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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11]** ( *Heading of Division 3 added by Stats. 1939, Ch. 30.*  )

**CHAPTER 2.5. On-Premises Advertising Displays [5490 - 5499]** ( *Chapter 2.5 added by Stats. 1983, Ch. 1232, Sec. 1.*  )

**5490.** (a) This chapter applies only to lawfully erected on-premises advertising displays.

(b) As used in this chapter, "on-premises advertising displays" means any structure, housing, sign, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, that has been designed, constructed, created, intended, or engineered to have a useful life of 15 years or more, and intended or used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes:

(1) To designate, identify, or indicate the name or business of the owner or occupant of the premises upon which the advertising display is located.

(2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display has been lawfully erected.

(c) As used in this chapter, "introduced or adopted prior to March 12, 1983," means an ordinance or other regulation of a city or county which was officially presented before, formally read and announced by, or adopted by the legislative body prior to March 12, 1983.

(d) This chapter does not apply to advertising displays used exclusively for outdoor advertising pursuant to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200)).

(e) As used in this chapter, illegal advertising displays do not include legally erected, but nonconforming, displays for which the applicable amortization period has not expired.

(f) As used in this chapter, "abandoned advertising display" means any display remaining in place or not maintained for a period of 90 days which no longer advertises or identifies an ongoing business, product, or service available on the business premise where the display is located.

(g) (1) For the purpose of this chapter, an on-premises advertising display that is located within the boundaries of a development project, as defined by Section 65928 of the Government Code, that identifies the name of the development project, its business logo, or the goods, wares, and services existing or available within the development project, shall continue to be deemed an on-premise advertising display regardless of any of the following occurrences:

(A) The creation or construction, in or about the project, of a common parking area, driveway, thruway, alley, passway, public or private street, roadway, overpass, divider, connector, or easement intended for ingress or egress, regardless of where or when created or constructed, and whether or not created or constructed by the project developer or its successor, or by reason of government regulation or condition.

(B) The sale, transfer, or conveyance of an individual lot, parcel, or parcels less than the whole, within the development project.

(C) The sale, transfer, conveyance, or change of name or identification of a business within the development project.

(D) The subdivision of the parcel that includes the development project in accordance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).

(2) This subdivision shall not be applicable in any case in which its application would result in a loss of federal highway funds by the State of California.

(3) This subdivision applies to all counties and general law or charter cities.

*(Amended (as amended by Stats. 1996, Ch. 495) by Stats. 1997, Ch. 471, Sec. 2. Effective January 1, 1998. Note: Sec. 3 of Ch. 471 repealed Sec. 3 of Stats. 1996, Ch. 495, which otherwise would have repealed, on January 1, 1999, the amendment of this section by Sec. 2 of Ch. 495.)*

**5490.5.** (a) For purposes of this chapter, "message center" is an advertising display where the message is changed more than once every two minutes, but no more than once every four seconds.

(b) On-premise message centers visible to traffic from any interstate or primary highway shall meet all of the following requirements:

(1) The display may not include any message that is in motion or appears to be in motion.

(2) The display may not change the intensity of illumination.

(3) The display may not change the message more than once every four seconds.

*(Added by Stats. 2000, Ch. 787, Sec. 12. Effective January 1, 2001.)*

**5491.** Notwithstanding any provision of Chapter 2 (commencing with Section 5200), except as provided in this chapter, no on-premises advertising display which is used for any of the purposes set forth and conforming to Section 5490 shall be compelled to be removed or abated, and its customary maintenance, use, or repair shall not be limited, whether or not removal or limitation is required because of any ordinance or regulation of any city or county, without the payment of fair and just compensation.

*(Added by Stats. 1983, Ch. 1232, Sec. 1.)*

**5491.1.** (a) Any city or county adopting or amending any ordinance or regulation that regulates or prohibits the use of any on-premises advertising display that is more restrictive than existing law, shall include provisions in that ordinance or regulation for the identification and inventorying of all displays within its territorial limits that are determined to be illegal or abandoned pursuant to the law that is in effect prior to the adoption of, or amendment to, the ordinance or regulation.

(b) The required identification and inventory shall commence not later than 120 days from the date on which the ordinance or regulation is adopted or amended and shall be completed in a timely manner. The population of the city or county, as determined by the most recent federal census, the number of on-premise advertising displays located within the city or county, and other relevant factors may serve as a guide for the purposes of determining what constitutes "a timely manner" for the purposes of this subdivision.

(c) (1) Upon the completion of the required identification and inventory, the city or county shall consider, at a public hearing with opportunity for public comment, whether there is a need for the ordinance or regulation described in subdivision (a) to take effect.

(2) (A) Any applicable amortization schedule for the ordinance or regulation adopted or amended pursuant to this section shall not expire until at least six months after the date on which the city or county confirms, pursuant to paragraph (1), that there is a continuing need for that ordinance or regulation to take effect, unless the amortization period specified in the ordinance is for a longer term, in which case the remaining term shall apply.

(B) Until the city or county provides, pursuant to paragraph (1), that there is a continuing need for the ordinance or regulation to take effect, the new ordinance shall not apply to a change of copy, change of color, maintenance, or repair made to a sign which conformed to the prior ordinance unless those changes, maintenance, or repairs involve a change in location or structure of the sign.

(d) An identification and inventory is not required if a city or county has undertaken and completed an identification and inventory of illegal or abandoned displays not more than three years prior to the date on which the ordinance or regulation described in subdivision (a) is adopted or amended.

(e) This section does not apply if a city or county adopts or amends an ordinance or regulation that regulates only new on-premises advertising displays. For the purposes of this section, a "new on-premises advertising display" means a display whose structure or housing has not been permanently affixed to its intended premise on the date on which the ordinance or regulation is adopted.

*(Repealed and added by Stats. 1996, Ch. 1150, Sec. 2. Effective January 1, 1997.)*

**5491.2.** (a) A city or county may impose reasonable fees upon all owners or lessees of on-premises business advertising displays for the purpose of covering its actual cost of inventorying and identifying illegal or abandoned advertising displays which are within its jurisdiction. A city or county may exempt from the payment of these fees the owner of a display identifying an achievement award, the name of a farm, or the name of a business for which the farm produces, if the display is located on an operating farm within an agricultural preserve established pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code), and if the city or county finds that the exemption will further the purposes of the agricultural preserve.

(b) The actual cost to the city or county may be fixed upon a determination of the total estimated reasonable cost. The amount of that cost and the fee to be charged is exclusively within the discretion of the city or county.

*(Amended by Stats. 1990, Ch. 215, Sec. 1.)*

**5492.** For purposes of compliance with Section 5491, fair and just compensation is presumed to be paid upon the payment of the fair market value of the on-premises advertising display as of the date written notice is given to the owner of the display requiring conformance or removal thereof.

Fair market value consists of the actual cost of removal for the display, the actual cost to repair any damage caused to the real property or improvements thereon as a result of the removal of the display, and the actual cost to duplicate the advertising display required to be removed as of the date written notice requiring removal for nonconformance is given to the owner by the governmental body requiring conformance or removal.

*(Added by Stats. 1983, Ch. 1232, Sec. 1.)*

**5493.** (a) As an alternative to payment of fair and just compensation under Section 5492, a city or county may pay fair and just compensation to the owner of the on-premises advertising display by paying the actual replacement cost to the owner for an on-premises advertising display which shall conform with the laws in effect that are applicable to the owner's business premises, and shall include, as part of the actual replacement cost, the actual cost for removal of the nonconforming on-premises advertising display and the actual cost of the repair to the real property caused by the removal of the display.

(b) The sum payable as fair and just compensation to the owner of any on-premises advertising display shall be the greater of the two methods provided in subdivision (a) of this section or Section 5492 as the basis for fair and just compensation. In any event, before any on-premises advertising display is required to be removed, the fair and just compensation required by subdivision (a) of this section or Section 5492 shall be paid.

*(Added by Stats. 1983, Ch. 1232, Sec. 1.)*

**5494.** The ordinances and regulations of any city or county, introduced or adopted prior to March 12, 1983, which have provided for amortization, and which make nonconforming any lawfully in place erected on-premises advertising displays, shall not be subject to Section 5491.

(a) All on-premises advertising displays which become nonconforming as a result of any such ordinance or regulation are presumed illegal once the amortization period provided by the ordinance or regulation rendering them nonconforming has lapsed and conformance has not been accomplished.

(b) If property containing on-premises advertising displays is annexed to a city or county which introduced or adopted, prior to March 12, 1983, an ordinance regulating on-premises advertising displays, the city or county may apply its ordinance or regulation to the annexed property, and the display shall be deemed illegal upon expiration of any applicable amortization provided by such ordinance or regulation. The amortization period is deemed to commence in such event upon the date of annexation.

(c) When amortization has not been provided in any applicable preexisting ordinance, annexed nonconforming displays ordered to conform to ordinances or regulations of any city or county shall be subject to the requirements of Section 5491.

(d) Amendments or modifications to ordinances or regulations of any city or county adopted prior to March 12, 1983, including amendments which require removal of additional displays or displays which had previously been made conforming, shall be subject to the requirements of Section 5491 if such amendment or modification makes the ordinance being amended or modified more restrictive or prohibitive.

(e) Ordinances or regulations of any city or county introduced or adopted prior to March 12, 1983, which have terminated or will terminate, may be reenacted and are not subject to Section 5491 if reenacted within 12 months of their termination, and if upon reenactment they are not made more restrictive or prohibitive than the preexisting ordinance or regulation.

*(Repealed and added by Stats. 1986, Ch. 513, Sec. 4.)*

**5495.** A city or county whose ordinances or regulations are introduced or adopted after March 12, 1983, and any amendments or modifications to those ordinances and regulations, are not in violation of Section 5491 if the entity elects to require the removal without compensation of any on-premise advertising display which meets all of the following requirements:

(a) The display is located within an area shown as residential or agricultural on a local general plan as of the date the display was lawfully erected.

(b) The display is located within an area zoned for residential or agricultural use on the date the display was lawfully erected.

(c) The display is not required to be removed because of an overlay zone, combining zone, special sign zone, or any other special zoning district whose primary purpose is the removal or control of advertising displays.

(d) The display is allowed to remain in existence after March 12, 1983, for a period of 15 years from the date of adoption of the ordinance or regulation. For purposes of this section, every sign has a useful life of 15 years. Fair and just compensation for signs required to be removed during the 15-year period and before the amortization period has lapsed shall be entitled to fair and just compensation which is equal to 1/15 of the duplication cost of construction of the display being removed multiplied by the number of years of useful life remaining for the sign as determined by this section.

*(Added by Stats. 1983, Ch. 1232, Sec. 1.)*

**5495.5.** A city or county with an ordinance or regulation introduced or adopted prior to March 12, 1983, which is applicable to designated areas within the city or county less than the entire city or county is not in violation of Section 5491 for an ordinance or regulation introduced or adopted on or after March 12, 1983, even though it requires removal of on-premises advertising displays in additional portions of the city or county, if the city or county adopts not more than two such ordinances or regulations on or after March 12, 1983, and if the total effect of the ordinance, or regulation is to apply to less than the entire city or county, and such new ordinance or regulation provides reasonable amortization for conformance. "Reasonable amortization," for purposes of this section, shall not be less than 15 years from the date each such ordinance or regulation was adopted. If these conditions are not met, the city or county is subject to Section 5491 with respect to all those ordinances and regulations.

*(Repealed and added by Stats. 1986, Ch. 513, Sec. 6.)*

**5496.** A city or county, whose ordinances or regulations are otherwise in full compliance with Section 5491 is not in violation of that section if it elects to deactivate, without compensation, any flashing or rotating features of the on-premises advertising display, unless the flashing or rotating feature of the display has historical significance.

*(Added by Stats. 1983, Ch. 1232, Sec. 1.)*

**5497.** A city or county, whose ordinances or regulations were introduced or adopted after March 12, 1983, or any amendments to those ordinances and regulations, is not in violation of Section 5491 if it elects to require the removal, without compensation, of any on-premise advertising display which meets any of the following criteria:

- (a) Any advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use.
- (b) Any advertising display which was lawfully erected anywhere in this state, but whose use has ceased, or the structure upon which the display has been abandoned by its owner, for a period of not less than 90 days. Costs incurred in removing an abandoned display may be charged to the legal owner.
- (c) Any advertising display which has been more than 50 percent destroyed, and the destruction is other than facial copy replacement, and the display cannot be repaired within 30 days of the date of its destruction.
- (d) Any advertising display whose owner, outside of a change of copy, requests permission to remodel and remodels that advertising display, or expand or enlarge the building or land use upon which the advertising display is located, and the display is affected by the construction, enlargement, or remodeling, or the cost of construction, enlargement, or remodeling of the advertising display exceeds 50 percent of the cost of reconstruction of the building.
- (e) Any advertising display whose owner seeks relocation thereof and relocates the advertising display.
- (f) Any advertising display for which there has been an agreement between the advertising display owner and the city or county, for its removal as of any given date.
- (g) Any advertising display which is temporary.
- (h) Any advertising display which is or may become a danger to the public or is unsafe.
- (i) Any advertising display which constitutes a traffic hazard not created by relocation of streets or highways or by acts of any city or county.
- (j) Ordinances adopted by a city within three years of its incorporation, which incorporation occurs after March 12, 1982, shall not be subject to Section 5491 except as provided by Section 5494.
- (k) Notwithstanding subdivision (j), for any city or county incorporated after January 1, 1989, an ordinance initially adopted within three years of incorporation, or any amendment thereto within that three-year period, may require removal without compensation, except that no removal without compensation may be required within 15 years from the effective date of that ordinance or amendment.

*(Amended by Stats. 1988, Ch. 991, Sec. 1.)*

**5498.** (a) Sections 5491 and 5495 do not apply to redevelopment project areas created pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), planned commercial districts, or to areas listed or eligible for listing on the National Register of Historical Places, or areas registered by the Department of Parks and

Recreation as a state historical landmark or point of historical interest pursuant to Section 5021 of the Public Resources Code, or areas created as historic zones or individually designated properties by a city or county, pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Division 1 of Title 5 of the Government Code.

(b) As used in this section, "planned commercial districts" means areas subject to binding agreements, including, but not limited to, conditions, covenants, restrictions, which do all of the following:

- (1) Affect on-premise advertising displays.
- (2) Are at least as restrictive as any ordinance of a city or county, which affects on-premise advertising displays at the time the agreement was entered into.
- (3) Contain a binding financing commitment sufficient to carry out the agreements.

*(Added by Stats. 1983, Ch. 1232, Sec. 1.)*

**5498.1.** A city or county may not deny, refuse to issue, or condition the issuance of a business license or a permit to construct a new legal on-premises advertising display upon the removal, conformance, repair, modification, or abatement of any other on-premises advertising display on the same real property where the business is to be or has been maintained if both of the following apply:

- (a) The other display is located within the same commercial complex which is zoned for commercial occupancy or use, but at a different business location from that for which the permit or license is sought.
- (b) The other display is not owned or controlled by the permit applicant, and the permit applicant is not the agent of the person who owns or controls the other display.

*(Added by Stats. 1987, Ch. 1281, Sec. 4.)*

**5498.2.** (a) During the amortization period for a nonconforming legally in place on-premises advertising display's continued use, a city or county may not deny, refuse to issue, or condition the issuance of a permit for modification or alteration to the display upon change of ownership of any existing business if the modification or alteration does not include a structural change in the display.

(b) Subdivision (a) of this section does not apply to any ordinance introduced or adopted prior to March 12, 1983, or adopted pursuant to subdivision (j) of Section 5497, if the ordinance contains no specific amortization schedule, but instead requires conformity upon change of ownership.

*(Added by Stats. 1987, Ch. 1281, Sec. 5.)*

**5499.** Regardless of any other provision of this chapter or other law, no city or county shall require the removal of any on-premises advertising display on the basis of its height or size by requiring conformance with any ordinance or regulation introduced or adopted on or after March 12, 1983, if special topographic circumstances would result in a material impairment of visibility of the display or the owner's or user's ability to adequately and effectively continue to communicate with the public through the use of the display. Under these circumstances, the owner or user may maintain the advertising display at the business premises and at a location necessary for continued public visibility at the height or size at which the display was previously erected and, in doing so, the owner or user is in conformance.

*(Repealed and added by Stats. 1986, Ch. 513, Sec. 8.)*