

**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 days on 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, 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 has determined that the project is covered by the general rule that California Environmental Quality Act ("CEQA") 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. Significant effect on the environment is defined as substantial or potentially substantial, adverse change in the environment.

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.**

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

**Chapter 18.46 Formula Business Regulations** is hereby added to the Inland Land Use and Development Code.

#### **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 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 or exterior alteration of a Formula Business is subject to Design Review.

#### **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 in conformance with Section 18.46.050:

- A. The Commercial Establishment will provide needed goods or services, will promote Fort Bragg's economic vitality, and will be compatible with existing and planned uses; 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 promote diversity and variety to assure a balanced mix of commercial uses to serve both resident and visitor populations; and
- D. The Commercial Establishment has been designed to preserve and enhance the City's small town character, has an exterior design, which appropriately limits "formula" architectural, sign and other components, and integrates existing community architectural and design features, which will preserve such character for the City's residents and visitors.

**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, 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;
- 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

- I. 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.

**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 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 3.**

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

Table 2-6 of Section 18.22.030 entitled **Allowed Land Uses and Permit Requirements for Commercial Zoning Districts** is hereby amended as follows:

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

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>

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	<b>P Permitted use, Zoning Clearance required</b> <b>MUP Minor Use Permit required (see § 18.71.060)</b> <b>UP Use Permit required (see § 18.71.060)</b> <b>S Permit requirement set by Specific Use Regulations</b> <b>— Use not allowed</b>						
	LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
		CN	CO	CBD	CG	CH	
						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>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</b>	<b>UP(2)</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	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 set forth in [18.46.050](#).

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

SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL

Bank, financial services	UP	P	P	P	P	
Business support service	—	P	P	P	P	
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	
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	
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

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

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Mayor

ATTEST:

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June Lemos, CMC  
City Clerk

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