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Subject: PC meeting 11/16 -- SIGN CODE REVISION CONCERNS -- FROM CALIFORNIA SIGN ASSOCIATION
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Sign Code Revision Comments

Humboldt Planning Commission
Hearing Date: Nov 16, 2023

Honorable Members of the Planning Commission and Staff:

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

We laud the County's effort to update the sign code and have reviewed the latest iteration (11/16 PC). However, we wish to voice our concern over a number of items. While our comments here are specific to the Inland draft, they apply equally to the Coastal version. Please note that we do not represent the billboard industry; as such, our comments are particular to on-premise business signage, e.g., signs identifying the businesses, goods and services available on the site where the business operates.

RECOMMENDED CHANGES

87.2.1 PURPOSE

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

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

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

87.2.6 APPURTENANT SIGNS

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

The section should add “*services.*” The draft only addresses a *place* of business and product signage available on the premises. We suggest using the definition of on-premise signage set forth in Business & Professions Code Sec. 5490 –

<!--[if !supportLists]-->(a) <!--[endif]-->This chapter applies only to lawfully erected on-premises advertising displays.

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

(1) To designate, identify, or indicate the name or business of the owner or occupant of the premises upon which the advertising display is located.(2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display has been lawfully erected.

87.2.6.2

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

87.2.6.5 Appurtenant Signs

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

Freestanding signs. Per the chart and drawing a Freestanding sign is a pole sign that requires a special permit, but there are no criteria upon which to base an application. As you’re aware, this sort of vague, open-ended restriction is

arbitrary and capricious, and leaves the County subject to claims of unlawful prior restraint. An applicant is entitled to know what the criteria are in advance. (The “special permit” condition permeates the proposed code in numerous sections and is problematic throughout.)

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

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

87.2.7.3 and 4 (Master Sign Plans)

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

87.2.7.3 A Master Sign Plan shall be principally permitted if in accordance with Section 87.2.6.5;

87.2.7.4 A Special Permit shall be required if the Master Sign Plan proposes signage that is not in accordance with Section 87.2.6.5, which would allow:

- I. Transfers of maximum sign areas between tenants on a site to allow the collective total sign area permitted for the entire site to be pooled and re-allocated between tenants;
- II. Deviation from the total number of each type of sign allowed; and
- III. Deviation from the maximum size of signs permitted.

Also, it’s again unclear in 7.3 what “principally” permitted refers to.

87.2.9.1.6 -- Illumination

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

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

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

Also, we object to the language in this section requiring the “lowest light level necessary.” The County has not established brightness levels for signage and this vague and ambiguous standard is open to debate. From our perspective, light levels must be sufficient to adequately convey the message to a driver from a reasonable distance – and not result in a diminishment of readability. Obviously, glare is unacceptable, but neither is an undefined, open-ended criterion, subject to the whim of a code enforcement officer.

87.2.9.1.8 (Neon Prohibition)

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

87.2.10 (Ban on Digital signage)

As proposed, this section bans:

I. Digital, Animated or Changeable Copy Signs. Signs that include any part that appears to rotate, flash, blink, move, change color, emit sound, or change intensity, except for approved fuel price signs, standard barber poles, time and temperature

signs that are located in commercial and industrial zones. This includes but is not limited to electronic message boards, large television or projector screens, etc. Except when placed on such property by the public agency having jurisdiction or expressly authorized by such public agency.

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

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

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

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