

CHAPTER 41C
ROADSIDE SIGN CONTROL AND
OUTDOOR ADVERTISING

Authority

N.J.S.A. 27:1A-5, 27:1A-6, and the Roadside Sign Control and Outdoor Advertising Act, N.J.S.A. 27:5-5 et seq. (P.L. 1991, c.413).

Source and Effective Date

R.1992 d.206, effective May 4, 1992.
See: 24 N.J.R. 695(a), 24 N.J.R. 1807(a).

Executive Order No. 66(1978) Expiration Date

Chapter 41C, Roadside Sign Control and Outdoor Advertising, expires on May 4, 1997.

Chapter Historical Note

Rules on outdoor advertising were formerly codified at N.J.A.C. 16:41-8 and 16:41A, but were repealed by R.1992 d.206 and replaced by N.J.A.C. 16:41C. See: Source and Effective Date. Notice of Receipt of Petition. See: 25 N.J.R. 1895(a).

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SUBCHAPTER 1. DEFINITIONS

16:41C-1.1 Definitions

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

“Act” means section 131 of Title 23, United States Code (1965), commonly referred to as Title 1 of the Highway Beautification Act of 1965.

“Advertisement” means the use of any outdoor display or sign upon real property within public view, which is intended to invite or draw the attention of the public to any goods, merchandise, property, business, services, entertainment, amusement or other commercial or noncommercial messages.

“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 posted or displayed.

“Advertising surface” means the total surface area of a sign upon which advertising may be placed, including cut-outs and extensions, but excluding decorative bases and supports.

“Area of advertising surface” means the area in square feet measured by the smallest rectangle which will encompass the entire sign including cutouts and extensions.

“Back to back sign”—See “back up.”

“Back up” means an advertising structure erected upon the ground in the rear of another structure, at a distance of not more than 25 feet to allow for crossbraces, which conforms with the lines and measurements of the other structure.

“Business of outdoor advertising” means the engaging by any person in the sale of outdoor advertising for profit through the erection, use or maintenance of advertising structures or spaces, or the placement of advertisements.

“Commercial or industrial activities for purposes of unzoned commercial or industrial areas” means those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities shall be considered commercial or industrial:

1. Outdoor advertising activities;
2. Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, way-side 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; and
6. Activities conducted in a building principally used as a residence.

“Commissioner” means the Commissioner of Transportation.

“Controlled portion of the Interstate System” means any portion of an interstate highway which is constructed upon any part of right-of-way, the entire width of which was acquired subsequent to July 1, 1956, excluding those segments which traverse commercial or industrial zones within the boundaries existing on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, and which traverse other areas where the land use, as of September 21, 1959, was clearly established by the laws of the State as industrial or commercial.

“Customary maintenance” means all manner of reasonable repair or maintenance of an advertising structure, including replacement of worn or damaged portions of the structure.

“Cutouts/extensions” means any attachment or addition to the advertising service area that increase or enhance the advertisement on the sign.

“Department” means the New Jersey Department of Transportation.

“Entrance roadway” means any public road or turning roadway, including acceleration lanes, by which traffic may enter the main-traveled way of any limited access or non-limited access highway from the general road system, irrespective of whether traffic may also leave the main-traveled way by such road or turning roadway.

“Erect” means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish, but it shall not include any of the foregoing activities when performed as incidental to the change of an advertising message or the normal maintenance or repair of a sign or sign structure.

“Exit roadway” means any public road or turning roadway, including deceleration lanes, by which traffic may leave the main-traveled way of a limited access or non-limited access highway to reach the general road system, irrespective of whether traffic may also enter the main-traveled way of such road or turning roadway.

“Expressway” means the Atlantic City Expressway and any other highway especially designed for through mixed 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 way.

“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 pursuant to subsection (b) of Section 103 of Title 23, United States Code.

“Freeway” means a State highway especially designed for through mixed 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 way.

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

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

“Imprint” means the name, mark, symbol, seal or signature of a licensee.

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

“Informational site” means an area or a site established and maintained within or adjacent to the right-of-way of a limited access highway by or under the supervision or control of the Department of Transportation, wherein panels for display of advertising and informational signs may be erected and maintained.

“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, firm, corporation, co-partnership or association which is the holder of any valid and unrevoked license to engage in the outdoor advertising business in this State.

“Limited access highway” means a highway 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 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 traffic in opposite directions is a main-traveled way. Main-traveled way shall not include frontage roads, turning roadways, or parking areas.

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

“Non-limited access highway” means any highway, excluding freeways, expressways, parkways and the interstate system, where the right of access is permitted.

“Nonconforming sign” means a sign, display or device which was lawfully erected and maintained prior to the enactment, revision or amendment of N.J.S.A. 27:7A-11 et seq. (P.L. 1971, c.371), or of the rules promulgated thereto, but which fails to conform with requirements of said statute, rules, revisions or amendments.

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

“Parkway” means a State highway especially designed for through passenger 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 way.

“Permit” means a certificate, issued by the Outdoor Advertising Section, granting permission to erect and/or maintain a sign at the location described thereon.

“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 an advertising structure or display to be used for advertising purposes without regard to whether the same has actually been constructed, painted or posted.

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

“Person” means any individual, group, corporation, partnership, association or combination thereof.

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

“Protected areas” 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 visible from the highway but beyond 660 feet of the edge of the right-of-way of the Interstate and Primary Systems and are outside urban areas.

“Protected zones” 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 the highway but beyond 660 feet of the edge of the right-of-way of highways not in the Interstate and Primary Systems.

“Ramp” means either an “entrance roadway” or an “exit roadway.”

“Route” means a highway or set of highways, including roads, streets, boulevards, parkways, bridges, and culverts needed to provide direct commutation between designated points.

“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 authority.

“Sign” means any outdoor display or advertising on real property within public view which is intended to attract, or which does attract, the attention of pedestrians or the operators, attendants, 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, sign, 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.

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

“State highway” means a road taken over, controlled, built, maintained, or otherwise under the jurisdiction of the State.

“Thickly settled district” means a commercial or industrial zoned or unzoned area where business buildings or houses are less than 200 feet apart along the street for at least one-quarter mile.

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

“Traveled way” means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

“Turnpike” means the New Jersey Turnpike.

“Unzoned commercial or industrial areas” means those areas which are not zoned by State or local law, rule or ordinance, and on which there are located one or more permanent structures devoted to commercial or industrial activity or on which a commercial or industrial activity is actually conducted, whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition. 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. 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 capable of being seen and comprehended without visual aid by persons traveling 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 residential, agriculture, 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 local zoning 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).

SUBCHAPTER 2. GENERAL PROVISIONS

16:41C-2.1 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 their establishment, use, maintenance and removal.

(b) Consistent with the Act and Outdoor Advertising Act, 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 within protected areas of 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) In connection with the issuance of permits for outdoor advertising signs, the Commissioner is authorized to charge and collect fees in such amounts as set forth in N.J.A.C. 16:41C-6, Fees, for the issuance of such permits. 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 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.

Case Notes

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.

16:41C-2.2 License and permit effectiveness and expiration date

All licenses and permits issued prior to March 31, 1992 shall remain in effect until May 15, 1992. Thereafter, all licenses and permits will expire on May 15 following the date of issue or renewal, unless earlier revoked or cancelled.

SUBCHAPTER 3. RESTRICTIONS

16:41C-3.1 General restriction

Except where specifically permitted by the Department, no outdoor advertising signs shall be erected or maintained within the 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, or to the signs erected or maintained at the "informational sites" designated by the Commissioner pursuant to N.J.A.C. 16:41C-2.1(d).

16:41C-3.2 Sign requirements

(a) Any roadside signs allowed by N.J.A.C. 16:41C-5 shall be by permit from the Commissioner and consistent with the conditions set forth in such permits and the standards set forth below:

1. No off-premise outdoor advertising sign shall be erected along the Garden State Parkway or along portions of the New Jersey Turnpike which are not incorporated into the Federal Aid Interstate Highway System.
2. No outdoor advertising sign shall interfere or be likely to 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.
3. No outdoor advertising sign shall direct or appear to direct the movement of traffic or interfere with, imitate, or resemble any official traffic sign, signal or device.

4. Illumination of outdoor advertising signs shall be effectively 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 vision of operators of motor vehicles on such street or 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.

5. 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.

6. No outdoor advertising sign shall be painted, drawn, erected or maintained upon trees, rocks or other natural features.

7. No outdoor advertising sign shall be of such a type, size, or character as will endanger or injure public safety, health, or morals or be injurious to property in the vicinity thereof.

8. No outdoor advertising sign shall be permitted which advertises 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.

9. No outdoor advertising sign shall be permitted which has any animated or moving parts.

10. No outdoor advertising sign shall be permitted which contains reflectorized materials that move or distract, such as discs, beads or other attachments to the advertising surface.

11. Multiple message signs shall be prohibited on the Interstate System.

12. Multiple message signs shall be permitted on Federal Aid Primary and other highways under the following conditions:

- i. Each message shall remain fixed for at least 2.5 minutes.
- ii. When the message is to be changed, it shall be accomplished in one second or less with all panels/parts changing simultaneously. When panels are rotated to effect a message change, they shall rotate in the same direction as nearside traffic.
- iii. Multiple message signs shall be prohibited within 500 feet of a traffic signal or ramp.
- iv. Multiple message signs shall not be placed within 5,000 feet of each other along the same roadway traveling in the same direction.
- v. Multiple message signs shall contain a default design that will freeze the sign in one position if a malfunction occurs.

vi. If a multiple message sign on a Federal Aid Primary or other highway is in violation of any of the above conditions, its permit shall be revoked and the sign removed. During the appeal of any of the above violations, the signs shall remain fixed until the matter is resolved. The Commissioner may allow the continued operation of a multiple message sign during part or all of the appeals process.

13. All outdoor advertising signs shall be maintained in a safe condition with due regard for climate, weather and terrain.

14. All advertising signs shall be clean or in good condition.

15. The permit for any outdoor advertising structure may be revoked if it remains abandoned, destroyed or in an aesthetically blighted condition for a period of one year after being so cited by the Department, provided that remedial action could have been, but was not taken by the permit holder for such sign during that time period.

16. A permit for a new or enlarged sign will not be issued if such permit would conflict with public policy relating to outdoor advertising as declared by the Congress of the United States, and 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. The Department shall review public sentiment in the form of written comment which may be expressed by the governing authorities and agencies of the United States, the State of New Jersey, or the county or municipality within whose boundaries the application is made, or any resident of such counties or municipalities.

17. Off-premise advertising signs will only be permitted in zoned or unzoned commercial and industrial areas. Under no circumstances will signs be permitted in areas zoned residential, agricultural, recreational, educational or conservation. Along the Interstate System, off-premise signs may only be erected in areas zoned commercial or industrial prior to September 21, 1959.

18. Adjustment, alteration, or removal of existing natural landscape within the right-of-way in order to increase or enhance the visibility of an advertising structure is prohibited unless accomplished pursuant to this chapter.

19. The maximum area for the advertising surface of any one sign shall be 1,000 square feet. The advertising surface of the sign shall not exceed a maximum height of 25 feet and a maximum length of 60 feet, except where the sign is erected upon or attached to a building. In such event, the maximum area of a wall or roof mounted sign may be 1,200 square feet, the maximum height 30 feet and the maximum length 60 feet. All dimensions include border, trim, cutouts and extensions, but exclude decorative bases and supports.

20. The maximum size limitations shall apply to each side of a sign structure. If two signs are placed back-to-back, side-by-side or in a V-type construction, the maximum advertising surface area allowed shall be 1,000 square feet each direction of travel.

21. Signs that are erected side-by-side must be equal in size and dimensions. Signs erected back-to-back or in a V-type construction must be equal in size and dimensions, excluding temporary cutouts or extensions.

22. The provisions relating to the spacing between structures do not apply to structures separated by a building or other obstructions in such a manner that only one sign facing located within the spacing distances is visible from the highway at any one time.

SUBCHAPTER 4. LICENSE PROVISIONS

16:41C-4.1 When license required

Any person, municipality or other jurisdictional authority which shall engage in the business of outdoor advertising for compensation received for the erection, use or maintenance of outdoor advertising structures and other objects upon real property within public view is required to obtain a license.

16:41C-4.2 Applications and fees

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

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

Number of Signs	Annual Fee
0-50	\$250.00
51 and over	\$500.00

16:41C-4.3 Duration

A license shall remain in effect until May 15 following the date of issue or renewal, unless earlier revoked or cancelled. An application for renewal shall be filed with the Department on or before May 1 preceding expiration of the license.

16:41C-4.4 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 running to the State in the sum of \$5,000, satisfactory to the Commissioner and with surety approved, 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.

SUBCHAPTER 5. PERMITS

16:41C-5.1 Types of signs permitted

(a) No permit shall be issued by the Commissioner for outdoor advertising signs to be erected or maintained in any protected area visible from the main-traveled way of any portion of limited access or non-limited access highways except such signs as set forth in (a)1 through 5 below. All such signs are subject to all of the rules in this chapter.

1. Directional and other official signs and notices outside the State right-of-way. These signs are categorized as follows:

i. Directional signs: Signs deemed by the Commissioner to be in the interest of the traveling public and containing directional information about public places owned or operated by Federal, State or local governments or their agencies; publicly or privately-owned natural phenomena; historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or those naturally suited for outdoor recreation;

ii. Official signs and notices: Signs and notices erected and maintained by public officers of public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with Federal, State or local law. Historical markers authorized by State law and erected by State or local governmental agencies or nonprofit historical societies may be considered official signs;

iii. Public utility signs: Warning signs, informational signs, notices or markers which are customarily erected and maintained by publicly or privately owned public utilities and are essential to their operation;

iv. Service club and religious notices: Signs and notices whose erection is permitted by law, relating to meetings of nonprofit service clubs, charitable associations or religious services; and

v. Public service signs: Signs located off the right-of-way on benches or school bus stop shelters, which 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.

2. On-premise signs, which may be categorized as follows:

i. Signs advertising the sale or lease of property on which they are located; and

ii. Signs advertising activities conducted on the property on which they are located.

3. Off-premise advertising signs within the protected area of the Interstate System may be permitted in the following areas:

i. Commercial or industrial zones within the boundaries of incorporated municipalities as they existed on September 21, 1959;

ii. Areas where the land use as of September 21, 1959, was clearly established by State law as commercial or industrial within 660 feet of the nearest edge of the right-of-way; and

iii. Zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way, any part of which was acquired on or before July 1, 1956.

4. Off-premise advertising signs within the protected area on the Primary System may be permitted in the following areas:

i. Areas which are zoned industrial or commercial under the authority of State law; and

ii. Signs located in areas determined to be industrial or commercial pursuant to State law.

5. Off-premise signs in any other area not covered by (a)3 or 4 above may be permitted as follows:

i. Signs located in areas which are zoned industrial or commercial pursuant to State law; and

ii. Signs located in areas determined to be industrial or commercial pursuant to State law.

6. In those instances where the Commissioner deems it to be in the public interest, he or she may issue a permit for a sign on public property which would not otherwise be permitted under the provision of the State Act and impose conditions as he or she deems appropriate.

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) Any person, municipality or other jurisdictional authority whether required to be licensed or not, must obtain a permit from the Department for each outdoor advertising display before erecting, maintaining or using any outdoor advertising structure or other object other than those erected by the Department and directional and other official signs and notices for the display of outdoor advertising.

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

(c) A permit shall be in force from the date issued to the following May 15, unless revoked.

Case Notes

Outdoor advertising billboard was not within protection of nonconforming use at location. *Rosentock v. Department of Transportation*, 92 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 may be obtained from the New Jersey Department of Transportation, Outdoor Advertising Section. Completed applications should be returned to the New Jersey Department of Transportation, Outdoor Advertising Section.

(b) Each application shall specify the location where the sign is to be placed and maintained. If, after approval of such application and issuance of a permit, the sign is removed or placed in a different location from the approved location, such permit shall be null and void.

(c) An application for a permit shall be accompanied by a drawing or sketch of the structure (that is, pylon, tower, and the like) indicating what area of it will be put to advertising use.

(d) If the name or address of a permittee changes, notice of the change shall be filed with the Department's Outdoor Advertising Section within thirty days of the change.

(e) A single application may cover a double-faced, back-to-back, side-by-side or V-type sign. The fee charged will be for the total advertising surface area at the permitted location.

16:41C-5.4 Alteration of surface area

(a) Multiple message signs are limited to the restrictions of N.J.A.C. 16:41C-3.2(a)12.

(b) When a permittee desires to enlarge the 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) Any permittee seeking to add to an already existing advertising structure or object for which he has a valid permit shall apply for a new permit and pay the applicable application and permit fees if the area to be added exceeds the permitted area.

(d) Cutouts and/or extensions may be added to an existing conforming sign, provided the sign's permit authorizes an area equal to or larger than the smallest rectangle enclosing the sign and all cutouts. The area of the sign including cutouts shall not exceed 1,000 square feet for ground mounted signs or 1,200 square feet for wall or roof mounted signs. The advertising surface of the sign, including cutouts, shall not exceed 25 feet in height (30 feet for wall or roof mounted signs) or 60 feet in width.

i. When cutouts are added to signs with back-ups, their back side shall be painted to blend in with the existing backdrop.

ii. The dimension of conforming signs authorized by a permit of 1,000 square feet (1,200 square feet for wall or roof) or less will be allowed to vary in order to accommodate cutouts and/or extensions. Up to an additional 2.5 feet will be allowed on either side as well as 5.5 feet on the top and two feet on the bottom of the existing sign providing all additions are within the rectangular envelope authorized by the sign's permit.

16:41C-5.5 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 within 30 days after issuance of the permit or 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 must place a sign 18 inches by 24 inches at the site parallel to the roadway and within 10 feet of the right-of-way line. The sign must 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 steel post at a height seven feet above ground.

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 signs with an 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 signs with an 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.

(e) If an outdoor advertising sign is erected or modified prior to submitting an application and obtaining a permit for same, the following late application charges shall be imposed in addition to the regular fees:

When The Annual Fee Is More Than	But Less Than	Late Filing Charge Is
\$0.00	\$50.00	\$50.00
\$50.00	\$100.00	\$100.00
\$100.00	\$150.00	\$150.00
\$150.00		\$200.00

16:41C-6.2 Permit fees

(a) If an application for an off-premise advertising permit is approved, the permit fee based on the advertising surface area must be submitted prior to issuance of the permit and, thereafter, on an annual basis.

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

Advertising Surface Area In Square Feet		Annual Fee
Over	Not More Than	
0	50	\$5.00
50	100	\$15.00
100	300	\$35.00
300	450	\$65.00
450	600	\$100.00
600	750	\$125.00
750	900	\$150.00
900	1,000	\$175.00
1,000 or more		\$350.00

(c) A no-fee permit shall be issued to educational, veterans, religious, charitable or civic organizations, providing the signs are erected and maintained in accordance with the provisions of this chapter and advertising space is not being sold or leased.

(d) A no fee permit shall be granted for directional signs and notices as detailed in N.J.A.C. 16:41C-5.1.

1. An application for a no fee permit may be obtained from the Department of Transportation, Outdoor Advertising Section.

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.

3. A no fee permit shall remain in effect until May 15, following date of issue or renewal, unless earlier revoked or cancelled.

4. A no fee permit may be renewed by filing with the Outdoor Advertising Section on or before May 1, preceding its expiration, an application for renewal on forms available from the Outdoor Advertising Section.

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

(a) Permits for signs erected and maintained with a valid permit issued before the effective date of the Outdoor Advertising Act shall be renewed, unless the Commissioner finds that a statement made in the permit application is

materially false or the sign has been erected or maintained contrary to the terms of the issued permit, in the event of which the Commissioner may take any appropriate action under the authority of the act or regulations promulgated thereof.

(b) Renewal of any permit may be refused for any ground sufficient for the revocation of a permit.

(c) If an application for the renewal of a permit is made after the expiration date of the last valid permit, the following late charges shall be imposed in addition to the regular fees:

When Annual Fee Is More Than	But Less Than	Reinstatement Charge
\$0.00	\$50.00	\$20.00
\$50.00	\$100.00	\$30.00
\$100.00		\$50.00

(d) A permittee who chooses not to renew a permit shall be required to remove the sign not later than the expiration date of the permit.

SUBCHAPTER 7. VEGETATION CONTROL

16:41C-7.1 Control of vegetation

A temporary permit issued in accordance with N.J.A.C. 16:41 by the Department's Regional Permits Office is required before anyone may perform control of vegetation on State right-of-way. An application with appropriate fee should be submitted to the Regional Maintenance Office.

SUBCHAPTER 8. STANDARD REQUIREMENTS

16:41C-8.1 General requirements

A sign is subject to the requirements of its type as indicated in this subchapter. In those cases where a sign is erected so that it is visible to two or more types of roadways, the more stringent requirements shall be applicable.

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) Double-faced, back-to-back or V-type signs shall be considered as two signs. Maximum size of signs shall apply to each face.

(f) Illumination of directional signs is permitted as set forth in N.J.A.C. 16:41C-3.2.

(g) Each location of a directional sign shall be submitted to the Commissioner for his or her approval.

(h) No directional sign shall be located within 2,000 feet of an interchange or intersection at grade along a limited access highway or within 500 feet of an interchange or intersection at grade along a non-limited access highway (measured along the highway from the nearest tip of the gore or comparable point).

(i) 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:

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

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

(k) 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.

(l) 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.

16:41C-8.3 Public utility signs

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

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 or within 500 feet of an interchange or intersection at grade along a non-limited access highway (measured along the highway from the nearest tip of the gore or comparable point).

(d) Illumination of these signs is permitted, subject to the general restrictions outlined in N.J.A.C. 16:41C-3.2.

(e) 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; or
3. Informational sites.

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

16:41C-8.5 Public service signs on bus stop shelters

(a) No public service signs on bus stop shelters shall be permitted on the Interstate System.

(b) Public service signs on 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 adjacent to all other roads shall not exceed 32 square feet of advertising copy and shall also contain a public safety slogan or message.

(d) Not more than one sign on each shelter shall face in any one direction.

16:41C-8.6 On-premise signs on limited access and non-limited access highways

(a) A sign shall be considered to be an on-premise sign if it has as its purpose the identification of the activity located on the premises, its product or services, or the sale or lease of the property on which the sign is located, rather than the business of outdoor advertising.

(b) When a sign brings rental income to the property owner, consists principally of brand name or trade advertising, or the product or service advertised is only incidental to the principal activity conducted on the premises, it shall be considered the business of outdoor advertising and not an on-premise sign.

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

1. Land separated by a roadway, highway or other obstruction;
2. Undeveloped land or land not used by the activity that may be contiguous to the land actually used by such activity; or
3. Narrow strips of land that are contiguous to the property but separated from the activity.

(d) Not more than one on-premise sign shall be erected at a distance greater than 50 feet from the advertised activity. If, however, such property fronts on more than one street, such a sign may be erected on each street frontage. Such signs shall not exceed 20 feet in length, width or height, or 400 square feet in area, including border, trim, cutouts and extensions.

(e) Not more than one sign shall be erected within 50 feet of the advertised activity. Signs erected within 50 feet of the advertised activity shall not exceed 25 feet in height or 60 feet in horizontal dimensions or 1,000 square feet in area, including borders, trim, cutouts and extensions.

(f) Illumination and writings or other advertisements on these signs shall be subject to the general restrictions set forth in N.J.A.C. 16:41C-3.2.

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

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

16:41C-8.7 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

(a) 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 shall not be located within 2,000 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 designations;
2. Safety rest areas; or
3. Informational sites.

(b) Spacing between signs along each side of the highway shall be a minimum of 1,000 feet.

(c) No sign shall be located within 2,000 feet of an interchange or intersection at grade (measured along the Limited Access Highway or freeway from the nearest tip of the gore or comparable point).

(d) Illumination of such signs is permitted, subject to the general restrictions outlined in N.J.A.C. 16:41C-3.2.

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).

Case Notes

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 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

(a) 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 shall not be located within 500 feet of any of the following which are adjacent to the highways:

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

(b) Outside of all incorporated cities and/or thickly settled districts, no two signs shall be spaced less than 300 feet apart. Within the thickly settled districts of incorporated cities, no two signs shall be spaced less than 100 feet apart.

(c) Illumination of these types of signs is permitted, subject to the general restrictions outlined in N.J.A.C. 16:41C-3.2.

16:41C-8.9 Off-premise advertising signs along all other highways

Outside of all incorporated cities and/or thickly settled districts, no two off-premise advertising signs shall be spaced less than 500 feet apart. Within the thickly settled districts of incorporated cities, no two off-premise advertising signs shall be spaced less than 100 feet apart.

16:41C-8.10 General standards

(a) Official and on-premise signs, as defined in N.J.A.C. 16:41C-5.1, shall not be counted nor shall measurements be made from them for purposes of determining compliance with spacing requirements.

(b) The minimum distance between structures shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway and shall apply only to structures located on the same side of the highway.

(c) The provisions contained herein pertaining to size, lighting and spacing of outdoor advertising signs permitted in zoned and unzoned commercial and industrial areas shall apply only to those signs erected subsequent to the effective date of P.L. 1971, c.353, December 15, 1971.

SUBCHAPTER 9. NONCONFORMING SIGN STRUCTURES**16:41C-9.1 General provisions**

(a) A sign erected and maintained with a valid permit issued before the effective date of the Outdoor Advertising Act, January 17, 1992, which does not comply with the Act or the rules adopted pursuant to it, may continue to be maintained, repaired and restored under the following criteria:

1. The sign shall be lawfully erected and shall continue to be maintained, in accordance with this chapter.
2. It has not been totally destroyed or abandoned.
3. The sign's size is the same as it was on the effective date of the adoption, revision or amendment of the law or regulation which rendered the sign nonconforming.
4. Its basic structure remains the same as on the effective date of the adoption, revision, or amendment of the law or regulation which 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 structure will be permitted in order to maintain the sign's structural integrity, safety and aesthetics. Approval of the Department shall be obtained prior to any maintenance involving more than 25 percent of the sign at one time, except for emergency repairs.

Case Notes

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 and hearings**

(a) When it shall appear to the Administrator of Outdoor Advertising that any person, municipality, or jurisdictional authority has committed a violation or offense as defined in N.J.A.C. 16:41C-10.3, such person, municipality or authority will be given a written notice of violation or revocation, including a copy of the violation report stating the violation or offense, and within 30 days, such person, municipality or authority shall:

1. Correct the violation, if same is subject to correction or compliance;
2. Remove all signs, spaces, advertisements and advertising structures; or
3. File a protest in writing signed by the protestor or a duly authorized agent, stating the reason for protest.

(b) If requested by the protestor, the Administrator of Outdoor Advertising shall schedule an informal hearing or formal hearing.

(c) An informal hearing shall be scheduled within 30 days of receipt of such request.

(d) If the protestor requests a formal hearing, the Administrator of Outdoor Advertising shall transmit the matter to the Office of Administrative Law within 30 days of receiving the request.

(e) The filing of a protest and request for an informal hearing or formal hearing does not abate any penalties due, nor stay the right of the Administrator of Outdoor Advertising to remove any signs, space, advertisements and advertising structures within 30 days of giving of notice, unless the licensee furnishes security of the kind and in an amount satisfactory to the Administrator of Outdoor Advertising or the Commissioner or a court of competent jurisdiction stays such penalties or removal.

16:41C-10.2 Nature of hearings

(a) An informal hearing before the Administrator of Outdoor Advertising may be with or without representation on behalf of the licensee or protestor.

(b) Within 15 days of an informal hearing, the Administrator of Outdoor Advertising shall issue a written decision confirming, modifying or vacating any finding or determination of the Outdoor Advertising Section.

(c) Within 30 days of receipt of the Administrator's written decision, a protestor may appeal the decision by requesting the Administrator of Outdoor Advertising to transmit the matter to the Office of Administrative Law for a formal hearing.

(d) All 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.

16:41C-10.3 Causes for revocation of license or permit

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

1. Whenever any statement made in the application for a license is materially false;

2. The licensee has repeatedly been found to be a willful and intentional violator of the Outdoor Advertising Act and the regulations adopted thereunder as to a substantial percentage of its advertising structures in this State, has refused to cure such violations in the time provided by the Department to do so, and the penalties assessed at times have been either unchallenged or sustained on administrative or judicial review.

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

1. Whenever a statement in the application is materially false;

2. Whenever a sign has been erected contrary to the approved application and conditions of the permit;

3. Whenever a sign has been cited for and found in violation of the same violation more than twice.

4. Whenever any provision of the law or rules contained in this chapter is violated;

5. Whenever the advertising area used is in excess of the permitted area;

6. Whenever a permitted structure is not maintained in a safe, sound and good condition;

7. Whenever a permitted display is being maintained upon public property without the express permission of the governing authority;

8. Whenever the permitted display is being maintained without the consent of the owner of the property or a duly authorized agent;

9. 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 approval of the Department;

10. Whenever a permittee fails to place his name and the sign's application number on the structure at the location authorized by the permit.

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-10.4 Removal provisions

(a) If, within 30 days of mailing of a notice of revocation of license or permit, or a notice of violation, the violation or offense cited has not been corrected to the satisfaction of the Administrator of Outdoor Advertising, the Commissioner may order the removal within 30 days after the receipt of the order by the permittee of the advertising structure or other object used or to be used for the display of outdoor advertising and may recover from the owner or person, in addition to any other penalties provided by law, the cost of removal or the sum of \$500.00, whichever is greater. An appeal from such order shall stay the right of removal hereunder unless the Commissioner, on notice to the permittee, shall find that immediate removal is required to avoid substantial property damage or physical injury.

(b) Whenever the power of removal is exercised, the Commissioner may, without further notice to the owner of the unlawful structure, deputize any person or persons to enter upon private property, without liability, to effect said removal.

16:41C-10.5 Penalties

(a) In addition to all penalties set forth in this chapter, any person who erects, uses or maintains any sign, structure, or other object covered by the Outdoor Advertising Act and this chapter, or authorizes the use of his name in connection therewith, in violation of any of the provisions of the act and these regulations, is liable to a penalty of not less than \$50.00, nor more than \$500.00, per day for each day the sign, structure, or object covered by these regulations 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.

(b) A penalty of not less than \$50.00 shall be assessed for all violations. Liability for penalties in excess of \$50.00, and the per diem accumulation thereof provided for in (a) above, shall begin 30 days from the date of service, by the Commissioner on the person in violation, of written Notice of Violation, unless the accumulation of penalties has been

stayed, or rolled back, by consent, injunction or order, or the violation has been corrected prior to the accumulation of any penalties.

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

(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 and net profit produced by the sign, structure or object in violation, 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.