



# City of Fort Bragg

416 N Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802

## Meeting Agenda Planning Commission

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Wednesday, June 2, 2021

6:00 PM

Town Hall, 363 N.Main Street

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### Special Meeting

### MEETING CALLED TO ORDER

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL

#### PLEASE TAKE NOTICE

*Tonight's Planning Commission meeting is presented in a hybrid format, both in-person at Town Hall and virtually via Zoom. The Governor's Executive Orders N-25-20 and N-29-20 suspend certain requirements of the Brown Act, and Commissioners and staff may choose to participate in person or by video conference.*

*The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public comments regarding matters on the agenda may be made in person at Town Hall or by joining the Zoom video conference and using the Raise Hand feature when the Chair or Acting Chair calls for public comment. Any written public comments received after agenda publication will be forwarded to the Commissioners as soon as possible after receipt. All comments on agenda matters will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible. Public comments may be submitted to Sarah Peters at [speters@fortbragg.com](mailto:speters@fortbragg.com).*

#### ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.*

*When: Jun 2, 2021 06:00 PM Pacific Time (US and Canada)*

*Topic: Special Planning Commission on Formula Business*

*Please click the link below to join the webinar:*

*<https://zoom.us/j/91207605053>*

*Or One tap mobile :*

*US: +16699009128,,91207605053# or +13462487799,,91207605053#*

*Or Telephone:*

*Dial(for higher quality, dial a number based on your current location):*

*US: +1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656  
or +1 301 715 8592*

*Webinar ID: 912 0760 5053*

*International numbers available: <https://zoom.us/u/ajnbbwywfl>*

#### **1. PUBLIC COMMENTS ON: (1) NON-AGENDA & (2) CONSENT CALENDAR ITEMS**

*MANNER OF ADDRESSING THE PLANNING COMMISSION: All remarks and questions shall be addressed to the Planning Commission; no discussion or action will be taken pursuant to the Brown Act. No person shall*

*Speak without being recognized by the Chair or Acting Chair. Public comments are restricted to three (3) minutes per speaker.*

*TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: Thirty (30) minutes shall be allotted to receiving public comments. If necessary, the Chair or Acting Chair may allot an additional 30 minutes to public comments after Conduct of Business to allow those who have not yet spoken to do so. Any citizen, after being recognized by the Chair or Acting Chair, may speak on any topic that may be a proper subject for discussion before the Planning Commission for such period of time as the Chair or Acting Chair may determine is appropriate under the circumstances of the particular meeting, including number of persons wishing to speak or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.*

*BROWN ACT REQUIREMENTS: The Brown Act does not allow action or discussion on items not on the agenda (subject to narrow exceptions). This will limit the Commissioners' response to questions and requests made during this comment period.*

## **2. STAFF COMMENTS**

## **3. MATTERS FROM COMMISSIONERS**

## **4. CONSENT CALENDAR**

*All items under the Consent Calendar will be acted upon in one motion unless a Commissioner requests that an individual item be taken up under Conduct of Business.*

## **5. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS**

## **6. PUBLIC HEARINGS**

- 6A** [21-268](#) Receive Report, Conduct Public Hearing and Adopt a Resolution Providing a Recommendation to City Council Regarding an Inland Land Use and Development Code Amendment Regulating Formula Business

**Attachments:** [Formula Business Staff Report](#)

[ATT 1 - Proposed Ordinance](#)

[ATT 2 - Proposed Ordinance Redline](#)

[ATT 3 - Formula Business Resolution](#)

[ATT 4- Zoning Map](#)

[ATT 5 - Public Comment](#)

[ATT 6 - Presentaton](#)

## **7. CONDUCT OF BUSINESS**

## **ADJOURNMENT**

*The adjournment time for all Planning Commission meetings is no later than 9:00 p.m. If the Commission is still in session at 9:00 p.m., the Commission may continue the meeting upon majority vote.*

STATE OF CALIFORNIA    )  
   )ss.  
 COUNTY OF MENDOCINO   )

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on May 28, 2021.

\_\_\_\_\_  
 Sarah Peters  
 Office Assistant, Community Development Department

**NOTICE TO THE PUBLIC**

Materials related to an item on this agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Community Development Department at 416 North Franklin Street, Fort Bragg, California, during normal business hours. Such documents are also available on the City’s website at [www.fortbragg.com](http://www.fortbragg.com) subject to staff’s ability to post the documents before the meeting.

**ADA NOTICE AND HEARING IMPAIRED PROVISIONS:**

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



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## Text File

File Number: 21-268

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**Agenda Date:** 6/2/2021

**Version:** 1

**Status:** Public Hearing

**In Control:** Planning Commission

**File Type:** Planning Resolution

**Agenda Number:** 6A

Receive Report, Conduct Public Hearing and Adopt a Resolution Providing a Recommendation to City Council Regarding an Inland Land Use and Development Code Amendment Regulating Formula Business



**AGENCY:** Planning Commission

**MEETING DATE:** June 2, 2021

**PREPARED BY:** Tabatha Miller

**PRESENTED BY:** Tabatha Miller

## **AGENDA ITEM SUMMARY REPORT**

**APPLICATION NO.:** Inland Land Use and Development Code Amendment 2-20 (ILUCD-2-20)

**APPLICANT:** **City of Fort Bragg**

**PROJECT:** ILUDC Amendment to Regulate Formula Businesses in the City of Fort Bragg

**LOCATION:** Inland area of the City of Fort Bragg

**LOT SIZE:** N/A

**ZONING:** Neighborhood Commercial (CN), Central Business District (CBD), General Commercial (CG), and Highway Visitor Commercial (CH) Districts

**ENVIRONMENTAL DETERMINATION:** The City has analyzed the project proposal described herein and finds that the project is exempt from the California Environmental Quality Act ("CEQA") because Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. This Ordinance will have the net effect of reducing, rather than increasing the amount of change in the City in that it does not authorize any additional uses as permitted or conditionally permitted uses nor does it change the uses allowed in the City or their intensity or density.

**SURROUNDING LAND USES:** N/A

**APPEALABLE PROJECT:**  **Can be appealed to City Council**  
 **Can be appealed to California Coastal Commission**

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission: 1) Open the public hearing; 2) Receive staff report; 3) Take testimony from the public; 4) Close the public hearing, deliberate; and 5) Adopt a resolution recommending that the City Council adopt the Formula Business Regulation Ordinance, adopt it with modification, or recommend disapproval of the Ordinance.

## **ALTERNATIVE ACTIONS**

1. Hold a public hearing, close the hearing, deliberate without a decision, and revisit the recommendation to City Council at the next scheduled meeting for a decision.
2. Hold the hearing and continue the hearing to a date certain if there is insufficient time to obtain all input from all interested parties. At the date certain, the Commission may then deliberate and make a decision.
3. Take no action on the Resolution (not recommended).

## **BACKGROUND**

After discussing the regulation of formula businesses on October 24, 2019 and February 24, 2020, the City Council directed staff to bring the matter to the Planning Commission to provide guidance on developing a Formula Business Ordinance and potentially recommending an Ordinance for adoption by the City Council. The Planning Commission initially received a report on development of an Ordinance to regulate formula businesses on October 14, 2020. The Planning Commission met on May 5, 2021 to finalize a draft Formula Ordinance.

On April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021 placing a 45-day Moratorium on the Approval of Applications and Permits for Formula Businesses in the Inland Zoning Areas. Urgency Ordinances require four of five Councilmembers to approve and to extend. On the same day, an Urgency Ordinance for a Formula Business Moratorium in the Coastal Zoning Areas failed. On May 24, 2021, the City Council approved an extension of the moratorium for ten months and fifteen days to provide sufficient time to allow the Formula Business Regulations to be finalized, adopted and to become effective. The City Council and staff expect that a final ordinance will be adopted prior to the expiration of the ten months and fifteen days and that the moratorium can be rescinded early.

## **PROJECT DESCRIPTION**

This amendment to the Municipal Code involves changes to Title 18, the Inland Land Use and Development Code (ILUDC), in order to provide additional regulation of Formula Businesses.

Cities cannot prohibit all Formula Business within their jurisdictions, but can pass ordinances to impose specific permit requirements to ensure that new Formula Businesses are located in accordance with legitimate land-use and planning goals that support the City's General Plan Policies. There are three elements to consider in structuring a legally defensible formula business ordinance: 1) Establish extensive findings on the purpose of the ordinance; 2)

Establish clear criteria for the issuance of Use Permits regulating the use of the land which treats the class of Formula Businesses equally; and 3) Make clear connections between the Formula Business regulations and stated purpose of the ordinance.

Attached to this Staff Report is an Ordinance adding Chapter 18.46 Formula Business Regulations to the Inland Land Use and Development Code (ILUDC). Staff requests that the Planning Commission conduct a Public Hearing and make a recommendation to the City Council to approve, approve in modified form, or disapprove the proposed amendment (ILUDC Section 18.94.040).

## **ANALYSIS**

### **Discussion on Proposed Ordinance Language**

#### **Section 1. Legislative Findings**

Section 1 of the proposed Ordinance sets forth legislative findings. There have been few legal challenges in California to local Formula Business regulations. One, in which the City of Coronado successfully defended its regulations, was *Organized v. City of Coronado*<sup>1</sup>. Although unpublished, so it cannot be relied on as case law, the court relied heavily on the lengthy preamble section which set forth the nondiscriminatory purposes of the regulation. Staff has followed this example, to provide further support for adoption of the Formula Business regulations.

#### **Section 2. Chapter 18.46 Formula Business Regulations**

##### **18.46.010 Purpose.**

The purpose provides an abbreviated purpose for the Ordinance. It introduces the chapter in the code, serves as a sort of preamble and is included in the codified portion of the Ordinance, unlike the more expansive Legislative Findings. It also helps substantiate the nondiscriminatory justification for the Ordinance.

*The purpose of this chapter is to promote and maintain the City's unique small town character, the diversity and vitality of the City's commercial districts, and the quality of life for Fort Bragg's residents and visitors. It is presumed that establishing or preserving a balanced mix of local, regional and national-based businesses will more effectively serve to achieve this purpose as a strategy to maintain and improve the economic health of the City's business districts and the small one-of-a-kind ambiance.*

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<sup>1</sup> *Organized v. City of Coronado*, 2003 Cal.App.Unpub. LEXIS 5769, Court of Appeals of California, Fourth Appellate District, Division One.

## 18.46.020 Definitions.

Terms and phrases used in the Formula Business Chapter will be codified in Chapter 18.100 reserved for definitions under the header “Formula Business.” Additionally, the Ordinance eliminates the current definition of “Formula Business” in the ILUDC.

The following definitions will be added to the ILUDC as set forth in the Ordinance:

*“**Array of merchandise/menu**” shall be defined as 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.*

*“**Color scheme**” shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.*

*“**Commercial Establishment**” means a commercial establishment that provides goods and/or services directly or indirectly to the consumer.*

*“**Decor**” shall be defined as the style of interior finishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.*

*“**Facade**” shall be defined as the face, front or side of a building, including awnings, especially the principal front that looks onto a street or an open space.*

*“**Formula Business**” means a Commercial Establishment which, along with ten (10) or more other business locations outside of Fort Bragg, regardless of ownership or location at the time that the application is deemed complete, is required by contractual or other arrangement to maintain at least two (2) of the following Standardized features: an Array of merchandise/menu, Decor, Uniforms, Façade, Color scheme, exterior Signage including a Trademark or Service mark as Signage.*

*“**Payday or Check Cashing Commercial Establishment**” is a person or company who makes or facilitates a deferred presentment transaction, such that the person or company provides currency or a payment instrument in exchange for a person’s check or agreement to provide access to a drawer’s account in a financial institution and agrees to hold that person’s check for a period of time prior to presentment, deposit, or redemption or facilitates this process.*

*“**Service mark**” shall be defined as word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.*

*For definition of “**Signage**,” see definition of “**sign**” § 18.100.020 (S).*

*“**Standardized**” does not mean identical, but means substantially the same.*

*“**Trademark**” shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.*

*“**Uniforms**” shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.*

### **18.46.030 Regulations.**

Section A below specifically states where Formula Businesses may locate with a Use Permit. Both the Planning Commission and the City Council waived on whether a Formula Business should be subject to a Minor Use Permit (MUP), a Use Permit (UP)<sup>2</sup>, if some should be allowed by right, or if some zoning districts should allow Formula Businesses by right. The Planning Commission determined that a Use Permit is the correct level of review, apart from the exceptions in Section 18.46.050.

Regulation B below, establishes that Design Review is required when establishing the Formula Business and if making exterior alterations. This is a little redundant in that [Section 18.71.050](#) of the ILUDC establishes the requirements for design review. However, referencing this requirement in the Formula Business Chapter ensures that prospective new businesses, not familiar with the code, that qualify as a Formula Business are clearly informed of this requirement. The Planning Commission recognized Design Review and the exterior appearance of Formula Businesses as a significant concern. So much so, that an update of the City's current Design Guidelines grew out of developing this Ordinance.

- A. *A Formula Business Establishment may be allowed in the Commercial Zoning Districts with a Use Permit (UP).*
- B. *Establishment of or exterior alteration of a Formula Business is subject to Design Review as set forth in Section 18.71.050.*

### **18.46.040 Required Findings for Approval.**

When a permit application for a Formula Business comes before the Planning Commission for review, the required findings ensure that the new business is consistent with the intent of the Ordinance and is consistent with the policies, goals and mission of the Inland General Plan. Special findings A, B, C, & D ensures that a Formula Business supports and adds to the vitality of the local economy. Special findings E, F, & G focus on design and ensure that the Formula Business is consistent with the design and aesthetic values of Fort Bragg. Rightfully so, the Planning Commission spent significant time reviewing and revising these required findings. At the suggestion of the City Attorney, the more complex findings were broken into discrete findings in order to make it easier to evaluate and determine whether a project is compliant with each individual finding.

*In addition to the findings required by 18.71.060 (F) as prerequisite to the issuance of a use permit, the Planning Commission shall make all of the following findings prior to the issuance of a Use Permit for a Formula Business, unless the project is exempt, in conformance with Section 18.46.050:*

- A. *The Commercial Establishment will add to, rather than detract from, the overall economic and cultural vitality of the City; and*

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<sup>2</sup> MUPs are approved or denied by the Community Development Director, while UPs must be approved or denied by the Planning Commission. Public notices of an application for an MUP will state that a decision will be made by the Director by the date specified unless an interested person requests in writing a public hearing. Notice of a pending UP or MUP is provided to property owners within a 300-foot radius by mail, is posted on the property and published in the newspaper at least 10 days before the decision.

- B. *The Commercial Establishment will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; and*
- C. *The Commercial Establishment will complement existing businesses; and*
- D. *The Commercial Establishment will promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and*
- E. *The Commercial Establishment has been designed to preserve and enhance the City's small town character; and*
- F. *The Commercial Establishment's exterior design limits "formula" architectural, sign and other components; and*
- G. *The Commercial Establishment's exterior design integrates existing community architectural design features.*

#### **18.46.050 Exemptions.**

The Planning Commission spent a good deal of time finding a balance that allowed for some formula business development "by right." Exemptions (D, E, and F) to the Formula Business regulations create an exemption from the Formula Business Regulations, most importantly the required findings in Section 18.46.040. These exemptions allow Formula Businesses by right, so long as other Use Permit requirements are not triggered. In exchange for the "allowed by right" designation, the City limits the amount of the space in a development occupied by Formula Business. By not allowing the full space to be occupied by right by Formula Business, additional opportunities exist for non-Formula Business uses which typically require smaller spaces and are locally based. It also encourages much needed housing in Mixed Use Projects.

The Planning Commission originally discussed these exemptions in the contexts of support for the Central Business District (CBD). As currently written, these exemptions would apply to all Commercial Zoning Districts, except Neighborhood Commercial. Staff found the Commissioners' reasoning on the benefits of allowing some Formula Businesses by right, applicable and beneficial to the other Commercial Zoning Districts.

Exemption D allows Formula Businesses "by right" that are no more than 2,000 square feet (sf) in size. The Planning Commission discussed whether 2,000 was the appropriate square footage and reasoned that smaller formula businesses would benefit the City by filling smaller vacant spaces, especially in the CBD, and would not have the same potentially adverse impact of the larger formula businesses. Further, more extensive design review policy in the CBD will protect facades and historic storefronts.

Formula Businesses can also be the source of additional traffic, as patrons seek out the familiar offerings. The limit on parking in the CBD means that patrons may not be able to park right in front of the formula business and may instead need to park a block away and walk. Likewise,

an individual familiar with a formula business brand may spot that brand in the next block and walk farther into the CBD. Both increase the pedestrian traffic in the CBD and encourage individuals to patronize other businesses along their route.

One possible area of concern with the exemption set at 2,000 sf for formula businesses, is that fast food restaurants with small footprints could qualify for the exemption. This isn't as much of a concern in the CBD because parking and stricter design review guidelines will likely ensure that a smaller Formula Business, even a fast food restaurant fits with the character and historical nature of the CBD. Many formula businesses, especially fast food restaurants depend on ample parking and drive thru service. The historic nature of the CBD limits parking and space to accommodate a drive thru.

Outside of the CBD, it is more likely that a fast food or quick service restaurant could have a negative impact. The chart below shows the average U.S. square footage of several well-known quick service restaurants, all of which are well above 2,000 sf. There are quick service restaurants that operate in smaller spaces but a review of these establishments found they were typically more innovative, specialized, and lesser-known, and as a result more likely to "fit" in Fort Bragg.

<b>Restaurant Chain</b>	<b>Square Footage</b>
<b>McDonald's</b>	4,500
<b>Chick-fil-A</b>	4,200
<b>Burger King</b>	3,500
<b>Arby's</b>	3,500
<b>Wendy's</b>	3,000
<b>Chipotle's</b>	2,600
Source: <a href="http://www.statista">www.statista</a> & <a href="http://www.restfinance">www.restfinance</a>	

For comparison purposes, the chart below provides the approximate square footage of existing and proposed development in the City of Fort Bragg.

<b>Building</b>	<b>Square Footage</b>
<b>Dry Shed on Mill Site</b>	~70,000
<b>Safeway</b>	~51,700
<b>Rite Aid</b>	~27,000
<b>Proposed Grocery Outlet</b>	~16,150
<b>North Coast Brewery</b>	~15,700
<b>Former Sears Building</b>	~9,800
<b>Proposed Dollar General</b>	~9,000
<b>Floor Store/Holistic Sunshine (retail space only)</b>	~2,960
<b>Starbucks</b>	~2,800
<b>Taco Bell</b>	~2,400
<b>Speedex/Sinclair's Service Station (as expanded)</b>	~1,800

If concerned with small fast food/quick service restaurants, the Planning Commission could reduce the 2,000 sf limit, only apply the 2,000 sf exemption to the CBD, or specifically exclude fast food/quick service restaurants from the exemption.

Under Exemption E, a formula business or multiple formula businesses combined cannot occupy more than twenty-five percent (25%) of a Mixed Use<sup>3</sup> or Retail Complex<sup>4</sup> project. General Plan Policy LU-4.2 limits commercial development between the Noyo River and Pudding Creek Bridges to 50,000 square feet, which means that the largest formula business development “allowed by right” under this exemption would be 12,500 square feet. It is difficult to imagine a commercial use other than formula business that could feasibly fill the remaining 37,500 sf. City Council has provided guidance on a cannabis cultivation ordinance, which limits cultivation activities to Industrial and Light Industrial districts, so it is unlikely this use will be allowed in Commercial Zoning Districts and therefore, be an option to fill 37,500 sf of big box store space.

Exemption E encourages smaller businesses and balanced development and ensures that anything larger than 12,500 sf with a proposed Formula Business use meets the Special Findings in Section 18.46.040, meaning it is a complementary fit for Fort Bragg. The City’s General Plans and the ILUDC provide certain limits on Big Box Stores. The Planning Commission also echoed a desire to limit the scale of Formula Business stores. Exemption D, E and F support those limitations by encouraging smaller uses on a scale better fitting Fort Bragg and a mix of Formula and non-formula businesses.

Under Exemption F, a formula business or businesses can occupy up to thirty-five percent (35%) of a Mixed Use Development project, so long as at least thirty-five percent (35%) of the project is a housing component. This furthers the City Council’s goal and the community’s need for additional housing at all income levels. Additionally, by limiting the amount of space available to Formula Businesses there is more space available for non-Formula Businesses or additional housing.

*This Chapter shall not apply to:*

- A. *Those land use applications approved prior to the adoption of the Ordinance codified in this chapter;*
- B. *Construction required to comply with fire and/or life safety requirements;*
- C. *Disability accessibility work;*
- D. *A Formula Business that does not exceed 2,000 square feet of gross floor area, except those uses prohibited by Section 18.46.060;*

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<sup>3</sup> Mixed Use Project is a project that combines both commercial and residential uses, where the residential component is typically located above the commercial. Mixed Use Projects can also be located in separate buildings on the same parcel.

<sup>4</sup> Retail Complex is defined as a primarily retail commercial site with 3 or more separate businesses sharing common pedestrian parking areas.



- E. *Formula Business, which if approved, would not result in Formula Business(es) occupying more than twenty-five percent of the total gross floor area of a Retail Complex or Mixed Use Project, subject to the prohibited uses in Section 18.46.060;*
- F. *A Formula Business, which if approved, would not result in Formula Business(es) occupying more than thirty-five percent of the total gross floor area of a Mixed Use Project in which at least thirty-five percent of total gross floor area is a residential component, subject to the prohibited uses in Section 18.46.060; or*
- G. *Changes in ownership of existing Formula Businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation.*

*Proposed development that qualifies as an Exemption per D, E, F, or G of this Section is subject to Design Review as provided in Section 18.71.050.*

**18.46.060 Prohibited Formula Business Uses.**

The proposed Ordinance allows Formula Businesses in all Commercial Zoning Districts except Neighborhood Commercial.<sup>5</sup> The reason for excluding Neighborhood Commercial was the Planning Commission’s discussions about protecting residential neighborhoods from larger more impactful retail development. Typically, chain stores generate more traffic, both vehicular and pedestrian. Neighborhood Commercial businesses should serve the local neighborhood and not the broader service area, thus, this zoning use did not seem to be a good fit for Formula Business.

A prohibition on Payday Lending Formula Businesses has also been added to the Ordinance. These businesses are often associated with taking money out of communities and draining resources instead of adding to them. Formula Business versions of this business model have proliferated in the last twenty years and are credited with downward community economic spirals.<sup>6</sup>

- A. *Formula Businesses are prohibited in the Neighborhood Commercial (CN) Zoning District.*
- B. *Formula Business Payday Lending or Check Cashing Commercial Establishments are prohibited in all Zoning Districts.*

**18.46.070 Burden of Proof.**

This section simply places a permit applicant on notice that they bear the burden of proving that a use does not meet the definition of a Formula Business.

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<sup>5</sup> Note there is no Office Commercial land use in the Inland Area of Fort Bragg.

<sup>6</sup> [Controlling the Growth of Payday Lending Through Local Ordinances and Resolutions, October 2012](#)

*In the event the City determines that a permit application or permit is subject to this chapter for a Formula Business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a Formula Business.*

## **Community Survey**

In October 2020, staff conducted a non-scientific and [informal survey of community members](#) to gauge support for or against further regulation of formula businesses. Over 1,100 responses were received and approximately two-thirds of respondents favored some regulation of formula businesses. Of those in favor, the largest number of respondents indicated a desire to regulate the total number and type of businesses allowed.

## **CONSISTENCY WITH PLANNING POLICIES**

The Community Design Element of the City's Inland General Plan provides support for regulating Formula Businesses. The intent of the Community Design Element is to establish goals, policies and programs to preserve and enhance Fort Bragg's authentic, small town character, and is concerned primarily with the visual quality of the City.

Adopting Formula Business Regulations is consistent with numerous goals and policies because these regulations are in place to ensure that development within the City maintains and enhances the unique coastal character of our rural small-town. The proposed Ordinance regulating Formula Business is consistent with the following Inland General Plan Goals and Policies:

**Goal LU-3** Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

**Policy LU-3.1 Central Business District:** Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).

**Policy LU-3.6 Re-Use of Existing Buildings:** Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.

**Goal LU-4** Promote the economic vitality of the City's existing commercial areas.

**Policy LU-4.1 Formula Businesses and Big Box Retail:** The location, scale, and appearance of formula businesses and big box retail shall not detract from the economic vitality of established commercial businesses, and shall be consistent with the small town, rural character of Fort Bragg.

**Policy LU-4.2 Large-Scale Commercial Development:** To maintain scenic views along Main Street and to ensure that building sizes at the City's gateways are in scale with the community, no commercial building shall exceed the following limitations on the gross floor area: a) between the Noyo River and Pudding Creek Bridges - maximum 50,000 square

feet b) east of Highway One and north of Pudding Creek Bridge - maximum 30,000 square feet

**Policy LU-4.3 Standards for Commercial Uses in Residential Areas:** Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.

**Policy C-5.1 Community Priorities for Transportation Improvements:** Place a higher priority on maintaining a sense of place and enhancing the attractiveness of the Central Business District than on efficient traffic flow and movement.

**Policy CD-1.5 Strip Development:** Discourage strip development along Main Street.

**Goal CD-2** Preserve the Central Business District as the commercial, civic, historic, and cultural center of the community.

**Policy CD-2.1 Adaptive Reuse:** Facilitate the adaptive reuse of existing older buildings in the Central Business District.

**Policy CD-2.3 Economic Vitality:** Continue to support the economic diversity and vitality of downtown businesses.

**Policy CD-2.5 Strengthen the Distinctive Identity of the Central Business District:** Strengthen the distinctive identity and unique sense of place of the Central Business District.

**Policy CD-3.2 Gateway Development:** Encourage a higher quality of development at the City's gateways.

**Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.**

### **Central Business District Frontage and Façade Standards**

Section 18.22.060 applies to new development in the Central Business District. The policies limit the uses allowable on the ground floor (pedestrian-oriented uses, such as retail), prescribe requirements on pedestrian entrances (shall be recessed from the sidewalk), and prohibits formula design.

The following policy regulates formula design:

***E. Formula design prohibited.*** *The architectural style and exterior finish materials of each proposed structure shall be designed based upon the architectural traditions of Fort Bragg and Mendocino County, and the architectural styles prevalent in the site vicinity. Buildings proposed with architectural features substantially similar to those found in other communities on buildings occupied by the same corporate or franchise entity that will occupy the proposed building are strongly discouraged.*

## AMENDMENT FINDINGS

Chapter 18.94 – AMENDMENTS set forth the required findings for Development Code amendments.

**18.94.060(B)(1)(a):** The proposed amendment is consistent with the General Plan and any applicable specific plan;

The proposed amendment is consistent with a number of Goals and Policies in the Inland General Plan that focus on preserving and enhancing Fort Bragg’s small town and historic character, with expanded focus on the Central Business District. The proposed amendment is also consistent with those Goals and Policies that promote economic vitality and highlight the importance of ensuring that Formula Businesses and Big Box Retail do not detract from economic vitality. Those goals and policies include: Goal LU-3, Policy LU 3.1, Policy LU-3.6, Goal LU-4, Policy LU-4.1, Policy LU-4.2, Policy LU 4.3, C-5.1, Policy CD-1.5, Goal CD-2, Policy CD-2.3, Policy CD-2.5, Policy CD-3.2, and Policy CD-6.1. Further, the proposed amendment is consistent with the intent of Community Design Element of the Inland General Plan, which is to preserve and enhance Fort Bragg’s authentic, small town character and visual quality.

**18.94.060(B)(1)(b):** The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and

The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. To the contrary, the proposed amendment regulates formula businesses in order to reduce potentially detrimental impact to the public health, safety, and welfare. Unregulated establishment of formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and results in decreasing the diversity of goods and services available to residents and visitors.

**18.94.060(B)(2):** The proposed amendment is internally consistent with other applicable provisions of the Development Code.

The proposed amendment is consistent with other applicable provisions of the Development Code because it addresses development in existing commercial zones within the City of Fort Bragg and provides additional guidelines and regulations for these areas. This includes policies that prohibit and discourage formula design elements that are similar to those found in other communities occupied by corporate or franchise entities, and those that maintain a sense of place and enhancing the attractiveness of the Central Business District.

## ATTACHMENTS

1. Proposed Ordinance
2. Redline Proposed Ordinance
3. Planning Commission Resolution
4. Zoning Map

**BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG**

**AN ORDINANCE ADDING CHAPTER  
18.46 FORMULA BUSINESS  
REGULATIONS TO TITLE 18.4  
(STANDARDS FOR SPECIFIC LAND  
USES) AND AMENDING CHAPTER  
18.100 (DEFINITIONS) OF THE FORT  
BRAGG MUNICIPAL CODE AND  
AMENDING CHAPTER 18.2 (ZONING  
DISTRICTS AND ALLOWABLE LAND  
USES) OF THE FORT BRAGG  
MUNICIPAL CODE**

**ORDINANCE NO. [REDACTED]**

**WHEREAS**, the City of Fort Bragg (“City”) adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

**WHEREAS**, the City of Fort Bragg (“City”) adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

**WHEREAS**, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

**WHEREAS**, the City Council adopted Urgency Ordinance No. 964-2021, which established a forty-five (45) day moratorium on approval of applications for Formula Businesses, as defined in the Ordinance, in the Inland Zoning Area; and

**WHEREAS**, the City Council extended the Moratorium on approval of applications for Formula Businesses for an additional 315 days on May 24, 2021 to provide for sufficient time to adopt Formula Business Regulations; and

**WHEREAS**, the Planning Commission considered the Inland Land Use and Development Code at a noticed public hearing on June 2, 2021, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Planning Commission adopted Resolution PC XX-2021 recommending City Council adopt the amended Inland Land Use and Development Code; and

**WHEREAS**, the City Council considered the amended Inland Land Use and Development Code at a noticed public hearing on XXXX, 2021, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the staff reports, Planning Commission Resolution, City Council Resolution, and Inland Land Use and Development Code are available for review at City Hall during normal business hours.

**The City Council ordains as follows:**

**Section 1. Legislative Findings.** The City Council hereby finds as follows:

1. The City of Fort Bragg is a small coastal community of 7,500 residents perched on the bluff tops overlooking the ocean in northern Mendocino County. A former lumber town with what was a strong fishing industry, Fort Bragg has a rich history and many of its homes and buildings are well over a hundred years old. Located approximately 165 miles north of San Francisco and 185 miles west of Sacramento, Fort Bragg, while quite small, is the largest city on the coast between San Francisco and Eureka. The remoteness of Fort Bragg is one of its greatest assets. The natural landscape is beautiful. The air is clean, the ocean wild, and traffic is a non-issue. The City acquired parkland along the bluff tops of the former mill site and has completed construction of a multiuse trail. This trail created public access to 3.5 miles of scenic coastline and is value added for local residents and visitors alike. Of the City's 1,869 acres, 962 are located in the Coastal Zone. The coastal views and beauty are critical to what makes Fort Bragg special. Many unique local businesses and brands have made Fort Bragg distinct, relying on the city's natural beauty and laid-back commercial character. Maintaining the economic health and one-of-a-kind distinction is vital to preserving Fort Bragg's commercial character while meeting the needs of its visitors and residents.
2. To retain that one-of-a-kind character, the City seeks to avoid the proliferation of chain store uses that result in diluting what makes Fort Bragg unique and instead creates a character of repetitiveness similar to other towns across America, where chain store prevalence grows. Fort Bragg seeks to encourage elements that provide variety and fit with the unique environment, history and its quirky charm while retaining opportunities for all. The City's mission and vision embraces a friendly city with a small town character and a strong sense of community that values its roots in the fishing and timber industries. The City's General Plan, Citywide Design Guidelines, and Inland Land Use & Development Code emphasize the commitment to maintaining the strength and vitality of the historic Central Business District.
3. A strong and diverse retail base is necessary for the success of Fort Bragg's commercial sector, in particular the Central Business District. The City recognizes that a healthy blend of unique and familiar businesses providing diverse retail experiences for both visitors and residents supports this success. "As the economy evolves to a more tourism and service-based economy, the community has acknowledged the importance of maintaining the historic identity of downtown and the integrity of the residential neighborhoods, while enhancing views and access to the coastline and planning for continued growth and development." (Inland General Plan 6. Community Design Element). The City is committed to and recognizes the importance of promoting and supporting the economic vitality and diversity of City businesses both in its commercial districts and the historic Central Business District. (Inland General Plan Goal LU-4, Policy CD-6.1 and Policy CD2.3). Maintaining the City's quality of life and identity is a priority. (Inland General Plan C-5, Policy C-5.1).

4. As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry Fort Bragg must retain its historical ties to timber and fishing, the coastal and cultural qualities, and its recreation opportunities. Fort Bragg's commercial uses should promote its unique and special qualities. The commercial uses should not detract from or dilute what makes Fort Bragg stand out from other cities in California. Formula retail businesses are, by their nature, not unique. Many of Fort Bragg's unique goods and services cannot be found where many of our visitors reside. As a result, the City Council finds that formula retail businesses located in the City, if not regulated, will conflict with and frustrate the City's goal of maintaining its unique historical character with a local economy that offers visitors and residents non-standard offerings.
5. An abundance of formula retail establishments hinders the City's ability to promote its unique one-of-a-kind experience and to promote a diverse and balanced retail base within the City. A diverse retail base includes unique character that avoids overwhelming familiarity and sameness. The City Council finds that an overabundance of formula retail establishments will unduly limit or possibly eliminate the availability of businesses that tend to be unique or project the history and character of Fort Bragg.
6. The increase of formula retail establishments will hinder the City's goal to promote economic vitality in existing commercial areas, maintain community identity, and the continued support of economic diversity and vitality in the downtown. (Inland General Plan Goal LU-4, Goal C-5, and CD-2.3) A balanced and diverse retail base should be comprised of a balanced mix of businesses, small, medium and large, familiar and unique, and offering a variety of goods and services. The City strives to ensure that goods and services available locally, meet the regular needs of residents and visitors. The City Council finds that unregulated establishment of additional formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and result in decreasing the diversity of goods and services available to residents and visitors.
7. The Inland General Plan Mission and Vision pledges "to preserve and enhance the small town character and natural beauty that make the city a place where people want to live and visit, and to improve the economic diversity of the City to ensure that it has a strong and resilient economy which supports its residents." (Inland General Plan 1B Mission and Vision). The City Council finds that the public welfare will be served and advanced by regulating formula retail businesses.
8. The City has analyzed the project proposal described herein and finds that the project is exempt from the California Environmental Quality Act ("CEQA") because Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. This Ordinance will have the net effect of reducing, rather than increasing the amount of change in the City in that does not authorize any additional uses as permitted or conditionally permitted uses nor does it change the uses allowed in the City or their intensity or density.
9. The foregoing recitals are true and correct and are made a part of this Ordinance.

10. Amending the Inland Land Use and Development Code in the manner described is consistent with the General Plan and any applicable specific plan, and internally consistent with other applicable provisions of the Inland Land Use and Development Code.
11. Amending the Inland Land Use and Development Code in the manner described will ensure that Formula Business uses are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience or welfare of the City.
12. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

**Section 2. INLAND LAND USE AND DEVELOPMENT CODE**

The current definition in Section 18.100.020 (F) **Definitions of Specialized Terms and Phrases** for **“Formula Business”** is here by removed and replaced as follows:

**“Formula Business”** means a Commercial Establishment which, along with ten (10) or more other business locations outside of Fort Bragg, regardless of ownership or location at the time that the application is deemed complete, is required by contractual or other arrangement to maintain at least two (2) of the following Standardized features: an Array of merchandise/menu, Decor, Uniforms, Facade, Color scheme, exterior Signage including a Trademark or Service mark as Signage.

The definitions set forth below are hereby amended to Section 18.100.020 (F) entitled **Definitions of Specialized Terms and Phrases** as follows:

**Formula Business Regulations.** The following terms and phrases are defined for the purposes of Chapter 18.46 (**Formula Business Regulations**):

**“Array of merchandise/menu”** means 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.

**“Color scheme”** means a selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

**“Commercial Establishment”** means a commercial establishment that provides goods and/or services directly or indirectly to the consumer.

**“Decor”** means the style of interior finishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.

**“Facade”** means the face, front or side of a building, including awnings, especially the principal front that looks onto a street or an open space.

**“Formula Business”** See definition of “Formula Business” § 18.100.020 (F).

**“Payday or Check Cashing Commercial Establishment”** means a person or company that makes or facilitates a deferred presentment transaction, such that the person or company provides currency or a payment instrument in exchange for a person’s check or agreement to provide access to a drawer’s account in a financial institution and agrees to hold that



person's check for a period of time prior to presentment, deposit, or redemption or facilities this process.

**"Service mark"** means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

**"Signage"**. See definition of **"sign"** § 18.100.020 (S).

**"Standardized"** means substantially the same, but not necessarily identical.

**"Trademark"** means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

**"Uniforms"** means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

### **Section 3. INLAND LAND USE AND DEVELOPMENT CODE**

Chapter 18.46, entitled "Formula Business Regulations" is hereby added to the Inland Land Use and Development Code to provide as follows:

#### **18.46.010 Purpose.**

The purpose of this chapter is to promote and maintain the City's unique small town character, the diversity and vitality of the City's commercial districts, and the quality of life for its residents and visitors. It is presumed that establishing or preserving a balanced mix of local, regional and national-based businesses will more effectively serve to achieve this purpose as a strategy to maintain and improve the economic health of the City's business districts and the small one-of-a-kind ambiance.

#### **18.46.020 Definitions.**

The specialized and technical terms and phrases used in this chapter are defined in Article 10 (Definitions), under "Formula Business Regulations."

#### **18.46.030 Regulations.**

- A. A Formula Business Establishment may be allowed in the Commercial Zoning Districts with a Use Permit (UP).
- B. Establishment of or exterior alteration of a Formula Business is subject to Design Review as set forth in Section 18.71.050.

#### **18.46.040 Required Findings for Approval.**

In addition to the findings required by 18.71.060 (F) as prerequisite to the issuance of a use permit, the Planning Commission shall make all of the following findings prior to the issuance of a Use Permit for a Formula Business, unless the project is exempt in conformance with Section 18.46.050:

- A. The Commercial Establishment will add to, rather than detract from, the overall economic and cultural vitality of the City; and
- B. The Commercial Establishment will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; and
- C. The Commercial Establishment will complement existing businesses; and
- D. The Commercial Establishment will promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and
- E. The Commercial Establishment has been designed to preserve and enhance the City's small town character; and
- F. The Commercial Establishment's exterior design limits "formula" architectural, sign and other components; and
- G. The Commercial Establishment's exterior design integrates existing community architectural design features.

#### **18.46.050 Exemptions.**

This Chapter shall not apply to:

- A. Those land use applications approved prior to the adoption of the Ordinance codified in this chapter;
- B. Construction required to comply with fire and/or life safety requirements;
- C. Disability accessibility work;
- D. A Formula Business that does not exceed 2,000 square feet of gross floor area, except those uses prohibited by Section 18.46.060;
- E. Formula Business, which if approved, would not result in Formula Business(es) occupying more than twenty-five percent (25%) of the total gross floor area of a Retail Complex or Mixed Use Project, except those uses prohibited by Section 18.46.060;
- F. A Formula Business, which if approved, would not result in Formula Business(es) occupying more than thirty-five percent (35%) of the total gross floor area of a Mixed Use

Project in which at least thirty-five percent (35%) of total gross floor area is a residential component, except those uses prohibited by Section 18.46.060; or

- G. Changes in ownership of existing Formula Businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation.

Proposed development that qualifies as an Exemption pursuant to D, E, F, or G of this Section is subject to Design Review as provided in Section 18.71.050.

**18.46.060 Prohibited Formula Business Uses.**

- A. Formula Businesses are prohibited in the Neighborhood Commercial (CN) Zoning District.
- B. Formula Business Payday Lending or Check Cashing Commercial Establishments are prohibited in all Zoning Districts.

**18.46.070 Burden of Proof.**

If the City determines that a permit application or permit is subject to this chapter for a Formula Business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a Formula Business.

**Section 4. INLAND LAND USE AND DEVELOPMENT CODE**

Table 2-6 of Section 18.22.030 of the Inland Land Use and Development Code, entitled “**Allowed Land Uses and Permit Requirements for Commercial Zoning Districts**” is hereby amended as follows:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required MUP Minor Use Permit required (see § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	

RETAIL TRADE

Artisan shop	UP	UP	P	P	P	
Auto and vehicle sales and rental	—	—	—	P	P	
Auto parts sales with no installation services	—	—	—	P	P	
Bar/tavern	—	—	UP	MUP	MUP	
Big box retail	—	—	—	UP	UP	
Building and landscape materials sales - Indoor	—	—	—	P	UP	

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required MUP Minor Use Permit required (see § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations – Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	
Building and landscape materials sales - Outdoor	–	–	–	UP	UP	<a href="#">18.42.130</a>
Cannabis retail	–	–	MUP	MUP	MUP	<a href="#">18.42.057</a> Chapter <a href="#">9.30</a>
Cannabis retail - Delivery only	–	–	–	MUP	MUP	<a href="#">18.42.057</a> Chapter <a href="#">9.30</a>
Construction and heavy equipment sales and rental	–	–	–	UP	UP	<a href="#">18.42.130</a>
Convenience store	P	–	P	P	P	
Drive-through retail or service	–	–	UP	UP	UP	<a href="#">18.42.070</a>
Farm supply and feed store	–	–	–	P	UP	
<b>Formula Business</b>	<b>–</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>Chapter 18.46</b>
<b>Formula Business - Less than 2,001 sf</b>	<b>–</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>Chapter 18.46</b>
Fuel dealer (propane for home and farm use, etc.)	–	–	–	UP	–	
Furniture, furnishings and appliance store	–	–	P	P	UP	
Retail, general - 10,000 sf or larger	–	–	UP	UP	UP	
Retail, general - 5,000 sf - 9,999 sf	–	–	P	P	P	
Retail, general - Less than 5,000 sf	P	P	P	P	P	
Groceries, specialty foods	P	–	P	P	P	
Mobile home, boat, or RV sales	–	–	–	UP	UP	
Night club	–	–	UP	UP	UP	
Outdoor retail sales and activities	–	–	P	P	P	<a href="#">18.42.130</a>
Restaurant, café, coffee shop	UP	P	P	P	P	<a href="#">18.42.165</a>
Second hand store	–	–	–	P	P	
Service station	–	–	–	UP	UP	<a href="#">18.42.180</a>
Shopping center	–	–	–	UP	UP	

Key to Zoning District Symbols

CN	Neighborhood Commercial	<b>CG</b>	General Commercial
CO	Office Commercial	<b>CH</b>	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

- (1) See Article [10](#) for land use definitions.  
 (2) Use Permit required except for the exceptions set forth in 18.46.050.

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § <a href="#">18.71.060</a> )				
	UP	Use Permit required (see § <a href="#">18.71.060</a> )				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL

Bank, financial services	UP	P	P	P	P	
Business support service	—	P	P	P	P	
<b>Formula Business</b>	<b>—</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>Chapter 18.46</b>
<b>Formula Business – Less than 2,001 sf</b>	<b>—</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>Chapter 18.46</b>
Medical services - Doctor office	P	P	P	P	UP	
Medical services - Clinic, lab, urgent care	—	P	P	P	—	
Medical services - Hospital	—	UP	—	UP	UP	
Office - Accessory	P	P	P	P	P	
Office - Business/service	—	P	P	P	P	
Office - Professional/administrative	—	P	P	P	P	

SERVICES - GENERAL

Adult day care	P	P	P	P	UP	
Catering service	—	P	P(3)	P	—	
Child day care center	UP	UP	UP	UP	MUP	
Drive-through service	—	—	UP	UP	UP	<a href="#">18.42.070</a>
Equipment rental	—	—	UP	P	UP	
<b>Formula Business</b>	<b>—</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>Chapter 18.46</b>
<b>Formula Business – Less than 2,001 sf</b>	<b>—</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>Chapter 18.46</b>
Kennel, animal boarding	—	—	—	UP	—	<a href="#">18.42.040</a>
Lodging - Bed and breakfast inn (B&B)	—	—	UP	UP	P	<a href="#">18.42.050</a>
Lodging - Hotel or motel	—	—	UP	UP	UP	
Lodging - Vacation rental unit	—	—	MUP	—	—	<a href="#">18.42.190</a>
Maintenance service - Client site services	—	—	—	P	—	
Mortuary, funeral home	—	P	—	P	—	
Personal services	P	P	P	P	MUP	
Personal services - Restricted	—	—	UP	UP	UP	

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required Minor Use Permit required (see § 18.71.060) MUP UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations - Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	
Public safety facility	—	P	P	P	P	
Repair service - Equipment, large appliances, etc.	—	—	—	P	P	
Vehicle services - Major repair/body work	—	—	—	UP	UP	
Vehicle services - Minor maintenance/repair	—	—	—	P	P	
Veterinary clinic, animal hospital	—	P	—	P	P	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

(1) See Article 10 for land use definitions.

**Section 5. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**Section 6. Effective Date and Publication.** This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember [REDACTED] at a regular meeting of the City Council of the City of Fort Bragg held on [REDACTED] and adopted at a regular meeting of the City of Fort Bragg held on [REDACTED] by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**

**ABSTAIN:  
RECUSED:**

---

**Bernie Norvell  
Mayor**

**ATTEST:**

---

**June Lemos, CMC  
City Clerk**

**PUBLISH:** [redacted] and [redacted] (by summary).  
**EFFECTIVE DATE:** [redacted].

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE ADDING CHAPTER 18.46 FORMULA BUSINESS REGULATIONS TO TITLE 18.4 (STANDARDS FOR SPECIFIC LAND USES) AND AMENDING CHAPTER 18.100 (DEFINITIONS) OF THE FORT BRAGG MUNICIPAL CODE AND AMENDING CHAPTER 18.2 (ZONING DISTRICTS AND ALLOWABLE LAND USES) OF THE FORT BRAGG MUNICIPAL CODE**

**ORDINANCE NO. [REDACTED]**

**WHEREAS**, the City of Fort Bragg (“City”) adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

**WHEREAS**, the City of Fort Bragg (“City”) adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

**WHEREAS**, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

**WHEREAS**, the City Council adopted Urgency Ordinance No. 964-2021, which established a forty-five (45) day moratorium on approval of applications for Formula Businesses, as defined in the Ordinance, in the Inland Zoning Area; and

**WHEREAS**, the City Council extended the Moratorium on approval of applications for Formula Businesses for an additional ~~XXX~~ 315 days on May 24, 2021 ~~XXXX, 2021~~ to provide for sufficient time to adopt Formula Business Regulations; and

**WHEREAS**, the Planning Commission considered the Inland Land Use and Development Code at a noticed public hearing on ~~XXX~~ June 2, 2021, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Planning Commission adopted Resolution PC ~~XX~~ 2021 recommending City Council adopt the amended Inland Land Use and Development Code; and

**WHEREAS**, the City Council considered the amended Inland Land Use and Development Code at a noticed public hearing on ~~XXXX~~ XXXX, 2021, at which time all interested parties had the opportunity to be heard; and



**WHEREAS**, the staff reports, Planning Commission resolution, City Council resolution, and Inland Land Use and Development Code are available for review at City Hall during normal business hours.

**The City Council ordains as follows:**

**Section 1. Legislative Findings.** The City Council hereby finds as follows:

1. The City of Fort Bragg is a small coastal community of 7,500 residents perched on the bluff tops overlooking the ocean in northern Mendocino County. A former lumber town with what was a strong fishing industry, Fort Bragg has a rich history and many of its homes and buildings are well over a hundred years old. Located approximately 165 miles north of San Francisco and 185 miles west of Sacramento, Fort Bragg, while quite small, is the largest city on the coast between San Francisco and Eureka. The remoteness of Fort Bragg is one of its greatest assets. The natural landscape is beautiful. The air is clean, the ocean wild, and traffic is a non-issue. The City acquired parkland along the bluff tops of the former mill site and has completed construction of a multiuse trail. This trail created public access to 3.5 miles of scenic coastline and is value added for local residents and visitors alike. Of the City's 1,869 acres, 962 are located in the Coastal Zone. The coastal views and beauty are critical to what makes Fort Bragg special. Many unique local businesses and brands have made Fort Bragg distinct, relying on the city's natural beauty and laid-back commercial character. Maintaining the economic health and one-of-a-kind distinction is vital to preserving Fort Bragg's commercial character while meeting the needs of its visitors and residents.
2. To retain that one-of-a-kind character, the City seeks to avoid the proliferation of chain store uses that result in diluting what makes Fort Bragg unique and instead creates a character of repetitiveness similar to other towns across America, where chain store prevalence grows. Fort Bragg seeks to encourage elements that provide variety and fit with the unique environment, history and its quirky charm while retaining opportunities for all. The City's mission and vision embraces a friendly city with a small town character and a strong sense of community that values its roots in the fishing and timber industries. The City's General Plan, Citywide Design Guidelines, and Inland Land Use & Development Code emphasize the commitment to maintaining the strength and vitality of the historic Central Business District.
3. A strong and diverse retail base is necessary for the success of Fort Bragg's commercial sector, in particular the Central Business District. The City recognizes that a healthy blend of unique and familiar businesses providing diverse retail experiences for both visitors and residents supports this success. "As the economy evolves to a more tourism and service-based economy, the community has acknowledged the importance of maintaining the historic identity of downtown and the integrity of the residential neighborhoods, while enhancing views and access to the coastline and planning for continued growth and development." (Inland General Plan 6. Community Design Element). The City is committed to and recognizes the importance of promoting and supporting the economic vitality and diversity of City businesses both in its commercial districts and the historic Central Business District. (Inland General Plan Goal LU-4, Policy CD-6.1 and Policy CD2.3). Maintaining the City's quality of life and identity is a priority. (Inland General Plan C-5, Policy C-5.1).

4. As the City continues to rely on its reputation as an emerging destination, to sustain and grow its tourism industry Fort Bragg must retain its historical ties to timber and fishing, the coastal and cultural qualities, and its recreation opportunities. Fort Bragg's commercial uses should promote its unique and special qualities. The commercial uses should not detract from or dilute what makes Fort Bragg stand out from other cities in California. Formula retail businesses are, by their nature, not unique. Many of Fort Bragg's unique goods and services cannot be found where many of our visitors reside. As a result, the City Council finds that formula retail businesses located in the City, if not regulated, will conflict with and frustrate the City's goal of maintaining its unique historical character with a local economy that offers visitors and residents non-standard offerings.
5. An abundance of formula retail establishments hinders the City's ability to promote its unique one-of-a-kind experience and to promote a diverse and balanced retail base within the City. A diverse retail base includes unique character that avoids overwhelming familiarity and sameness. The City Council finds that an overabundance of formula retail establishments will unduly limit or possibly eliminate the availability of businesses that tend to be unique or project the history and character of Fort Bragg.
6. The increase of formula retail establishments will hinder the City's goal to promote economic vitality in existing commercial areas, maintain community identity, and the continued support of economic diversity and vitality in the downtown. (Inland General Plan Goal LU-4, Goal C-5, and CD-2.3) A balanced and diverse retail base should be comprised of a balanced mix of businesses, small, medium and large, familiar and unique, and offering a variety of goods and services. The City strives to ensure that goods and services available locally, meet the regular needs of residents and visitors. The City Council finds that unregulated establishment of additional formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and result in decreasing the diversity of goods and services available to residents and visitors.
7. The Inland General Plan Mission and Vision pledges "to preserve and enhance the small town character and natural beauty that make the city a place where people want to live and visit, and to improve the economic diversity of the City to ensure that it has a strong and resilient economy which supports its residents." (Inland General Plan 1B Mission and Vision). The City Council finds that the public welfare will be served and advanced by regulating formula retail businesses.
8. ~~The City has analyzed the project proposal described herein and has finds determined that the project is exempt from covered by the general rule that the California Environmental Quality Act ("CEQA") because applies only where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Pursuant to Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance will have the net effect of reducing, rather than increasing the amount of change in the City in that does not authorize any additional uses as permitted or conditionally permitted uses nor does it- Significant effect on the environment is defined as substantial or potentially substantial, adverse change in the environment.~~



~~8. This proposed Ordinance does not authorize any additional uses as permitted or permitted with a Use Permit or Minor Use Permit. This Ordinance does not change the uses allowed in the City or their intensity or density. The City Council has determined that there is no possibility that the proposed Ordinance will have a significant effect on the environment and accordingly, the exemption set forth in Section 15061(b)(3) applies.~~

9. The foregoing recitals are true and correct and are made a part of this Ordinance.

10. Amending the Inland Land Use and Development Code in the manner described is consistent with the General Plan and any applicable specific plan, and internally consistent with other applicable provisions of the Inland Land Use and Development Code.

11. Amending the Inland Land Use and Development Code in the manner described will ensure that Formula Business uses are effectively regulated so that they will not be detrimental to the public interest, health, safety, convenience or welfare of the City.

12. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

## **Section 2. INLAND LAND USE AND DEVELOPMENT CODE**

The current definition in Section 18.100.020 (F) **Definitions of Specialized Terms and Phrases** for "Formula Business" is here by removed and replaced as follows:

"Formula Business" means a Commercial Establishment which, along with ten (10) or more other business locations outside of Fort Bragg, regardless of ownership or location at the time that the application is deemed complete, is required by contractual or other arrangement to maintain at least two (2) of the following Standardized features: an Array of merchandise/menu, Decor, Uniforms, Façade, Color scheme, exterior Signage including a Trademark or Service mark as Signage.

The definitions set forth below are hereby amended to Section 18.100.020 (F) entitled **Definitions of Specialized Terms and Phrases** as follows:

**Formula Business Regulations.** The following terms and phrases are defined for the purposes of Chapter 18.46 (Formula Business Regulations):

"Array of merchandise/menu" means 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.

"Color scheme" means a selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.

"Commercial Establishment" means a commercial establishment that provides goods and/or services directly or indirectly to the consumer.

"Decor" means the style of interior finishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.

“Facade” means the face, front or side of a building, including awnings, especially the principal front that looks onto a street or an open space.

“Formula Business” See definition of “Formula Business” § 18.100.020 (F).

“Payday or Check Cashing Commercial Establishment” means a person or company that makes or facilitates a deferred presentment transaction, such that the person or company provides currency or a payment instrument in exchange for a person’s check or agreement to provide access to a drawer’s account in a financial institution and agrees to hold that person’s check for a period of time prior to presentment, deposit, or redemption or facilitates this process.

“Service mark” means a word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

“Signage”. See definition of “sign” § 18.100.020 (S).

“Standardized” means substantially the same, but not necessarily identical.

“Trademark” means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.

“Uniforms” means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.

12.—

## **Section 23. –**

### **TITLE 18 – INLAND LAND USE AND DEVELOPMENT CODE**

Chapter 18.46, entitled “Formula Business Regulations” is hereby added to the Inland Land Use and Development Code to provide as follows:-

#### **18.46.010 Purpose.**

The purpose of this chapter is to promote and maintain the City’s unique small town character, the diversity and vitality of the City’s commercial districts, and the quality of life for Fort Bragg’s residents and visitors. It is presumed that establishing or preserving a balanced mix of local, regional and national-based businesses will more effectively serve to achieve this purpose as a strategy to maintain and improve the economic health of the City’s business districts and the small one-of-a-kind ambiance.

#### **18.46.020 Definitions.**

The specialized and technical terms and phrases used in this chapter are defined in Article 10 (Definitions), under “Formula Business Regulations.”~~The specialized terms and phrases used in this Chapter are defined in Article 10 (Definitions), under “Formula Business.”~~

### 18.46.030 Regulations.

- A. A Formula Business Establishment may be allowed in the Commercial Zoning Districts with a Use Permit (UP).
- B. Establishment of or exterior alteration of a Formula Business is subject to Design Review as set forth in Section 18.71.050.

### 18.46.040 Required Findings for Approval.

~~Required findings.~~ In addition to the findings required by 18.71.060 ~~(F)~~ as prerequisite to the issuance of a use permit, the Planning Commission shall make all of the following findings prior to the issuance of a Use Permit for a Formula Business, unless the project is in conformance with Section 18.46.050:

- ~~A.~~ A. The Commercial Establishment will ~~provide needed goods or services add to, rather than detract from, the overall, will promote Fort Bragg's economic vitality and cultural vitality of the City, and will be compatible with existing and planned uses;~~ and
- ~~B.~~ B. The Commercial Establishment will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; and
- ~~B.~~ C. The Commercial Establishment will complement existing businesses; and
- ~~D.~~ D. The Commercial Establishment will promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and
- ~~G.~~ E. The Commercial Establishment has been designed to preserve and enhance the City's small town character; and
- ~~F.~~ F. The Commercial Establishment's, has an exterior design, ~~which appropriately~~ limits "formula" architectural, sign and other components; and  
~~integrates existing community architectural~~
- ~~G.~~ G. The Commercial Establishment's exterior design and integrates existing community architectural design features, ~~which will preserve such character for the City's residents and visitors.~~
- ~~D.~~

### 18.46.050 Exemptions.

This Chapter shall not apply to:



- A. Those land use applications approved prior to the adoption of the Ordinance codified in this chapter;
- B. Construction required to comply with fire and/or life safety requirements;
- C. Disability accessibility work;
- D. A Formula Business that does not exceed 2,000 square feet of gross floor area, ~~including all spaces occupied by the Commercial Establishment~~, except those uses prohibited by Section 18.46.060;
- E. ~~-Formula Business, which if approved, would not result in Formula Business(es) occupying more than twenty-five percent of the total gross floor area of a Retail Complex or Mixed Use Project, except those uses prohibited by Section 18.46.060 subject to the prohibited uses in Section 18.46.060;~~
- F. A Formula Business, which if approved, would not result in Formula Business(es) occupying more than thirty-five percent of the total gross floor area of a Mixed Use Project in which at least thirty-five percent of total gross floor area is a residential component, ~~except those uses prohibited by Section 18.46.060 subject to the prohibited uses in Section 18.46.060; or~~
- ~~G. Business license approved prior to the adoption of the ordinance codified in this chapter;~~
- ~~H. Renovation of existing Formula Businesses so long as the renovation does not expand the square feet of floor area by 500 feet or more or the height or width of the business structure by more than ten percent; and~~
- ~~G. Changes in ownership of existing Formula Businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation.~~
- ~~I. Proposed development that qualifies as an Exemption per D, E, F, or G of this Section is subject to Design Review as provided in Section 18.71.050.~~

**18.46.060 Prohibited Formula Business Uses.**

- A. Formula Businesses, ~~as defined in Chapter 18.100~~, are prohibited in the Neighborhood Commercial (CN) Zoning District.
- B. Formula Business Payday Lending or Check Cashing Commercial Establishments, ~~as defined in Chapter 18.100~~, are prohibited in all ~~Commercial~~ Zoning Districts.

**18.46.070 Burden of Proof.**

~~In the event~~ if the City determines that a permit application or permit is subject to this chapter for a Formula Business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a Formula Business.

~~18.46.080 Transferrable.~~

~~An approved Formula Business Use Permit is transferrable to a new business in the same land use category, located at the exact same location or tenant space, so long as the square footage of the gross floor area is not increased.~~

~~Section 34.~~

**TITLE 18 – INLAND LAND USE AND DEVELOPMENT CODE**

Table 2-6 of Section 18.22.030 of the Inland Land Use and Development Code, entitled “Allowed Land Uses and Permit Requirements for Commercial Zoning Districts” is hereby amended as follows:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § 18.71.060)				
	UP	Use Permit required (see § 18.71.060)				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

RETAIL TRADE

Artisan shop	UP	UP	P	P	P	
Auto and vehicle sales and rental	—	—	—	P	P	
Auto parts sales with no installation services	—	—	—	P	P	
Bar/tavern	—	—	UP	MUP	MUP	
Big box retail	—	—	—	UP	UP	
Building and landscape materials sales - Indoor	—	—	—	P	UP	
Building and landscape materials sales - Outdoor	—	—	—	UP	UP	<a href="#">18.42.130</a>
Cannabis retail	—	—	MUP	MUP	MUP	<a href="#">18.42.057</a> Chapter <a href="#">9.30</a>
Cannabis retail - Delivery only	—	—	—	MUP	MUP	<a href="#">18.42.057</a> Chapter <a href="#">9.30</a>
Construction and heavy equipment sales and rental	—	—	—	UP	UP	<a href="#">18.42.130</a>
Convenience store	P	—	P	P	P	
Drive-through retail or service	—	—	UP	UP	UP	<a href="#">18.42.070</a>
Farm supply and feed store	—	—	—	P	UP	
Formula Business	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § 18.71.060)				
	UP	Use Permit required (see § 18.71.060)				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
<u>Formula Business - Less than 2,001 sf</u>	=	P	P	P	P	<u>Chapter 18.46</u>
Fuel dealer (propane for home and farm use, etc.)	—	—	—	UP	—	
Furniture, furnishings and appliance store	—	—	P	P	UP	
Retail, general - 10,000 sf or larger	—	—	UP	UP	UP	
Retail, general - 5,000 sf - 9,999 sf	—	—	P	P	P	
Retail, general - Less than 5,000 sf	P	P	P	P	P	
Groceries, specialty foods	P	—	P	P	P	
Mobile home, boat, or RV sales	—	—	—	UP	UP	
Night club	—	—	UP	UP	UP	
Outdoor retail sales and activities	—	—	P	P	P	<u>18.42.130</u>
Restaurant, café, coffee shop	UP	P	P	P	P	<u>18.42.165</u>
Second hand store	—	—	—	P	P	
Service station	—	—	—	UP	UP	<u>18.42.180</u>
Shopping center	—	—	—	UP	UP	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

- (1) See Article 10 for land use definitions.  
(2) Use Permit required except for the ~~exemptions~~ exemptions set forth in 18.46.050.

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § 18.71.060)				
	UP	Use Permit required (see § 18.71.060)				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL



TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § 18.71.060)				
	UP	Use Permit required (see § 18.71.060)				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
Bank, financial services	UP	P	P	P	P	
Business support service	—	P	P	P	P	
<u>Formula Business</u>	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
<u>Formula Business - Less than 2,001 sf</u>	—	P	P	P	P	Chapter 18.46
Medical services - Doctor office	P	P	P	P	UP	
Medical services - Clinic, lab, urgent care	—	P	P	P	—	
Medical services - Hospital	—	UP	—	UP	UP	
Office - Accessory	P	P	P	P	P	
Office - Business/service	—	P	P	P	P	
Office - Professional/administrative	—	P	P	P	P	

SERVICES - GENERAL

Adult day care	P	P	P	P	UP	
Catering service	—	P	P(3)	P	—	
Child day care center	UP	UP	UP	UP	MUP	
Drive-through service	—	—	UP	UP	UP	18.42.070
Equipment rental	—	—	UP	P	UP	
<u>Formula Business</u>	—	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
<u>Formula Business - Less than 2,001 sf</u>	—	P	P	P	P	Chapter 18.46
Kennel, animal boarding	—	—	—	UP	—	18.42.040
Lodging - Bed and breakfast inn (B&B)	—	—	UP	UP	P	18.42.050
Lodging - Hotel or motel	—	—	UP	UP	UP	
Lodging - Vacation rental unit	—	—	MUP	—	—	18.42.190
Maintenance service - Client site services	—	—	—	P	—	
Mortuary, funeral home	—	P	—	P	—	
Personal services	P	P	P	P	MUP	
Personal services - Restricted	—	—	UP	UP	UP	
Public safety facility	—	P	P	P	P	
Repair service - Equipment, large appliances, etc.	—	—	—	P	P	
Vehicle services - Major repair/body work	—	—	—	UP	UP	
Vehicle services - Minor maintenance/repair	—	—	—	P	P	

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § 18.71.060)				
	UP	Use Permit required (see § 18.71.060)				
S	Permit requirement set by Specific Use Regulations					
—	Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
Veterinary clinic, animal hospital	—	P	—	P	P	

Key to Zoning District Symbols

CN	Neighborhood Commercial	CG	General Commercial
CO	Office Commercial	CH	Highway and Visitor Commercial
CBD	Central Business District		

Notes:

- (1) See Article 10 for land use definitions.

#### Section 4.

### TITLE 18 – INLAND LAND USE AND DEVELOPMENT CODE

~~Chapter 18.100.020 Definition for “Formula Business” is here by repealed and replaced with the following:~~

~~**Formula Business.** The following terms and phrases are defined for the purposes of Chapter 18.46 (Formula Business Regulations)~~

~~“Array of merchandise/menu” shall be defined as 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.~~

~~“Color scheme” shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the facade.~~

~~“Commercial Business Establishment” means a commercial establishment that provides goods and/or services directly or indirectly to the consumer.~~

~~“Decor” shall be defined as the style of interior finishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.~~

~~“Facade” shall be defined as the face, front or side of a building, including awnings, especially the principal front that looks onto a street or an open space.~~

~~“Formula Business” means a Commercial Establishment which, along with ten (10) or more other business locations outside of Fort Bragg, regardless of ownership or location at the time that the application is deemed complete, is required by contractual or other arrangement to maintain at least two (2) of the following Standardized features: an Array of merchandise/menu, Decor, Uniforms, Façade, Color scheme, exterior Signage including a Trademark or Service mark as Signage.~~



~~"Payday or Check Cashing Commercial Establishment" is a person or company who makes or facilitates a deferred presentment transaction, such that the person or company provides currency or a payment instrument in exchange for a person's check or agreement to provide access to a drawer's account in a financial institution and agrees to hold that person's check for a period of time prior to presentment, deposit, or redemption or facilitates this process.~~

~~"Service mark" shall be defined as word, phrase, symbol or design or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.~~

~~For definition of "Signage," see definition of "sign" § 18.100.020.~~

~~"Standardized" does not mean identical, but means substantially the same.~~

~~"Trademark" shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.~~

~~"Uniforms" shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.~~

**Section 5. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**Section 6. Effective Date and Publication.** This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember [REDACTED] at a regular meeting of the City Council of the City of Fort Bragg held on [REDACTED] and adopted at a regular meeting of the City of Fort Bragg held on [REDACTED] by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:
- RECUSED:

Bernie Norvell  
Mayor

ATTEST:

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June Lemos, CMC  
City Clerk

PUBLISH: [redacted] and [redacted] (by summary).

EFFECTIVE DATE: [redacted].



## **RESOLUTION NO. PC XX-2021**

### **RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING [APPROVAL OF, APPROVAL WITH MODIFICATION, OR DISAPPROVAL OF] THE FORMULA BUSINESS ORDINANCE TO THE FORT BRAGG CITY COUNCIL.**

**WHEREAS**, the City adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

**WHEREAS**, the City adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

**WHEREAS**, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

**WHEREAS**, on February 24, 2020, the City of Fort Bragg (“City”) City Council directed the staff to work with the Planning Commission to develop an Ordinance to regulate Formula Business; and

**WHEREAS**, the Planning Commission discussed and provided guidance on an Ordinance to regulate Formula Business on October 14, 2020; November 12, 2020; January 6, 2021; February 10, 2021 and May 5, 2021; and

**WHEREAS**, on April 12, 2021, the City Council adopted Urgency Ordinance No. 964-2021, which established a forty-five (45) day moratorium on approval of applications for Formula Businesses, as defined in the Ordinance, in the Inland Zoning Area; and

**WHEREAS**, the City Council extended the Moratorium on approval of applications for Formula Businesses for an additional 315 days on May 24, 2021 to provide for sufficient time to adopt Formula Business Regulations; and

**WHEREAS**, the Planning Commission considered the Inland Land Use and Development Code at a noticed public hearing on June 2, 2021, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Project is exempt pursuant to the California Environmental Quality Act (“CEQA”) and Title 14, the California Code of Regulations (“CEQA Guidelines”) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

**WHEREAS**, the City of Fort Bragg Planning Commission held a public hearing on June 2, 2021, which included evidence establishing the following:

1. The proposed amendment is consistent with the General Plan and any applicable specific plan; and
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

**NOW, THEREFORE,** the Fort Bragg Planning Commission of the City of Fort Bragg resolves as follows:

Based on the evidence presented, both oral and documentary, the Planning Commission finds the following required findings regarding the proposed Formulas Business Ordinance:

- a. The proposed amendment is consistent with a number of Goals and Policies in the Inland General Plan that focus on preserving and enhancing Fort Bragg's small town and historic character, with expanded focus on the Central Business District. The proposed amendment is also consistent with those Goals and Policies that promote economic vitality and highlight the importance of ensuring that Formula Businesses and Big Box Retail do not detract from economic vitality. Those goals and policies include: Goal LU-3, Policy LU 3.1, Policy LU-3.6, Goal LU-4, Policy LU-4.1, Policy LU-4.2, Policy LU 4.3, C-5.1, Policy CD-1.5, Goal CD-2, Policy CD-2.3, Policy CD-2.5, Policy CD-3.2, and Policy CD-6.1. Further, the proposed amendment is consistent with the intent of Community Design Element of the Inland General Plan, which is to preserve and enhance Fort Bragg's authentic, small town character and visual quality; and
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. To the contrary, the proposed amendment regulates formula businesses in order to reduce potentially detrimental impact to the public health, safety, and welfare. Unregulated establishment of formula retail establishment uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be unique and unduly skews the mix of businesses towards formula retailers in lieu of those unique or start-up retailers, and results in decreasing the diversity of goods and services available to residents and visitors; and
- c. The proposed amendment is consistent with other applicable provisions of the Development Code because it addresses development in existing commercial zones within the City of Fort Bragg and provides additional guidelines and regulations for these areas. This includes policies that prohibit and discourage formula design elements that are similar to those found in other communities occupied by corporate or franchise entities, and those that maintain a sense of place and enhancing the attractiveness of the Central Business District.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Fort Bragg Planning Commission does hereby recommend [Approval of, Approval of with modification, or Disapproval of] the Formula Business Regulation Ordinance by the Fort Bragg City Council.

The above and foregoing Resolution was introduced by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and passed and adopted at a special meeting of the Planning Commission of the City of Fort Bragg held on the 2<sup>nd</sup> day of June, 2021, by the following vote:

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**  
**RECUSED:**

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**Jeremy Logan, Chair**

**ATTEST:**

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**Sarah Peters, Office Assistant**



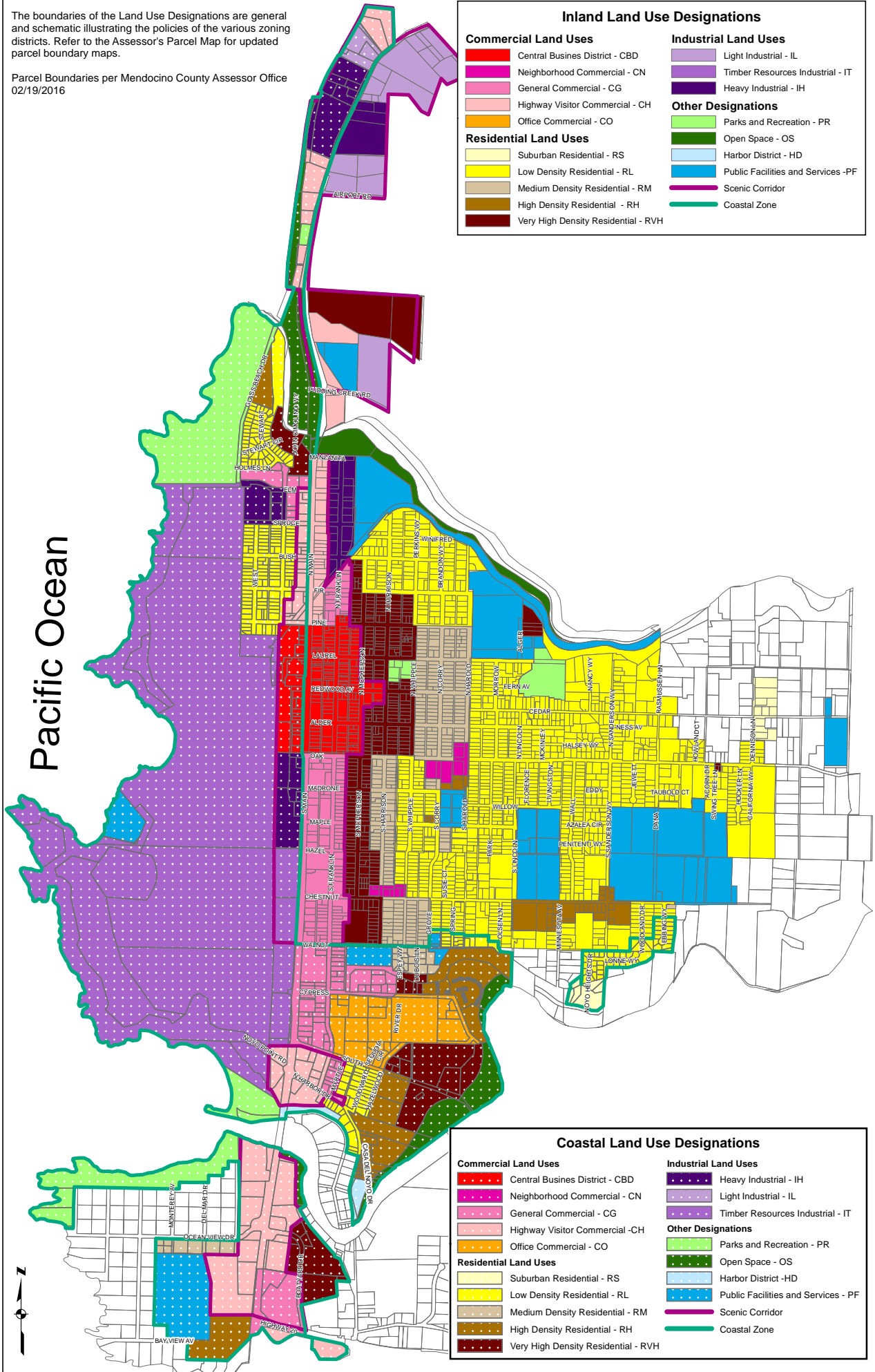
The boundaries of the Land Use Designations are general and schematic illustrating the policies of the various zoning districts. Refer to the Assessor's Parcel Map for updated parcel boundary maps.

Parcel Boundaries per Mendocino County Assessor Office 02/19/2016

Pacific Ocean

### Inland Land Use Designations

<b>Commercial Land Uses</b>	<b>Industrial Land Uses</b>
Central Business District - CBD	Light Industrial - IL
Neighborhood Commercial - CN	Timber Resources Industrial - IT
General Commercial - CG	Heavy Industrial - IH
Highway Visitor Commercial - CH	<b>Other Designations</b>
Office Commercial - CO	Parks and Recreation - PR
<b>Residential Land Uses</b>	Open Space - OS
Suburban Residential - RS	Harbor District - HD
Low Density Residential - RL	Public Facilities and Services - PF
Medium Density Residential - RM	Scenic Corridor
High Density Residential - RH	Coastal Zone
Very High Density Residential - RVH	



### Coastal Land Use Designations

<b>Commercial Land Uses</b>	<b>Industrial Land Uses</b>
Central Business District - CBD	Heavy Industrial - IH
Neighborhood Commercial - CN	Light Industrial - IL
General Commercial - CG	Timber Resources Industrial - IT
Highway Visitor Commercial - CH	<b>Other Designations</b>
Office Commercial - CO	Parks and Recreation - PR
<b>Residential Land Uses</b>	Open Space - OS
Suburban Residential - RS	Harbor District - HD
Low Density Residential - RL	Public Facilities and Services - PF
Medium Density Residential - RM	Scenic Corridor
High Density Residential - RH	Coastal Zone
Very High Density Residential - RVH	

**From:** [Annemarie](#)  
**To:** [CDD User](#)  
**Cc:** [O'Neal, Chantell](#)  
**Subject:** public comments Formula Business Resolution Spec. Planning Commission meeting 6-2-21 Item 6A  
**Date:** Wednesday, June 02, 2021 2:55:51 PM  
**Attachments:** [Public Comment Sp. Planning Comm. meeting 6-2-21 item 6A, 21-268 .odt](#)

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Hi,  
Please accept my comments.  
Thanks, Annemarie Weibel

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This email has been checked for viruses by Avast antivirus software.  
<https://www.avast.com/antivirus>

Public Comment Special Planning Commission meeting 6-2-21 item 6A, 21-268

I want to thank the Planning Commission, City Council and City staff for being close to adopting a resolution for a formula business ordinance to amend the Inland Land Use and Development Code (provide additional regulations).

This has been a long overdue issue. It has been in the works for 4 years.

Reading the staff report I want to share with you that I am very concerned with the already current proliferation of small fast food/quick service restaurants. Already some gas stations offer these products. We definitely do not need a Burger King, Arby's, Chick-fil-A, Chipotle, Wendy's, Applebee's etc.

As this ordinance will only be addressed in the Inland Land Use and Development Code there will be an increased proliferation of these small fast food/quick service restaurants in the Coastal Zoning areas.

Please exclude all future small fast food/quick service restaurants from the exemption. Many of these encourage unhealthy food habits, empty calories (have little or no nutritional value), provide a diet based on sugar and salt, are not homegrown, have no mineral value, cause diabetes, obesity even in children and are potentially cancer causing as they might also contain red, yellow and green dyes. These meals are often packaged in styrofoam, plastic, or aluminum that end up in the land fill.

With a potential Grocery Outlet and a potential Dollar General there would be plenty of small fast food/quick service food items available.

In addition I would like to bring to your attention that the Consistency with Planning Policies lists Policy CD-2.1 on page 11 of staff report, but not under Amendment Findings on page 12. See 18.94.060(B)(1)(a), neither is it listed in the Resolution (see a).

In addition, the staff report lists information on page 12 twice (see 18.94.060(B)(1)(b)).

It would be helpful if the public and also the Commissioners would have a map that clearly defines the Coastal Zoning Areas and the Inland Zoning Areas.

Even though the City Council on April 12, 2021 failed to adopt an Urgency Ordinance for a Formula Business Moratorium in the Coastal Zoning Areas it is still very much needed in order for Fort Bragg not to turn into "Anywhere USA!" We know that having it approved by the Coastal Commission will take close to a year alone. With the mill site opening up we need to be more proactive.

Please work on an Ordinance for a Formula Business Moratorium in the Coastal Zoning Areas. A lot of the research done with this Ordinance can be used also for the Coastal Zoning Areas.

AN ORDINANCE ADDING CHAPTER 18.46 FORMULA BUSINESS REGULATIONS TO TITLE 18.4 under section 4 page 8 & 9 of 11 pages lists UP(2). What does it refer to? Also on page 9 it is referred to Formula Business- less than 2,001 sf, when everywhere else it is referred to as less than 2,000 sf?

Sincerely, Annemarie Weibel

**From:** [Lemos, June](#)  
**To:** [CDD User](#)  
**Subject:** FW: Public comment for 6A  
**Date:** Wednesday, June 02, 2021 8:45:30 AM

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-----Original Message-----

From: Megan Caron <megancaroon27@gmail.com>  
Sent: Wednesday, June 2, 2021 8:44 AM  
To: Lemos, June <JLemos@fortbragg.com>  
Subject: Public comment for 6A

Planning Commisioners,

Please consider keeping large formula businesses with a footprint larger than 3000 ft.<sup>2</sup> off of Franklin street between Walnut and Fir streets. Allowing large scale commercial development on a narrow 2 lane street that is often shared with residential properties is simply poor planning. It would be extremely shortsighted to jeopardize the stability and vitality (and real estate values) of the existing neighborhoods along Franklin Street with large scale commercial development.

As a community that has very limited space to develop and expand its neighborhoods, we should be developing the available land for much-needed workforce housing. Large scale commercial development belongs along the highway 1 Corridor where it will not have a negative impact on existing residential neighborhood.

Thank you,  
Megan Caron  
Fort Bragg

Sent from my iPhone

**From:** [Paul Clark](#)  
**To:** [CDD User](#)  
**Cc:** [CMAR \(CMAR@MCN.ORG\)](mailto:CMAR@MCN.ORG)  
**Subject:** Planning commission 06022021  
**Date:** Wednesday, June 02, 2021 11:31:59 AM  
**Attachments:** [image003.png](#)

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## **6. PUBLIC HEARINGS**

Receive Report, Conduct Public Hearing and Adopt a Resolution  
Providing a Recommendation to City Council Regarding an Inland Land  
Use and Development Code Amendment Regulating Formula Business  
**6A 21-268**

A few comments on the ordinance proposed. Section 1 paragraph 1 “the coastal views and beauty are critical to what makes Fort Bragg Special”. Well we now have 3.5 miles of ocean front trail available, Pomo Bluff park and miles of State owned parks and land. The views have never been this good in over one hundred years, but it is never enough.

“a strong sense of community that values its roots in the fishing and timber industries” Really? The commission worries about planted trees on Franklin street. The timber folks all had chain saws in their trucks, and heated often with wood. What roots was being referred too? You would need an arborist to tell if a tree can be cut down if many had their way. Not much value shown to timber history. Fishing too, for that matter. Trees are crops to the timber world. They grow back.

8 “ exempt from CEQA” hmmm I have heard this one recently. This is a huge impact to the town and it is “ exempt”?

Section 2 take a look at the sign requirements, they all look like any other city in the country. Gone are the big signs that were here, no off site signs allowed but for directional for parks etc. Who would find Colombi Motel or the Colonial Inn, signs all gone from Main Street. Part of the historic Fort Bragg I would think, but now banned.

As you know I oppose this ordinance and I promise you I will be the first to say “ I told you so” when some good business walks or just says no to Fort Bragg.

I am reminded that the County of Mendocino said no to Costco years ago and housing on the Masonite site, still industrial, but Costco is of course now in the city of Ukiah generating untold sales tax that could have been in the county. Be very careful in what you are doing.

There is the chance that some businesses could locate out of Fort Bragg, in the County, remote, but not totally out of the question. And their business license fees are quite reasonable as compared to Fort Bragg.

As spoked at the last planning commission, the road over the hill is used daily by locals to shop. This will insure that continues forever.

I just don't see a lot of common sense being applied here. Wishing that Amazon had not changed the world of retail does not change the facts.

Paul Clark

**From:** [Star Decker](#)  
**To:** [CDD User](#)  
**Subject:** Re: public comment on box stores  
**Date:** Thursday, May 27, 2021 11:07:41 AM

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TWIMC;

We are local, coastal shoppers who do not want to see a grocery outlet or other kinds of big box stores selling cheap products in our town of Fort Bragg. We support Harvest Market, Safeway, Down Home Foods and farmers markets. Let folks who want to buy cheap goods go to Willits or Ukiah like they always do. Our vacant stores need to be filled with interesting products that are useful and attract tourists. Landlords need to be encouraged and helped (with funds?) to fix up their property. Local industry making biodegradable products?

Please take in to consideration that our town is unique and quaint. Don't turn it into "every other strip mall look". When tourists ask for Walmart we say go back to the strip malls where you live and buy that cheap land fill crap!

We love our town and SHOP LOCAL!!! And we are not rich! We grow food as well. Times are changing and we need to get on board.

Thank You,

Star Decker

Sent from [Mail](#) for Windows 10

**From:** [Jacob Patterson](#)  
**To:** [Peters, Sarah](#)  
**Cc:** [Miller, Tabatha](#); [CDD User](#)  
**Subject:** Public Comment -- 6/2/21 PC Mtg., Item No. 6A, Formula Business Ordinance  
**Date:** Saturday, May 29, 2021 3:32:01 PM

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Paragraph 8 of the ordinance concerning CEQA needs to be revised to correct grammatical errors and incomplete sentence structure. That said, the City's reliance on this exemption seems appropriate under the circumstances. However, reliance on the categorical exemption does not make the project exempt from CEQA, it only means that the project is exempt from further environmental review under CEQA. Since corrections are necessary, that technical distinction should be corrected at the same time.

I also think the findings need to be applied to Design Review permits if the design review applies to a formula business, not just the new formula business use permits. The need for these specific design review findings is demonstrated in the recent Grocery Outlet entitlement review, IMO. Only applying the design-related findings to the use permit process and not the design review process leaves a large regulatory loophole. The easiest way to address this is to add design review to Section 18.46.040 to read "In addition to the findings required by 18.71.060 (F) as prerequisite to the issuance of a use permit, the Planning Commission shall make all of the following findings prior to the issuance of a Use Permit **or Design Review** for a Formula Business, unless the project is exempt in conformance with Section 18.46.050:"



# CHAPTER 18.46 FORMULA BUSINESS REGULATIONS Public Hearing

PLANNING COMMISSION

JUNE 2, 2021



# FORMULA BUSINESS ORDINANCE

<b>PROPOSED ACTION PLAN</b>	<b>PROPOSED DATE</b>
Finalize Ordinance Language	May 5, 2021
Planning Commission Public Hearing	June 2, 2021
City Council Introduction and Public Hearing	June 28, 2021
City Council Adopts Ordinance	July 12, 2021
Formula Business Effective Date	August 11, 2021
City Council Rescinds Moratorium	August 23, 2021

# URGENCY ORDINANCE No. 964-2021

- ▶ 45-Day moratorium on approval of applications and permits for Formula Businesses in the Inland Zoning Area
- ▶ Approved by 4/5 Councilmembers
- ▶ May 24, 2021 –City Council extended moratorium for 10 months and 15 days
- ▶ May be extended for a total period of two years
- ▶ Impacts Dollar General Application
- ▶ Moratorium for Coastal Area failed

# PROPOSED ORDINANCE - LEGISLATIVE FINDINGS

- ▶ Establishes the nondiscriminatory purpose for regulating Formula Businesses
- ▶ Lengthy preamble section aka “extensive findings”
- ▶ Not codified, so it is not printed as part of the Inland Land Use Development Code (ILUDC)

# MODIFIED LANGUAGE– Paragraph 8

- ▶ The City has analyzed the project proposal described herein and finds that the project is exempt from the California Environmental Quality Act (“CEQA”) because Section 15061(b)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) **exempts from CEQA those activities** where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. This Ordinance will have the net effect of reducing, rather than increasing the amount of change in the City in that does not authorize any additional uses as permitted or conditionally permitted uses nor does it change the uses allowed in the City or their intensity or density.

# PROPOSED ORDINANCE – 18.46.010 PURPOSE

- ▶ Abbreviated purpose
- ▶ Serves as an Introduction
- ▶ Included in the codified or printed ILUDC
- ▶ Adds to the support for the nondiscriminatory purpose of the Ordinance

# PROPOSED ORDINANCE - 18.46.020 DEFINITIONS

- ▶ Separately, listed in Definitions 18.100 as applicable to “Formula Business Chapter”
- ▶ Replace existing definition of “Formula Business”
- ▶ Added “Commercial Establishment” instead of listing all land uses that were included or excluded from Formula Business
- ▶ Added “Payday or Check Cashing Commercial Establishment”

# PROPOSED ORDINANCE – 18.46.030 REGULATIONS

## Added Regulation:

- ▶ *A Formula Business Establishment may be allowed in the Commercial Zoning Districts with a Use Permit (UP).*
- ▶ *Establishment of or exterior alteration of a Formula Business is subject to Design Review as set forth in Section 18.71.050.*





# PROPOSED ORDINANCE – 18.46.040 REQUIRED FINDINGS

- A. The Commercial Establishment will add to, rather than detract from, the overall economic and cultural vitality of the City; and
- B. The Commercial Establishment will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; and
- C. The Commercial Establishment will complement existing businesses; and
- D. The Commercial Establishment will promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and
- E. The Commercial Establishment has been designed to preserve and enhance the City's small town character; and
- F. The Commercial Establishment's exterior design limits "formula" architectural, sign and other components; and
- G. The Commercial Establishment's exterior design integrates existing community architectural design features.

# PROPOSED ORDINANCE – 18.46.050 SELECTED EXEMPTIONS

- D. *A Formula Business that does not exceed 2,000 square feet of gross floor area, except those uses prohibited by Section 18.46.060;*
- E. *Formula Business, which if approved, would not result in Formula Business(es) occupying more than twenty-five percent (25%) of the total gross floor area of a Retail Complex or Mixed Use Project, except those uses prohibited by Section 18.46.060;*
- F. *A Formula Business, which if approved, would not result in Formula Business(es) occupying more than thirty-five percent (35%) of the total gross floor area of a Mixed Use Project in which at least thirty-five percent (35%) of total gross floor area is a residential component, except those uses prohibited by Section 18.46.060; or*
- G. *Changes in ownership of existing Formula Businesses where there is no substantial change to the land use classification of the use, or in the mode or character of the operation.*

*Proposed development that qualifies as an Exemption pursuant to D, E, F, or G of this Section is subject to Design Review as provided in Section 18.71.050.*

# SQUARE FOOTAGE COMPARISONS – FAST FOOD RESTAURANTS

Restaurant Chain	Square Footage
McDonald's	4,500
Chick-fil-A	4,200
Burger King	3,500
Arby's	3,500
Wendy's	3,000
Chipotle's	2,600

Source: [www.statista](http://www.statista) & [www.restfinance](http://www.restfinance)

# SQUARE FOOTAGE COMPARISONS – LOCAL DEVELOPMENT

Building	Square Footage
Dry Shed on Mill Site	~70,000
Safeway	~51,700
Rite Aid	~27,000
Proposed Grocery Outlet	~16,150
North Coast Brewery	~15,700
Former Sears Building	~9,800
Proposed Dollar General	~9,000
Floor Store/Holistic Sunshine (retail space only)	~2,960
Starbucks	~2,800
Taco Bell	~2,400
Speedex/Sinclair's Service Station (as expanded)	~1,800

# PROPOSED ORDINANCE – 18.46.060 PROHIBITED FB USES

- A. *Formula Businesses are prohibited in the Neighborhood Commercial (CN) Zoning District.*
  
- B. *Formula Business Payday Lending or Check Cashing Commercial Establishments are prohibited in all Zoning Districts.*

# PROPOSED ORDINANCE – 18.46.070 BURDEN OF PROOF

- ▶ *In the event the City determines that a permit application or permit is subject to this chapter for a Formula Business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a Formula Business.*



# PROPOSED ORDINANCE – USE TABLE UPDATES

Table 2-6

Retail Trade; Services - Business, Financial, Professional; and Services - General

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
Formula Business	-	UP(2)	UP(2)	UP(2)	UP(2)	Chapter 18.46
Formula Business – Less than 2,001 sf	-	P	P	P	P	Chapter 18.46

(1) See Article 10 for land use definitions

(2) Use Permit required except for exemptions set forth in 18.46.050

QUESTIONS?