



Outdoor Advertising Act and Regulations 2014 Edition

Citations from the California Business and Professions Code,
And Citations from the California Code of Regulations,
Title 4: Business Regulations

(Includes Law Changes through January 1, 2014
and Regulation Changes through January 24, 2014)

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SCOPE AND CONTENTS

California Legislation

This pamphlet incorporates all pertinent enactments of the California legislature through the 2013 portion of the 2013–2014 Regular Session.

California Regulations

The regulations in this pamphlet reflect all amendments to the Official California Code of Regulations through January 24, 2014.

As this publication is issued annually, please check the following resources if you require more current regulatory information or changes throughout the year.

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BUSINESS AND PROFESSIONS CODE

Division 3 PROFESSIONS AND VOCATIONS GENERALLY**Chapter 2 ADVERTISERS****Article 1 GENERAL PROVISIONS****§ 5200. Citation of chapter**

This chapter of the Business and Professions Code constitutes the chapter on advertisers. It may be cited as the Outdoor Advertising Act.

§ 5201. Construction of chapter

Unless the context otherwise requires, the general provisions set forth in this article govern the construction of this chapter.

§ 5202. Advertising display

“Advertising display” refers to advertising structures and to signs.

§ 5203. Advertising structure

“Advertising structure” means a structure of any kind or character erected, used, or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary, for advertising purposes.

“Advertising structure” does not include:

- (a) Official notices issued by any court or public body or officer;
- (b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice;
- (c) Directional, warning or information structures required by or authorized by law or by federal, state or county authority.
- (d) A structure erected near a city or county boundary, which contains the name of such city or county and the names of, or any other information regarding, civic, fraternal or religious organizations located therein.

§ 5204. Bonus segment

“Bonus segment” means any segment of an interstate highway which was covered by the Federal Aid Highway Act of 1958¹ and the Collier-Z’berg Act,² namely, any such segment which is constructed upon right-of-way, the entire width of which was acquired subsequent to July 1, 1956.

¹23 U.S.C.A. § 131.

²Stats.1964, 1st Ex.Sess., c. 128.

§ 5205. Business area

“Business area” means an area within 1,000 feet, measured in each direction,

from the nearest edge of a commercial or industrial building or activity and which is zoned under authority of state law primarily to permit industrial or commercial activities or an unzoned commercial or industrial area.

§ 5206. Centerline of the highway

“Centerline of the highway” means a line equidistant from the edges of the median separating the main traveled way of a divided highway, or the centerline of the main traveled way of a nondivided highway.

§ 5208. Collier–Z’berg Act

“Collier–Z’berg Act” refers to Chapter 128, Statutes of 1964 (First Extraordinary Session).

§ 5208.6. Department

“Department” means the Department of Transportation.

§ 5209. Director

“Director” refers to the Director of Transportation of the State of California.

§ 5210. Federal Aid Highway Act of 1958

“Federal Aid Highway Act of 1958” refers to Section 131 of Title 23 of the United States Code, as in effect before October 22, 1965¹.

¹23 U.S.C.A. § 131.

§ 5211. Flashing

“Flashing” is a light or message that changes more than once every four seconds.

§ 5212. Freeway

“Freeway,” for the purposes of this chapter only, means a divided arterial highway for through traffic with full control of access and with grade separations at intersections.

§ 5213. Highway

“Highway” includes roads, streets, boulevards, lanes, courts, places, commons, trails, ways or other rights–of–way or easements used for or laid out and intended for the public passage of vehicles or of vehicles and persons.

§ 5214. Highway Beautification Act of 1965

“Highway Beautification Act of 1965” refers to Section 131 of Title 23 of the United States Code, as in effect October 22, 1965¹.

¹23 U.S.C.A. § 131.

§ 5215. Interstate highway

“Interstate highway” means any highway at any time officially designated as

a part of the national system of interstate and defense highways by the director and approved by appropriate authority of the federal government.

§ 5216. Landscaped freeway

(a) “Landscaped freeway” means a section or sections of a freeway that is now, or hereafter may be, improved by the planting at least on one side or on the median of the freeway right-of-way of lawns, trees, shrubs, flowers, or other ornamental vegetation requiring reasonable maintenance.

(b) Planting for the purpose of soil erosion control, traffic safety requirements, including light screening, reduction of fire hazards, or traffic noise abatement, shall not change the character of a freeway to a landscaped freeway.

(c) Notwithstanding subdivision (a), if an agreement to relocate advertising displays from within one area of a city or county to an area adjacent to a freeway right-of-way has been entered into between a city or county and the owner of an advertising display, then a “landscaped freeway” shall not include the median of a freeway right-of-way.

§ 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.

§ 5216.3. Main-traveled way

“Main-traveled way” is the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. Main-traveled way does not include facilities such as frontage roads, ramps, auxiliary lanes, parking areas, or shoulders.

§ 5216.4. Message center

“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.

§ 5216.5. Nonconforming advertising display

“Nonconforming advertising display” is an advertising display that was

lawfully placed, but that does not conform to the provisions of this chapter, or the administrative regulations adopted pursuant to this chapter, that were enacted subsequent to the date of placing.

§ 5216.6. Officially designated scenic highway or scenic byway; exclusions

(a) “Officially designated scenic highway or scenic byway” is any state highway that has been officially designated and maintained as a state scenic highway pursuant to Sections 260, 261, 262, and 262.5 of the Streets and Highways Code or that has been officially designated a scenic byway as referred to in Section 131(s) of Title 23 of the United States Code.

(b) “Officially designated scenic highway or scenic byway” does not include routes listed as part of the State Scenic Highway system, Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, unless those routes, or segments of those routes, have been designated as officially designated state scenic highways.

§ 5218. Penalty segment

“Penalty segment” means any segment of a highway located in this state which was not covered by the Federal Aid Highway Act of 1958¹ and the Collier–Z’berg Act² but which is covered by the Highway Beautification Act of 1965,³ namely, any segment of an interstate highway which is constructed upon right-of-way, any part of the width of which was acquired prior to July 1, 1956, and any segment of a primary highway.

¹23 U.S.C.A. § 131.

²Stats.1964, 1st Ex.Sess., c. 128; see Business and Professions Code § 5208.

³23 U.S.C.A. § 131.

§ 5219. Person

“Person” includes natural person, firm, cooperative, partnership, association, limited liability company, and corporation.

§ 5220. Primary highway

“Primary highway” means any highway, other than an interstate highway, designated as a part of the federal-aid primary system in existence on June 1, 1991, and any highway that is not in that system but which is in the National Highway System.

§ 5221. Sign

“Sign” refers to any card, cloth, paper, metal, painted or wooden sign of any character placed for outdoor advertising purposes on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, other than an advertising structure.

“Sign” does not include any of the following:

(a) Official notices issued by any court or public body or officer.

(b) Notices posted by any public officer in performance of a public duty or by any person in giving any legal notice.

(c) Directional warning or information signs or structures required by or authorized by law or by federal, state or county authority.

(d) A sign erected near a city or county boundary that contains the name of that city or county and the names of, or any other information regarding, civic, fraternal, or religious organizations located within that city or county.

§ 5222. 660 feet from the edge of the right-of-way

“660 feet from the edge of the right-of-way” means 660 feet measured from the edge of the right-of-way horizontally along a line normal or perpendicular to the centerline of the highway.

§ 5222.1. State highway system

“State highway system” means the state highway system as described in Section 300 of the Streets and Highways Code.

§ 5223. Unzoned commercial or industrial area

“Unzoned commercial or industrial area” means an area not zoned under authority of state law in which the land use is characteristic of that generally permitted only in areas which are actually zoned commercial or industrial under authority of state law, embracing all of the land on which one or more commercial or industrial activities are conducted, including all land within 1,000 feet, measured in each direction, from the nearest edge of the commercial or industrial building or activity on such land. As used in this section, “commercial or industrial activities” does not include the outdoor advertising business or the business of wayside fresh product vending.

§ 5224. Visible

“Visible” means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

§ 5225. Place

The verb, “to place” and any of its variants, as applied to advertising displays, includes the maintaining and the erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing or making visible any advertising display on or to the ground or any tree, bush, rock, fence, post, wall, building, structure or thing. It does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of the advertising display.

§ 5226. Regulation of advertising displays adjacent to interstate or primary highways; declaration of necessity

The regulation of advertising displays adjacent to any interstate highway or primary highway as provided in Section 5405 is hereby declared to be necessary to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in such highways, to preserve the scenic beauty of lands bordering on such highways, and to insure that information in the specific interest of the traveling public is presented safely and effectively, recognizing that a reasonable freedom to advertise is necessary to attain such objectives. The Legislature finds:

(a) Outdoor advertising is a legitimate commercial use of property adjacent to roads and highways.

(b) Outdoor advertising is an integral part of the business and marketing function, and an established segment of the national economy, and should be allowed to exist in business areas, subject to reasonable controls in the public interest.

§ 5227. Exceptions; ordinances designating enforcement agents and zoning ordinances

It is the intention of the Legislature to occupy the whole field of regulation by the provisions of this chapter except that nothing in this chapter prohibits enforcement of any or all of its provisions by persons designated so to act by appropriate ordinances duly adopted by any county of this state nor does anything prohibit the passage by any county of reasonable land use or zoning regulations affecting the placing of advertising displays in accordance with the provisions of the Planning Law, Chapter 1 (commencing with Section 65000) of Title 7 of the Government Code, relating to zoning, or, with reference to signs or structures pertaining to the business conducted or services rendered or goods produced or sold upon the property upon which such advertising signs or structures are placed, ordinances subjecting such signs or structures to building requirements.

§ 5228. Legislative intent; minimum standards

It is declared to be the intent of the Legislature in enacting the provisions of this chapter regulating advertising displays adjacent to highways included in the national system of interstate and defense highways or the federal-aid primary highway system to establish minimum standards with respect thereto.

§ 5229. Construction of chapter, advertising prohibited by law or ordinance

The provisions of this chapter shall not be construed to permit a person to place or maintain in existence on or adjacent to any street, road or highway, including any

interstate or state highway, any outdoor advertising prohibited by law or by any ordinance of any city, county or city and county.

§ 5230. Local regulations; restrictions on advertising displays

The governing body of any city, county, or city and county may enact ordinances, including, but not limited to, land use or zoning ordinances, imposing restrictions on advertising displays adjacent to any street, road, or highway equal to or greater than those imposed by this chapter, if Section 5412 is complied with. No city, county, or city and county may allow an advertising display to be placed or maintained in violation of this chapter.

§ 5231. Local regulations; licenses or permits

The governing body of any city or city and county may enact ordinances requiring licenses or permits, or both, in addition to those imposed by this chapter, for the placing of advertising displays in view of any highway, including a highway included in the national system of interstate and defense highways or the federal-aid primary highway system, within its boundaries.

Article 2 ADMINISTRATION

§ 5250. Orders and regulations; enforcement authority

The director may make orders and regulations for the enforcement of this chapter and may authorize the Department of Transportation to enforce its provisions.

§ 5251. Continuance of regulations; compliance with federal agreement

Regulations promulgated by the director prior to November 8, 1967, concerning interstate highways constructed upon rights-of-way, the entire width of which was acquired after July 1, 1956, shall be continued in effect to the extent necessary to comply with the agreement with the Secretary of Commerce specified in Section 131(j) of Title 23 of the United States Code¹.

¹23 U.S.C.A. § 131(j).

§ 5252. Prescribing forms

The director shall prescribe the form of all applications, licenses, permits and other appurtenant written matter.

§ 5253. Furnishing forms; county representatives

The director shall furnish requisite forms for applications, licenses and permits provided for in this chapter and may appoint a representative or agent in each of the counties throughout the state for the purpose of issuing the licenses and permits and collecting fees therefor as provided in this chapter. The agent or representative, in the discretion of the director, may be the county clerk in each county.

In the event of the appointment of the county clerk in any county by the director, the county clerk shall so act. Upon the issuance of any such license or permit by the authorized agent of the director, the agent shall immediately forward a copy thereof to the director.

§ 5254. Enforcement of penalties

The director may enforce the penalties for failure to comply with the provisions of this chapter.

Article 3 APPLICATION OF CHAPTER

§ 5270. Exclusiveness of chapter

The regulation of the placing of advertising displays by this chapter, insofar as such regulation may affect the placing of advertising displays within view of the public highways of this state in unincorporated areas, shall be exclusive of all other regulations for the placing of advertising displays within view of the public highways of this state in unincorporated areas whether fixed by a law of this state or by a political subdivision thereof.

§ 5271. Restriction of chapter to certain displays

Except as otherwise provided in this chapter, the provisions of this chapter apply only to the placing of advertising displays within view of highways located in unincorporated areas of this state, except that the placing of advertising displays within 660 feet from the edge of the right-of-way of, and the copy of which is visible from, interstate highways or primary highways, including the portions of such highways located in incorporated areas, shall be governed by this chapter.

§ 5272. Displays; exceptions

(a) With the exception of Article 4 (commencing with Section 5300) and Sections 5400 to 5404, inclusive, this chapter does not apply to any advertising display used exclusively for any of the following purposes:

(1) To advertise the sale, lease, or exchange of real property upon which the advertising display is placed.

(2) To advertise directions to, and the sale, lease, or exchange of, real property for which the advertising display is placed; provided, that the exemption of this paragraph does not apply to advertising displays visible from a highway and subject to the Highway Beautification Act of 1965 (23 U.S.C. Sec. 131).

(3) To designate the name of the owner or occupant of the premises or to identify the premises.

(4) To advertise the business conducted, services rendered, or goods produced or sold upon the property on which the advertising display is placed if the display is on the same side of the highway and within 1,000 feet of the point on the property

or within 1,000 feet of the entrance to the site at which the business is conducted, services are rendered, or goods are produced or sold.

(b) With the exception of Article 4 (commencing with Section 5300) and Sections 5400 to 5404, inclusive, this chapter does not apply to any advertising display used exclusively either to advertise products, goods, or services sold by persons on the premises of an arena on a regular basis, or to advertise any products, goods, or services marketed or promoted on the premises of an arena pursuant to a sponsorship marketing plan, if all of the following conditions are met:

(1) The arena is capable of providing a venue for professional sports on a permanent basis.

(2) The arena has a capacity of 15,000 or more seats.

(3) The advertising display is either of the following:

(A) Located on the premises of the arena.

(B) Has been authorized as of January 1, 2019, by, or in accordance with, a local ordinance, including, but not limited to, a specific plan or sign district adopted in connection with the approval of the arena by the city, county, or city and county, bears the name or logo of the arena, and is visible when approaching offramps from the interstate, primary, or state highways used to access the premises of the arena. No arena shall be permitted more than two advertising displays allowed under this subparagraph.

(c)(1) Any advertising display erected pursuant to subdivision (b) and located on the premises of the arena shall be lawful only if authorized by, or in accordance with, an ordinance, including, but not limited to, a specific plan or sign district, adopted by the city, county, or city and county, that regulates advertising displays on the premises of the arena by identifying the specific displays or establishing regulations that include, at a minimum, all of the following:

(A) Number of signs and total signage area allowed.

(B) Maximum individual signage area.

(C) Minimum sign separation.

(D) Illumination restrictions and regulations, including signage refresh rate, scrolling, and brightness.

(E) Illuminated sign hours of operation.

(2) Authorization of advertising displays under subdivision (b) is subject to the owner of the advertising display submitting to the department a copy of the ordinance adopted by the city, county, or city and county in which the arena is located authorizing the advertising display and, for signs located on the premises of the arena, identification of the provisions of the ordinance required under paragraph (1). The department shall certify that the proposed ordinance meets the minimum requirements contained in paragraph (1).

(3) An advertising display authorized pursuant to subdivision (b) shall not advertise products, goods, or services related to tobacco, firearms, or sexually explicit material.

(4) This chapter does not limit a local government from adopting ordinances prohibiting or further restricting the size, number, or type of advertising displays permitted by this section.

(d) As used in this section, “the premises of an arena” means either of the following:

(1) A venue for indoor or outdoor sports, concerts, or other events.

(2) Any development project or district encompassing the venue, adjacent to it, or separated from it only by public or private rights-of-way, the boundaries of which have been set by the city, county, or city and county in which the arena is located. The development project or district must be contiguous and may not extend more than 1,000 feet beyond the arena structure or any structure physically connected to the arena structure.

(e) As used in this section, “sponsorship marketing plan” means an agreement between the property owner, facility owner, facility operator, or occupant of the premises of an arena and a sponsor pursuant to which the sponsor is allowed to include its logo, slogan, or advertising on advertising displays and that meets both of the following conditions:

(1) The sponsorship marketing plan is for a period of not less than one year.

(2) The sponsorship marketing plan grants the sponsor the opportunity to display its logo, slogan, or advertising in the interior of structures on the premises of an arena, or conduct promotions, public relations, or marketing activities on the premises of an arena.

(f) Authorization of an advertising display under subdivision (b) that is a message center display is subject to the owner of the display complying with one of the following conditions:

(1) Making a message center display within the premises of the arena available on a space-available basis for use by the department or the Department of the California Highway Patrol for public service messages, including Emergency Alert System (Amber Alert) messages disseminated pursuant to Section 8594 of the Government Code, and messages containing, among other things, reports of commute times, drunk driving awareness messages, reports of accidents of a serious nature, and emergency disaster communications.

(2) Making a message center display not subject to this section that is under the control of the owner of the advertising display available on a space-available basis for public service messages in a location acceptable to the department and the Department of the California Highway Patrol.

(3) Providing funding to the department for the installation of a message center display to accommodate those public service messages, which may include funding as part of mitigation in connection with the approval of the arena by the city, county, or city and county.

(g) If an advertising display authorized under subdivision (b) is subject to a notice from the United States Department of Transportation, the Federal Highway Administration, or any other applicable federal agency to the state that the operation of that display will result in the reduction of federal aid highway funds provided in Section 131 of Title 23 of the United States Code, authorization of the display under subdivision (b) shall cease and the display owner shall remove all advertising copy from the display within 60 days after the state notifies the display owner of the receipt of the federal notice. Failure to remove the advertising copy pursuant to this subdivision shall result in a civil fine, imposed by the California Department of Transportation, of ten thousand dollars (\$10,000) per day until the advertising copy is removed. The department shall not assume any liability in connection with cessation of operation or removal of an advertising display or advertising copy pursuant to this subdivision.

(h) The city, county, or city and county adopting the ordinance authorizing the displays erected pursuant to this section shall have primary responsibility for ensuring that the displays remain in conformance with all provisions of the ordinance and of this section. If the city, county, or city and county fails to ensure that the displays remain in conformance with all provisions of the ordinance and of this section after 30 days of receipt of a written notice from the department, the city, county, or city and county shall hold the department harmless and indemnify the department for all costs incurred by the department to ensure compliance with the ordinance and this section or to defend actions challenging the adoption of the ordinance allowing the displays.

(i) An advertising display lawfully erected on or before December 31, 2013, in conformity with subdivision (e) of this section as it read on that date, shall remain authorized, subject to the terms of that subdivision.

§ 5272.1. Advertising displays exclusively on public property containing multimodal transit facility; requirements

(a) With the exception of Article 4 (commencing with Section 5300) and Sections 5400 and 5404, inclusive, nothing contained in this chapter applies to any advertising display that is exclusively on public property upon which is located a multimodal transit facility.

(b) This section applies to advertising displays only if the multimodal transit facility meets the following requirements:

(1) It is publicly owned and operated and is located on public land.

(2) It is identified as a critical component in the region's sustainable communities strategy, as described in Section 65080 of the Government Code.

(3) One of the modes of transportation served at the multimodal transit facility is passenger rail.

(4) It is a current or future station for the high-speed train system in the corridor identified in paragraph (2) of subdivision (b) of Section 2704.04 of the Streets and Highways Code.

(c) To advertise any products, goods, or services on an advertising display pursuant to this section, all of the following shall apply:

(1) The advertising display shall be on the same side of the highway and within 1,000 feet of an entrance to a multimodal transit facility that meets the requirements of subdivision (b).

(2) The advertising display shall not advertise products, goods, or services related to tobacco, firearms, or sexually explicit material.

(3) Beyond the cost of erection, revenues from the advertising display shall be used to support the construction, operations, and maintenance of the multimodal transit facility.

(4) The advertising display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code. If an advertising display authorized under this section is subject to a notice from the United States Department of Transportation, the Federal Highway Administration, or any other applicable federal agency to the state that the operation of that display will result in the reduction of federal aid highway funds as provided in Section 131 of Title 23 of the United States Code, the display owner shall remove all advertising copy from the display within 60 days after the state notifies the display owner of the receipt of the federal notice. Failure to remove the advertising copy pursuant to this paragraph shall result in a civil fine, imposed by the California Department of Transportation, of ten thousand dollars (\$10,000) per day until the advertising copy is removed. The department shall not assume any liability in connection with cessation of operation or removal of an advertising display or advertising copy pursuant to this paragraph.

(d) Any advertising display erected pursuant to this section shall be lawful only if authorized by, or in accordance with, an ordinance, including, but not limited to, a specific plan or sign district, adopted by the city, county, or city and county, as applicable, that regulates advertising displays by either identifying the specific displays or by establishing regulations that include, at a minimum, all of the following:

- (1) The number of signs and total signage area allowed.
- (2) The maximum individual signage area.

(3) Minimum sign separation.

(4) Illumination restrictions and regulations, including signage refresh rate, scrolling, and brightness.

(5) Illuminated sign hours of operation.

(e) Authorization of an advertising display under this section shall also be subject to the owner of the display submitting, to the High-Speed Rail Authority, a copy of the ordinance authorizing the display that has been adopted by the applicable city, county, or city and county pursuant to subdivision (d). The High-Speed Rail Authority shall review and certify that the proposed display and the ordinance meet the minimum requirements of this section, including that the multimodal transit facility is or will be a current or future station for the high-speed train system pursuant to paragraph (4) of subdivision (b).

(f) The city, county, or city and county adopting the ordinance authorizing the displays erected pursuant to this section shall have the primary responsibility for ensuring that the displays remain in conformance with all provisions of the ordinance and of this section. If the city, county, or city and county fails to ensure that the displays are in conformance and shall remain in conformance with all provisions of the ordinance and of this section within 30 days of receipt of a written notice from the department, that one or more displays are out of conformance the city, county, or city and county shall hold the department harmless and indemnify the department for all costs incurred by the department to ensure compliance with the ordinance and this section or to defend actions challenging the adoption of the ordinance allowing the displays.

(g) Nothing in this section limits a city or county from adopting an ordinance prohibiting or further restricting the size, number, or types of advertising displays authorized by this section.

(h) Any law that applies to advertising displays authorized pursuant to Section 5272 shall also apply to this section.

§ 5273. Advertising displays advertising businesses and activities developed within boundary limits of individual redevelopment agency project; conditions allowing continuation and consideration as on-premises display; time for removal; extension; annual certification; responsibility of city, county, or city and county

(a) Notwithstanding the dissolution of a state redevelopment agency, and subject to subdivision (b), for purposes of this chapter, an advertising display advertising the businesses and activities developed within the boundary limits of, and as a part of, an individual redevelopment agency project, as those boundaries existed on December 29, 2011, may continue to exist and be considered an

on-premises display, as defined in Section 5490, if the advertising display meets all of the following conditions:

- (1) The advertising display is located within the boundary limits of the project.
- (2) The advertising display was constructed on or before January 1, 2012.
- (3) The advertising display does not cause the reduction of federal aid highway funds provided pursuant to Section 131 of Title 23 of the United States Code.

If an advertising display authorized under this section is subject to a notice from the United States Department of Transportation, the Federal Highway Administration, or any other applicable federal agency to the state that the operation of that display will result in the reduction of federal aid highway funds as provided in Section 131 of Title 23 of the United States Code, the display owner or operator shall remove all advertising copy from the display within 60 days after the date the state notifies the owner or operator, and the applicable city, county, or city and county, by certified mail, of the receipt of the federal notice. Failure to remove the advertising copy pursuant to this paragraph shall result in a civil fine, imposed by the California Department of Transportation, of ten thousand dollars (\$10,000) per day until the advertising copy is removed. The department shall not assume any liability in connection with the cessation of operation or removal of an advertising display or advertising copy pursuant to this paragraph. If the name of the owner or operator of the display is not indicated on the display, the state is only required to send the notice to the applicable city, county, or city and county.

(b) An advertising display described in subdivision (a) may remain until January 1, 2023, after which date the display shall be removed, unless it otherwise qualifies as a lawful advertising display pursuant to this chapter, without the payment of any compensation to the owner or operator. On and after January 1, 2022, the applicable city, county, or city and county may for good cause request from the department an extension beyond January 1, 2023, not to exceed the expiration of the redevelopment project area. "Good cause" for these purposes means all of the following are satisfied: (1) there has been a finding by the applicable city, county, or city and county that the advertising display has had a positive economic impact on the redevelopment project area and provides a public benefit, (2) there have been no violations by the display owner or operator of this section or of any applicable illumination standards in the previous 10 years that have not been corrected within 30 days of the date of mailing of a violation notice to the owner or operator by the department, and (3) there has been compliance by the owner and operator with all other standards adopted by the applicable city, county, or city and county, or by the department.

(c) The applicable city, county, or city and county shall be responsible for ensuring that an advertising display is consistent with this section and provides a

public benefit. This provision shall not be construed to preclude any enforcement authority of the department under this chapter.

(d) The applicable city, county, or city and county shall annually, by December 31, certify to the department that the advertising copy of the advertising display is advertising businesses or activities operating within the boundaries of the redevelopment project area and that at least 10 percent of the advertising copy, up to a maximum of 100 square feet, is used to display the address or location or locations of the business or activity, or to identify the route to the business or activity from the nearest freeway offramp. The department may independently review compliance with this certification. An advertising display subject to this section shall be removed if it is in violation of this subdivision more than three times within a 10-year period and the violation has not been corrected within 30 days of the date of mailing of a violation notice to the owner or operator by the department.

(e) The applicable city, county, or city and county authorizing an advertising display placed pursuant to this section shall have primary responsibility for ensuring that the display remains in conformance with all provisions of this section. If the city, county, or city and county fails to do so within 30 days of the date of mailing of a notice to the city, county, or city and county by the department, the city, county, or city and county shall hold the department harmless and indemnify the department for all costs incurred by the department to ensure compliance with this section or to defend actions challenging the authorization of displays pursuant to this section.

§ 5273.5. Exemptions; certain redevelopment agency project areas

(a) Notwithstanding Section 5273, for the purposes of this chapter, in the City of Buena Park in Orange County, the Cities of Commerce, Covina, and South Gate in Los Angeles County, and the City of Victorville in San Bernardino County, advertising displays advertising those businesses and activities developed within the boundary limits of, and as a part of, any redevelopment agency project area or areas may, with the consent of the redevelopment agency governing the project area, be considered to be on the premises anywhere within the legal boundaries of the redevelopment agency's project area or areas for a period not to exceed 10 years or the completion of the project, whichever occurs first, after which Sections 5272 and 5405 apply, unless an arrangement has been made for extension of the period between the redevelopment agency and the department for good cause.

(b) The governing body of a redevelopment agency in the cities set forth in subdivision (a), upon approving the purchase, lease, or other authorization for the erection of an advertising display pursuant to this section, shall prepare, adopt, and submit to the department an application for the issuance of a permit that, at a minimum, includes a finding that the advertising display would not result in a

concentration of displays that will have a negative impact on the safety or aesthetic quality of the community. The department shall only deny the application if the proposed structure violates Sections 5400 to 5405, inclusive, or subdivision (d) of Section 5408, or if the display would cause a reduction in federal-aid highway funds as provided in Section 131 of Title 23 of the United States Code.

§ 5274. Business centers; specified on-premises advertising displays

(a) None of the provisions of this chapter, except those in Article 4 (commencing with Section 5300), Sections 5400 to 5404, inclusive, and subdivision (d) of Section 5405, apply to an on-premises advertising display that is visible from an interstate or primary highway and located within a business center, if the display is placed and maintained pursuant to Chapter 2.5 (commencing with Section 5490) and meets all of the following conditions:

(1) The display is placed within the boundaries of an individual development project, as defined in Section 65928 of the Government Code, for commercial, industrial, or mixed commercial and industrial purposes, as shown on a subdivision or site map approved by a city, county, or city and county, and is developed and zoned for those purposes.

(2) The display identifies the name of the business center, if named.

(3) Each business identified on the display is located within the business center and on the same side of an interstate or primary highway where the display is located.

(4) The governing body of the city, county, or city and county has adopted ordinances for the display pursuant to Sections 5230 and 5231 for the area where the display will be placed, and the display meets city, county, or city and county ordinances.

(5) The display results in a consolidation of allowable displays within the business center, so that fewer displays will be erected as a result of the display.

(6) Placement of the display does not cause a reduction of federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

§ 5275. Advertising displays; regulation of noncommercial protected speech

Notwithstanding any other provision of this chapter, the director may not regulate noncommercial, protected speech contained within any advertising display authorized by, or exempted from, this chapter.

Article 4 LICENSES

§ 5300. Business of outdoor advertising; definition

(a) A person engages in the business of outdoor advertising whenever, personally or through employees, that person places an advertising display, changes the advertising message of an advertising display that does not pertain exclusively to that person's business and is visible to a state highway or freeway.

(b) A manufacturer or distributor of a product for sale to the general public does not engage in the business of outdoor advertising when furnishing a sign pertaining to the product to a retailer of that product for installation on the retailer's place of business or when installing on the retailer's place of business a sign containing advertising pertaining to the product, the name or the business of the retailer.

§ 5301. Fee; duration and renewal of license; necessity of license

No person shall engage in or carry on the business or occupation of outdoor advertising without first having paid the license fee provided by this chapter. The fee is payable annually in advance on the first day of July of each year to the director or his authorized agent. Each license shall remain in force for the term of one year from and after the first day of July, and may be renewed annually.

A license shall be obtained whether or not the advertising display requires a permit.

§ 5302. Expiration of license; apportionment of fee

All licenses issued on or after the first day of July shall expire on the 30th day of June following the date of issue. Fees for original licenses issued after the first day of July of each year shall be apportioned and collected on the basis of one-twelfth of the fee for each month or part thereof remaining in the fiscal year.

§ 5303. Application; effect of license

Every application for a license shall be made on a form to be furnished by the director. It shall state the full name of the applicant and the post office address of his fixed place of business and shall contain a certification that the applicant has obtained a copy of the provisions of this chapter and any regulations adopted thereunder and is aware of their contents.

The issuance of a license entitles the holder to engage in or carry on the outdoor advertising business and to apply for permits during the term of the license.

Article 5 CERTIFICATES OF ZONING COMPLIANCE [REPEALED]

Article 6 PERMITS

§ 5350. Necessity of permit

No person shall place any advertising display within the areas affected by the provisions of this chapter in this state without first having secured a written permit from the director or from his authorized agent.

§ 5351. Application for permit

Every person desiring a permit to place any advertising display shall file an application with the director or with his authorized agent.

§ 5353. Form and contents of application

The application shall be filed on a blank to be furnished by the director or by his agent. It shall set forth the name and address of the applicant and shall contain a general description of the property upon which it is proposed to place the

advertising display for which a permit is sought and a diagram indicating the location of the proposed advertising display on the property, in such a manner that the property and the location of the proposed advertising display may be readily ascertained and identified.

§ 5354. Written evidence of consent to placement of display; reservation of location and issuance of permit; presumption

(a) The applicant for any permit shall offer written evidence that both the owner or other person in control or possession of the property upon which the location is situated and the city or the county with land use jurisdiction over the property upon which the location is situated have consented to the placing of the advertising display.

(b) At the written request of the city or county with land use jurisdiction over the property upon which a location is situated, the department shall reserve the location and shall not issue a permit for that location to any applicant, other than the one specified in the request, in advance of receiving written evidence as provided in subdivision (a) and for a period of time not to exceed 90 days from the date the department received the request.

(c) In addition to the 90-day period set forth in subdivision (b), an additional period of 30 days may be granted at the discretion of the department upon any proof, satisfactory to the department and provided by the city or county making the original request for a 90-day period, of the existence of extenuating circumstances meriting an additional 30 days. There shall be a conclusive presumption in favor of the department that the granting or denial of the request for an additional 30 days was made in compliance with this subdivision.

§ 5355. Description of display

An application for a permit to place a display shall contain a description of the display, including its material, size, and subject and the proposed manner of placing it.

§ 5357. License number in application

If the applicant for a permit is engaged in the outdoor advertising business, the application shall contain the number of the license issued by the director.

§ 5358. Issuance of permit

When the application is in full compliance with this chapter and if the advertising display will not be in violation of any other state law, the director or the director's authorized agent shall, within 10 days after compliance and upon payment by the applicant of the fee provided by this chapter, issue a permit to place the advertising display for the remainder of the calendar year in the year in which the permit is issued and for an additional four calendar years.

§ 5359. Effect of permit; change of copy; zoning requirements

(a) The issuance of a permit for the placing of an advertising display includes

the right to change the advertising copy without obtaining a new permit and without the payment of any additional permit fee.

(b) The issuance of a permit does not affect the obligation of the owner of the advertising display to comply with a zoning ordinance applicable to the advertising display under the provisions of this chapter nor does the permit prevent the enforcement of the applicable ordinance by the county.

§ 5360. Renewal

(a) The director shall establish a permit renewal term of five years, which shall be reflected on the face of the permit.

(b) The director shall adopt regulations for permit renewal that include procedures for late renewal within a period not to exceed one year from the date of permit expiration. Any permit that was not renewed after January 1, 1993, is deemed revoked.

§ 5361. Identification number; effect of permit

Each permit provided in this chapter shall carry an identification number and shall entitle the holder to place the advertising display described in the application.

§ 5362. Fastening permit number plate to display; evidence of violation; removal of display

No person shall place any advertising display unless there is securely fastened upon the front thereof an identification number plate of the character specified in Section 5363. The placing of any advertising display without having affixed thereto an identification number plate is prima facie evidence that the advertising display has been placed and is being maintained in violation of the provisions of this chapter, and any such display shall be subject to removal as provided in Section 5463.

§ 5363. Identification number plates

Identification number plates shall be furnished by the director. Identification number plates shall bear the identification number of the advertising display to which they are assigned.

§ 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.

§ 5365. Designation of highway within incorporated area as interstate or primary; application of act; notification of location of display; permits

When a highway within an incorporated area is designated as an interstate or a primary highway, each advertising display maintained adjacent to such highway shall thereupon become subject to all of the provisions of this act. For purposes of applying the provisions of this act, each such display shall be considered as though it had been placed along an interstate or a primary highway during all of the time that it had been in existence. Within 30 days of notification by the director of such highway designation, the owner of each advertising display adjacent to such highway shall notify the director of the location of such display on a form prescribed by the director. The director shall issue a permit for each such advertising display on the basis of the notification from the display owner; provided that such permits will be issued and renewed only if the owner pays the fees required by subdivision (b) of Section 5485. Each permit issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

§ 5366. Effect of permit; no authority to violate any ordinance

The issuance of a permit pursuant to this chapter does not allow any person to erect an advertising display in violation of any ordinance of any city, county, or city and county.

Article 7 REGULATIONS

§ 5400. Display of name on structure

No advertising structure may be maintained unless the name of the person owning or maintaining it, is plainly displayed thereon.

§ 5401. Wind resistance

No advertising structure shall be placed unless it is built to withstand a wind pressure of 20 pounds per square foot of exposed surface. Any advertising structure not conforming to this section shall be removed as provided in Section 5463.

§ 5402. Obscenity, indecency or immorality

No person shall display or cause or permit to be displayed upon any advertising structure or sign, any statements or words of an obscene, indecent or immoral character, or any picture or illustration of any human figure in such detail as to offend public morals or decency, or any other matter or thing of an obscene, indecent or immoral character.

§ 5403. Improper displays

No advertising display shall be placed or maintained in any of the following

locations or positions or under any of the following conditions or if the advertising structure or sign is of the following nature:

(a) If within the right-of-way of any highway.

(b) If visible from any highway and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this chapter, or if likely to be mistaken for any permitted sign, or if intended or likely to be construed as giving warning to traffic, by, for example, the use of the words “stop” or “slow down.”

(c) If within any stream or drainage channel or below the floodwater level of any stream or drainage channel where the advertising display might be deluged by flood waters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.

(d) If not maintained in safe condition.

(e) If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.

(f) If visible from any highway which is a part of the interstate or primary systems, and which is placed upon trees, or painted or drawn upon rocks or other natural features.

(g) If any illumination shall impair the vision of travelers on adjacent highways. Illuminations shall be considered vision impairing when its brilliance exceeds the values set forth in Section 21466.5 of the Vehicle Code.

(h) If visible from a state regulated highway displaying any flashing, intermittent, or moving light or lights.

(i) If, in order to enhance the display’s visibility, the owner of the display or anyone acting on the owner’s behalf removes, cuts, cuts down, injures, or destroys any tree, shrub, plant, or flower growing on property owned by the department that is visible from the highway without a permit issued pursuant to Section 670 of the Streets and Highways Code.

§ 5404. Locations of displays

No advertising display shall be placed outside of any business district as defined in the Vehicle Code or outside of any unincorporated city, town or village, or outside of any area that is subdivided into parcels of not more than 20,000 square feet each in area in any of the following locations or positions, or under any of the following conditions, or if the advertising display is of the following nature:

(a) If within a distance of 300 feet from the point of intersection of highway or of highway and railroad right-of-way lines, except that this does not prevent the placing of advertising display on that side of an intercepted highway that is opposite the point of interception. But in case any permanent building, structure or other object prevents any traveler on any such highway from obtaining a clear view of

approaching vehicles for a distance of 300 feet, then advertising displays may be placed on such buildings, structure or other object if such displays will not further obstruct the vision of those approaching the intersection or interception, or if any such display does not project more than one foot therefrom.

(b) If placed in such a manner as to prevent any traveler on any highway from obtaining a clear view of approaching vehicles for a distance of 500 feet along the highway.

§ 5405. Displays prohibited; exceptions

Notwithstanding any other provision of this chapter, no advertising display shall be placed or maintained within 660 feet from the edge of the right-of-way of, and the copy of which is visible from, any interstate or primary highway, other than any of the following:

(a) Directional or other official signs or notices that are required or authorized by law, including, but not limited to, signs pertaining to natural wonders and scenic and historical attractions, and which comply with regulations adopted by the director relative to their lighting, size, number, spacing, and any other requirements as may be appropriate to implement this chapter which are consistent with national standards adopted by the United States Secretary of Transportation pursuant to subdivision (c) of Section 131 of Title 23 of the United States Code.

(b) Advertising displays advertising the sale or lease of the property upon which they are located, if all advertising displays within 660 feet of the edge of the right-of-way of a bonus segment comply with the regulations adopted under Sections 5251 and 5415.

(c) Advertising displays which advertise the business conducted, services rendered, or goods produced or sold upon the property upon which the advertising display is placed, if the display is upon the same side of the highway as the advertised activity; and if all advertising displays within 660 feet of the right-of-way of a bonus segment comply with the regulations adopted under Sections 5251, 5403, and 5415; and except that no advertising display shall be placed after January 1, 1971, if it contains flashing, intermittent, or moving lights (other than that part necessary to give public service information, including, but not limited to, the time, date, temperature, weather, or similar information, or a message center display as defined in subdivision (d)).

(d)(1) Message center displays that comply with all requirements of this chapter. The illumination or the appearance of illumination resulting in a message change of a message center display is not the use of flashing, intermittent, or moving light for purposes of subdivision (b) of Section 5408, except that no message center display may include any illumination or message change that is in motion or appears to be in motion or that changes in intensity or exposes its message

for less than four seconds. No message center display may be placed within 1,000 feet of another message center display on the same side of the highway. No message center display may be placed in violation of Section 131 of Title 23 of the United States Code.

(2) Any message center display located beyond 660 feet from the edge of the right-of-way of an interstate or primary highway and permitted by a city, county, or city and county on or before December 31, 1988, is in compliance with Article 6 (commencing with Section 5350) and Article 7 (commencing with Section 5400) for purposes of this section.

(3) Any message center display legally placed on or before December 31, 1996, which does not conform with this section may continue to be maintained under its existing criteria if it advertises only the business conducted, services rendered, or goods produced or sold upon the property upon which the display is placed.

(4) This subdivision does not prohibit the adoption by a city, county, or city and county of restrictions or prohibitions affecting off-premises message center displays which are equal to or greater than those imposed by this subdivision, if that ordinance or regulation does not restrict or prohibit on-premises advertising displays, as defined in Chapter 2.5 (commencing with Section 5490).

(e) Advertising displays erected or maintained pursuant to regulations of the director, not inconsistent with the national policy set forth in subdivision (f) of Section 131 of Title 23 of the United States Code and the standards promulgated thereunder by the Secretary of Transportation, and designed to give information in the specific interest of the traveling public.

§ 5405.3. Temporary political signs

Nothing in this chapter, including, but not limited to, Section 5405, shall prohibit the placing of temporary political signs, unless a federal agency determines that such placement would violate federal regulations. However, no such sign shall be placed within the right-of-way of any highway or within 660 feet of the edge of and visible from the right-of-way of a landscaped freeway.

A temporary political sign is a sign which:

- (a) Encourages a particular vote in a scheduled election.
- (b) Is placed not sooner than 90 days prior to the scheduled election and is removed within 10 days after that election.
- (c) Is no larger than 32 square feet.
- (d) Has had a statement of responsibility filed with the department certifying a person who will be responsible for removing the temporary political sign and who will reimburse the department for any cost incurred to remove it.

§ 5405.5. Farm produce outlet locations; advertising displays

In addition to those displays permitted pursuant to Section 5405, displays erected and maintained pursuant to regulations of the director, which will not be in violation of Section 131 of Title 23 of the United States Code,¹ and which identify the location of a farm produce outlet where farmers sell directly to the public only those farm or ranch products they have produced themselves, may be placed or maintained within 660 feet from the edge of the right-of-way so that the copy of the display is visible from a highway.

The advertising displays shall indicate the location of the farm products but not the price of any product and shall not be larger than 150 square feet.

¹23 U.S.C.A. § 131.

§ 5405.6. Outdoor advertising displays exceeding 10 feet in length or width on land or right-of-way owned by Los Angeles County Metropolitan Transportation Authority

Notwithstanding any other provision of law, no outdoor advertising display that exceeds 10 feet in either length or width, shall be built on any land or right-of-way owned by the Los Angeles County Metropolitan Transportation Authority, including any of its rights-of-way, unless the authority complies with any applicable provisions of this chapter, the federal Highway Beautification Act of 1965 (23 U.S.C.A. Sec. 131), and any local regulatory agency's rules or policies concerning outdoor advertising displays. The authority shall not disregard or preempt any law, ordinance, or regulation of any city, county, or other local agency involving any outdoor advertising display.

§ 5406. Exemption of segments of highways within incorporated municipalities

The provisions of Sections 5226 and 5405 shall not apply to bonus segments which traverse and abut on commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to and abutting on the national system of interstate and defense highways is subject to municipal regulation or control, or which traverse and abut on other business areas where the land use, as of September 21, 1959, was clearly established by state laws as industrial or commercial, provided that advertising displays within 660 feet of the edge of the right-of-way of such bonus segments shall be subject to the provisions of Section 5408.

§ 5407. Inapplicability of certain sections to penalty segments

The provisions of Sections 5226 and 5405 shall not apply to penalty segments which are located, or which are to be located, in business areas and which comply with Section 5408, except that Sections 5226 and 5405 shall apply to unzoned

commercial or industrial areas in which the commercial or industrial activity ceases and is removed or permanently converted to other than a commercial or industrial activity, and displays in such areas shall be removed not later than five years following the cessation, removal, or conversion of the commercial or industrial activity.

§ 5408. Standards for advertising displays in business areas

In addition to the advertising displays permitted by Section 5405 to be placed within 660 feet of the edge of the right-of-way of interstate or primary highways, advertising displays conforming to the following standards, and not in violation of any other provision of this chapter, may be placed in those locations if placed in business areas:

(a) Advertising displays may not be placed that exceed 1,200 square feet in area with a maximum height of 25 feet and a maximum length of 60 feet, including border and trim, and excluding base or apron supports and other structural members. This subdivision shall apply to each facing of an advertising display. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire advertisement. Two advertising displays not exceeding 350 square feet each may be erected in a facing. Any advertising display lawfully in existence on August 1, 1967, that exceeds 1,200 square feet in area, and that is permitted by city or county ordinance, may be maintained in existence.

(b) Advertising displays may not be placed that are so illuminated that they interfere with the effectiveness of, or obscure any official traffic sign, device, or signal; nor shall any advertising display include or be illuminated by flashing, intermittent, or moving lights (except that part necessary to give public service information such as time, date, temperature, weather, or similar information); nor shall any advertising display cause beams or rays of light to be directed at the traveled ways if the light is of an intensity or brilliance as to cause glare or to impair the vision of any driver, or to interfere with any driver's operation of a motor vehicle.

(c) Advertising displays may not be placed to obstruct, or otherwise physically interfere with, an official traffic sign, signal, or device or to obstruct, or physically interfere with, the vision of drivers in approaching, merging, or intersecting traffic.

(d) No advertising display shall be placed within 500 feet from another advertising display on the same side of any portion of an interstate highway or a primary highway that is a freeway. No advertising display shall be placed within 500 feet of an interchange, or an intersection at grade, or a safety roadside rest area on any portion of an interstate highway or a primary highway that is a freeway and if the interstate or primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed

within 300 feet from another advertising display on the same side of any portion of a primary highway that is not a freeway if that portion of the primary highway is located outside the limits of an incorporated city and outside the limits of an urban area. No advertising display shall be placed within 100 feet from another advertising display on the same side of any portion of a primary highway that is not a freeway if that portion of the primary highway is located inside the limits of an incorporated city or inside the limits of an urban area.

(e) Subdivision (d) does not apply to any of the following:

(1) Advertising displays that are separated by a building or other obstruction in a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time.

(2) Double-faced, back-to-back, or V-type advertising display, with a maximum of two signs per facing, as permitted in subdivision (a).

(3) Advertising displays permitted by subdivisions (a) to (c), inclusive, of Section 5405. The minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.

(4) Any advertising display lawfully in existence on August 1, 1967, which does not conform to this subdivision but that is permitted by city or county ordinances.

(f) "Urban area," as used in subdivision (d), shall be determined in accordance with Section 101(a) of Title 23 of the United States Code.

§ 5408.1. Displays beyond 660 feet of right-of-way of interstate or primary highway in nonbusiness area; removal of existing displays

(a) No advertising display shall be placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway if such advertising display is located outside of an urban area or within that portion of an urban area that is not a business area, is visible from the main traveled way of such highway, and is placed with the purpose of its message being read from such main traveled way, unless such advertising display is included within one of the classes of displays permitted by Section 5405 to be placed within 660 feet from the edge of such highway. Such display may be placed or maintained within the portion of an urban area that is also a business area if such display conforms to the criteria for size, spacing and lighting set forth in Section 5408.

(b) Any advertising display which was lawfully in existence on the effective date of the enactment of this section, but which does not conform to the provisions of this section, shall not be required to be removed until January 1, 1980. If federal law requires the state to pay just compensation for the removal of any such display,

it may remain in place after January 1, 1980, and until just compensation is paid for its removal pursuant to Section 5412.

(c) For purposes of this section, an urban area means an area so designated in accordance with the provisions of Section 101 of Title 23 of the United States Code.

§ 5408.2. Displays on Route 10 in Los Angeles County

Notwithstanding any other provision of this chapter, an advertising display is a lawfully erected advertising display and, upon application and payment of the application fee, the director shall issue a permit for the display if it meets all of the following conditions:

(a) The display was erected on property adjacent to State Highway Route 10 (Interstate 10) in the unincorporated area of the County of Los Angeles in order to replace a display which was required to be removed because the property on which it was located was acquired by the State of California to facilitate construction of the busway on Route 10 in the County of Los Angeles.

(b) Upon proper application, the display could have qualified for a permit at the time it was erected, except for Sections 5351 and 5408 and Article 5 (commencing with Section 5320)¹ as in effect at the time.

(c) The display conforms to Section 5408 as in effect on January 1, 1984.

(d) The display was in existence on January 1, 1984.

¹Article 5 repealed.

§ 5408.3. Adoption of ordinances to establish standards for spacing and sizes of advertising displays

Notwithstanding Section 5408, a city or a county with land use jurisdiction over the property may adopt an ordinance that establishes standards for the spacing and sizes of advertising displays that are more restrictive than those imposed by the state.

§ 5408.5. Advertising displays on bus passenger shelters or benches; standards

In addition to the advertising displays permitted by Sections 5405 and 5408, advertising displays located on bus passenger shelters or benches and conforming to the following standards may be placed on or adjacent to a highway:

(a) The advertising display may not be within 660 feet of and visible from any federal-aid interstate or primary rural highway, and any advertising display within 660 feet of and visible from any urban highway shall be consistent with federal law and regulations.

(b) The advertising display shall meet traffic safety standards of the public entity having operational authority over the highway. These standards may include provisions requiring a finding and certification by an appropriate official that the

proposed advertising display does not constitute a hazard to traffic.

(c) Bus passenger shelters or benches with advertising displays may only be placed at approved passenger loading areas.

(d) Bus passenger shelters or benches with advertising displays may only be placed in accordance with a permit or agreement with the public entity having operational authority over the highway adjacent to where, or upon which, the advertising display is to be placed.

(e) Any advertising display on bus passenger shelters or benches may not extend beyond the exterior limits of the shelter or bench.

(f) There may not be more than two advertising displays on any bus passenger shelter.

(g) Advertising displays placed on bus passenger shelters or benches pursuant to a permit or agreement with a local public entity shall not be subject to the state permit requirements specified in Article 6 (commencing with Section 5350).

§ 5408.7. San Francisco streets that are also state or federal highways; advertising displays on street furniture

(a) It is the intent of the Legislature that this section shall not serve as a precedent for other changes to the law regarding outdoor advertising displays on, or adjacent to, highways. The Legislature recognizes that the streets in the City and County of San Francisco that are designated as state or federal highways are unique in that they are also streets with street lights, sidewalks, and many of the other features of busy urban streets. At the same time, these streets double as a way, and often the only way, for people to move through the city and county from one boundary to another. The Legislature recognizes the particular topography of the City and County of San Francisco, the popularity of the area as a tourist destination, the high level of foot traffic, and the unique design of its highways.

(b) For purposes of this section, “street furniture” is any kiosk, trash receptacle, bench, public toilet, news rack, or public telephone placed on, or adjacent to, a street designated as a state or federal highway.

(c) In addition to the advertising displays permitted by Sections 5405, 5408, and 5408.5, advertising displays located on street furniture may be placed on, or adjacent to, any street designated as a state or federal highway within the jurisdiction of a city and county, subject to all of the following conditions:

(1) The advertising display meets the traffic safety standards of the city and county. These standards may include provisions requiring a finding and certification by an appropriate official of the city and county that the proposed advertising display does not constitute a hazard to traffic.

(2) Any advertising display that is within 660 feet of, and visible from, any

street designated as a state or federal highway shall be consistent with federal law and regulations.

(3) Advertising displays on street furniture shall be placed in accordance with a permit or agreement with the city and county.

(4) Advertising displays on street furniture shall not extend beyond the exterior limits of the street furniture.

(d) Advertising displays placed on street furniture pursuant to a permit or agreement with the city and county shall not be subject to the state permit requirements of Article 6 (commencing with Section 5350). This subdivision does not affect the authority of the state to enforce compliance with federal law and regulations, as required by paragraph (2) of subdivision (c).

(e)(1) The city and county shall, upon written notice of any suit or claim of liability against the state for any injury arising out of the placement of an advertising display approved by the city and county pursuant to subdivision (c), defend the state against the claim and provide indemnity to the state against any liability on the suit or claim.

(2) For the purposes of this subdivision, "indemnity" has the same meaning as defined in Section 2772 of the Civil Code.

(f)(1) This section shall become inoperative not later than 60 days from the date the director receives notice from the United States Secretary of Transportation that future operation of this section will result in a reduction of the state's share of federal highway funds pursuant to Section 131 of Title 23 of the United States Code.

(2) Upon receipt of the notice described in paragraph (1), the director shall notify in writing the Secretary of State and the City and County of San Francisco of that receipt.

(3) This section shall be repealed on January 1 immediately following the date the Secretary of State receives the notice required under paragraph (2).

§ 5410. Maintenance of certain displays until July 1, 1970

Any advertising display located within 660 feet of the edge of the right-of-way of, and the copy of which is visible from, any penalty segment, or any bonus segment described in Section 5406 which display was lawfully maintained in existence on the effective date of this section but which was not on that date in conformity with the provisions of this article, may be maintained, and shall not be required to be removed until July 1, 1970. Any other sign which is lawful when erected, but which does not on January 1, 1968, or any time thereafter, conform to the provisions of this article, may be maintained, and shall not be required to be removed, until the end of the fifth year after it becomes nonconforming; provided

that this section shall not apply to advertising displays adjacent to a landscaped freeway.

§ 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.

§ 5412.1. Removal without compensation; displays on residential zoned property; requirements; adjustments

A city, county, or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

- (a) The display is located within an area shown as residential on a local general

plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for residential use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

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

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

<i>Fair Market Value on Date of Notice of Removal Requirement</i>	<i>Minimum Years Allowed</i>
Under \$1,999	2
\$ 2,000 to \$3,999	3
\$ 4,000 to \$5,999	4
\$ 6,000 to \$7,999	5
\$ 8,000 to \$9,999	6
\$10,000 and over	7

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

§ 5412.2. Removal without compensation; displays on incorporated agricultural areas; requirements; adjustments

A city or city and county, whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the entity elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an incorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the

date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

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

(e) The display is allowed to remain in existence for the period of time set forth below after the enactment or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

<i>Fair Market Value on Date of Notice of Removal Requirement</i>	<i>Minimum Years Allowed</i>
Under \$1,999	2
\$ 2,000 to \$3,999	3
\$ 4,000 to \$5,999	4
\$ 6,000 to \$7,999	5
\$ 8,000 to \$9,999	6
\$10,000 and over	7

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

§ 5412.3. Removal without compensation; unincorporated agricultural areas; requirements; adjustments

A county whose ordinances or regulations are otherwise in full compliance with Section 5412, is not in violation of that section if the county elects to require the removal without compensation of any display which meets all the following requirements:

(a) The display is located within an unincorporated area shown as agricultural on a local general plan as of either the date an ordinance or regulation is enacted or becomes applicable to the area which incorporates the provisions of this section.

(b) The display is located within an area zoned for agricultural use either on the date on which the removal requirement is adopted or becomes applicable to the area.

(c) The display is not located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, nor is

placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway with the purpose of its message being read from the main traveled way.

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

(e) The display is allowed to remain in existence for the period of time set forth below after the adoption or amendment after January 1, 1983, of any ordinance or regulation necessary to bring the entity requiring removal into compliance with Section 5412, and after giving notice of the removal requirement:

<i>Fair Market Value on Date of Notice of Removal Requirement</i>	<i>Minimum Years Allowed</i>
Under \$1,999	3.0
\$ 2,000 to \$3,999	4.5
\$ 4,000 to \$5,999	6.0
\$ 6,000 to \$7,999	7.5
\$ 8,000 to \$9,999	9.0
\$10,000 and over	10.5

The amounts provided in this section shall be adjusted each January 1 after January 1, 1983, in accordance with the changes in building costs, as indicated in the United States Department of Commerce Composite Cost Index for Construction Costs.

§ 5412.4. Application of § 5412

Section 5412 shall not be applied in any judicial proceeding which was filed and served by any city, county, or city and county prior to January 1, 1982, except that Section 5412 shall be applied in litigation to prohibit the removal without compensation of any advertising display located within 660 feet from the edge of the right-of-way of an interstate or primary highway with its copy visible from the highway, or any advertising display placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway that is placed with the purpose of its message being read from the main traveled way of the highway.

§ 5412.6. Compelled removal of lawfully erected display; compensation under § 5412

The requirement by a governmental entity that a lawfully erected display be removed as a condition or prerequisite for the issuance or continued effectiveness of a permit, license, or other approval for any use, structure, development, or activity other than a display constitutes a compelled removal requiring compensation under Section 5412, unless the permit, license, or approval is requested for the construction of a building or structure which cannot be built without physically removing the display.

§ 5413. Negotiations on amount of compensation for removal of displays; valuation schedule

Prior to commencing judicial proceedings to compel the removal of an advertising display, the director may elect to negotiate with the person entitled to compensation in order to arrive at an agreement as to the amount of compensation to be paid. If the negotiations are unsuccessful, or if the director elects not to engage in negotiations, a civil proceeding may be instituted as set forth in Section 5414.

To facilitate the negotiations, the Department of Transportation shall prepare a valuation schedule for each of the various types of advertising displays based on all applicable data. The schedule shall be updated at least once every two years. The schedule shall be made available to any public entity requesting a copy.

§ 5414. Proceedings for removal of displays and compensation

Proceedings to compel the removal of displays and to determine the compensation required by this chapter shall be conducted pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

§ 5415. Regulations governing erection and maintenance of advertising structures

The director shall prescribe and enforce regulations for the erection and maintenance of advertising displays permitted by Sections 5226, 5405, and 5408 consistent with Section 131 to Title 23 of the United States Code¹ and the national standards promulgated thereunder by the Secretary of Transportation; provided, that the director shall not prescribe regulations imposing stricter requirements for the size, spacing or lighting of advertising displays than are prescribed by Section 5408 and provided that the director shall not prescribe regulations to conform to changes in federal law or regulations made after November 8, 1967, without prior legislative approval.

Notwithstanding any other provisions of this chapter, no outdoor advertising shall be placed or maintained adjacent to any interstate highway or primary highway in violation of the national standards promulgated pursuant to subsections (c) and (f) of Section 131 of Title 23 of the United States Code,² as such standards existed on November 8, 1967.

¹23 U.S.C.A. § 131.

²23 U.S.C.A. § 131, subsections (c), (f).

§ 5416. Agreements with United States; acceptance of funds

The director shall seek, and may enter into, agreements with the Secretary of Transportation of the United States and shall take such steps as may be necessary from time to time to obtain, and may accept, any allotment of funds as provided by subdivision (j) of Section 131 of Title 23 of the United States Code,¹ as amended from time to time, and such steps as may be necessary from time to time to obtain

funds allotted pursuant to Section 131 for the purpose of paying the 75 percent federal share of the compensation required by subdivision (g) of Section 131 of Title 23 of the United States Code².

¹23 U.S.C.A. § 131, subd. (j).

²23 U.S.C.A. § 131, subd. (g).

§ 5417. Allocation of funds for payment of compensation

From state funds appropriated by the Legislature for such purposes and from federal funds made available for such purposes, the California Transportation Commission may allocate funds to the director for payment of compensation authorized by this chapter.

§ 5418. Allocation of funds from state highway account to match federal funds

The California Transportation Commission is authorized to allocate sufficient funds from the State Highway Account in the State Transportation Fund that are available for capital outlay purposes to match federal funds made available for the removal of outdoor advertising displays.

§ 5418.1. Allocation of funds; priorities

When allocating funds pursuant to Section 5418, the commission shall consider, and may designate for expenditure, all or any part of such funds in accordance with the following order of priorities for removal of those outdoor advertising displays for which compensation is provided pursuant to Section 5412:

(a) Hardship situations involving outdoor advertising displays located adjacent to highways which are included within the state scenic highway system, including those nonconforming outdoor advertising displays which are offered for immediate removal by the owners thereof.

(b) Hardship situations involving outdoor advertising displays located adjacent to other highways, including those nonconforming outdoor advertising displays which are offered for removal by the owners thereof.

(c) Nonconforming outdoor advertising displays located adjacent to highways which are included within the state scenic highway system.

(d) Nonconforming outdoor advertising displays which are generally used for product advertising, and which are located in unincorporated areas.

(e) Nonconforming outdoor advertising displays which are generally used for product advertising located within incorporated areas.

(f) Nonconforming outdoor advertising displays which are generally used for non-motorist-oriented directional advertising.

(g) Nonconforming outdoor advertising displays which are generally used for motorist-related directional advertising.

§ 5419. Agreements with United States to provide effective control of outdoor advertising

(a) The director shall seek agreement with the Secretary of Transportation of the United States, or his successor, under provisions of Section 131 of Title 23 of the United States Code, to provide for effective control of outdoor advertising substantially as set forth herein, provided that such agreement can vary and change the definition of “unzoned commercial or industrial area” as set forth in Section 5222 and the definition of “business area” as set forth in Section 5223, or other sections related thereto, and provided further that if such agreement does vary from such sections it shall not be effective until the Legislature by statute amends the sections to conform with the terms of the agreement. If agreement is reached on these terms, the director shall execute the agreement on behalf of the state.

(b) In the event an agreement cannot be achieved under subdivision (a), the director shall promptly institute proceedings of the kind provided for in subdivision (l) of Section 131 of Title 23 of the United States Code, in order to obtain a judicial determination as to whether this chapter and the regulations promulgated thereunder provide effective control of outdoor advertising as set forth therein. In such action the director shall request that the court declare rights, status, and other legal relations and declare whether the standards, criteria, and definitions contained in the agreement proposed by the director are consistent with customary use. If such agreement is held by the court in a final judgment to be invalid in whole or in part as inconsistent with customary use or as otherwise in conflict with Section 131 of Title 23 of the United States Code, the director shall promptly negotiate with the Secretary of Transportation, or his successor, a new agreement or agreements which shall conform to this chapter, as interpreted by the court in such action.

Article 8 LANDSCAPED FREEWAYS

§ 5440. Advertising displays adjacent to landscaped freeways

Except as otherwise provided in this article, no advertising display may be placed or maintained on property adjacent to a section of a freeway that has been landscaped if the advertising display is designed to be viewed primarily by persons traveling on the main-traveled way of the landscaped freeway.

§ 5440.1. Displays adjacent to officially designated scenic highway or scenic byway

Except as provided in Section 5442.5, no advertising display may be placed or maintained along any highway or segment of any interstate highway or primary highway that before, on, or after the effective date of Section 131(s) of Title 23 of the United States Code is an officially designated scenic highway or scenic byway.

§ 5441. Removal of offending display

Any advertising display which is now, or hereafter becomes, in violation of Section 5440 shall be subject to removal three years from the date the freeway has been declared a landscaped freeway by the director or the director's designee and the character of the freeway has been changed from a freeway to a landscaped freeway.

§ 5442. Exceptions as to displays adjacent to landscaped freeway

Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively for any of the following purposes:

(a) To advertise the sale or lease of the property upon which the advertising display is placed.

(b) To designate the name of the owner or occupant of the premises upon which the advertising display is placed, or to identify the premises.

(c) To advertise goods manufactured or produced, or services rendered, on the property upon which the advertising display is placed.

§ 5442.5. Exceptions as to displays adjacent to officially designated scenic highway or scenic byway

Section 5440.1 does not apply to any advertising display if the advertising display is used exclusively for any of the following purposes:

(a) Directional and official signs and notices, including, but not be limited to, signs and notices pertaining to natural wonders or scenic and historical attractions that are otherwise required or authorized by law and conform to regulations adopted by the department.

(b) Signs, displays, and devices advertising the sale or lease of real property upon which they are located.

(c) Signs, displays, and devices, including, but not limited to, those that may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located.

(d) Signs lawfully in existence on October 22, 1965, as determined by the department to be landmark signs, including signs on farm structures or natural surfaces, or of historic or artistic significance the preservation of which, in the opinion of the department, would be consistent with the purposes of this section, as determined by regulations adopted by the department.

(e) Signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the interstate system or the primary system. For the purpose of this subdivision, the term "free coffee" means, coffee for which a donation may be made, but is not required.

§ 5442.7. City of Richmond; display structures; exceptions to prohibitions; conditions

(a) Section 5440 does not apply to any freestanding identifying structure that is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, and sponsored by, the City of Richmond to support economic development activities.

(b) A structure erected pursuant to subdivision (a) shall conform to all of the following conditions:

(1) Not more than one identifying structure may be used by the City of Richmond and only if approved by that city by ordinance or resolution after a duly noticed public hearing regarding the structure.

(2) Placement of the structure shall not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the structure, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the structure.

(3) The structure shall be generic only and shall not identify any specific business.

(4) No public funds may be expended to pay for the costs of the structure.

(5) The structure shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

§ 5442.8. City of Costa Mesa; advertising structures; exceptions to prohibition; conditions

Section 5440 does not apply to any advertising structure or sign if the advertising display is used exclusively to identify development projects, business centers, or associations located within the jurisdiction of, or sponsored by, the City of Costa Mesa to support economic development activities, if all of the following conditions are met:

(a) No other display is used by the city pursuant to this section.

(b) The governing body of the city has authorized placement of the display by an ordinance or resolution adopted following a duly noticed public hearing regarding the display.

(c) Placement of the display will not necessitate the immediate trimming, pruning, topping, or removal of existing trees in order to make the display visible or to improve its visibility, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(d) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

§ 5442.9. Exceptions; certain displays on city property

(a) Notwithstanding Section 5440, a city described in subdivision (b) may erect

a nonconforming display if all of the following apply:

(1) The display is placed on property that the city has owned since before January 1, 1995.

(2) Not more than one additional display is added to the number of signs within the city that do not conform to this article as of January 1, 2000.

(3) The display is located within the boundaries of the city.

(4) Placement or maintenance of the display does not require the immediate trimming, pruning, topping, or removal of existing trees to provide visibility to the display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement or maintenance of the display.

(5) No public funds are required to be expended to pay for the costs of the display.

(6) The display does not impose additional liability on the Department of Transportation.

(7) The display does not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

(8) All proceeds received by a participating city by allowing the erection of the nonconforming display are expended by the city solely for parks and programs for at-risk youth.

(9) The display does not advertise products or services which are directed at an adult population, including, but not limited to, alcohol, tobacco, and gambling activities.

(b) For purposes of this section, city is any city that meets all of the following conditions:

(1) The city's population is 17,000 persons or less.

(2) The city's annual budget is less than eight million dollars (\$8,000,000).

(3) The city's geographical area is less than 1.7 square miles.

(4) The city is located in an urbanized county containing a population of 6,000,000 or more persons.

§ 5442.10. Application of § 5440 relating to advertising displays adjacent to landscaped freeways; Oakland-Alameda County Coliseum Authority and Complex

(a) Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display if all of the following conditions are met:

(1) Not more than five advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, shall be erected and only if approved by the Oakland-Alameda County Coliseum Authority.

(2) All five advertising displays shall meet the 1,200 square foot size restriction

set forth in subdivision (a) of Section 5408. However, subject to subdivision (b), three of the advertising displays may be vertically oriented so long as those displays do not exceed 60 feet in height and 25 feet in length, including border and trim and excluding base or apron supports, and other structural members.

(3) The display area of each advertising display is measured by the smallest square, rectangle, circle, or combination that will encompass the display area. For purposes of this section, embellishments and secondary signs located in the border or trim around a display area advertising the name of the coliseum complex or the identities of athletic teams who are licensees or lessees of all or portions of the Oakland–Alameda County Coliseum Complex shall not cause the border or trim areas to be included in a display face for measurement purposes. In the case of an LED display advertising on–premises activities at the Oakland–Alameda County Coliseum Complex, or off–premises, noncommercial community activities, the LED portion of the display face shall not be included for measurement purposes.

(4) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right–of–way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(5) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(6) Each advertising display shall be located on the Oakland–Alameda County Coliseum Complex property and shall comply with the spacing requirements set forth in subdivision (d) of Section 5408, as implemented by department regulation.

(7) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display within the Oakland–Alameda County Coliseum Complex property, and is not entitled to monetary compensation for the removal or relocation even if relocation is not possible.

(8) The display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

(b) For the specific purpose of this section and in accordance with the Memorandum for Record with the Federal Highway Administration dated January 17, 2001, upon the written request of the Oakland–Alameda County Coliseum Authority on behalf of its licensee or contractor seeking to erect one or more of the three advertising displays allowed by paragraph (2) of subdivision (a) consisting of a size not to exceed 60 feet in height and 25 feet in length, the department shall promptly request Federal Highway Administration approval of that change in orientation to ensure that the advertising displays will not cause a reduction in

federal aid highway funds. Upon receipt of the approval from the Federal Highway Administration, the advertising display or displays may be erected.

(c) For the purposes of this section, the Oakland–Alameda County Coliseum Complex is the real property and improvements located at 7000 Coliseum Way, City of Oakland, and more particularly described in Parcel Map 7000, filed August 1, 1996, Map Book 223, Page 84, Alameda County Records, Assessor’s Parcel Nos. 041–3901–008 and 041–3901–009.

§ 5442.11. City of Los Angeles; Mid–City Recovery Redevelopment Project Area; advertising displays

Notwithstanding any other provision of this chapter, Section 5440 does not apply to any advertising display in the Mid–City Recovery Redevelopment Project Area within the City of Los Angeles if all of the following conditions are met:

(a) Not more than four advertising displays, whose placement or maintenance is otherwise prohibited under this chapter, may be erected if approved by the Community Redevelopment Agency of the City of Los Angeles as part of an owner–participation agreement or disposition and development agreement.

(b) All four advertising displays meet the requirements set forth in Section 5405 and 5408.

(c) Placement or maintenance of each advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right–of–way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(d) No advertising display shall advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(e) If any advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner is entitled to relocate that display and is not entitled to monetary compensation for the removal or relocation.

(f) The advertising display shall not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

§ 5442.13. Conditions allowing for advertising display in Los Angeles by a not–for–profit educational academy; restrictions and removal

(a) Notwithstanding any other provision of this chapter, Section 5440 shall not prohibit an advertising display in the City of Los Angeles by a not–for–profit educational academy that is exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code, if all of the following conditions are met:

(1) The exception provided by this section is limited to only one advertising display.

(2) The site of the academy is located immediately adjacent to State Highway Routes 10 and 110 in the City of Los Angeles.

(3) The academy's curriculum focuses on providing arts and entertainment business education.

(4) The advertising display is constructed on the roof of the academy's facility.

(5) The advertising display meets the requirements set forth in Sections 5405 and 5408.

(6) Placement or maintenance of the advertising display does not require the immediate trimming, pruning, topping, or removal of trees located on a state highway right-of-way to provide visibility to the advertising display, unless done as part of the normal landscape maintenance activities that would have been undertaken without regard to the placement of the display.

(7) Revenues accruing to the academy from the advertising display are used exclusively for the acquisition, operation, and improvement of the academy.

(b) An advertising display erected pursuant to this section shall not advertise products or services that are directed at an adult population, including, but not limited to, alcohol, tobacco, gambling, or sexually explicit material.

(c) If an advertising display erected pursuant to this section is removed for purposes of a transportation project undertaken by the department, the display owner shall be entitled to relocate that advertising display with no compensation for the removal or relocation, and the relocation shall be limited to a site on the property of the academy specified in subdivision (a).

(d) An advertising display erected pursuant to this section shall not cause a reduction in federal aid highway funds, as provided in Section 131 of Title 23 of the United States Code.

(e) If the academy specified in subdivision (a) closes or otherwise ceases to operate, the advertising display permitted under this section shall no longer be authorized and shall be removed from the property of the academy.

(f) Notwithstanding Section 5412, if the property on which the academy specified in subdivision (a) is sold, the seller shall remove the billboard from the property without compensation before title to the property is transferred to the buyer.

(g) The academy specified in subdivision (a) shall prepare an audit of the revenues generated by the advertising display authorized under this section that includes, but is not limited to, the total revenues generated from the display, the amount of revenues received by the academy, and the expenditures and uses of the

revenue. The audit shall be submitted to the Controller and the Legislature on or before January 1, 2007, and every four years thereafter.

(h) The academy specified in subdivision (a) shall comply with the provisions of the City of Los Angeles regulation designated as Section 12.21A7(l) of the Los Angeles Municipal Code. The requirements of this subdivision shall be waived if the City of Los Angeles fails to implement, comply with, and make a determination pursuant to the provisions of Section 12.21A7(l) of the Los Angeles Municipal Code on or before January 1, 2005.

§ 5443. Land use or zoning ordinances; relocation agreements; height increases

Nothing in this article prohibits either of the following:

(a) Any county from designating the districts or zones in which advertising displays may be placed or prohibited as part of a county land use or zoning ordinance.

(b) Any governmental entity from entering into a relocation agreement pursuant to Section 5412 or the department from allowing any legally permitted display to be increased in height at its permitted location or to be relocated if a noise attenuation barrier is erected in front of the display or if a building, construction, or structure, including, but not limited to, a barrier, bridge, overpass, or underpass, has been or is then being erected by any government entity that obstructs the display's visibility within 500 feet of the display and that relocated display or that action of the department would not cause a reduction in federal aid highway funds as provided in Section 131 of Title 23 of the United States Code or an increase in the number of displays within the jurisdiction of a governmental entity which does not conform to this article. Any increase in height permitted under this subdivision shall not be more than that necessary to restore the visibility of the display to the main-traveled way. An advertising display relocated pursuant to this subdivision shall comply with all of the provisions of Article 6 (commencing with Section 5350).

§ 5443.5. Relocation of legally permitted displays on property acquired for public use; conditions

Nothing in this article prohibits the Department of Transportation from allowing any legally permitted display situated on property being acquired for a public use to be relocated subject to the approval of the public agency acquiring the property and the approval of the jurisdiction in which the display will be relocated, so long as the action of the department in allowing the relocation of the display would not cause a reduction in federal-aid highway funds, as provided in Section 131 of Title 23 of the United States Code, or an increase in the number of

displays which do not conform to this article within the jurisdiction of a governmental entity.

Article 9 CRIMES AND PENALTIES

§ 5460. Display without permission of owner or lessee

It is unlawful for any person to place or cause to be placed, or to maintain or cause to be maintained any advertising display without the lawful permission of the owner or lessee of the property upon which the advertising display is located.

§ 5461. Violation creating nuisance

All advertising displays which are placed or which exist in violation of the provisions of this chapter are public nuisances and may be removed by any public employee as further provided in this chapter.

§ 5463. Revocation of license; summary removal and destruction; entry upon private property

The director may revoke any license or permit for the failure to comply with this chapter and may remove and destroy any advertising display placed or maintained in violation of this chapter after 30 days' written notice is forwarded by mail to the permitholder at his or her last known address. If no permit has been issued, a copy of the notice shall be forwarded by mail to the display owner, property owner, or advertiser at his or her last known address.

Notwithstanding any other provision of this chapter, the director or any authorized employee may summarily and without notice remove and destroy any advertising display placed in violation of this chapter which is temporary in nature because of the materials of which it is constructed or because of the nature of the copy thereon.

For the purpose of removing or destroying any advertising display placed in violation of this chapter, the director or the director's authorized agent may enter upon private property.

§ 5464. Violation as misdemeanor

Every person as principal, agent or employee, violating any of the provisions of this chapter is guilty of a misdemeanor.

§ 5465. Cumulative character of remedies

The remedies provided in this chapter for the removal of illegal advertising displays are cumulative and not exclusive of any other remedies provided by law.

§ 5466. Display in continuous existence for five years; cause of action

(a) Notwithstanding any other provision of law, as to an advertising display in place as of August 12, 2004, a cause of action for the erection or maintenance of

an advertising display that violates this chapter or the laws of a local governmental entity shall not be brought by a private party against an advertising display that has been in continuous existence in its current location for a period of five years. However, if the advertising display has been illegally modified, the cause of action for the illegal modification may be brought by a private party if it is filed within five years of the date the modification was made.

(b) This section shall not apply to a cause of action brought by a governmental entity that is based on the erection or maintenance of an advertising display that violates this chapter or the laws of the governmental entity.

Article 10 REVENUE

§ 5480. Fees in lieu of other charges

The fees for licenses and permits prescribed by this chapter are in lieu of all other license and permit fees required by the laws of the state or of any political subdivision thereof for the privilege of engaging in the outdoor advertising business or placing advertising display within view of the public highways in unincorporated areas.

§ 5481. Disposition of fees and fines

All license, permit, application, and renewal fees, and all fines, collected by the director and his or her authorized agents in accordance with this chapter shall be deposited in the State Highway Account in the State Transportation Fund, except that 20 percent of all fees and fines collected by county clerks appointed by the director shall be retained by the county in which the fees are collected. All money received by the state from the United States pursuant to subsection (c) of Section 131 of Title 23 of the United States Code shall be deposited in the same account. All fees and fines shall be accounted for by the director in the manner provided by law.

§ 5482. Failure to remove advertising display; fine

Any display owner who does not remove an advertising display that is placed or maintained in violation of this chapter and is removed and destroyed by the director or any authorized employee pursuant to Section 5463, shall pay to the director a fine in an amount equivalent to any costs related to that removal and destruction.

§ 5483. Expenses of administration and enforcement

The expense of administering this chapter is under the control of the director. Money in the State Highway Account in the State Transportation Fund shall be available for the administration and enforcement of this chapter upon appropriation by the Legislature or when made available pursuant to Section 13322 of the Government Code.

§ 5484. License fee; amount

(a) The license fee is two hundred fifty dollars (\$250) for an original license and for each annual renewal thereof for any applicant maintaining six or less sign or structure permits, or both, except where the applicant has engaged in the business of outdoor advertising without a valid, unrevoked and unexpired license, the fee for any issuance of the first license thereafter is three hundred fifty dollars (\$350), one hundred dollars (\$100) of which is the penalty.

(b) The license fee is five hundred dollars (\$500) for an original license and for each annual renewal for any applicant maintaining seven or more sign or structure permits, or both, except where the applicant has engaged in the business of outdoor advertising without a valid, unrevoked and unexpired license, the fee for any issuance of the first license thereafter is six hundred dollars (\$600), one hundred dollars (\$100) of which is the penalty.

§ 5485. Annual permit fee for advertising displays; penalties for displays without valid permits; enforcement costs

(a)(1) The annual permit fee for each advertising display shall be set by the director.

(2) The fee shall not exceed the amount reasonably necessary to recover the cost of providing the service or enforcing the regulations for which the fee is charged, but in no event shall the fee exceed one hundred dollars (\$100). This maximum fee shall be increased in the 2007–08 fiscal year and in the 2012–13 fiscal year by an amount equal to the increase in the California Consumer Price Index.

(3) The fee may reflect the department's average cost, including the indirect costs, of providing the service or enforcing the regulations.

(b) If a display is placed or maintained without a valid, unrevoked, and unexpired permit, the following penalties shall be assessed:

(1) If the advertising display is placed or maintained in a location that conforms to the provisions of this chapter, a penalty of one hundred dollars (\$100) shall be assessed.

(2) If the advertising display is placed or maintained in a location that does not conform to the provisions of this chapter or local ordinances, and is not removed within thirty days of written notice from the department or the city or the county with land use jurisdiction over the property upon which the advertising display is located, a penalty of ten thousand dollars (\$10,000) plus one hundred dollars (\$100) for each day the advertising display is placed or maintained after the department sends written notice shall be assessed.

(c) In addition to the penalties set forth in subdivision (b), the gross revenues from the unauthorized advertising display that are received by, or owed to, the applicant and a person working in concert with the applicant shall be disgorged.

(d) The department or a city or a county within the location upon which the advertising is located may enforce the provisions of this section.

(e) Notwithstanding any other provision of law, if an action results in the successful enforcement of this section, the department may request the court to award the department its enforcement costs, including, but not limited to, its reasonable attorneys' fees for pursuing the action.

(f) It is the intent of the Legislature in enacting this section to strengthen the ability of local governments to enforce zoning ordinances governing advertising displays.

§ 5486. Application for permit; preliminary determination; fees

In addition to the fees set forth in Section 5485, no application for an original permit to place an advertising structure shall be accepted by the department unless it is also accompanied by an application fee of three hundred dollars (\$300). The application fee shall be retained by the department whether or not a permit is issued.

An applicant may request a preliminary determination as to whether a proposed structure and location would be legally eligible for a state permit upon submission of a fee of two hundred dollars (\$200), one hundred dollars (\$100) of which shall be credited toward an application fee for an original permit at this location if a permit is applied for within one year of the response to the request for preliminary determination.

TITLE 4. BUSINESS REGULATIONS

Division 6. Outdoor Advertising, Department of Transportation

(Originally Printed 3–22–45)

Chapter 1. Outdoor Advertising—General**§ 2240. Scope.**

(a) The purpose of this Division is to implement, interpret, make specific, and otherwise carry out the provisions of the California Outdoor Advertising Act, Business and Professions Code Sections 5200, et seq.

(b) The provisions of this Division apply to the placing of a Display in the following areas:

(1) A Display that is placed within 660 feet from the edge of the right of way of an interstate or a primary highway and is visible from the highway, including a Display located in an incorporated area.

(2) A Display that is placed beyond 660 feet from the edge of the right of way and is designed to be viewed primarily from an interstate or a primary highway, including a Display located in an incorporated area.

(3) A Display placed and visible from any other highway in an unincorporated area.

(c) A Display that violates the provisions of this Division is deemed to be in violation of the Outdoor Advertising Act.

(d) The provisions set forth in this Division are cumulative to all other applicable laws and regulations controlling a Display.

NOTE: Authority cited: Sections 5250, 5251, and 5415, Business and Professions Code. Reference: Sections 5200–5486, 5270, 5271, 5408.1, 5463 and 5465, Business and Professions Code; Title 23 United States Code, Section 131; and Title 23 Code of Federal Regulations, Section 750.701.

HISTORY

1. New section filed 5–12–65 as an emergency; designated effective 5–15–65. Certificate of Compliance—Section 11422.1, Government Code, included (Register 65, No. 7).
2. Amendment filed 3–26–71; effective thirtieth day thereafter (Register 71, No. 13).
3. Amendment filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).
4. Amendment of section and NOTE filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
5. New subsection (e) filed 7–17–2006 as an emergency; operative 7–17–2006 (Register 2006, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–14–2006 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 7–17–2006 order by operation of Government Code section 11346.1(f) (Register 2007, No. 41).

§ 2241. Enforcement.

(a) The Department of Transportation and the Director or the Director's

designee is hereby authorized and directed to enforce the provisions of the Act and these regulations, and are further authorized and directed to revoke a license or a permit and remove a Display for violating any provision of the Act or these regulations.

(b) All hearings provided for in these regulations shall be conducted in accordance with the provisions of Chapter 5, commencing with Section 11500 of Part 1 of Division 3 of Title 2 of the Government Code (the “California Administrative Procedures Act”). Any such hearing must be requested by filing a written appeal with the Director (c/o the Office of Outdoor Advertising) within thirty (30) calendar days of the written violation notice, denial, revocation or other determination being appealed. The Director shall thereafter issue a decision, based on finding of fact, affirming, modifying or vacating the denial, revocation or other determination.

(1) The written appeal shall contain the name and company affiliation, if any, address and phone number of the person appealing, the permit or license number, if any, the location of the billboard, with specificity and a statement of the basis for the appeal.

(2) No person shall be entitled to more than one hearing stemming from the same written violation notice, denial, revocation, other determination or set of facts. Hearings will be held in Sacramento, Los Angeles, or San Diego. The Director may agree to hold a hearing at a different locale under extraordinary circumstances.

(3) The failure of a permittee or other person who has appealed to appear at the time and place of the hearing shall be deemed a withdrawal of the appeal, and the written violation notice, denial, revocation or other determination shall constitute a final order of the Director and not be subject to further administrative review.

(4) Nothing herein prevents the Department and affected party or parties from attempting to resolve the dispute informally; however, informal attempts at resolution shall not extend the thirty (30) day period to file an appeal under these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5250 and 5463, Business and Professions Code; and 23 USC Section 131(r)(2).

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer and new section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
4. Designation of existing section as subsection (a) and new subsections (b)-(b)(4) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2242. Definitions.

The following terms when used in this Title 4, Division 6, have the following meanings:

(a) “Accepted” means the official act of acceptance by the Department of a contractor’s completion of a highway project acknowledging the contractor has performed all obligations of a highway contract.

(b) “Act” means the California Outdoor Advertising Act, Sections 5200 et seq., Business and Professions Code.

(c) “Adjacent To” means located within, either in whole or part, an area formed by measuring 660 feet laterally from the edge of the right-of-way of a landscaped freeway sections along a line perpendicular to the center line of the freeway.

(d) “Changeable” means any message change occurring more than once every twenty-four hours.

(e) “Chief Landscape Architect” means the employee of the Department of Transportation charged with statewide responsibility for supervising Highway Planting Projects.

(f) “Completed” means a contractor has performed all obligations under a highway project contract.

(g) “Continuous Planting” means State right of way contiguous to the traveled way which is planted with Ornamental Vegetation in accordance with standard landscaping practices. A physical break in the Planting of less than 200 feet for items such as a highway overcrossing or undercrossing, a stream, a canal, a stairway, a culvert, or a water system is not a gap and may not end a Continuous Planting.

(h) “Certificate of Sufficiency, formerly known as “Design Certification,” means the design engineer for a given project certifies to Right of Way and Asset Management that the right of way indicated on the project maps is the area necessary for a given project.

(i) “Deputy Director Project Development” means the Deputy Director of Project Development of the Department of the Department of Transportation.

(j) “Display means an advertising Display as defined in Section 5202.

(k) “Extension” means an Incidental increase in size of the advertising area which does not exceed the height, length, or total area allowed for in Section 5408(a) of the act.

(l) “Facing” means the portion of the Display that contains advertising copy.

(m) “Highway Planting Project” means an area of State highway right-of-way planted in conformance with plans developed or approved by the Department.

(n) “Imprint” means a marker (a stake or a flag) visible and legible from the highway that identifies the applicant by name or logo placed at the location of proposed display.

(o) “Incidental” means up to 33 percent of the total advertising area of the Display as authorized according to the Department’s records and relates to the

specific advertising copy. Measurement is made based on the height and the length but not the depth.

(p) “Landscape Architect” means a person employed by the Department who holds a certificate to practice Landscape Architecture in California under the authority of Division 3, Chapter 3.5, of the Business and Professions Code (5615 et seq.).

(q) “Light Box” or “sign cabinet” means a portable unit that is Incidental to the Display and its message does not flash, is not in motion, and does not change more than once every two minutes.

(r) “Ornamental Vegetation” means lawns, trees, shrubs, flowers, or other Plantings designed primarily to improve the aesthetic appearance of the highway. Inert material specifically placed to highlight the Ornamental Vegetation is considered part of the Ornamental Vegetation.

(s) “Office of Outdoor Advertising” means that unit of the Department which is delegated by the Director the responsibility of enforcing the Act and these regulations.

(t) “Penalty Fee” means a fee charged for late renewal of a license or a permit.

(u) “Permittee” means the applicant or a subsequent designee on record with the Department as owner of the outdoor advertising permit to place and maintain a specific Display.

(v) “Planting” means the placing or putting into the ground of any vegetation or seeds of vegetation; to set or sow with seeds or plants.

(w) “State Law” means only statutes enacted by the State Legislature, initiative process, or state constitutional provisions.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5200, 5202, 5216, 5250, 5440 and 5485, Business and Professions Code.

HISTORY

1. New section filed 6–25–76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7–22–77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Renumbering of former section 2242 to section 2243 and new section 2242 filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
4. Amendment of subsection (h) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2243. On–Premise Display.

On–premise Display is defined under Sections 5272, 5405(b), 5405(c), and 5442 of the Act. A Display consisting of the following is outdoor advertising and not an on–premise Display:

(a) A Display which advertises directions to, or the sale or lease of the property on which it is located, but which also advertises any product, service, or business activity unrelated to the sale or lease of the property on which the Display is located.

(b) A Display which advertises activities conducted on the property on which

the Display is located, but which also advertises other activities not conducted on the property on which the Display is located.

(c) A Display which advertises a brand name, trade name, product or service only incidental to the principal activity conducted on the property, or from which the business or property owner derives rental income.

(d) A Display placed at or near the end of a narrow strip of property, which is contiguous to the property on which the advertised activity is conducted.

(e) A Display which solely advertises the sale or lease of the property upon which it is placed, but which also identifies a corporation or business activity as the property owner more conspicuously than the for sale or lease message.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5272, 5273, 5274, 5405(b), 5405(c) and 5442, Business and Professions Code; and 23 CFR Section 750.709.

HISTORY

1. Renumbering and amendment of former section 2242 to new section 2243 filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of first paragraph filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2244. On–Premise Display Within a Redevelopment Project.

The applicant for an advertising display to be constructed pursuant to Sections 5273, 5273.5 or 5274 of the Act shall accurately complete and submit the Outdoor Advertising Structure Permit/Application, Form ODA–002 which is incorporated by reference, with a Redevelopment project boundaries map, application and a Certification in writing by the Redevelopment Agency that the display is in the boundary area of a redevelopment agency project and will only advertise businesses and activities within the project where the advertising display is placed. The Redevelopment Agency shall provide the Department with a list of all qualifying businesses and activities in the specified project area. It shall be the obligation of the advertising display owner to demonstrate that any business or activity advertised meets the standards of the Act if it is not included on the list of qualifying businesses and activities provided by the Redevelopment Agency. After certifying the display meets the criteria of sections 5273, 52.73.5 or 5274, it shall be considered an on–premise display and no permit will issue. The applicant will pay a processing review fee equal to the current amount of a permit application fee.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5273 and 5273.5, Business and Professions Code.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of section and NOTE filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2245. Extension of Time Limit for an On–Premise Display Within a Redevelopment Project.

A Display is considered on–premise within a redevelopment project for a period of 10 years or the completion of the project, whichever first occurs, unless an arrangement is made between the redevelopment agency and the Department to extend the period for good cause.

(a) The Department provides written notice to the redevelopment agency governing the project and a copy to the Permittee if different, that the time limitation is expiring, after which Sections 5272 and 5405 of the Act apply.

(b) The redevelopment agency may request the Department to extend the time limit for a Display to be considered on–premise within a redevelopment project. The request must be in writing and made before the 10–year period expires or within 30 days of the Department’s notice, whichever is later. The written request must also identify the good cause for extension and the estimated project completion date.

(c) The Department provides a written response within 30 days of receiving the request for extension from the redevelopment agency.

(d) If an extension is not arranged, the Display must meet the requirements of Sections 5272 and 5405 of the Act, or a new permit must be obtained. If the Display does not meet one of those requirements, the Display must be removed or is subject to the violation, penalty and removal provisions of the Act and these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5272, 5273, 5405 and 5485, Business and Professions Code.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsection (d) and amendment of NOTE filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2246. On–Premise Display Within a Business Center.

For the purpose of administering Section 5274 of the Act, a Display deemed an on–premise Display within a business center continues 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, 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.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5274 and 5490(g), Business and Professions Code.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2250. Location.

NOTE: — §§ 2250 to 2258, inclusive, issued under authority contained in Section 5215, Business and Professions Code. Source of §§ 2250 to 2258, inclusive, is the Rules and Regulations made by the Director of the Department of Transportation, Outdoor Advertising Act.

HISTORY

1. Original publication of Chapter 6 on 3–22–45 (Title 4). Revision filed 9–18–47 (Register No. 9).
2. Repealer filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).
3. Amendment of NOTE filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2251. Prohibited Words or Phrases.

A Display containing any of the following copy is prohibited:

(a) The imitation, simulation or use of official U.S., U.S. Interstate, State or County highway signs or shields.

(b) Prohibited words: A word or combination of words that is construed as a command to traffic or as an official traffic sign is prohibited.

NOTE: Authority cited: Section 5250, Business and Professions Code. Reference: Section 5403(b), Business and Professions Code.

HISTORY

1. New section filed 2–21–63; effective thirtieth day thereafter (Register 63, No. 3).
2. Amendment filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).
3. Editorial correction of Authority cite (Register 95, No. 8).
4. Amendment of section and NOTE filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2252. Advertising Displays Simulating Official Directional Signs.

NOTE: Additional authority cited: Sections 5200 to 5325, Business and Professions Code.

HISTORY

1. New section filed 2–21–63; effective thirtieth day thereafter (Register 63, No. 3).
2. Repealer filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2255. Illuminated Displays (Other Than Displays Containing Reflecting Elements).

HISTORY

1. Repealer filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2260. Displays Containing Reflector Units or Reflecting Elements.

NOTE: Additional authority cited: Sections 5200 to 5325, Business and Professions Code.

HISTORY

1. Amendment filed 2–21–63; effective thirtieth day thereafter (Register 63, No. 3).
2. Repealer filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2265. General.

NOTE: Authority cited: Sections 14001, 14007, 14008 and 14010, Government Code, and Sections 20 and 50, Streets and Highways Code.

HISTORY

1. Amendment filed 8–7–73 as procedural and organizational; effective upon filing (Register 73, No. 32).

2. Repealer filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2266. Enforcement.

NOTE: Authority cited: Sections 5250, 5251 and 5415, Business and Professions Code.

HISTORY

1. Amendment filed 8–7–73 as procedural and organizational; effective upon filing (Register 73, No. 32).
2. Repealer of NOTE and new NOTE filed 7–22–77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2267. Prior Orders Repealed.

HISTORY

1. Repealer filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34).

§ 2270. Customary Maintenance.

“Customary maintenance” means any activity performed on a Display for the purpose of actively maintaining the Display in its existing approved physical configuration and size dimensions at the specific location approved on the application for State Outdoor Advertising Permit, or at the specific location officially recorded in the records of the Department for a legally placed Display, for the duration of its normal life.

(a) Customary maintenance includes the following activities:

- (1) Changing of the advertising message.
- (2) Adding an Extension to an outside dimension of a Display as incident to the copy for a temporary period up to three years.
- (3) The sale, lease, or transfer of the Display or its Permit.
- (4) Adding a Light Box.

(b) Customary does not include the following (all of which acts are considered as a “placing” of a new advertising Display):

- (1) Raising the height of the Display from ground level.
- (2) Relocating all or a portion of a Display.
- (3) Adding a back-up Facing to a single Facing Display.
- (4) Increasing any dimension of a Facing except as permitted by Section 2270(a)(2).
- (5) Turning the direction of a Facing.
- (6) Adding illumination or a Changeable message, including, but not limited to, “tri-vision” signs, with the exception of a light box.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5415, Business and Professions Code.

HISTORY

1. New section filed 6–25–76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7–22–77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Amendment filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

4. Amendment of subsection (b)(6) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2271. Destroyed Display.

(a) A Display is destroyed and not eligible for customary maintenance when for 60 days after notice from the Department, it remains damaged and is not used for the purpose of outdoor advertising in the configuration (size, Facings, location, structure) approved by the Department.

(b) When the Department becomes aware of or identifies a damaged Display, the Department mails a written notice by certified mail to the Permittee beginning the 60-day time period for the Permittee to refurbish, replace, rebuild, or re-erect in kind or smaller the damaged Display and to place advertising copy. An “available for lease” or similar message that identifies the advertising availability of the Display on which the message is placed is advertising copy as long as the message contains a valid telephone number or address to contact for information, if the display has been otherwise refurbished, replaced, rebuilt, or re-erected in kind. Refurbishing, replacing, rebuilding or re-erecting shall be to the approved characteristics as recorded in the department’s records for the Display. This notice is not necessary if the Permittee has completed repair back to the approved characteristics prior to notice being issued by the Department.

(c) The Permittee has until the end of the 60-day time period identified in the Department’s notice to repair, replace, rebuild, or re-erect in kind the damaged nonconforming Display and place advertising copy. Upon receiving written notice from the Permittee showing good cause prior to the 60th or last day of the time period, the Department may extend the established time period not to exceed a total of six months. In such case, the Department shall issue a written response identifying by what date the work must be completed.

(d) When the Display is not restored and advertising is not placed before the last day of established time period, the Display’s customary maintenance is ended and the Display is deemed destroyed. When the Display is deemed destroyed, the permit is revoked, subject to appeal and the remains of the Display are subject to removal under the violation process in Chapter 3.6, commencing with section 2440 in Title 4 of the California Code of Regulations. After the permit is revoked, a permit may not be issued for the location unless the Display conforms to all laws and regulations in effect at the time of application. The last Permittee is responsible for the removal of all remnants of the destroyed Display.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5225 and 5463, Business and Professions Code; and 23 CFR 750.707(d)(6)(i).

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).

3. Repealer and new section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
4. Amendment of section heading and subsections (a)–(b) and (d) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2272. Abandoned Display.

(a) A Display is abandoned when it ceases to exhibit current advertising copy or the Display is removed. An “available for lease” or similar message that identifies the advertising availability of the Display on which the message is placed is considered advertising copy as long as the message contains a valid telephone number or address to contact for information.

(b) The Department shall send a written notice, by certified mail, to the Permittee of a Display that has been removed requiring the Permittee to replace the removed Display within sixty (60) days of the date of the Department’s notice.

(c) The Department shall send a written notice, by certified mail, to the Permittee of a Display which has ceased to exhibit current advertising copy requiring the Permittee to place advertising copy on the Display within sixty (60) days of the date of the Department’s notice.

(d) If the Permittee fails to comply with sections (b) or (c) of this regulation the permit shall be revoked, subject to appeal, and no new permit may be issued for this location unless it conforms to the laws and regulations in effect at the time of application. The last Permittee is responsible for the removal of all remnants of the abandoned Display.

(e) Any permittee served with a notice of revocation may appeal this determination to the Director pursuant to Section 2241(b) of these Regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5415 and 5463, Business and Professions Code; and 23 CFR 750.707(d)(6)(i).

HISTORY

1. New section filed 6–25–76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7–22–77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer and new section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
4. Amendment of section heading and section filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

Chapter 2. Outdoor Advertising on Protected Bonus Segments of Interstate Highways

§ 2300. Scope.

The standards for regulating outdoor advertising on protected bonus segments of an interstate highway are specified in Title 23, Code of Federal Regulations (CFR), Chapter 1, commencing with Part 750.101. and by this reference are incorporated in these regulations as if fully stated herein. Any future amendments to the above–referenced federal bonus segment regulations will be deemed part of these regulations on its effective date.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5251, Business and Professions Code.

HISTORY

1. Repealer of subchapter 2 (Sections 2300–2307, inclusive) and new subchapter 2 (Sections 2300–2308, inclusive) filed 8–21–74; effective thirtieth day thereafter (Register 74, No. 34). For prior history, see Register 73, No. 32.
2. Repeater of NOTE and new NOTE filed 7–22–77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Repealer and new section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
4. Amendment filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2301. Definitions.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2302. Measurements of Distance.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2303. Signs Not Permitted in Protected Areas.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2304. Signs Permitted in Protected Areas.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2305. Class 3 and 4 Signs Within Informational Sites.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2306. Class 3 and 4 Signs Outside Informational Sites.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2307. General Provisions.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2308. Exclusions.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

**Chapter 3. Measurements for Placing an Outdoor Advertising Display
Along an Interstate or a Primary Highway**

§ 2400. Scope.

The provisions of this chapter apply to the measurements for placing a Display visible from an interstate or a primary highway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5205 and 5408, Business and Professions Code; 23 USC Section 131(d); 23 CFR 750.102(c)(3); 23 CFR 750.706; and 23 CFR 750.707.

HISTORY

1. New Subchapter 3 (§§ 2400 through 2405) filed 3-26-71; effective thirtieth day thereafter (Register 71, No. 13).
2. Amendment filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).
3. Amendment of chapter heading, section and NOTE filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2401. Measurement of Distances from a Commercial or Industrial Activity.

(a) A Display is placed in a business area when the Display is on property zoned as commercial or industrial by the local zoning authority and is within 1,000 feet of a commercial or industrial activity.

(b) To determine if a Display is within 1,000 feet of a commercial or industrial activity, measurement is made “in each direction”. Measurement of distance to a Display is made along or parallel to the edge of the pavement of the main-traveled way from the outer edge of a commercial or industrial activity. The display also is within 1,000 feet when measuring the summation of the distance of “A” and “B”. Refer to Diagram 3-1, Figures 1 and 2.

DIAGRAM 3-1

Figure 1

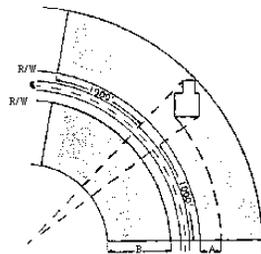
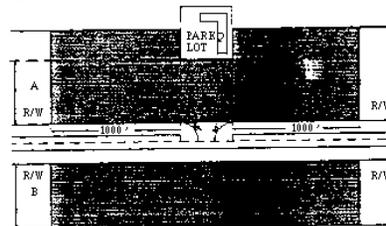


Figure 2



(c) An “activity” is located within 1,000 feet of the right of way and includes all buildings, structures, and related commercial and industrial uses, such as a driveway or a parking lot.

(d) Examples of activities not considered commercial or industrial include, but are not limited to, the following:

- (1) A Display.
- (2) Agricultural, forestry, grazing, farming and related activities, including, but not limited to wayside fresh produce stand vending.
- (3) A commercial or industrial activity that is unbuilt, transient, temporary, or open for less than 100 days a year.
- (4) Railroad tracks.
- (5) An activity conducted in a building principally used as a residence.
- (6) Any activity that does not have state or local business licenses and/or

permits which are required to legally engage in the qualifying activity.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5205, 5223 and 5408, Business and Professions Code; 23 CFR Section 750.708; and 23 USC Section 131.

HISTORY

1. Amendment filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).
2. Repealer of former section 2401 and renumbering of former section 2402 to section 2401, including amendment of section heading, section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
3. New subsection (d)(6) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2402. Measuring Distances Between Advertising Displays.

The minimum distance between Displays is measured along the nearest edge of the pavement between points directly opposite the portion of each Display closest to the right of way. Where the copy panel is parallel to the right of way, measurement shall be made from the edge of the structure closest to the nearest Display. For multiple Displays to be considered one Display for measurement purposes, the Displays are either: contiguous; physically connected by the same structure or cross-bracing; or located fifteen feet or less apart at the nearest point in the case of a V-type or a back-to-back Display.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code; and 23 CFR Section 750.706.

HISTORY

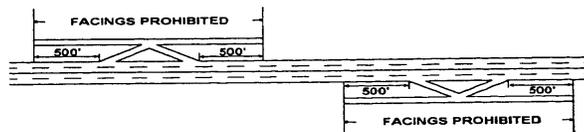
1. Amendment of subsection (b) filed 8-21-74; effective thirtieth day thereafter (Register 74, No. 34).
2. Renumbering of former section 2402 to section 2401 and renumbering of former section 2403 to section 2402, including amendment of section heading, section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2403. Measuring Distances from an Intersection or an Interchange.

(a) An intersection is a system of two or more interconnecting highways without a grade separation providing for the exchange of traffic. Only a road, a street, or a highway which enters directly into the main-traveled way of an interstate or a primary highway is regarded as intersecting. An alley, undeveloped right of way other than an interstate or a primary highway, a private road, and a driveway is not regarded as an intersecting street, a road, or a highway. Refer to Diagram 3-2, Figure 1. for an example of measuring from an intersection.

DIAGRAM 3-2

Figure 1



(b) An interchange is a system of two or more interconnecting highways in combination with a grade separation providing for the exchange of traffic. A grade separation is where one highway is over or under another highway. The interchange includes a highway overcrossing, a highway undercrossing, a roadway, a taper, or a ramp, providing for the exchange of traffic. Refer to Diagram 3-3, Figures 1 through 6 for examples of measuring from an interchange.

(c) The distance from an intersection or interchange is measured as follows:

(1) Where no exit or entrance roadway exists, measure the distance from the edge of the highway structure at grade separation to the point along the edge of the pavement opposite the closest edge of the Display. Refer to Diagram 3-3, Figures 1, 2, 3, and 5 for examples.

(2) Where there is an off ramp from or an on ramp to the main-traveled way, measure along the edge of the pavement from the beginning or end of a pavement taper to the point where the portion of the Display is closest to a pavement taper. Refer to Diagram 3-4, Figure 1 and Diagram 3-3, Figures 1 through 6 for examples.

(d) An interchange or an intersection distance limitation is measured separately for each direction of travel. A Display application is approved for a Facing in a conforming location where an interchange or intersection distance prohibition applies to the opposite side of the freeway if the copy is not visible to traffic proceeding in another direction within the interchange or intersection. Refer to Diagram 3-3, Figures 2, 3, 5, 6 and Diagram 3-4, Figure 1 for examples.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code.

HISTORY

1. Amendment filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Renumbering of former section 2403 to section 2402 and renumbering of former section 2404 to section 2403, including amendment of section heading, section and NOTE and new diagrams 3-3 and 3-4, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

DIAGRAM 3-3

Figure 1

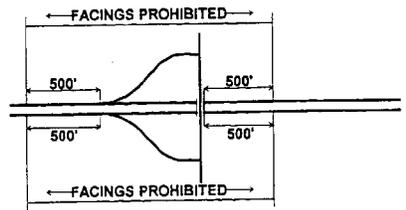


Figure 2

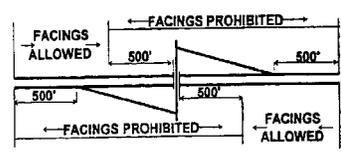


Figure 3

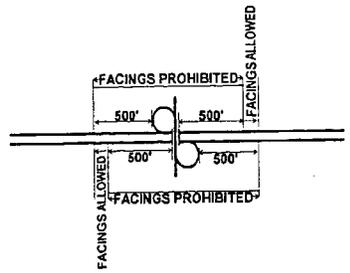


Figure 4

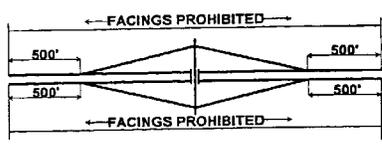


Figure 5

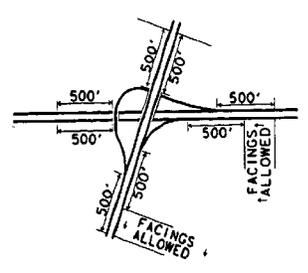


Figure 6

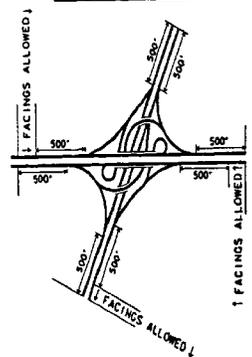
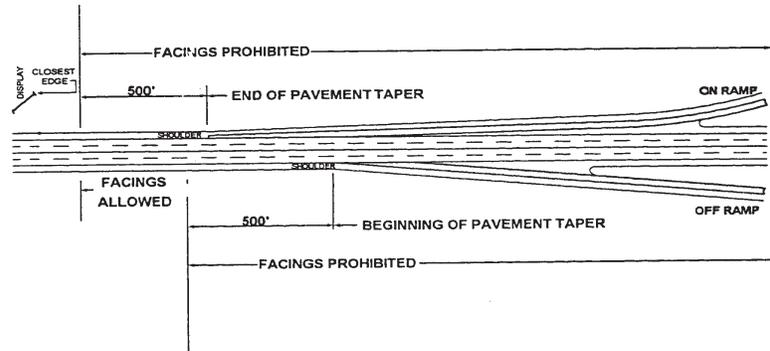


DIAGRAM 3-4

Figure 1



§ 2404. Measuring Distances from the Edge of the Right of Way.

The highway right of way includes all property acquired for the freeway including, but not limited to, the main traveled way, an interchange, a ramp, and interconnecting roadway. The 660' -foot control corridor is determined by measuring 660' feet from the edge of the right of way along a line perpendicular to the center line of the main-traveled way.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code.

HISTORY

1. Renumbering of former section 2404 to section 2403 and renumbering of former section 2405 to section 2404, including amendment of section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2405. Measuring Distances from the Edge of the Right of Way.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5408, Business and Professions Code.

HISTORY

1. New section filed 6-25-76; effective thirtieth day thereafter (Register 76, No. 26).
2. Amendment of NOTE filed 7-22-77 as procedural and organizational; effective upon filing (Register 77, No. 30).
3. Renumbering of former section 2405 to section 2404 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

Chapter 3.5. Application, Permit, and License Administration for Outdoor Advertising

§ 2420. Scope.

The purpose of this Chapter is to define the process for applying, qualifying, and retaining an outdoor advertising permit and license. No Display can be placed legally until after a permit and any required license are issued or renewed. The

Permittee is presumed to own the Display unless the Department is notified otherwise.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5301 and 5351, Business and Professions Code.

HISTORY

1. New chapter 3.5 (sections 2420–2426) and section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2421. Preliminary Determination Application Process.

An application for a preliminary determination is submitted to the Department, with the applicable fee, when an applicant wants advance determination whether a location qualifies for a permit or what additional qualifications are required to obtain a permit. The permit application process is separate from this process. A preliminary determination application does not hold a location or restrict another person from obtaining a permit within spacing of the location for which a preliminary determination is made.

(a) The applicant shall, in accordance with the Act:

(1) Accurately complete and sign the Outdoor Advertising Structure Permit/Application, Form ODA–0002 (Rev. 11/98).

(2) Submit the completed application and fees to the Department at the address specified on the application.

(3) Place an Imprint at the proposed Display location.

(b) The Department shall, in accordance with the Act:

(1) Pre–review the application for completeness.

(2) Review the application on the basis of its eligibility as of the date processed

(3) Issue dated response of preliminary determination to the applicant.

(c) The applicant may submit an application and fees for a permit for the same location within one year of Department’s preliminary determination. If this occurs:

(1) The applicant will be credited with a partial fee as provided by Section 5486 of the Act.

(2) The permit application will be reviewed pursuant to the Act and regulations in effect on the date the permit application is received.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5252 and 5486, Business and Professions Code.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2422. Permit Application Process.

(a) The applicant shall, in accordance with the Act:

(1) Accurately complete and sign the Outdoor Advertising Structure Permit/Application, Form ODA–0002 (Rev. 11/98).

(2) Submit the completed application and fees to the Department at the address specified on the application.

(3) Place and maintain an Imprint at the proposed Display location.

(4) Provide written evidence that the owner or other person in control or possession of the property and the city and county with land use jurisdiction over the property have consented to the placing of the advertising display. Evidence of property owner consent shall be a form of a copy of a lease, license or other land use agreement or another form of written acknowledgement from the owner that such consent has been given. The economic terms of any such agreement need not be included. The consent of the city or county shall be demonstrated by producing a copy of the applicable building or sign permit, or other official act of the city and county used in that jurisdiction to authorize construction, or to demonstrate that the city or county requires no specific consent to construct an advertising display.

(5) Correct any application deficiencies, pursuant to notification as required by (b)(3) within 30 days. The applicant may request an extension of the 30-day time period. The request must be in writing.

(b) The Department shall, in accordance with the Act:

(1) Date and time stamp the application on the date and in the order received by the Office of Outdoor Advertising.

(2) Review the application on the basis of its qualifications as of the date received (For example, the required business activity and zoning must exist on the date the application is received). The application is processed in accordance with the following subsections (A) through (G).

(A) First priority is given to renewing a permit for a legal Display (constructed or not constructed).

(B) An application for a legally placed Display that did not previously require a permit is processed before an application for a new Display.

(C) An application to place a new Display along an existing highway is processed in the order received.

(D) An application for placing a new Display along an existing highway where the copy will be visible from a new alignment of an interstate or a primary highway and the location is nonconforming to the new alignment is not accepted after Certificate of Sufficiency is executed.

(E) An application for placing a new Display along a new alignment of an interstate or primary highway is accepted on or after the date the highway project is Accepted.

(F) An application to relocate an existing permitted Display to accommodate widening or extensive modification of an interstate or a primary highway is processed before an application to place a new Display.

(G) An application for a new Display received after a Certificate of Sufficiency is executed for widening or extensive modification of an interstate or a primary

highway is not processed until the orderly relocation of an existing Display is completed, as coordinated by the Department. The Department issues a notice to the applicant when processing is delayed for this reason. The processing time begins after the orderly relocation of an existing Display is completed.

(3) Provide a written 30-day deficiency notice to the applicant when it is determined there is a deficiency, such as the Imprint is missing or information on the application is missing, is in error, or conflicts with findings. Failure to correct the deficiency within the time allowed results in denial of the application.

(4) Provide a final decision issuing a legal permit or denying permit issuance identifying the noncompliance with law. The permit or denial notice is issued within 60 days from the date the application is received, excluding the time periods for which notices were issued under subsection (b)(3).

(5) Reserve a location for ninety (90) days in accordance with Section 5354(b) and (c) of the act, if a written request from the city or county with land use jurisdiction over the proposed location is received in lieu of a building or sign permit, properly acknowledged by the City Council or Board of Supervisors or their official designee. The description of the proposed location in the city or county's notice shall be consistent with the location requested on the permit application. If a city or county requests an additional thirty (30) day hold on a location in accordance with section 5354(c), in addition to the requirements for an initial 90 day hold specified above, the city and county must detail the extenuating circumstances meriting an additional 30 days. Examples of such extenuating circumstances include, but are not limited to, an inability to properly notice a necessary hearing within the initial 90 days, the unavailability of a necessary witness or property owner, the discovery of newly found evidence or facts, or the late objection of an affected property owner.

(c) An applicant whose permit application is denied may appeal that determination in accordance with the provisions of Section 2241(b) of these Regulations. Until such appeal is finally determined, no permit shall be issued to any other applicant that would affect the legality of a denied permit application until completion of the appeal.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5252 and 5350-5358, Business and Professions Code; and Section 15376, Government Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. New subsection (a)(4), subsection renumbering, amendment of subsections (b)(2)(D) and (b)(2)(G) and new subsections (b)(5)-(c) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2422.1. Permit Fee.

(a) The annual fee for each advertising display shall be one hundred dollars

(\$100.00). The fee shall increase in the 2007–2008 fiscal year and in the 2012–2013 fiscal year by an amount equal to the increase in the California Consumer Price Index.

(b) The 2006 annual permit fee shall be due by December 31, 2005 or thirty days after the effective date of this section, whichever is later.

(c) Permit holders that paid for a renewal term of five years pursuant to Business and Professions Code, Section 5360 at ninety–two dollars (\$92) per year will not be subject to paying this increase until December 31, 2008.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5485(a)(2), Business and Professions Code.

HISTORY

1. New section filed 11–16–2006; operative 12–16–2006 (Register 2006, No. 46).

§ 2423. Permit for Off–Premise Message Center Display.

(a) An application, a permit, and fees are required to place an off–premise message center Display visible to a highway in the areas described in Section 2240(b). This includes converting a permitted Display for use as a message center or converting a permitted message center Display from advertising on–premise activities to off–premise activities.

(b) To qualify for a permit, an off–premise message center Display must meet all the requirements of the Act and these regulations for advertising off–premise activities as well as specific requirements in Section 5405 of the Act related to message center Displays.

(c) The Permittee is responsible for maintaining an off–premise message center Display in compliance with the Act and these regulations, or the Display is subject to the violation process in Chapter 3.6 commencing with section 2240 in Title 4 of the California Code of Regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5405(d), Business and Professions Code.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2424. Permit Renewal Process.

(a) A permit must be renewed pursuant to Section 5360 of the Act. The permit renewal process consists of the following:

(1) The Department mails a renewal application for a term of five years to the Permittee at the Permittee’s last address on the Department’s record at least 30 days before the expiration date.

(2) The Permittee returns the completed Form ODA–0013(A), Application For Outdoor Advertising Permit Renewal 1999–2003 (Rev. 09/99) which is incorporated by reference, and fee to the Department postmarked on or before December 31 of the year in which the permit expires to avoid a penalty. The Permittee would be scheduled to pay as follows:

(A) A Permittee holding 10 or more permits may pay one-fifth of the fee (pro-rata fee) to the Department on an annual basis postmarked each year on or before December 31 to avoid a penalty fee. A Permittee shall be responsible for paying the then current annual fee at the time of each pro-rata payment.

(B) A Permittee holding less than 10 permits must pay the total fee every five years on or before December 31 of the year in which payment is due to avoid a penalty fee. A Permittee prepaying for five years may be assessed any increase in the annual fees, due by December 31 of the year which payment is due.

(C) The Permittee is responsible for contacting the Department if a renewal application is not received.

(3) A permit is expired and is subject to a mandatory penalty of \$100.00 if the renewal application and fee are received by the Department postmarked after December 31 of the year in which the permit expires or the pro rata payment is due.

(4) The Department shall issue the permit after receiving the completed renewal application, permit fee or pro-rata fee, and after determining the Display is not in violation of any provision of the Act or these regulations and an unexpired building permit has been issued, if the display has not been constructed. Permits issued prior to December 31, 2002, for Displays that have not been constructed or have not obtained an unexpired building permit, will not be revoked until June 30, 2005, if the applicable city or county confirms that a building permit is being actively considered for the Display. The Department will also review its records to determine there is no active violation notice on record for the Display as of December 31 of the year in which the permit expires. The permit entitles the permittee to place the permitted display for the term of the permit, provided all pro rata fees are timely received.

(5) If the Department fails to issue a permit according to this Chapter and the Act within one year after receiving a complete and valid renewal application and required fees, the permit is considered renewed for the year of the renewal application. An applicant shall provide a certified mail receipt or signed acknowledgment of receipt by a Department representative to invoke this provision. This section does not apply to a permit under review pursuant to Chapter 3.6 commencing with section 2424(C) in Title 4 of the California Code of Regulations or a legal action.

(6) The following occurs when a permit is not renewed in accordance with (a)(1) to (a)(4) of this section:

(A) The Department provides written notice by certified mail to the Permittee at the address on record at least 30 days before the cancellation date indicating the permit is expired, is not in compliance with the Act, or the permit fee or the pro-rata fee is not received. However, the permit may be renewed with a penalty fee.

(B) The Permittee has until December 31 of the first year following the expiration of the permit to return the renewal application, permit fee or pro-rata fee, and penalty fee or notify the Department to cancel the permit because the Display has been removed.

(C) The Department issues the permit after receiving the completed renewal application, permit fee or pro-rata fee, and after determining the Display is not in violation of any provision of the Act or these regulations. The Department will also review its records to determine if there is no active violation notice on record for the Display as of December 31 of the year in which the permit expires.

(D) When the Permittee fails to comply with subsection (6)(B), the permit is not renewable and the Director shall notify the permittee by certified mail that the permit will be revoked in thirty (30) days. Any permittee served with a notice of revocation may appeal this decision in accordance with the provisions of section 2241(b) of these Regulations.

(7) A permit must be renewed by the end of the first year after expiration or lose eligibility for renewal.

(8) The renewal application for a valid, unrevoked, and unexpired permit shall be mailed when issuance of the permit is pending resolution of a violation notice or a legal action. The Permittee shall continue to comply with the renewal requirements. The permit is issued only when a final decision is made by the Director or by a court of law that does not uphold the violation. Fees will be deposited into the State Highway Account and when appropriate, refunded upon the final decision.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5358, 5360, 5463 and 5485, Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of subsections (a)(2)(A)-(B), (a)(3)-(4), (a)(6)(D) and (a)(8) and amendment of NOTE filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).
3. Change without regulatory effect amending subsection (a)(4) filed 2-28-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 9).

§ 2425. Permit Transfer Process.

(a) The Department will change its records to show a new Permittee for a valid, renewed, and unrevoked permit when one of the following occurs:

(1) The Permittee provides a written transfer notice to the Department that identifies the permit number and the new Permittee's name and business address.

(2) The Permittee returns the renewal application during the renewal period identifying the new Permittee's name and business address.

(3) The Department receives a bill of sale signed by the Permittee that transfers ownership of the permit.

(4) The Department receives documents proving the Permittee is deceased and

the Display is transferred. The new Permittee shall provide the information required in subsection (a).

(5) A court order requires or authorizes the transfer.

(b) Any party whose request to have a permit transferred is denied, and any former permit holder whose permit is transferred may appeal the decision in accord with the provisions of Section 2241(b) of these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5350, Business and Professions Code; and 23 CFR Section 750.707(d)(3).

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Redesignation of former first paragraph and subsections (a)–(e) as new subsections (a)–(a)(5) and new subsection (b) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2426. Business Address of Permittee and Licensee.

(a) The Permittee shall maintain on file with the Department one mailing address. If the mailing address contains a P.O. Box, a street address of the Permittee’s principal place of business shall also be provided.

(b) The licensee shall maintain on file with the Department one person’s name as defined in Section 5219 of the Act and one mailing address. If the mailing address contains a P.O. Box, a street address of the licensee’s principal place of business for outdoor advertising activities shall also be provided.

(c) When there is a change in the name, the mailing address, or the street address of the principal place of business, the Permittee or licensee shall notify the Department, in writing, not later than 30 days following the change.

(d) If the Permittee or licensee fails to notify the Department of a change in address, the mailing of any Departmental notice is effective when mailed to the last address on file. When the notice is to revoke a permit or a license, that notice is maintained on record with the Department for one year.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5350, Business and Professions Code.

HISTORY

1. New section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsection (d) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2427. Permits for Relocated Displays.

No person shall place any advertising display pursuant to a Relocation Agreement without having first secured a Permit. Permits for relocated displays will be issued if the following criteria are met:

(a) the relocation agreement is authorized by law, such as sections 5412, 5443, or 5443.5 of the Act;

(b) the new display complies with sections 5354, 5400–5405, and 5408 of the Act;

(c) the new display will not cause a reduction in the federal-aid highway funds as provided in Section 131 of Title 23 of the United States Code; and

(d) the Department does not assume any potential additional liability if the new display is acquired in the future for a public purpose.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5354, 5400–5405, 5408, 5412, 5443 and 5443.6, Business and Professions Code.

HISTORY

1. New section filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

Chapter 3.6. Violations

§ 2440. Scope.

The purpose of this Chapter is to define the process the Department follows when there is a notice of violation of the Act or these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5460–5465, Business and Professions Code; and 23 U.S.C. 131(r)(1) and (2).

HISTORY

1. New chapter 3.6 (sections 2440–2443) and section filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2441. Violations for Permanent Displays.

(a) When the Department determines a permanently placed Display violates the Act or these regulations, the owner of that Display is given a written violation notice by certified mail that the Display is in violation and subject to removal, and the owner is liable for all statutory penalties and, if the Display is removed by the Department, actual costs of removal.

(b) The violation notice states the violation, the owner's responsibility to respond, and the owner's opportunity to request a review by the Director pursuant to the provisions section 2241(b) of these Regulations.

(c) If the display has been issued a permit, the violation notice is issued to the Permittee unless the Department has been notified in writing that another party with a property interest in the Display also has requested notice of any action concerning the Display. When a Permittee differs from the name on the Display, it is assumed the Permittee is the Display owner and the entity named on the Display is only maintaining it, unless the Department has been notified otherwise. When the owner of the Display is not plainly displayed thereon and no permit exists, the violation notice shall be issued to either the property owner at the address on record with the county assessor's office or the advertiser identified on the Display.

(d) A new violation notice is not issued if the Display is sold, transferred, or the copy is changed. When purchasing a Display, the new Display owner is responsible for determining the legal status of the Display by contacting the Office of Outdoor Advertising.

(e) The owner has 30 days from the date of the certified mailing of the violation notice to respond as follows;

(1) Correct the violation, or
 (2) Remove the Display, or
 (3) Appeal to the Director in writing pursuant to the provisions of section 2241(b) of these Regulations. This request shall contain a statement of reasons supporting the Appeal pursuant to Section 2442 of these regulations.

(f) The owner's failure to respond to the violation notice within 30 days of the date of its certified mailing results in a waiver of the right to Appeal the following:

- (1) the validity of the violation(s) stated in the violation notice.
- (2) removal of the Display by the Department without further notice at the owner's expense.
- (3) the period of time allowed for correction of any violation.
- (4) the amount of any fine, penalty, or assessed removal costs.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5400, 5463, 5482 and 5485, Business and Professions Code; and 23 U.S.C. Section 131(r)(1) and (2).

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of section and NOTE filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2442. Review of Violation Notice.

Any person or entity with a notice of violation pursuant to the Act or these regulations may appeal to the Director in writing pursuant to Section 2241. The cited person or entity may contest any or all of the following aspects of the notice of violation:

- (a) The occurrence of a violation of the Act or these regulation
- (b) The amount of any fine, penalty, or assessed removal costs.
- (c) The removal of the advertising display.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5463 and 5485, Business and Professions Code.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Repealer and new section filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2443. Causes for Revocation of an Outdoor Advertising Permit.

(a) Causes for Revocation of an Outdoor Advertising Permit pursuant to Section 5463 of the Act and Chapter 3.6 commencing with section 2441 of these regulations exists when any one of the following occurs:

- (1) The Permittee fails to renew a permit in accordance with the Act and these regulations.
- (2) The Permittee fails to maintain an outdoor advertising license when required.
- (3) The permitted Display is not in place, no physical construction has begun,

and placement of the Display would result in nonconformance. Physical construction of a Display begins when the Permittee has applied for a local building permit before the Department issues notice that the permitted location has become nonconforming, the appropriate city or county has sent the Department the notice provided for in section 5354(b) of the Act and the Display is constructed before the local building permit expires, including any extensions to the building permit not to exceed six months.

(4) The property owner's consent is canceled.

(5) The Display is determined to be abandoned or destroyed.

(6) A violation of the Act or these regulations is not corrected within the time provided in the violation notice (including any modification of the time allowed after Appeal) or by court order.

(b) Any permittee served with a notice of revocation may appeal this decision pursuant to the provisions of section 2241(b) of these Regulations, unless the permittee has previously appealed a violation notice based on the same facts.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5301, 5302, 5354, 5360, 5440, 5463, 5484 and 5485, Business and Professions Code; 23 U.S.C. Section 131(r)(1) and (2); and 23 C.F.R. 750.707.

HISTORY

1. New section filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Redesignation of former first paragraph and subsections (a)-(f) as new subsections (a)-(a)(6), new subsection (f) and amendment of newly designated subsections (a)(3) and (a)(6) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2444. Causes for Revocation of an Outdoor Advertising License.

(a) Causes for revocation of an Outdoor Advertising License pursuant to Section 5463 of the Act exists when one of the following occurs:

(1) Licensee fails to pay his annual License Fee. Before a License is revoked pursuant to this section, a Licensee shall be given written notice by certified mail that the license fees have not been received, and if payment is received within thirty days of the date of the notice the license will be renewed.

(2) The Licensee fails to timely pay fines, penalties or assessed removal costs. Before a License is revoked pursuant to this section, a License shall be given written notice by certified mail that the payment for the fine, penalty or assessed removal costs have not been received, and if payment is received within thirty days of the date of notice, the license will not be revoked.

(3) A Licensee who has received three notices of violations for placing a Display without first obtaining a permit pursuant to Section 5463 of the Act within any twenty-four month period which have either not been appealed or have been upheld by the Director pursuant to Section 2242 and not been corrected, unless the matter is still pending in State court.

(4) A Licensee who has damaged two or more trees or shrubs in violation of

Streets and Highways Section 730.5 in any two-year period and not made restitution provided for by Streets and Highways Code section 730.5.

(b) Upon the revocation of an Outdoor Advertising License, all permits issued to that Licensee shall be revoked after thirty (30) days' written notice unless they are transferred within one year of the date of license revocation to another Licensee or person not affiliated in any manner with the Licensee whose License was cancelled. After a License has been revoked, that Licensee may apply for a new License after two years if all previous violations have been corrected.

(c) Any Licensee served with a notice or revocation may appeal this determination to the Director pursuant to the provisions of section 2241(b) of these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5301 and 5463, Business and Professions Code.

HISTORY

1. New section filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

Chapter 4. Directional and Other Official Signs and Notices

§ 2450. Scope.

(a) Except as noted below, the standards for regulating directional and other official signs and notices are specified in Title 23, Code of Federal Regulations (CFR), sections 750.151, 750.152, 750.153, 750.154, 750.155, National Standards for Directional and Official Signs, in effect April 1, 1998 and by this reference are incorporated in these regulations.

(b) The provisions of this chapter are in addition to the standards referred to in subsection (a) and apply to directional and other official signs and notices placed pursuant to the provisions of Section 5405 of the Business and Professions Code and located within 660 feet of the nearest edge of the right of way of an Interstate or a Federal-aid primary highway, and visible from the main-traveled way of the highway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5405(a), Business and Professions Code; and 23 CFR Sections 750.151, 750.152, 750.153, 750.154 and 750.155.

HISTORY

1. New Subchapter 4 (§§ 2450 through 2456) filed 3-26-71; effective thirtieth day thereafter (Register 71, No. 13).
2. Amendment of section and NOTE filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2451. Placing Directional and Other Official Signs and Notices.

(a) An official sign and notice, a public utility sign, a service club notice or a religious notice may be placed next to an Interstate or a primary highway.

(b) A public or private directional sign, that is in compliance with the provisions of Title 23, CFR, Chapter 1, Part 750.154, in effect April 1, 1995, may be placed next to interstate or a primary highways except that a sign may not be placed in the following locations:

(1) Adjacent To a landscaped freeway when the sign is designed to be viewed primarily by a person traveling on an Interstate or a primary highway.

(2) Within 2,000 feet of a rest area, a parkland or an officially designated scenic highway or byway area.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5203, 5221, 5440 and 5440.1, Business and Professions Code.

HISTORY

1. Repealer of former section 2451 and renumbering of former section 2452 to section 2451, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2452. Public or Private Directional Sign; Selection Methods and Qualifying Criteria.

(a) Each location for a public or private directional sign must be approved by the Department before placing the directional sign. The Display application and the permit procedures of the Act are used to obtain approval, except application and permit fees are not required for a public or private directional sign expressly excluded from the definition of “Advertising Structure” in Section 5203 or “Sign” in Section 5221 of the Act.

(b) When processing an application to place a public or private directional sign, the following priorities are applied.

(1) First priority is given to a public directional sign.

(2) Second priority is given to a private directional sign. An application for a private directional sign is not processed unless it is accompanied by written confirmation that the activity to be advertised is nationally or regionally known and is of outstanding interest to the traveling public. The confirmation is a letter, resolution, or other official document made by a local public officer, public agency, county board of supervisors, or city council who exercises governmental authority over the area and the sign.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5203 and 5221, Business and Professions Code.

HISTORY

1. Renumbering of former section 2452 to section 2451 and renumbering of former section 2455 to section 2452, including amendment of section heading, section and NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2453. Existing Displays.

A public directional sign and other official sign or notice lawfully in existence on the effective date of these regulations, and which is permitted by city or county ordinance, may be maintained.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5405(a), Business and Professions Code.

HISTORY

1. Repealer of former section 2453 and renumbering of former section 2456 to section 2453, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2454. Directional Signs: Spacing, Lighting and Message Content.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2455. Selection Methods and Criteria.

NOTE: Authority cited: Sections 14001, 14007, 14008, 14010, Government Code, and Sections 20 and 50, Streets and Highways Code.

HISTORY

1. Amendment of subsections (a) and (b)(3) filed 8–7–73 as procedural and organizational; effective upon filing (Register 73, No. 32).
2. Renumbering of former section 2455 to section 2452 filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2456. Existing Displays.

HISTORY

1. Renumbering of former section 2456 to section 2453 filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

Chapter 5. Outdoor Advertising Displays Adjacent to Landscaped Freeways

§ 2500. Scope.

The provisions of this chapter apply only to the placing and maintenance of a Displays Adjacent To a landscaped freeway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5200, 5440 and 5442, Business and Professions Code.

HISTORY

1. New Chapter 5 (Sections 2500–2519) filed 8–29–78; effective thirtieth day thereafter (Register 78, No. 35).
2. Amendment of section and NOTE filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2501. Severability.

If any provision, clause, or application of this chapter to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5440 and 5442, Business and Professions Code.

HISTORY

1. Amendment of section and NOTE filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2502. Definitions.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2503. Construction of Terms.

HISTORY

1. Repealer filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2504. Classifications Delegation.

The Director delegates to the Chief Landscape Architect the responsibility to

classify a landscaped freeway. If the delegation is changed, all references to “Chief Landscape Architect” means whomever is delegated the responsibility of classifying a freeway as a landscaped freeway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5250, Business and Professions Code.

HISTORY

1. Repealer of former section 2504 and renumbering of former section 2507 to section 2504, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2505. Change in Freeway Character—Preliminary Landscape Determination.

(a) Before the award of a Highway Planting Project, the Chief Landscape Architect makes a preliminary landscape determination, based on the project design plans, specifications, and/or concept plans of whether the project will change the character of the freeway to a landscaped freeway. If the preliminary landscape determination is that the project will meet the criteria for being a landscaped freeway and the Highway Planting Project adjacent to existing freeway segments will begin within 180 days or that the Highway Planting Project adjacent to a new segment of freeway will begin within two fiscal years, the Chief Landscape Architect issues a notice of preliminary landscape determination to the Office of Outdoor Advertising and posts that determination on the Landscape Architect’s web page.

(b) The Office of Outdoor Advertising shall not issue a permit for a Display Adjacent To a section of freeway that is designed primarily to be viewed by a person traveling on the landscaped section after a preliminary landscaped determination is made. A Display permit which is issued, but where no physical construction of the Display has begun or exists, confers no vested rights and is canceled no earlier than 180 days after and the Permittee is notified of the action in writing by the Office of Outdoor Advertising. Physical construction of a Display begins when the Permittee has applied for a local building permit before the Department issues notice that the permitted location has become nonconforming, and the Display is constructed before the local building permit expires or 180 days whichever occurs first. Only customary maintenance, as described in section 2270 of this chapter may be performed on existing outdoor advertising displays adjacent to a landscaped freeway section.

(c) If the Highway Planting Project does not begin within 180 days after the date the preliminary landscape determination along an existing segment of freeway is made or within two fiscal years along a new segment of freeway, the determination lapses. The Chief Landscape Architect shall post a notice within 30 days of the lapsed preliminary landscape determination on the Landscape Architect’s web

page and send notice to the Office of Outdoor Advertising.

(d) After the Office Outdoor Advertising is notified of the preliminary landscape determination lapse, a permit for a Display shall be issued if the Display meets the provisions of the Act and these regulations.

(e) A preliminary landscape determination lapse may not prevent a future determination that the same or similar proposed Planting meets the landscaped criteria.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Repealer of former section 2505 and renumbering of former section 2509 to section 2505, including amendment of section heading and section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsections (a) and (c) and amendment of NOTE filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2506. Classification Occurs When Planting Accepted.

A freeway is classified as a landscaped freeway when the Highway Planting Project is Completed and Accepted.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Repealer of former section 2506 and renumbering of former section 2510 to section 2506, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2507. Landscaped Freeway—Minimum Length.

(a) To be classified as a landscaped freeway, a Continuous Planting segment measured parallel from the freeway centerline is at least 1,000 feet in length. For purposes of these regulations, the 1,000-foot length is calculated by either of the following:

(1) 1,000 linear feet of Continuous Planting on one side or the median of the freeway, or

(2) 1,000 linear feet of landscaped area which is the combination of Continuous Planting on both sides and/or the median of the freeway. Continuous Planting can either overlap or have a common point of beginning and ending, as measured along the freeway centerline.

(b) If a Continuous Planting segment as described above is followed by a gap of 200 feet or less and adjoins Continuous Planting which is at least 500 feet in length, the designation “landscaped freeway” applies to the total length of the Continuous Planting segment, the “gap”, and the Continuous Planting.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Renumbering of former section 2507 to section 2504 and renumbering of former section 2511 to section 2507, including amendment of section and NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsections (a)(1)–(2) and repealer of subsection (c) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2508. Change in Freeway Character—Criteria and Inspection.

(a) A freeway may not be classified as a landscaped freeway until a licensed Landscape Architect employed by the Department and based on personal inspection of the Highway Planting Project, certifies in writing that the character of the freeway is changed to a landscaped freeway. The freeway character is changed to a landscaped freeway when Ornamental Vegetation is in place, is at least 1,000 feet in length, is alive, exhibits healthy growth characteristics, and the Highway Planting Project is Accepted by the Department.

(b) The Planting will require reasonable maintenance. That means a plant which, when planted, requires maintenance on a regular basis to maintain it in a healthy and attractive condition. The fact that as a plant matures it may require less maintenance than when first planted is not interpreted to mean it does not require reasonable maintenance. As used herein, maintenance means any of the following: watering, fertilizing, spraying, cultivating, pruning, cutting, mowing, replacing, weed control, washing, pest control, disease control, litter removal, or other similar plant care procedures.

(c) Functional planting does not change the character of the freeway to a landscaped freeway. Functional planting means vegetation primarily for soil erosion control, traffic safety, reduction of fire hazards, and traffic noise abatement or other non–ornamental purposes. A single row of plantings in the median shall be considered a functional planting.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Repealer of former section 2508 and renumbering of former section 2512 to section 2508, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsection (c) and amendment of NOTE filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2509. Landscaped Freeway Classification.

The Chief Landscape Architect classifies the freeway as a landscaped freeway when a review of the Landscape Architect’s certification and the Planting plans and specifications indicate the highway Planting meets the criteria of the Act and this Chapter.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. Renumbering of former section 2509 to section 2505 and renumbering of former section 2513 to section 2509, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2510. Records.

The Chief Landscape Architect shall maintain, as a public record, a register of the county, route and post mile or kilometer post of the freeways or sections of freeways classified as a landscaped freeway by the Department. Identification markers may be placed and maintained by the Department at the boundaries of a landscaped freeway section.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. Renumbering of former section 2510 to section 2506 and renumbering of former section 2514 to section 2510, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).

§ 2511. Retention of Classification.

A landscaped freeway retains its classification:

(a) When a construction project results in the temporary removal of the plant material. If the plant material is not replaced within six months after the Department Accepts the construction project, the Chief Landscape Architect shall review the classification upon the receipt of a written request. No review shall be made until six months after the Department accepts the construction contract. If the Chief Landscape Architect determines that it is not reasonably certain that new Plantings, sufficient to constitute a landscaped freeway, will be placed within two fiscal years of the date of the request for review, the section is declassified, or,

(b) When a catastrophic event, such as a disease, pests, freeze or fire kills over 50% of the plantings in a segment, or over 3000 trees or shrubs of the same variety within a three year period throughout the state. In the case of such a catastrophic event, the Chief Landscape Architect shall review the classification upon receipt of a written request. The section will be declassified unless a concept plan to replace the plantings is adopted within two years after the conclusion of the catastrophic event or if the Chief Landscape Architect determines that it is not reasonably certain that new Plantings, sufficient to constitute a landscaped freeway, will be placed within six fiscal years of the date of the request for review.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. New final paragraph and new NOTE filed 7–25–96 as an emergency; operative 7–25–96 (Register 96, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–22–96 or emergency language will be repealed by operation of law on the following day.
2. Reinstatement of section as it existed prior to 7–25–96 emergency amendment by operation of Government Code section 11346.1(f) (Register 97, No. 37).

3. New final paragraph and new NOTE filed 9–11–97; operative 10–11–97 (Register 97, No. 37).
4. Renumbering of former section 2511 to section 2507 and renumbering of former section 2515 to section 2511, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
5. Repealer and new section heading and amendment of section filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2512. Request for Reclassification.

A person may make a written request to the Chief Landscape Architect, to classify a freeway or a section of freeway as a landscaped freeway, or to declassify a freeway or section of freeway classified as a landscaped freeway.

(a) The request (1) shall be in writing; (2) shall be signed and dated; (3) shall identify the section of freeway by county, route and post mile or kilometer post; and (4) shall contain a detailed statement of reasons supporting the proposed freeway classification or declassification.

(b) Within 60 days after receiving the written request, a Landscape Architect shall inspect the freeway or section of freeway covered by the request. All findings made during this inspection are presented to the Chief Landscape Architect, who shall determine whether to reclassify the freeway section. The determination of whether to reclassify is based upon whether the freeway section meets the criteria of the Act and these regulations on the date of determination. A field review need not be made if a review has taken place within two years of the date of the request, unless the request specifies major changes have occurred within the two years preceding the request.

(c) Within 90 days after receiving a request for reclassification, the person making the request is notified in writing by the Chief Landscape Architect of the determination and the reasons therefore. If the request is not granted, the person making the request may appeal this determination to the Deputy Director Project Development pursuant to the provisions of section 2241(b) of these regulations.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Section 5216, Business and Professions Code.

HISTORY

1. Renumbering of former section 2512 to section 2508 and renumbering of former section 2516 to section 2512, including amendment of section and new NOTE, filed 9–20–99; operative 10–20–99 (Register 99, No. 39).
2. Amendment of subsection (c) filed 11–23–2004; operative 12–23–2004 (Register 2004, No. 48).

§ 2513. Displays Viewed Primarily from Landscaped Freeways.

If a section of freeway is classified as a landscaped freeway, the Department determines if there is a Display Adjacent To that section of freeway which is designed to be viewed primarily by a person traveling on the landscaped section of a freeway.

(a) A Display is designed to be viewed primarily from a landscaped freeway

section when the Display is within the limits of a landscaped freeway and its copy is legible to motorists from within the landscaped segment.

(b) All determinations are made in the present. The fact the Display may have been designed primarily to be viewed from another roadway at some point in the past is not determinative.

(c) Notwithstanding subsection (a) above, if a Display's copy is legible from both a landscaped freeway and another freeway or highway, a rebuttable presumption is established that the Display is designed primarily to be viewed from the freeway or highway with the highest daily traffic count. This presumption may be rebutted by use of the following criteria:

(1) Traffic Count. Comparing the difference between the average daily traffic count for the landscaped freeway and the other freeway or highway.

(2) Angle. The angle of placement of the Display.

(3) Visual Approach Distance. The distance the Display is legible measured along each freeway or highway it is visible from.

(4) Height. Whether the Display's height makes the Display legible to more motorists on one freeway or highway or legible to motorists for a longer period of time on one freeway or highway.

(5) Relative Size. The prominence the Display has from each freeway or highway.

(6) Copy. Does the advertising message, or have past advertising messages, give specific directions for persons on only one freeway or highway.

(7) Owner's Representations. Has the Display been represented by the owner to be viewed primarily by persons traveling on one freeway or highway.

NOTE: Authority cited: Sections 5250 and 5415, Business and Professions Code. Reference: Sections 5216 and 5440, Business and Professions Code.

HISTORY

1. Renumbering of former section 2513 to section 2509 and renumbering of former section 2517 to section 2513, including amendment of section and new NOTE, filed 9-20-99; operative 10-20-99 (Register 99, No. 39).
2. Amendment of subsection (c) filed 11-23-2004; operative 12-23-2004 (Register 2004, No. 48).

§ 2514. Records.

HISTORY

1. Renumbering of former section 2514 to section 2510 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2515. Temporary Removal of Plant Material.

HISTORY

1. Renumbering of former section 2515 to section 2511 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2516. Request for Reclassification.

HISTORY

1. Renumbering of former section 2516 to section 2512 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2517. Displays Viewed Primarily from Landscaped Freeways.

HISTORY

1. Renumbering of former section 2517 to section 2513 filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2518. Notice to Remove Display.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).

§ 2519. Review of Violation.

HISTORY

1. Repealer filed 9-20-99; operative 10-20-99 (Register 99, No. 39).