

## Questions and Answers Regarding Billboards and Liquor Store Window Advertising

(information provided by San Mateo County Counsel)

### 1. Can we "sunset" or amortize existing billboards in North Fair Oaks?

Potentially yes, but the method is complicated. Signs that existed before the enactment of a local ordinance can be subject to gradual amortization, if the amortization period is reasonable. Courts have upheld amortization periods ranging from one to ten years, depending on a number of factors. Practically, however, we would need to adopt an ordinance amending our zoning regulations before we would be able to sunset billboards, for the reasons explained below.

The zoning regulations prohibit billboards in North Fair Oaks, and designate existing billboards "legal non-conforming uses" subject to the provisions of the "Non-Conforming Uses Chapter." (See, e.g., ZR § 6254.4(10)(6).) Although the prohibition calls existing billboards legal non-conforming "uses," billboard would probably be considered a "non-conforming situation" under the zoning non-conforming regulations, which state: "Any zoning nonconformity that is not a non-conforming parcel, non-conforming use or non-conforming structure. Examples include non-conforming parking, landscaping, or **signs**." (ZR § 6132.)

The zoning regulations do not provide for amortization of non-conforming situations. (see ZR § 6136.) The Board can sunset non-conforming *uses* upon finding an impact to public health/safety/welfare and detriment to neighborhood character. There is no similar provision for non-conforming situations. The existing billboards can likely be maintained with minor repairs, etc., but if a major modification is needed, or there is a proposal to demolish and rebuild, we should be able to prohibit those types of major activities. (ZR § 6136(5).) *Eventually*, this tool should allow removal of existing billboards, but it is a slow and complex process.

If the County is interested in proposing an ordinance to specifically amortize existing billboards, further research to confirm consistency with state law would be required. It may be possible, but there are detailed provisions about local ordinances that require amortization and may require payment of just compensation for existing billboards even when amortization has been completed. (Business & Professions Code § 5491.)

### 2. Can we regulate (limit or ban) window coverage (typically cigarette/alcohol ads) on existing liquor stores?

No. State law regulating alcohol beverage licenses imposes window coverage requirements on retail liquor stores, and would preempt the County from adopting more stringent standards. In general, retail liquor stores can have no more than 33% of windows covered with advertising or signs. In addition, all ads/signs must be placed in a manner that allows law enforcement to have a clear view of the inside of the store, including the cash register area, from the sidewalk or store entrance. (Business & Professions Code § 25612.5.) Violation of these requirements is a criminal misdemeanor punishable by a max \$1,000 fine and/or six months in jail. (§ 25617.) If retailers are violating these requirements, we can examine reporting and enforcement options. In addition, ABC may be able to impose more stringent requirements when it issues or approves transfer of a license. While new licenses are not expected in NFO, we might look for opportunities to request additional requirements upon transfer.