From:	Planning Clerk
To:	Dunn, Jacob
Subject:	FW: billboard ordinance
Date:	Monday, December 11, 2023 8:14:03 AM

Please see the public comment below.

Laura McClenagan

From: Patrick Carr <nedlud432@gmail.com>
Sent: Sunday, December 10, 2023 11:19 AM
To: Planning Clerk <planningclerk@co.humboldt.ca.us>
Subject: billboard ordinance

Hello Planning Commissioners,

I am completely in support of the county placing STRICT limits on billboards along roads in Humboldt County.

I lived in Sonoma County until the early '90s and was shocked by how the then-bucolic roadside along Hwy. 101 between Petaluma and Cotati, where I lived, was quickly inundated with billboards, even neon-lit billboards that flashed orange and yellow to advertise an automart.

Let's never allow Humboldt to have such a travesty! Don't let our beautiful roads and highways become another route for advertisers to hawk their products.

Pat Carr
1704 Virginia Way
Arcata

From: JEFF ARAN
To: Dunn, Jacob; Ford, John; Planning Clerk
Subject: Fw: PC meeting 12/14 -- SIGN CODE REVISION CONCERNS -- FROM CALIFORNIA SIGN ASSOCIATION
Date: Monday, December 11, 2023 7:12:51 PM

Hello -- Resending our concerns from November.

Thank you,

Jeff Aran
California Sign Association

916.395.6000

----- Forwarded Message -----
From: JEFF ARAN <jaranatty@aol.com>
To: Jacob Dunn <jdunn@co.humboldt.ca.us>; JFord@co.humboldt.ca.us <JFord@co.humboldt.ca.us>; PLANNINGclerk@co.humboldt.ca.us <PLANNINGclerk@co.humboldt.ca.us>
Cc: Geoff Wills <geoffwills33@yahoo.com>; Roy Flahive <rflahive@calsign.org>; James Carpentier <james.carpentier@signs.org>; skavdalz11@gmail.com <skavdalz11@gmail.com>; hrh707@outlook.com <hrh707@outlook.com>; noah@landwaterconsulting.com <noah@landwaterconsulting.com>; lonyx.landry@humboldt.edu <lonyx.landry@humboldt.edu>; peggyoneill1953@gmail.com <peggyoneill1953@gmail.com>; mrbrian707@gmail.com <mrbrian707@gmail.com>; srhawest@gmail.com <srhawest@gmail.com>
Sent: Wednesday, November 15, 2023 at 09:08:58 AM PST
Subject: PC meeting 11/16 -- SIGN CODE REVISION CONCERNS -- FROM CALIFORNIA SIGN ASSOCIATION

Sign Code Revision Comments

Humboldt Planning Commission
Hearing Date: Nov 16, 2023

Honorable Members of the Planning Commission and Staff:

Established in 1959, the California Sign Association is committed to promoting the economic vitality, safety, and aesthetics of the communities we serve.

We laud the County's effort to update the sign code and have reviewed the latest iteration (11/16 PC). However, we wish to voice our concern over a number of items. While our comments here are specific to the Inland draft,

they apply equally to the Coastal version. Please note that we do not represent the billboard industry; as such, our comments are particular to on-premise business signage, e.g., signs identifying the businesses, goods and services available on the site where the business operates.

RECOMMENDED CHANGES

87.2.1 PURPOSE

This section should be revised to provide for the economic growth and vitality of the County. As proposed, the revision is to some extent actually inconsistent with what's being regulated. Limiting the Purpose to protecting only "public health, safety and welfare" is problematic because it fails to address the needs of the business community which is the largest stakeholder and the most affected. At the very least the Purpose should include the purpose -- "to promote economic vitality" -- or similar verbiage.

We urge you to NOT make changes to the current Purpose. Also, if you do change the Purpose, note that the proposed revision in both the Inland and Coastal drafts (verbatim below) appear to be missing the end of the sentence; here's how the proposed revision reads in the 11/16 draft:

> *''87.2.1 Purpose. The purpose of these regulations is to allow signage that: (1) ensure that signs within Humboldt County will promote protects the public health, safety, and welfare, and (2) promotes the use of allows signs that are, of appropriate scale, and design compatible with" (sic)*

87.2.6 APPURTENANT SIGNS

> *87.2.6 Appurtenant Signs. Signs, appurtenant to any permitted use to identify or advertise a place of business or a product when conforming to the following requirements and the standards in Section 87.2.6.5:*

The section should add "*services*." The draft only addresses a *place* of business and product signage available on the premises. We suggest using the definition of on-premise signage set forth in Business & Professions Code Sec. 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.*

87.2.6.2

The word "principally" should be deleted; it serves no purpose in this section.

87.2.6.5 Appurtenant Signs

First, regarding the "Appurtenant Sign Types," although Standing signs and Under Canopy signs are displayed in the example drawings, there are no proposed definitions or regulations for them.

Freestanding signs. Per the chart and drawing a Freestanding sign is a pole sign that requires a special permit, but there are no criteria upon which to base an application. As you're aware, this sort of vague, open-ended restriction is arbitrary and capricious, and leaves the County subject to claims of unlawful prior restraint. An applicant is entitled to know what the criteria are in advance. (The "special permit" condition permeates the proposed code in numerous sections and is problematic throughout.)

Monument signs. At 32 sf max the area restrictions on monument signs are too small to be legible and effective in many circumstances. The dimensional limit should be based on speed of traffic and setback from the roadway, not a blanket, unsubstantiated arbitrary limit. For example, it appears a drive-thru restaurant menu board might be considered a monument sign. If that is the case, 32 sf is undoubtedly too small to be effective. The County should clarify the scope of what a monument sign includes (or excludes) and consider alternatives.

Window signs. The 25% area limitation on window signs appears to be arbitrary. If the concern is public safety, there are now see-thru, perforated products that solve the problem; they should be allowed as an option in appropriate settings.

87.2.7.3 and 4 (Master Sign Plans)

By its nature, a MSP is intended to provide a signage blueprint for a shopping center. It usually includes provisions for deviation from the regular code in order to accommodate the special needs of larger projects with anchor tenants. But why bother going to the trouble of putting one together if, as here, 87.2.7.3 and 87.2.7.4 require conformance with the limitations of 87.2.6.5, and a special permit is still necessary if "not in accordance with 87.2.6.5"?

> 87.2.7.3 A Master Sign Plan shall be principally permitted if in accordance with Section 87.2.6.5;
>
> 87.2.7.4 A Special Permit shall be required if the Master Sign Plan proposes signage that is not in accordance with Section 87.2.6.5, which would allow:
>
> I. Transfers of maximum sign areas between tenants on a site to allow the collective total sign area permitted for the entire site to be pooled and re-allocated between tenants;
>
> II. Deviation from the total number of each type of sign allowed; and
>
> III. Deviation from the maximum size of signs permitted.

Also, it's again unclear in 7.3 what "principally" permitted refers to.

<u>87.2.9.1.6 -- Illumination</u>

> 87.2.9.1.6 Lighting shall use the lowest light level necessary and when feasible lighting should be on demand or shall only operate between sunrise and sunset or 30 minutes after closing, whichever comes first.

Respectfully, this section could use some grammar help (e.g., sunrise always "comes first"). It needs to be amended to not only effect the intent but also to take into account businesses operating at night. As written, it seems to imply that all sign lighting must be turned off after dark ("feasible" or not). We don't think that's the intent, but that's how it reads. Moreover, requiring shutoff after 30 minutes also presents a security issue. There are many businesses open 24 hours (e.g., hotels, gas stations, restaurants, etc).

This section needs to reflect those actualities and allow nighttime lighting. If there's truly a legitimate governmental purpose for turning off a sign by sunset or 30 minutes after closing, it should minimally be allowed to stay lit "whichever comes LATER" (not first). Our sense is that this section was perhaps intended for for non-sign lighting applications.

Also, we object to the language in this section requiring the "lowest light level necessary." The County has not established brightness levels for signage and

this vague and ambiguous standard is open to debate. From our perspective, light levels must be sufficient to adequately convey the message to a driver from a reasonable distance – and not result in a diminishment of readability. Obviously, glare is unacceptable, but neither is an undefined, open-ended criterion, subject to the whim of a code enforcement officer.

87.2.9.1.8 (Neon Prohibition)

We don't understand the rationale for prohibiting neon, which is currently undergoing a renaissance. Is someone complaining? There are many neon *Open* and *Closed* signs (and beer signs), for example. Would they become non-conforming? To be clearer, however, if it remains the prohibition should not be construed to ban LED "rope" and similar look-alike products that mimic neon.

87.2.10 (Ban on Digital signage)

As proposed, this section bans:

I. Digital, Animated or Changeable Copy Signs. Signs that include any part that appears to rotate, flash, blink, move, change color, emit sound, or change intensity, except for approved fuel price signs, standard barber poles, time and temperature signs that are located in commercial and industrial zones. This includes but is not limited to electronic message boards, large television or projector screens, etc. Except when placed on such property by the public agency having jurisdiction or expressly authorized by such public agency.

Although this falls within the section on Prohibited signage, it should be made clear that static digital letters and numerals are not prohibited (and not just for fuel signs). What about other price signs or manually changeable readerboards? Where do they fit into this definition?

Additionally, without an established, demonstrated legitimate governmental purpose the county cannot make lawful exception for signs on public property or for governmental digital messaging to the exclusion of commercial signage. In *Boyer v. City of Simi Valley (*pertaining to mobile digital signs), the city allowed digital messaging for its own signs, but not others. The court held this impermissibly favored City speakers over others and thus was unconstitutionally content-based. See *Boyer v. Simi Valley* (9th Cir) 978 F.3d 618 (2020) -- **"**Even "perfectly rational" sign ordinances must yield to the "clear and firm rule governing content neutrality [that] is an essential means of protecting the freedom of speech." *[…]* That firm rule mandates strict scrutiny review whenever an ordinance allows some messages, but not others, based on content— no matter how sensible the distinction may be." The proposed code presents a similar problem

and should be reconsidered.

Thank you for your attention to these concerns; we look forward to further dialogue upon review of the next draft.

JEFFREY L. ARAN

Government Affairs Director
California Sign Association

916/395-6000

www.calsign.org

cc:

Roy Flahive, CSA Executive Director

From:	Dana Kennedy
To:	Dunn, Jacob
Cc:	Ford, John; nduke@co.humboldt.ca.gov; Anthony Leones; Jeff McCuen; Karen Irias; Hayes, Kathy
Subject:	Sign Ordinance - Protections for Lawfully Erected Signs without Permits
Date:	Friday, December 15, 2023 3:18:46 PM
Attachments:	0.gif

Jacob,
I am writing to memorialize our conversation from a few minutes ago. I understand that before we spoke, you were under the misimpression that Cal. Bus. and Prof. Code Sec. 5364, which requires permit renewal for certain signs, does not apply in unincorporated areas. I include the text of that provision below, along with the others mentioned here. It is unambiguous.

I further understand that you acknowledge and agree that certain lawfully erected signs do not have permits and are entitled to just compensation under state law. The Code expressly provides that "lawfully erected" signs are entitled to just compensation. Section 5412. Section 5216.1 of the Code defines "lawfully erected" displays as those "which were erected in compliance with state laws and local ordinances in effect at the time of their erection…" Further, the Code provides that there is a rebuttable presumption that a sign was lawfully erected if the sign has been in existence for at least five years without receiving a notice of violation. *Id.* Therefore, it will be the County's burden to prove that a sign was not lawfully erected.

As we discussed today and on November 28, you plan to amend the definition of "Existing Billboards" in the signage ordinance to include these lawfully erected signs that do not have valid permits. Please include these comments in the staff report for the January 18 hearing, which I will join virtually. I am available to discuss the above and below with County counsel if any confusion lingers. I am also including the Clerk of the Board on this email to further ensure that this correspondence is included in the record for this item. Thank you.

References:

§ 5216.1. Lawfully erected "Lawfully erected" means, in reference to advertising displays, advertising displays which were erected in compliance with state laws and local ordinances in effect at the time of their erection or which were subsequently brought into full compliance with state laws and local ordinances, except that the term does not apply to any advertising display whose use is modified after erection in a manner which causes it to become illegal. There shall be a rebuttable presumption pursuant to Section 606 of the Evidence Code that an advertising display is lawfully erected if it has been in existence for a period of five years or longer without the owner having received written notice during that period from a governmental entity stating that the display was not lawfully erected.

§ 5364. Renewal of original permit for advertising display existing on November 7, 1967 within limits of incorporated area The provisions of this article shall apply to any advertising display which was lawfully placed and which was in existence on November 7, 1967, adjacent to an interstate or primary highway and within the limits of an incorporated area, but for which a permit has not

heretofore been required. A permit which is issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

§ 5412. Displays; removal or limitation of use; compensation; application of section; relocation Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected anywhere within this state shall be compelled to be removed, nor shall its customary maintenance or use be limited, whether or not the removal or limitation is pursuant to or because of this chapter or any other law, ordinance, or regulation of any governmental entity, without payment of compensation, as defined in the Eminent Domain Law (Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure), except as provided in Sections 5412.1, 5412.2, and 5412.3. The compensation shall be paid to the owner or owners of the advertising display and the owner or owners of the land upon which the display is located. This section applies to all displays which were lawfully erected in compliance with state laws and local ordinances in effect when the displays were erected if the displays were in existence on November 6, 1978, or lawfully erected after November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. This section does not apply to on–premise displays as specified in Section 5272 or to displays which are relocated by mutual agreement between the display owner and the local entity. "Relocation," as used in this section, includes removal of a display and construction of a new display to substitute for the display removed. It is a policy of this state to encourage local entities and display owners to enter into relocation agreements which allow local entities to continue development in a planned manner without expenditure of public funds while allowing the continued maintenance of private investment and a medium of public communication. Cities, counties, cities and counties, and all other local entities are specifically empowered to enter into relocation agreements on whatever terms are agreeable to the display owner and the city, county, city and county, or other local entity, and to adopt ordinances or resolutions providing for relocation of displays.

Dana Kennedy | Miller Starr Regalia
1331 North California Boulevard, Suite 600, Walnut Creek, CA 94596
t: 415.638.4802 | f: 925.933.4126 | dana.kennedy@msrlegal.com | www.msrlegal.com