1,200 square feet.

(d) All other off-premise signs shall comply with the following:

1. The minimum spacing between permitted locations shall be 300 feet.

2. The maximum width of the advertising surface area of any sign shall be 60 feet, the maximum height of the advertising surface area shall be 30 feet, and the maximum advertising surface area shall be 1,200 square feet.

3. Within municipalities having populations of 40,000 or more, the maximum size of signs that are not visible to a highway in the interstate or primary systems and that are attached to walls of buildings shall not exceed 3,000 square feet.

i. The applicant shall provide to the Office of Outdoor Advertising Services proof of municipal approval with a permit application for a wall sign exceeding 1,200 square feet in area.

4. Off-premise signs will only be permitted in zoned and unzoned commercial or industrial areas.

(e) Off-premise signs within the Atlantic City Casino Recreation District are exempt from the size, spacing and lighting provisions of this chapter, provided they are not visible to any highways included in the Primary System and the signs comply with the City of Atlantic City's sign ordinance. In the absence of an Atlantic City sign ordinance, this chapter shall control size, spacing and lighting.

(f) Off-premise signs visible only to pedestrian traffic such as boardwalks, train station platforms, and the like shall not be subject to the spacing requirements of this chapter.

Repeal and New Rule, R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section was "Off-premise advertising signs permitted within the protected area of the uncontrolled portion of Interstate Highways and within the protected area and protected zone of all other Limited Access Highways in zoned and unzoned commercial or industrial areas".

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

In (a), substituted "and" for "nor shall" and inserted "shall not" preceding "be made from" in 1 and deleted "railroad" preceding "bridges" throughout; rewrote (b)2, (c)2, and (d) through (f).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Deleted metric references throughout; and rewrote (a)1, (a)4, the introductory paragraph of (b), and (b)2.

Case Notes

Revocation of a company's permit to erect an off-premises outdoor advertising sign was proper after the DOT discovered that the proposed elevated "double-faced" billboard would have been less than 300 feet from the site of an existing sign; there was no need to determine which road was the main-traveled way, as the regulations provided the same requirements for sign spacing for all locations—those on the main-traveled

way and for all other off-premise roads (adopting 2006 N.J. AGEN LEXIS 467). *Steen Outdoor Advertising, Inc. v. N.J. Dep't of Transp.*, OAL Dkt. No. TRP 08228-05, 2006 N.J. AGEN LEXIS 876, Final Decision (September 26, 2006), aff'd per curiam, No. A-1424-06T1, 2008 N.J. Super. Unpub. LEXIS 768 (App.Div. January 14, 2008).

Commissioner of the Department of Transportation affirmed the New Jersey Department of Transportation's (NJDOT's) denial of an application for an outdoor advertising permit. The relevant portion was a limited access highway pursuant to N.J.S.A. 27:5-7 and N.J.A.C. 16:41C-1.1 because the abutters did not have the right of direct access to Route 3, eastbound, except for a grand-fathered Shell Station as a non-conforming use. Because the relevant portion was a limited access highway, pursuant to the spacing requirements of N.J.A.C. 16:41C-8.7(b)2 and N.J.A.C. 16:41C-8.7(b)3, the NJDOT correctly denied the application. *Atkins Outdoor LLC v. New Jersey Dep't. of Transp.* Applications NOS. 69379 and 70112, OAL DKT. NO. TRP 03964-07, 2012 N.J. AGEN LEXIS 699, Final Decision (December 2, 2011).

Initial Decision (2008 N.J. AGEN LEXIS 339) adopted, which concluded that an applicant for a billboard permit did not meet the requirements of N.J.A.C. 16:41C-8.7(b)2, since the proposed site was less than 1,000 feet from a point of gore on a section of "limited access highway" where there was no point of pavement widening. *JAM Outdoor, LLC v. N.J. Dep't of Transp.*, OAL Dkt. No. TRP 05429-07, 2008 N.J. AGEN LEXIS 689, Final Decision (May 22, 2008).

Highway regulation governing off-premise advertising signs did not apply to company's application to erect billboard on Atlantic City Expressway. *Philadelphia Outdoor Advertising Co. v. Department of Transportation*, 93 N.J.A.R.2d (TRP) 15.

16:41C-8.8 Off-premise multiple message signs

(a) Off-premise multiple message signs shall comply with all other sections of this chapter in addition to the following:

1. A person wishing to install an off-premise multiple message sign that would be visible to a highway shall file an application and obtain a permit for that use prior to installation. The Department shall grant permission provided the following conditions are met:

i. Mechanical sign panels shall remain fixed for a period of at least four seconds before changing. A message change on a mechanical sign shall be accomplished completely within two seconds or less; and

ii. All other types of multiple message technology shall remain fixed for a period of at least eight seconds, and a message change shall be accomplished completely within one second or less.

2. Multiple message signs shall not display any image that moves, or appears to move.

3. Multiple message signs shall not contain, include or be illuminated by any flashing, intermittent, or moving light.

4. Multiple message signs shall contain a default design that will freeze the sign in one position if a malfunction occurs.

5. The minimum spacing between multiple message signs shall be 3,000 feet.

6. Multiple message signs shall not be placed within 1,500 feet, as measured along the edge of the pavement, of an official permanent variable electronic traffic sign used on highways to display information, including, but not lim-

ited to, warnings of traffic congestion, accidents, incidents, roadwork zones, or speed limits.

(b) The provisions in this chapter pertaining to size, spacing and illumination for multiple message signs shall not apply to such signs erected within the Atlantic City Casino Recreation District.

(c) All signs allowed by (b) above shall be shielded so as to prevent light from being directed at any portion of the main-traveled way of the street or highway, or if not so shielded, be of such low intensity or brilliance as not to cause glare or impair the operation of a motor vehicle. All other provisions of this chapter which pertain to illumination shall not apply to signs erected within the Atlantic City Casino Recreation District.

Repeal and New Rule, R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section was "Off-premise advertising signs erected within the protected area of Non-Limited Access State and Federal Aid Primary highways in zoned and unzoned commercial or industrial areas".

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote (a); deleted former (c) and recodified former (d) as (c).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Rewrote (a)1; added new (a)2 and (a)3; recodified former (a)2 and (a)3 as (a)4 and (a)5; and added (a)6.

16:41C-8.9 Signs on State property

(a) The Commissioner shall determine the number of square feet of advertising space authorized on signs that have received permits pursuant to N.J.S.A. 27:5-5 et seq., which are in effect on June 29, 2004, and are located on property owned or controlled by a State entity.

(b) The total number of square feet of advertising space authorized for signs on property owned or controlled by each State entity after June 29, 2004, shall not exceed the total number of square feet as determined by the Commissioner pursuant to (a) above.

(c) The limitation on the total square footage of advertising space authorized on signs on property owned or controlled by each State entity after June 29, 2004, shall not include outdoor advertising signs on transit bus shelters or on railroad station platforms.

(d) The determination made pursuant to (a) above may be amended to reflect the existence of any sign that is lawfully erected in accordance with its permit and which is located on real property acquired by a State entity after June 29, 2004.

Repealed by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section was "Off-premise advertising signs along all other highways". New Rule, R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Section was "Reserved".

16:41C-8.10 Signs on transit bus shelters

(a) No permit for a sign on a transit bus shelter may be issued, other than a conditional permit, until there has been a public hearing affording the opportunity for public comment. Documentation of a public hearing shall be submitted with any application for an outdoor advertising permit on a transit bus shelter.

(b) The shelter must be erected and maintained with the express permission of the governing authority of the public property on which the shelter is located. For shelters located within Department right-of-way, this shall be evidenced by a highway occupancy permit, pursuant to N.J.A.C. 16:41.

(c) Signs on a transit bus shelter shall be installed on one wall of the shelter with two sign faces back-to-back or one wall with three sign faces in a triangular configuration. No sign face shall exceed 24 square feet in area. No signs shall be placed on the back wall of the shelter.

Repealed by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Section was "General standards".

New Rule, R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Section was "Reserved".

SUBCHAPTER 9. NONCONFORMING SIGNS

16:41C-9.1 General provisions

(a) A nonconforming sign may remain at its permitted location provided that:

1. The sign was lawfully erected in accordance with its permit and is currently maintained in that manner;
2. The sign has not been removed, abandoned or totally destroyed; and
3. The advertising surface area is not larger than it was on the effective date of the adoption, revision, or amendment of the ordinance, statute, or regulation that rendered the sign nonconforming.

(b) Cutouts and/or extensions may not be added to a nonconforming sign. However, the advertising surface of a nonconforming sign may be reduced (and later rebuilt) to allow for cutouts and/or extensions to be added within its permitted rectangular envelope.

(c) Customary maintenance of a nonconforming sign is permitted.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended section.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In the introductory paragraph of (a), substituted "remain" for "continue" and deleted "and may be maintained, repaired, and/or restored" following "location"; in (a)1, substituted "was" for "shall be"; in (c), substituted "is" for "shall be" and deleted "in order to maintain the sign's structural integrity and/or aesthetics" following "permitted"; and deleted (d).

Case Notes

Permit for billboard sign exceeding legal size limitation denied if no nonconforming sign currently existing nor continuously maintained with valid permit issued before statute's effective date. *Wes Outdoor Advertising v. Department of Transportation*, 97 N.J.A.R.2d (TRP) 3.

Rebuilding after nonconforming billboard knocked down by vehicle was not violative of zoning regulations. *Commuter Signs v. Department of Transportation*, 95 N.J.A.R.2d (TRP) 1.

cedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Administrator's decision shall be a final decision if a request for a formal hearing is not made in the manner set forth above.

Amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended section.

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote the section.

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Rewrote (a)1; and in (a)2, deleted "alleged to be in non-compliance" following the second occurrence of "signs".

16:41C-10.2 Causes for revocation of license or permit or for suspension of a license

(a) A license may be revoked for any of the following reasons:

1. Whenever any statement made in the license application or in the disclosure statement is materially false;
2. Whenever the licensee has failed to submit a disclosure statement pursuant to N.J.A.C. 16:41C-4.4; or
3. Whenever, in the case of a violation of this chapter, penalties remain unpaid after all legal appeals have been exhausted.

(b) A permit may be revoked for any of the following reasons:

1. Whenever any statement made in the permit application or in a disclosure statement is materially false, or whenever the permittee has failed to submit a disclosure statement pursuant to N.J.A.C. 16:41C-5.5;
2. Whenever a sign has been erected contrary to the approved application and conditions of the permit;
3. Whenever any provision of the law or rules contained in this chapter is violated;
4. Whenever any dimension of the advertising surface area is in excess of the dimensions authorized by the approved application;
5. Whenever a permitted structure has not been kept in a safe and well-maintained condition;
6. Whenever a permit is being maintained upon public property without the express permission of the governing authority;
7. Whenever a permit is being maintained upon private property without the consent of the property owner. A valid lease establishes the consent of the property owner;
8. Whenever the existing natural landscape of the right-of-way has been trimmed, altered or destroyed in any way by the permittee or agent thereof without complying with N.J.A.C. 16:41;

SUBCHAPTER 10. VIOLATIONS AND PENALTIES

16:41C-10.1 Notice, protests and hearings

(a) When the Department determines that any person has committed a violation of any provision of this chapter, the Department shall issue to that person a written notice of violation and revocation and a copy of the violation report. Within 30 days after receipt of the notice, that person shall:

1. Correct the violation;
2. Remove the signs or signs; or
3. File a written protest with the Administrator stating the reason for protest and requesting either an informal hearing before the Office of Outdoor Advertising or a formal hearing before the Office of Administrative Law, or both.

(b) If a person to whom the Department has issued a notice of violation and revocation pursuant to (a) above does not file a protest in accordance with (a)3 above within 30 days of the receipt of notice, the Department's determination of violation and revocation shall be deemed the final agency decision.

(c) The filing of a protest shall not abate the accrual of penalties.

(d) A protestor or his or her duly authorized agent shall sign the protest.

(e) The Department shall schedule an informal hearing within 30 days of its receipt of a request therefor pursuant to (a)3 above unless extended by agreement.

(f) Within 15 days of the conclusion of an informal hearing, the Administrator shall issue a written decision, confirming modifying or vacating the determination of the Office of Outdoor Advertising. Within 30 days of receipt of the Administrator's written decision, a protestor may request a formal hearing before the Office of Administrative Law, which shall be conducted in accordance with the Administrative Pro-

9. Whenever a permittee fails to place his name and the sign's application number on the sign as required by this chapter;

10. Whenever a sign remains abandoned for a period of four months after being so cited by the Department; or

11. Whenever a permittee has failed to pay a penalty pursuant to N.J.A.C. 16:41C-10.4(e).

(c) A license may be suspended pursuant to N.J.S.A. 54:50-26.3 whenever the holder has State tax indebtedness.

Recodified from 16:41C-10.3 and amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended section. Section was "Nature of hearings".

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote (b).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

Section was "Causes for revocation of license of permit". Rewrote the section.

Case Notes

Revocation of a company's permit to erect an off-premises outdoor advertising sign was proper after the DOT discovered that the proposed elevated "double-faced" billboard would have been less than 300 feet from the site of an existing sign; there was no need to determine which road was the main-traveled way, as the regulations provided the same requirements for sign spacing for all locations—those on the main-traveled way and for all other off-premise roads (adopting 2006 N.J. AGEN LEXIS 467). *Steen Outdoor Advertising, Inc. v. N.J. Dep't of Transp.*, OAL Dkt. No. TRP 08228-05, 2006 N.J. AGEN LEXIS 876, Final Decision (September 26, 2006), *aff'd per curiam*, No. A-1424-06T1, 2008 N.J. Super. Unpub. LEXIS 768 (App.Div. January 14, 2008).

Billboard erected at a location other than one licensed was in violation of zoning regulations. *Department of Transportation v. Wes Outdoor*, 95 N.J.A.R.2d (TRP) 5.

16:41C-10.3 Removal provisions

(a) In addition to the imposition of penalties as provided for in this chapter, any sign which is cited for an offense of these rules which has not been corrected within 30 days from the receipt of a notice of the alleged offense may be removed within 30 days of the receipt of a notice of removal. A notice of removal may be issued concurrently with any other notice.

(b) The filing of a written protest of any notice in accordance with this subchapter shall stay the removal of the sign until the issuance of the final agency decision unless the violation is egregious or constitutes a danger to public safety. In determining egregiousness of the violation, the Administrator shall consider whether the violation was either intentional or accidental, whether or not the violator has a history of repeat violations, and the nature of the violation.

(c) If there has been a final administrative decision that affirms the issuance of a notice of removal and the sign is not removed within 30 days of that final administrative decision, the Commissioner may authorize entry upon the property to effect the removal of the sign. Said entry and removal of the sign shall be without liability to the Commissioner and his or

her agents. The cost of removal or \$500.00, whichever is greater, may be recovered against the owner either in a separate legal action or in addition to any penalties owed as determined by the Commissioner or court of competent jurisdiction.

Repeal and New Rule, recodified from 16:41C-10.4 by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Former section recodified to N.J.A.C. 16:41C-10.2.

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

Rewrote (b): in (c), substituted references to administrative decision for references to adjudication, and inserted "or \$500.00, whichever is greater," preceding "may be recovered".

16:41C-10.4 Penalties

(a) In addition to all penalties set forth in this chapter, any person who erects, uses or maintains any sign or authorizes the use of his or her name in connection therewith, in violation of any of the provisions of the State Act and this chapter, is liable to a per diem penalty of not less than \$50.00, nor more than \$500.00 for each day the sign remains in violation. However, except for cases where the violation is egregious, the maximum penalties assessed shall not exceed the gross income of the sign or \$50.00 per day, whichever is greater.

(b) A penalty of not less than \$50.00 shall be assessed for all violations. Penalties and per diem accumulation thereof provided for in (a) above, shall begin on the date of service of the notice of violation upon the person so noticed, unless the accumulation of penalties has been stayed by the Administrator. Penalties will cease to accumulate upon written notification to the Department that the violation has been corrected and contingent upon the Department's determination that the correction is satisfactory. If written notification of the correction is not submitted to the Department, penalties will continue to accrue until such time as the Department inspects the site and determines that the correction is satisfactory.

(c) In the interest of equity, the Commissioner shall have the power to abate all or any portion of penalties.

(d) In determining the amount of any penalty assessed, or to be assessed, for violating any rule contained in this chapter, the Commissioner shall consider, among other facts, the gross income of the sign, the egregiousness of the violation, whether the violation was intentional or accidental, whether the violator has a history of repeated violations, and the egregiousness thereof, and such other facts as will assist in arriving at a penalty commensurate with the violation.

(e) Penalties shall be paid in full within 45 days of the date of service of the final administrative decision. If a final administrative decision results from the operation of law, the violator shall pay all penalties within 45 days of that event. If the violator does not pay all penalties in full within these 45 days, the Department may take any action authorized by law, including action to record the judgment as a lien, to collect the payment.

Recodified from 16:41C-10.5 and amended by R.1997 d.77, effective February 18, 1997 (operative March 3, 1997).

See: 28 N.J.R. 4742(a), 29 N.J.R. 614(a).

Substantially amended section. Section was "Removal provisions".

Amended by R.2002 d.21, effective January 22, 2002.

See: 33 N.J.R. 2625(a), 34 N.J.R. 499(a).

In (a), inserted "or her" preceding "name in connection" and added "or \$50.00 per day, whichever is greater"; rewrote (b) and (e).

Amended by R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).

In (b), added the last two sentences; and in (e), substituted "take any action authorized by law, including action to record the judgment as a lien, to collect the payment" for "record the final order assessing the penalties on the judgment docket of the Superior Court".

Case Notes

Monetary sanctions imposed on advertising company who illegally constructed and maintained billboards. *Wes Outdoor Advertising v. Department of Transportation*, 97 N.J.A.R.2d (TRP) 20.

Appendix

HIGHWAYS DESIGNATED AS SCENIC CORRIDORS BY THE DEPARTMENT

<u>Scenic Corridor</u>	<u>Route</u>	<u>Starting Milepost</u>	<u>Ending Milepost</u>	<u>Miles</u>
Delaware & Raritan Canal Viewshed	29	19.4	34.1	14.7
Delaware & Raritan Canal Viewshed	27	0	5.3	5.3
<u>Subtotal</u>				<u>20.0</u>
Highlands	15	6.8	14.2	7.4
Highlands	80	0	25.4	25.4
Highlands	287	12.9	38.7	25.8
Highlands	287	45.6	54.2	8.6
Highlands	206	78.3	88	9.7
<u>Highlands Subtotal</u>				<u>76.9</u>
Pinelands	49	42	52.8	10.8
Pinelands	50	8.4	17.4	9.0
Pinelands	70	19.5	37.5	18.0
Pinelands	72	6.5	11.8	5.3
Pinelands	73	0	5.9	5.9
Pinelands	206	3.7	9.8	6.1
<u>Pinelands Subtotal</u>				<u>55.1</u>
Sourlands	31	9.4	16.36	7.0
<u>Sourlands Subtotal</u>				<u>7.0</u>
<u>Grand Total</u>				<u>159</u>

New Rule, R.2007 d.241, effective August 6, 2007.

See: 39 N.J.R. 164(a), 39 N.J.R. 3395(a).