

[CORRECTED COPY]

CHAPTER 42

AN ACT concerning signs and outdoor advertising, amending various parts of the statutory law and supplementing Title 27, Title 52 and Title 54 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.27:5-27 Authorized amount of outdoor advertising space; "State entity" defined.

1. Notwithstanding any other provision of law or regulation to the contrary, the commissioner shall determine the number of square feet of advertising space authorized on signs which have received permits pursuant to P.L.1991, c.413 (C.27:5-5 et seq.) which are in effect on the effective date of P.L.2004, c.42 (C.27:5-27 et al.), and which signs are located on property owned or controlled by a State entity. The total number of square feet of advertising space authorized for such signs on property owned or controlled by each State entity after the effective date of P.L.2004, c.42 (C.27:5-27 et al.) shall not exceed the total number of square feet authorized on that effective date for signs on such property of each such State entity. The limitation on the total square footage of advertising space authorized on signs on property owned or controlled by each State entity after the effective date of P.L.2004, c.42 (C.27:5-27 et al.) shall not apply to outdoor advertising signs on bus shelters or on railroad station platforms. The commissioner may adjust the total number of square feet of advertising space authorized pursuant to this section if the State entity acquires additional property after the effective date of P.L.2004, c.42 (C.27:5-27 et al.).

Each such State entity shall adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) providing for a reduction, over time, in the total number of square feet of advertising space authorized for signs subject to the permitting procedures of P.L.1991, c.413 (C.27:5-5 et seq.) located on the property of such State entity.

As used in this section, "State entity" means a State department or agency, board, commission, corporation or authority.

C.27:5-28 Disclosure statement required for outdoor advertising businesses.

2. Any person who is the holder of any license to engage in the business of outdoor advertising or of any outdoor advertising permit issued pursuant to the provisions of P.L.1991, c. 413 (C.27:5-5 et seq.) which is in effect on or after the effective date of P.L.2004, c.42 (C.27:5-27 et al.) shall be subject to revocation of that license or permit unless that person files a disclosure statement with the Department of Transportation which shall include:

a. The full name and business address of the person who is the holder of the outdoor advertising license or permit, as the case may be, and of any officers, directors, or partners thereof 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% 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

b. 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% 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.

The disclosure statement shall be filed within 60 days of the effective date of P.L.2004, c.42 (C.27:5-27 et al.), except for licenses or permits issued on or after the effective date of

P.L.2004, c.42 (C.27:5-27 et al.), in which case the disclosure statement shall be filed within 60 days of the issuance of the license or permit.

3. Section 7 of P.L.1991, c.413 (C.27:5-11) is amended to read as follows:

C.27:5-11 Exceptions for certain roadside signs.

7. a. No permit shall be issued by the commissioner for roadside signs to be erected or maintained in any protected area visible from the main-traveled way of any Interstate or Primary System highway within the State, except as provided herein.

(1) In protected areas, only the following signs shall be permitted, subject to the regulations of the commissioner:

(a) Directional and other official signs and notices which are required or authorized by law, and which conform to national standards promulgated by the Secretary of Transportation of the United States.

(b) Signs located in 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.

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

(2) In portions of protected areas on the Interstate System the following may also be permitted:

(a) Signs located in commercial or industrial zones within the boundaries of incorporated municipalities as those boundaries existed on September 21, 1959, and all other 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.

(b) Signs located in 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.

(3) In protected areas on the Primary System, the following signs may also be permitted:

(a) Signs located in areas which are zoned industrial or commercial under the authority of State law.

(b) Signs located in areas determined to be industrial or commercial pursuant to State law.

b. No permit shall be issued by the commissioner for signs to be erected or maintained in any other area not covered by paragraphs (1), (2) and (3) above, except that permits for the following signs may also be permitted:

(1) Signs located in areas which are zoned industrial or commercial under the authority of State law.

(2) Signs located in areas determined to be industrial or commercial pursuant to State law.

c. In those instances where the commissioner deems it is in the public interest, he may issue a permit for a sign on public property which would not otherwise be permitted under the provisions of this act, and impose conditions as he deems appropriate, provided, however, that the State House Commission shall have previously reviewed and approved the issuance of such a permit.

4. Section 4 of P.L.1991, c.413 (C.27:5-8) is amended to read as follows:

C.27:5-8 License, permit required; public hearing.

4. a. A person shall not erect, maintain or make available to another a roadside sign, or engage in the business of outdoor advertising for profit through the rental or other compensation received for the erection, use or maintenance of signs or other objects upon real property for the display of advertising matter on any stationary object within public view without first obtaining from the commissioner a license to engage in that business, and a permit for the erection, use and maintenance of each sign or other object used for outdoor advertising, except as provided in this act. A permit issued to a person required to obtain a license under this act shall not be valid unless the person has obtained a license which is in full force and effect.

b. Notwithstanding any provision of law to the contrary, the commissioner shall not issue a permit, other than a conditional permit, for a new outdoor advertising sign required to be

permitted pursuant to P.L.1991, c.413 (C.27:5-7 et seq.) unless a public hearing has been held in accordance with the provisions of section 6 of P.L.1975, c.291 (C.40:55D-10) and, where the permit applicant is a private entity, all relevant approvals required by the municipality have been received by the private entity seeking the permit.

5. Section 6 of P.L.1975, c.291 (C.40:55D-10) is amended to read as follows:

C.40:55D-10 Hearings.

6. Hearings. a. The municipal agency shall hold a hearing on each application for development, adoption, revision or amendment of the master plan, each application for approval of an outdoor advertising sign submitted to the municipal agency as required pursuant to an ordinance adopted under subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39) or any review undertaken by a planning board pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31).

b. The municipal agency shall make the rules governing such hearings. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing, during normal business hours in the office of the administrative officer. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.

c. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law," P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

d. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

e. Technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.

f. The municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The municipal agency shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense; provided that the governing body may provide by ordinance for the municipality to assume the expense of any transcripts necessary for appeal to the governing body, pursuant to section 8 of this act, of decisions by the zoning board of adjustment pursuant to subsection 57d. of this act, up to a maximum amount as specified by the ordinance.

The municipal agency, in furnishing a transcript or tape of the proceedings to an interested party at his expense, shall not charge such interested party more than the actual cost of preparing the transcript or tape. Transcripts shall be certified in writing by the transcriber to be accurate.

g. The municipal agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:

(1) A resolution adopted at a meeting held within the time period provided in the act for action by the municipal agency on the application for development; or

(2) A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the municipal agency voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. If only one member who voted for the action attends the meeting at which the resolution is presented for adoption, the resolution may be adopted upon the vote of that member. An action pursuant to section 5 of the act (C.40:55D-9) (resulting from the failure of a motion to approve an

application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the municipal agency and not to be an action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by subsections h. and i. of this section (C.40:55D-10). If the municipal agency fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fees, shall be assessed against the municipality.

h. A copy of the decision shall be mailed by the municipal agency within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge, and to all who request a copy of the decision, for a reasonable fee. A copy of the decision shall also be filed by the municipal agency in the office of the administrative officer. The administrative officer shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at his office during reasonable hours.

i. A brief notice of the decision shall be published in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality. Such publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained in this act shall be construed as preventing the applicant from arranging such publication if he so desires. The municipality may make a reasonable charge for its publication. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision, whether arranged by the municipality or the applicant.

6. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to read as follows:

C.40:55D-12 Notices of application, requirements.

7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall prevent the applicant from giving such notice if he so desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given at least 10 days prior to the date of the hearing.

a. Public notice of a hearing shall be given for an extension of approvals for five or more years under subsection d. of section 37 of P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice, and for any other applications for development, with the following exceptions: (1) conventional site plan review pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50); notwithstanding the foregoing, the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance, for appeals of determinations of administrative officers pursuant to subsection a. of section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for interpretation pursuant to subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public notice shall also be given in the event that relief is requested pursuant to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76) as part of an application for development otherwise excepted herein from public notice.

In addition, public notice shall be given by a public entity seeking to erect an outdoor advertising sign on land owned or controlled by a public entity as required pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31) or, if so provided by ordinance adopted pursuant to subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39), by a private entity seeking to erect an outdoor advertising sign on public land or on land owned by a private entity.

Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

b. Notice of a hearing requiring public notice pursuant to subsection a. of this section shall be given to the owners of all real property as shown on the current tax duplicates, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Upon the written request of an applicant, the administrative officer of a municipality shall, within seven days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subsection b. of this section. In addition, the administrative officer shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice pursuant to subsection h. of this section. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner or to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.

d. Notice of hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

e. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.

f. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

g. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. The notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

h. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this act requiring public notice pursuant to subsection a. of this section shall be given, in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (1) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or (2) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.

i. The applicant shall file an affidavit of proof of service with the municipal agency holding

the hearing on the application for development in the event that the applicant is required to give notice pursuant to this section.

j. Notice pursuant to subsections d., e., f., g. and h. of this section shall not be deemed to be required, unless public notice pursuant to subsection a. and notice pursuant to subsection b. of this section are required.

7. Section 22 of P.L.1975, c.291 (C.40:55D-31) is amended to read as follows:

C.40:55D-31 Review by planning board.

22. a. Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district, or other authority, redevelopment agency, school board or other similar public agency, State, county or municipal. In addition, this requirement shall apply to any public entity taking any action to permit the location, erection, use or maintenance of an outdoor advertising sign required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et seq.).

b. The planning board shall review and issue findings concerning any long-range facilities plan submitted to the board pursuant to the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), for the purpose of review of the extent to which the long-range facilities plan is informed by, and consistent with, at least the land use plan element and the housing element contained within the municipal master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and such other elements of the municipal master plan as the planning board deems necessary to determine whether the prospective sites for school facilities contained in the long-range facilities plan promote more effective and efficient coordination of school construction with the development efforts of the municipality. The planning board shall devote at least one full meeting of the board to presentation and review of the long-range facilities plan prior to adoption of a resolution setting forth the board's findings.

8. Section 29.1 of P.L.1975, c.291 (C.40:55D-39) is amended to read as follows:

C.40:55D-39 Discretionary contents of ordinance.

29.1 Discretionary contents of ordinance. An ordinance requiring approval by the planning board of either subdivisions or site plans or both may include the following:

a. Provisions for off-tract water, sewer, drainage, and street improvements which are necessitated by a subdivision or land development, subject to the provisions of section 30;

b. Provisions for standards encouraging and promoting flexibility, and economy in layout and design through the use of planned unit development, planned unit residential development and residential cluster; provided that such standards shall be appropriate to the type of development permitted; and provided further that the ordinance shall set forth the limits and extent of any special provisions applicable to such planned developments, so that the manner in which such special provisions differ from the standards otherwise applicable to subdivisions or site plans can be determined;

c. Provisions for planned development:

(1) Authorizing the planning board to grant general development plan approval to provide the increased flexibility desirable to promote mutual agreement between the applicant and the planning board on the basic scheme of a planned development and setting forth any variations from the ordinary standards for preliminary and final approval;

(2) Requiring that any common open space resulting from the application of standards for density, or intensity of land use, be set aside for the use and benefit of the owners or residents in such development subject to section 31 of this act;

(3) Setting forth how the amount and location of any common open space shall be

determined and how its improvement and maintenance for common open space use shall be secured subject to section 31 of this act;

(4) Authorizing the planning board to allow for a greater concentration of density, or intensity of land use, within a section or sections of development, whether it be earlier, later or simultaneous in the development, than in others;

(5) Setting forth any requirement that the approval by the planning board of a greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by grant of easement or by covenant in favor of the municipality; provided that such reservation shall, as far as practicable, defer the precise location of common open space until an application for final approval is filed, so that flexibility of development can be maintained;

(6) Setting forth any requirements for timing of development among the various types of uses and subgroups thereunder and, in the case of planned unit development and planned unit residential development, whether some nonresidential uses are required to be built before, after or at the same time as the residential uses.

d. Provisions ensuring in the case of a development which proposes construction over a period of years, the protection of the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development.

e. Provisions that require as a condition for local municipal approval the submission of proof that no taxes or assessments for local improvements are due or delinquent on the property for which any subdivision, site plan, or planned development application is made.

f. Provisions for the creation of a Site Plan Review Advisory Board for the purpose of reviewing all site plan applications and making recommendations to the planning board in regard thereto.

g. Provisions for standards governing outdoor advertising signs required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et seq.) including, but not limited to, the location, placement, size and design thereof.

9. Section 3 of P.L.1975, c.217 (C.52:27D-121) is amended to read as follows:

C.52:27D-121 Definitions.

3. Definitions. As used in this act:

"Building" means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of occupancy" means the certificate provided for in section 15 of this act, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code and any ordinance implementing said code.

"Commissioner" means the Commissioner of Community Affairs.

"Code" means the State Uniform Construction Code.

"Commercial farm building" means any building located on a commercial farm which produces not less than \$2,500 worth of agricultural or horticultural products annually, which building's main use or intended use is related to the production of agricultural or horticultural products produced on that farm. A building shall not be regarded as a commercial farm building if more than 1,200 square feet of its floor space is used for purposes other than its main use. A greenhouse constructed in conjunction with the odor control bio-filter of a solid waste or sludge composting facility, which greenhouse produces not less than \$2,500 worth of agricultural or horticultural products in addition to its function as a cover for the bio-filter, shall be considered a commercial farm building for the purposes of this act, provided, however, that the greenhouse is not intended for human occupancy.

"Construction" means the construction, erection, reconstruction, alteration, conversion,

demolition, removal, repair or equipping of buildings or structures.

"Construction board of appeals" means the board provided for in section 9 of this act.

"Department" means the Department of Community Affairs.

"Enforcing agency" means the municipal construction official and subcode officials provided for in section 8 of this act and assistants thereto. "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, refrigerating and fire prevention equipment, and elevators, dumbwaiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Manufactured home" or "mobile home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s. 5401 et seq.) and the standards promulgated by the commissioner pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.).

"Municipality" means any city, borough, town, township or village.

"Outdoor advertising sign" means a sign required to be permitted pursuant to P.L.1991. c.413 (C.27:5-5 et seq.).

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

"Premanufactured system" means an assembly of materials or products that is intended to comprise all or part of a building or structure and that is assembled off site by a repetitive process under circumstances intended to insure uniformity of quality and material content.

"Public school facility" means any building, or any part thereof, of a school, under college grade, owned and operated by a local, regional, or county school district.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

"Stop construction order" means the order provided for in section 14 of this act.

"State Uniform Construction Code" means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

"Structure" means a combination of materials to form a construction for occupancy, use, or ornamentation, whether installed on, above, or below the surface of a parcel of land; provided the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

10. Section 11 of P.L.1975, c.217 (C.52:27D-129) is amended to read as follows:

C.52:27D-129 State buildings and buildings of interstate agencies; outdoor advertising signs on public property.

11. State buildings and buildings of interstate agencies; outdoor advertising signs on public property. a. Notwithstanding any other provision of P.L.1975, c.217 (C.52:27D-119 et seq.), the Department of Community Affairs shall have authority to administer and enforce the code in regard to buildings and structures owned by the State, and any of its departments, divisions, bureaus, boards, councils, authorities or other agencies; provided, however, that the Division of Building and Construction in the Department of the Treasury shall have authority to conduct field inspections for the purpose of enforcing the code in buildings built under its supervision. The Division of Building and Construction shall be authorized to review plans and undertake construction if the Department of Community Affairs cannot approve plans within the 20-day period provided for in P.L.1975, c.217. In an emergency or cost savings situation, the commissioner may delegate, by rule, the authority to conduct field inspections for the purpose of enforcing the code. The Division of Building and Construction and any public or private agency which receives such a delegation shall carry out any review or inspection responsibilities with persons certified by the Commissioner of Community Affairs pursuant to the provisions of P.L.1975, c.217. The Department of Community Affairs shall have ultimate responsibility for insuring that all buildings conform to the requirements of the code.

b. Construction, alteration, renovation, rehabilitation, repair, removal or demolition of any building or structure situated wholly within New Jersey by or for an agency created by an interstate compact to which the State of New Jersey is a party shall be subject to the provisions of the code; provided that such interstate agency shall have exclusive authority to administer and enforce the code in regard to such buildings and structures.

c. Notwithstanding any other provision of law, rule or regulation to the contrary, except for signs which advertise or otherwise identify activities performed on the property on which the sign is located, the Department of Community Affairs shall be the sole enforcing agency with regard to outdoor advertising signs which exceed 32 square feet in area on any face and which are located on land owned or controlled by any public entity, including but not limited to any State, county or local department, agency, board, commission, authority or instrumentality.

C.52:31-1.1a Advertisement for bids for contracting with State entity for display of advertisement.

11. Notwithstanding the provisions of any other law to the contrary, a State entity, as defined in section 1 of P.L.2004, c.42 (C.27:5-27), shall not enter into any contract or agreement for the sale, lease or license of real property owned or controlled by it, or of any interest therein, with any person, firm, partnership or corporation for the purpose of displaying any advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-7), without publicly advertising for bids. Notwithstanding the foregoing, any State entity may enter into such a contract or agreement with any of its current contractors, tenants or licensees with respect to the current real property on which they are a contractor, tenant or licensee for the purpose of displaying advertisement, for a period of time not to exceed five years, without publicly advertising for bids. Where, pursuant to the foregoing, a State entity enters into a contract or agreement with such a current contractor, tenant or licensee for a period not exceeding five years, after the completion of that contract or agreement, any future contract or agreement for the same purposes shall be done by publicly advertising for bids.

C.52:32-5.2 Display of advertisement, public bidding required.

12. Notwithstanding the provisions of any other law to the contrary, a State entity, as defined in section 1 of P.L.2004, c.42 (C.27:5-27), shall not enter into any contract or agreement for the construction on, or development or maintenance of, real property owned or controlled by it, with any person, firm, partnership or corporation for the purpose of displaying any advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-7), without publicly advertising for bids. Notwithstanding the foregoing, any State entity may enter into a contract or agreement for the maintenance of (but not the construction on or development of) such real property for the purposes of displaying any advertisement, with any of its current contractors, tenants or licensees with respect to the current real property on which they are a contractor, tenant or licensee for the purpose of displaying any advertisement, for a period of time not to exceed five years,

without publicly advertising for bids. Where, pursuant to the foregoing, the State enters into a contract or agreement with a current contractor, tenant or licensee for a period not exceeding five years, after the completion of that contract or agreement, any future contract or agreement for the same purposes shall be done by publicly advertising for bids.

13. R.S.54:4-1 is amended to read as follows:

Property subject to taxation.

54:4-1. All property real and personal within the jurisdiction of this State not expressly exempted from taxation or expressly excluded from the operation of this chapter shall be subject to taxation annually under this chapter. Such property shall be valued and assessed at the taxable value prescribed by law. Land in agricultural or horticultural use which is being taxed under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and assessed as provided by that act. An executory contract for the sale of land, under which the vendee is entitled to or does take possession thereof, shall be deemed, for the purpose of this act, a mortgage of said land for the unpaid balance of purchase price. Personal property taxable under this chapter shall include, however, only the machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any of the series of petroleum refining processes commencing with the introduction of crude oil and ending with refined petroleum products, but shall exclude items of machinery, apparatus or equipment which are located on the grounds of a petroleum refinery but which are not directly used to refine crude oil into petroleum products and the tangible goods and chattels, exclusive of inventories, used in business of local exchange telephone, telegraph and messenger systems, companies, corporations or associations that were subject to tax as of April 1, 1997 under P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, and shall not include any intangible personal property whatsoever whether or not such personalty is evidenced by a tangible or intangible chose in action except as otherwise provided by R.S.54:4-20. As used in this section, "local exchange telephone company" means a telecommunications carrier providing dial tone and access to 51% of a local telephone exchange. Property omitted from any assessment may be assessed by the county board of taxation, or otherwise, within such time and in such manner as shall be provided by law. Real property taxable under this chapter means all land and improvements thereon and includes personal property affixed to the real property or an appurtenance thereto, unless:

a. (1) The personal property so affixed can be removed or severed without material injury to the real property;

(2) The personal property so affixed can be removed or severed without material injury to the personal property itself; and

(3) The personal property so affixed is not ordinarily intended to be affixed permanently to real property; or

b. The personal property so affixed is machinery, apparatus, or equipment used or held for use in business and is neither a structure nor machinery, apparatus or equipment the primary purpose of which is to enable a structure to support, shelter, contain, enclose or house persons or property. For purposes of this subsection, real property shall include pipe racks, and piping and electrical wiring up to the point of connections with the machinery, apparatus, or equipment of a production process as defined in this section.

c. (Deleted by amendment, P.L.2004, c.42).

Real property, as defined herein, shall not be construed to affect any transaction or security interest provided for under the provisions of chapter 9 of Title 12A of the New Jersey Statutes (N.J.S.12A:9-101 et seq.). The provisions of this section shall not be construed to repeal or in any way alter any exemption from, or any exception to, real property taxation or any definition of personal property otherwise provided by statutory law.

The Director of the Division of Taxation in the Department of the Treasury may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be deemed necessary to implement and administer the provisions of this act.

C.54:4-1.20 Outdoor advertising sign, structure deemed real property.

14. For the purposes of chapter 4 of Title 54 of the Revised Statutes and notwithstanding the provisions of R.S.54:4-1, an outdoor advertising sign required to be permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), the sign's supporting structure having the primary purpose of supporting the outdoor advertising sign, its other constituent parts, and the foundation if any to which the supporting structure is attached, are deemed to be real property.

15. Section 1 of P.L.2003, c. 124 (C.54:4-11.1) is amended to read as follows:

C.54:4-11.1 Outdoor advertising space, fee; definitions.

1. a. (1) There is imposed and shall be paid a fee of the percentage rate for the period determined under paragraph (2) of this subsection on the gross amounts collected by a retail seller for advertising space on an outdoor advertising sign. The fee shall be imposed directly on the retail seller of the advertising space on the outdoor advertising sign.

(2) For the period beginning July 1, 2003 through June 30, 2006, the rate shall be 6%; for the period beginning July 1, 2006 through June 30, 2007, the rate shall be 4%; and for the period beginning July 1, 2007 and thereafter, there shall be no rate of fee imposed.

b. For purposes of this section, the following terms shall have the following meanings:

"Advertising space" means the placement of advertising on an outdoor sign;

"End user" means the person purchasing the advertising space on an outdoor advertising sign for the person's own use;

"Outdoor advertising sign" means a sign required to be permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.);

"Gross amounts collected by a retail seller for advertising space on an outdoor advertising sign" include, but are not limited to, amounts collected, whether received in money or otherwise, from contracts to place advertising on outdoor advertising signs located in this State regardless of the location of the advertiser; provided however, such gross amounts shall not include fees received by an advertising agency that is not a related party of the retail seller and that are not received by the retail seller;

"Related party" means any licensee, permittee or other party that has authority to sell advertising space on an outdoor advertising sign; and

"Retail seller" means a permit holder or licensee who directly contracts with the end user for outdoor advertising space on an outdoor advertising sign or any party that is authorized on behalf of the permit holder or licensee to sell advertising space on an outdoor advertising sign.

c. The Director of the Division of Taxation shall collect and administer the fees imposed pursuant to this section. In carrying out the provisions of this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The fees shall be reported and paid to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation, which may include by electronic means.

d. The fees imposed pursuant to this section shall be governed by the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

e. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

f. The fee imposed by subsection a. of this section shall not be imposed on the gross amounts received from advertising space on an outdoor advertising sign if the end user is an entity exempt from the tax imposed under the "Sales and Use Tax Act" pursuant to subsection a. or b. of section 9 of P.L.1966, c.30 (C.54:32B-9).

g. The director may require a person who is the holder of any license to engage in the business of outdoor advertising or of any outdoor advertising permit issued pursuant to the provisions of P.L.1991, c.413 (C.27:5-5 et seq.) to supply that person's social security number

and other taxpayer identification information to the Division of Taxation. The social security number and other taxpayer identification information supplied shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) or the common law concerning access to public records.

16. Section 3 of P.L. 2003, c.124 is amended to read as follows:

3. This act shall take effect immediately and section 1 shall apply to collections for any period on or after July 1, 2003.

17. This act shall take effect immediately and sections 13 and 14 shall apply to assessments made after the date of enactment.

Approved June 29, 2004.