

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

Initial Decision (2008 N.J. AGEN LEXIS 339) adopted, which concluded that an applicant for a billboard permit did not meet the require-

ments 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 limited 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.

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 Procedure 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;

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

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 viola-

tion 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).