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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 2.6. Ordinances Governing On-Premise Advertising Displays [5499.1 - 5499.16]** ( *Chapter 2.6 added by Stats. 1987, Ch. 1281, Sec. 6.*  )

**5499.1.** For purposes of this chapter only:

(a) "Illegal on-premises advertising display" means any of the following:

- (1) An on-premises advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use.
- (2) An on-premises advertising display that was legally erected, but whose use has ceased, or the structure upon which the display is placed has been abandoned by its owner, not maintained, or not used to identify or advertise an ongoing business for a period of not less than 90 days.
- (3) An on-premises advertising display that was legally erected which later became nonconforming as a result of the adoption of an ordinance, the amortization period for the display provided by the ordinance rendering the display nonconforming has expired, and conformance has not been accomplished.
- (4) An on-premises advertising display which is a danger to the public or is unsafe.
- (5) An on-premises advertising display which is a traffic hazard not created by relocation of streets or highways or by acts of the city or county.

(b) "On-premises advertising display" means any structure, housing, sign, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which is designed, constructed, created, engineered, 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 of the 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 is erected.

(c) "Enforcement officer" means the public employee or officer designated by the legislative body of the city or county to perform the duties imposed by this chapter on the enforcement officer.

(*Added by Stats. 1987, Ch. 1281, Sec. 6.*)

**5499.2.** (a) The legislative body of a city or county may declare, by resolution, as public nuisances and abate all illegal on-premises advertising displays located within its jurisdiction. The resolution shall describe the property upon which or in front of which the nuisance exists by giving its lot and block number according to the county or city assessment map and its street address if known. Any number of parcels of private property may be included in one resolution.

(b) Prior to adoption of the resolution by the legislative body, the clerk of the legislative body shall send not less than a 10 days' written notice to all persons owning property described in the proposed resolution. The notice shall be mailed to each person on whom the described property is assessed on the last equalized assessment roll available on the date the notice is prepared. The

notice shall state the date, time, and place of the hearing and generally describe the purpose of the hearing and the nature of the illegality of the display.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.3.** After adoption of the resolution, the enforcement officer shall cause notices to be conspicuously posted on or in front of the property on or in front of which the display exists.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.4.** The notice shall be substantially in the following form:

#### NOTICE TO REMOVE ILLEGAL ADVERTISING DISPLAY

Notice is hereby given that on the \_\_\_\_ day of \_\_\_\_, 20\_\_, the (name of the legislative body) of (city or county) adopted a resolution declaring that an illegal advertising display is located upon or in front of this property which constitutes a public nuisance and must be abated by the removal of the illegal display. Otherwise, it will be removed, and the nuisance abated by the city (or county). The cost of removal will be assessed upon the property from or in front of which the display is removed and will constitute a lien upon the property until paid. Reference is hereby made to the resolution for further particulars. A copy of this resolution is on file in the office of the clerk of the legislative body.

All property owners having any objection to the proposed removal of the display are hereby notified to attend a meeting of the (name of the legislative body) of (city or county) to be held (give date, time, and place), when their objections will be heard and given due consideration.

Dated this	day of ,	20
(Title)		
(City or County of )		

*(Amended by Stats. 2002, Ch. 221, Sec. 1. Effective January 1, 2003.)*

**5499.5.** The notices shall be posted at least 10 days prior to the time for hearing objections by the legislative body of the city or county.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.6.** In addition to posting notice of the resolution and notice of the meeting when objections will be heard, the legislative body of the city or county shall direct its clerk to mail written notice of the proposed abatement to all persons owning property described in the resolution. The clerk shall cause the written notice to be mailed to each person on whom the described property is assessed in the last equalized assessment roll available on the date the resolution was adopted by the legislative body.

In cities where the county assessor performs the functions of the city assessor, the county assessor, at the request of the city clerk, shall, within 10 days thereafter, mail to the city clerk a list of the names and addresses of all of the persons owning property described in the resolution. The address of the owners shown on the assessment roll is conclusively deemed to be the proper address for the purpose of mailing the notice. The city shall reimburse the county for the actual cost of furnishing the list, and the cost shall be a part of the costs of abatement.

The notices mailed by the clerk shall be mailed at least 10 days prior to the time for hearing objections by the legislative body.

The notices mailed by the clerk shall be substantially in the form provided by Section 5499.4.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.7.** At the time stated in the notices, the legislative body of the city or county shall hear and consider all objections to the proposed removal of the on-premises advertising display. It may continue the hearing from time to time. By motion or resolution at the conclusion of the hearing, the legislative body shall allow or overrule any objections. At that time, the legislative body acquires jurisdiction to proceed and perform the work of removal.

The decision of the legislative body is final. If objections have not been made or after the legislative body has disposed of those made, it shall order the enforcement officer to abate the nuisance by having the display removed. The order shall be made by motion or resolution.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.8.** The enforcement officer may enter private property to abate the nuisance.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.9.** Before the enforcement officer arrives, any property owner may remove the illegal on-premises advertising display at the owner's own expense.

Nevertheless, in any case in which an order to abate is issued, the legislative body of the city or county, by motion or resolution, may further order that a special assessment and lien shall be limited to the costs incurred by the city or county, as the case may be, in enforcing abatement upon the property, including investigation, boundary determination, measurement, clerical, and other related costs.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.10.** (a) The enforcement officer shall keep an account of the cost of abatement of an illegal on-premises advertising display in front of or on each separate parcel of property where the work is done by him or her. He or she shall submit to the legislative body of the city or county for confirmation an itemized written report showing that cost.

(b) A copy of the report shall be posted for at least three days, prior to its submission to the legislative body, on or near the chamber door of the legislative body, with notice of the time of submission.

(c) At the time fixed for receiving and considering the report, the legislative body shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary. The legislative body shall then confirm the report by motion or resolution.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.11.** Abatement of the nuisance may, in the discretion of the legislative body of the city or county, be performed by contract awarded by the legislative body on the basis of competitive bids let to the lowest responsible bidder. In that event, the contractor shall keep the account and submit the itemized written report for each separate parcel of property required by Section 5499.10.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.12.** (a) The cost of abatement in front of or upon each parcel of property, and the cost incurred by the city or county, as the case may be, in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical, and other related costs, are a special assessment against that parcel. After the assessment is made and confirmed, a lien attaches on the parcel upon recordation of the order confirming the assessment in the office of the county recorder of the county in which the property is situated. However, if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the assessment would become delinquent, the lien which would otherwise be imposed by this section shall not attach to the real property and the costs of abatement and the costs of enforcing abatement, as confirmed, relating to the property shall be transferred to the unsecured roll for collection.

(b) After confirmation of the report, a copy shall be given to the city or county assessor and the tax collector, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

(c) If the county assessor and the tax collector assess property and collect taxes for the city, the city shall file a certified copy of the report with the county auditor on or before August 10. The description of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

(d) The county auditor shall enter each assessment on the county tax roll opposite the parcel of land.

(e) The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedures of foreclosure and sale provided for ordinary municipal taxes.

The legislative body may determine that, in lieu of collecting the entire assessment at the time and in the manner of ordinary municipal taxes, assessments of fifty dollars (\$50) or more may be made in annual installments, not to exceed five, and collected one installment at a time at the time and in the manner of ordinary municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for foreclosure and sale provided for ordinary municipal taxes. The payment of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the legislative body, but not to exceed 6 percent per annum.

(f) As an alternative method, the county tax collector, at his or her discretion, may collect the assessments without reference to the general taxes by issuing separate bills and receipts for the assessments.

(g) Laws relating to the levy, collection, and enforcement of county taxes apply to these special assessments.

(h) The lien of the assessment has the priority of the taxes with which it is collected.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.13.** The enforcement officer may receive the amount due on the abatement cost and issue receipts at any time after the confirmation of the report and until 10 days before a copy is given to the assessor and tax collector or, where a certified copy is filed with the county auditor, until August 1 following the confirmation of the report.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.14.** The legislative body of the city or county may order a refund of all or part of an assessment pursuant to this chapter if it finds that all or part of the assessment has been erroneously levied. An assessment, or part thereof, shall not be refunded unless a claim is filed with the clerk of the legislative body on or before November 1 after the assessment became due and payable. The claim shall be verified by the person who paid the assessment or by the person's guardian, conservator, executor, or administrator.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.15.** If the legislative body finds that property damage was caused by the negligence of a city or county officer or employee in connection with the abatement of a nuisance pursuant to this chapter, a claim for those damages may be paid from the city or county general fund.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*

**5499.16.** The proceedings provided by this chapter are an alternative to any procedure established by ordinance pursuant to any other provision of law.

*(Added by Stats. 1987, Ch. 1281, Sec. 6.)*