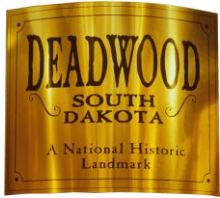


# 1876 DEADWOOD MAIN STREET INITIATIVE

## Economic Restructuring Committee

<b>Main Street Initiative Executive Leadership</b>
Ken Gienger, Chair Bill Pearson, V. Ch. Louie LaLonde, Sec. Lee Harstad, Tres Ron Russo, Ch. Emt.
<i>The Deadwood Chamber of Commerce and Visitors Bureau, in concert with the City of Deadwood, formed a Deadwood Revitalization Committee to facilitate discussions and build consensus on developing a series of goals for economic development for Deadwood within the context of historic preservation.</i>
108 Sherman Street Deadwood, SD 57732 (605) 578-2082 

Chairman, Beverly Posey  
Deadwood Historic Preservation Commission  
City of Deadwood  
October 4, 2022

Dear Ms. Posey & HP Commissioners,

On behalf of the Economic Restructuring Committee, a sub-committee of Deadwood's Main Street Initiative Committee (MSI), we ask that you accept our invitation to participate in a city ordinance working group to address growing concerns with national food chain (formula) restaurants, and signage within the Core Historic District of our Main Street.

Our intention with the work group is to draft an ordinance prohibiting national food chain (formula) restaurants in the Core Historic District (brick to brick) of our Main Street via zoning change and bring it forward to the Planning & Zoning Commission for consideration. Additionally, we know that sign ordinances are constantly being looked at, reviewed, and altered. We would like the working group to review and suggest changes to the Planning & Zoning Commission for sign ordinances that better align with the Deadwood brand within the Core Historic District. Included with this letter we have attached example ordinances that like communities have adopted.

Due to the increased purchasing of buildings by out-of-state ownership groups, we feel that this collaborative working group is necessary to protect the integrity of our Core Historic District moving forward. We hope that your Commission will consider joining our continued effort to keep Deadwood, Deadwood.

With Best Regards,  
*William H Pearson*  
William H. Pearson  
Vice Chairman - MSI  
Committee Chairman - Economic Restructuring

CC:  
Ken Gienger  
Kevin Kuchenbecker  
Michael Johnson

## CALISTOGA, CA -- MUNICIPAL CODE

Calistoga has a DC Downtown Commercial District. The purpose and intent:

The Downtown Commercial (DC) District is intended to implement the Downtown Commercial land use designation of the General Plan. It provides an area for a broad range of uses that generate high pedestrian traffic.

Mixed residential-commercial uses are an important component of the DC district to ensure an economically and socially vibrant downtown that is intended for, and enjoyed by, residents and visitors alike. Except for visitor accommodations and live-work units, all newly constructed floor area located above a first floor is encouraged to be for resident-serving commercial uses and/or residential.

In order to maintain and enhance Calistoga's small-town character and the urban design quality of the downtown, development in the DC district shall be guided by relevant policies of the General Plan's Community Identity Element and the character areas, gateways and entry corridors of the Land Use Element. (Ord. 714 § 4 (Exh. A), 2015).

### 17.21.020 Permitted Primary uses.

A. The following primary uses are permitted in the DC district:

1. Retail uses, including, but not limited to: grocery stores, fruit and vegetable markets, pharmacies, bicycle sales, furniture sales, audio-video stores, florists, frame shops, bookstores, clothing and apparel shops, gift shops, sales of household goods and appliances, and hobby and craft shops.
2. Art galleries.
3. Antique stores.
4. Service uses, including, but not limited to: dry cleaning, not including processing plants; laundromats; tailors; shoe repair; bicycle repair; repair of household goods and appliances.
5. Personal service establishments, such as spas, health clubs, beauty salons, and barbershops.
6. Business and professional offices, such as for accountants, lawyers, architects, engineers, realtors, and financial advisors.
7. Medical and dental clinics.
8. Banks and financial institutions without drive-up or walk-up facilities.
9. **Restaurants**, bakeries, cafes and similar uses, with or without outdoor seating, pursuant to the following:
  - a. No live entertainment or dancing is proposed.
  - b. No outdoor seating is proposed in a public right-of-way.
  - c. The establishment is not a **formula** business or **formula restaurant**.
10. Uses determined by the Planning Commission to be similar in nature, as provided for according to the procedures in Chapter [17.03](#) CMC. (Ord. 728 § 2, 2017; Ord. 714 § 4 (Exh. A), 2015).

### Definition

#### 17.04.132 Business, Formula

“**Formula** business” shall mean a business or use, which by contractual or other arrangement, established or recognized business practice, or membership affiliation, maintains any of the following:

- A. Business name common to a similar business located elsewhere;
- B. Standardized services or uniforms common to a similar business located elsewhere;
- C. Interior decor common to a similar business located elsewhere;
- D. Architecture, exterior design, or signs common to a similar business located elsewhere;
- E. Use of a trademark or logo common to a similar business located elsewhere (but not including logos or trademarks used by chambers of commerce, better business bureaus, or indicating a rating organization including, but not limited to, AAA, Mobile or Michelin); or
- F. A name, appearance, business presentation or other similar features, which make the business substantially identical to another business within or outside Calistoga. (Ord. 567 § 3, 2000; Ord. 519 § 3, 1996).

## **BAINBRIDGE ISLAND, WA -- ORDINANCE**

Bainbridge Island ordinance is to keep the fast food restaurants from moving into the downtown area. In speaking with them they do not currently have any chains like McDonalds, Dominos, Dairy Queen in their historic district. Listed below is their short ordinance.

Formula Take-Out Restaurants.

- a. Any formula take-out food restaurant may not exceed 4,000 square feet and must be in a building that is shared with at least one other business that is not a formula take-out food restaurant. Only one formula take-out food restaurant is permitted per parcel, lot or tract on which all or a portion of a building is located. No drive-through facilities are allowed.

## **DAVIS, CA -- ORDINANCE**

Davis has a downtown district that is zoned C-C. Permitted uses in the C-C district shall be as follows:

- (a) Retail stores, shops and offices supplying commodities or performing services such as department stores, specialty shops, banks, and other financial institutions, personal and business service establishments, antique shops, artists' supply stores and similar uses, but not including gasoline service stations.
- (b) Restaurants, including outdoor eating areas and establishments, establishments serving alcoholic beverages, and similar enterprises, but not including formula fast food restaurants.

The following conditional uses may be permitted in the C-C district and planned development districts with the same underlying zoning:

(h) Formula fast food restaurant. In addition to the considerations established in Section [40.30.080](#) for the granting of a conditional use permit, the planning commission or city council may consider the following in determining whether or not the use constitutes a nuisance, or is detrimental to the public welfare of the community: litter, odors, exterior design, signage, concentration of like uses, and the extent to which the use enhances the unique characteristics of the core area;

Definition:

**Restaurant, formula fast food.** A restaurant that both:

- (1) Is required by contractual or other arrangements to maintain any of the following: substantially standardized menus, architecture, building appearance, signs, or similar standardized features; and
- (2) Has two or more of the following characteristics:
  - (A) Food to be consumed on the premises is served with disposable tableware,
  - (B) Food is not delivered to the table,
  - (C) Orders are placed at a counter, and
  - (D) Drive-through or walk-up windows.

Formula fast food restaurants shall not include ice cream shops, coffeehouses, bakeries, hot dog stands, or other businesses whose primary function is not the sale of full meals.

## CARMEL, CA – MUNICIPAL CODE

### 3. Restaurant, Full Line.

- a. Any sale of alcoholic beverages shall be subordinate to this primary use.
- b. **Drive-in, formula and fast food establishments are prohibited.**
- c. Substantially all foods from the standard menu shall be available for purchase during the hours that alcoholic beverages are being served.
- d. The applications, menus and plans indicate that the business will primarily be a restaurant – full line, and that no more than 20 percent of the total number of seats are at a bar or in a separate bar room. If the use does not meet this standard, the standards in subsection (l)(2) of this section, Drinking Places, shall also apply to the use.
- e. **Customers shall be provided with individual menus while seated at a table or counter.**
- f. The maximum seating capacity shall not exceed the standards in the State Uniform Building and Fire Codes, the number of seats approved by the Planning Commission through public review, or the number of seats in the previous business, whichever is less. The seating capacity shall be posted on the premises.

g. Outside seating may be allowed subject to Chapter [17.58](#) CMC, Design Review.

h. Food sold for consumption off the premises shall be incidental to the primary use. Such food shall be placed in covered containers or wrappings, and all house-brand labeled food store goods such as vinegars, oils and salad dressings shall be prepackaged and sealed.

i. Maximum number of food stores and/or restaurants located within structures fronting on Ocean Avenue: 15. See also Chapter [17.56](#) CMC, Restricted Commercial Uses.

j. See also subsection (l)(1) of this section, All Eating and Drinking Establishments.

k. Outdoor cooking devices are permitted on private property if designed and located to mitigate impacts to adjacent properties.

#### 4. Restaurant, Specialty (Coffee Shops, Ice Cream Parlor, Etc.).

a. Minimum size: 400 square feet.

b. Minimum number of customer seats on site: 14 seats. The customer seating area must be open to patron use during all hours of operation and the use must be managed to encourage on-premises consumption of food products.

c. Sales of soup, salads and sandwiches may be allowed in an amount up to 10 percent of sales.

d. The sale of alcohol is prohibited.

e. **Drive-in, fast food, take-out or formula establishments are prohibited.**

f. The service counter must be located within the interior of the business premises and arranged so that customers must first pass by or through the seating area to reach the counter and patron queues will be contained within the building.

g. Outside seating may be allowed, subject to Chapter [17.58](#) CMC, Design Review.

h. All products sold for consumption off the premises, other than frozen desserts, must be placed in covered containers or wrappings.

i. Cooking equipment is limited to indoor stoves and ovens.

j. Maximum number of food stores and/or restaurants located within structures fronting on Ocean Avenue allowed: 15. See also Chapter [17.56](#) CMC, Restricted Commercial Uses.

k. The operator of the use shall be responsible for the clean-up of all on-site and off-site litter generated by the use including twice-daily clean-up of all sidewalks and gutters within 50 feet of the storefront and twice-yearly steam cleaning of this area. A practical plan for monitoring and implementing this standard shall be submitted for review with the application for use permit, and will be adopted as a condition of approval of the use.

### 3. Food Store, Specialty.

- a. No specialty food store shall be permitted that is classified as a drive-in, fast food or **formula** food establishment as defined in this code.
- b. All food sold for consumption off the premises shall be placed in covered containers or wrappings.

## SONOMA, CA – FORMULA BUSINESSES

The primary intent of the regulations is to protect, preserve, and retain the local unique and attractive character and charm that Sonoma is internationally known for in its downtown Plaza and historic district. Regardless of whether or not a business is "formula", the City's regular permit requirements and design review process will apply.

A formula business is defined as having a "standardized array of services and/or merchandise, employee uniforms, decor, facade design, signage, color scheme, trademark or service mark, name, or similar standardized features; and which causes it to be substantially identical to ten or more other businesses in the U.S." at time of application.

The formula definition applies to most retail, restaurant, and personal service uses (such as salons), but not to uses such as offices, hotels, banks, or gas stations.

The City's formula business ordinance does not apply to businesses in existence at the time it was adopted in 2012, but may apply if an existing business relocates or expands.



A. Historic District. The establishment or expansion of a formula business within the historic district shall require the approval of a use permit in compliance with SMC [19.54.040](#).

B. Formula Business, Large. The establishment or expansion of a formula business, large shall require the approval of a use permit in compliance with SMC [19.54.040](#).

C. Additional Use Permit Findings Required. When use permit review is required, the planning commission shall approve, with or without conditions, the establishment or expansion of a formula business only if all of the following findings can be made, in addition to those identified in SMC [19.54.040](#), Use permits:

1. The formula business establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations;
2. The proposed use, together with its design and improvements, is consistent with the unique and historic character of Sonoma, and will preserve the distinctive visual appearance and shopping/dining experience of Sonoma for its residents and visitors.

The following additional finding is required for the granting of a use permit for formula businesses on sites located within the /P (plaza retail) district:

3. The formula business establishment will be compatible with existing uses in the zone and will promote the zone's economic vitality as the commercial, cultural, and civic center of the community.

D. Prohibition on Formula Restaurants, Large. Formula restaurants, large are prohibited within the plaza retail overlay zone.

E. Exemptions. The provisions of this section shall not apply to formula businesses located or proposed to be located in the following shopping centers: (1) Sonoma Valley Center; (2) the Marketplace; (3) Maxwell Village; and (4) Fifth Street West Plaza. (Ord. 03-2012 § 2(B), 2012).

## **BRISTOL, RI – FORMULA BUSINESS**

### **Sec. 28-281. - Historic district zone.**

(a) *Incorporation and cross reference.* [Chapter 14](#) of Bristol Town Code entitled historic preservation is hereby incorporated by reference. There exist in the Town of Bristol historic districts as shown on the map entitled, "Map of Historic Districts, Town of Bristol, Rhode Island", together with a list of properties within the downtown district (Attachment 1) and a list of structures of historic or architectural value not located within the boundaries of an established historic district (Attachment 2) as may be amended from time to time, and which is filed at the office of the town clerk, all of which is herein collectively referred to as the "Historic District" or the "Historic District Zone".

(b) *Purpose.* The purpose of this section is to regulate the location and operation of **formula business** establishments, within Bristol's Historic District Zone, in order to maintain the district's unique character and diverse blend of **business** offerings.

(c) *Findings.* Establishing or preserving an appropriate and balanced mix of **businesses** will more effectively promote the district's economic health, property values, and colonial New England ambiance. The land use element of the town's comprehensive plan provides a statement of goals and policies that is quite reflective of the town's desire to preserve the unique and historically rich environment which encompasses the historic district zone. Included are stated policies to: (1) maintain the character of Bristol and make sure that new development does not adversely impact the character of the town; (2) respect the historic resources that link Bristol's present with Bristol's past and use these resources as guidelines for managing future growth; (3) foster the local economic base. In general, the goal of the land use element is to promote the development of a well balanced and functional mix of land uses and to ensure that development in the town is consistent with the town's character and image.

The historic downtown district is unique not only because of its well preserved historic structures, but because of its small individualized shops and restaurants as well. Bristol's historic downtown district is recognizable nationwide. It attracts hundreds of thousands of visitors each year, a large part of whom come to enjoy and experience the unique character of the nation's most patriotic town and its numerous quaint shops and restaurants. This unique character would be adversely affected by a proliferation of "**formula businesses**"

which are required by contractual or other arrangements to be virtually identical to **businesses** in other communities as a result of standardized services, merchandise, decor, uniforms and the like. The development of such **businesses**, if unchecked and unregulated, would conflict with the distinct atmosphere and unique character for which Bristol's historic downtown district is famous. Therefore, the town council finds that in order to preserve the character of the historic downtown district, it is reasonable and necessary to adopt this article which would monitor and regulate the establishment of **formula businesses** in the historic district zone through the mechanism of special use permits, in accordance with [section 28-409](#) of this Code.

(d) *Regulation.* A **formula business**, as defined in [section 28-1](#) of this Code, seeking to operate within the historic district zone, as established in [section 14-3](#) of this Code, is required to first obtain a certificate of appropriateness from the historic district commission, and is then required to obtain a special use permit from the zoning board in accordance with [section 28-409](#), including without limitation, the standards set forth in subsection [28-150\(h\)](#). Notwithstanding the foregoing, upon agreement of both the historic district commission and the zoning board, a joint public hearing of both bodies may be held, with each body then voting separately in the order set forth above.

## **FREDERICKSBURG, TX – HISTORIC SHOPPING DISTRICT OVERLAY**

### **Sec. 3.510. - HSD: HISTORIC SHOPPING DISTRICT OVERLAY.**

This zone is intended to encompass that portion of the City which constitutes the in-town historic shopping and tourist area. The area within the District is subject to the requirements of the underlying zoning district, the Historic Overlay District, if within its defined area, and the requirements of this Historic Shopping District.

#### Principal Permitted Uses

See uses listed in the underlying district.

Uses Permitted Subject to issuance of a Conditional Use Permit using the review and evaluation criteria of [Section 5.460](#). See the uses listed for the underlying district.

Uses Permitted Subject to issuance of a Conditional Use Permit using review and evaluation criteria in Sections [5.460](#) and [5.461](#). Any Standardized Business may be located in the Historic Shopping District subject to a Conditional Use Permit as provided in Section 5.400 using the review and evaluation criteria set forth in Sections [5.460](#) and [5.461](#).

Bed and Breakfast is allowed if the same is in compliance with all Central Business District Bed and Breakfast regulations EXCEPT



-A Conditional Use Permit is required for any new construction of a first floor Bed and Breakfast unit, and the review and evaluation criteria of [section 5.461](#) shall be used as applicable.

For the purpose of this section, the following definitions shall apply:

A. Historic Shopping District shall be all properties generally located between Elk Street and Acorn Street including the properties fronting on both sides of Acorn Street, and between San Antonio Street including the properties fronting on both sides of such street, and Austin Street including the properties fronting on both sides of such street, as they are depicted on the map of the area attached to this ordinance.

B. Standardized Business shall mean a business which is required by contractual or other arrangement or affiliation to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademark, logo, signs, service mark, symbol, decor, architecture, layout, uniform, menu, or similar standardized features and which causes it to be substantially identical to more than ten other businesses regardless of ownership or location at the time the application therefor is completed. Standardized Businesses can include, but are not limited to: restaurants, retail stores, banks, sales offices, spas, hair and nail salons, art galleries, and hotel/motel/inn/bed and breakfast establishments. A statement made under oath, and subject to penalties for perjury concerning the status as a standardized business shall be submitted with the application for Conditional use permit, along with any other reasonable proof required by the person administering the City's Zoning ordinance.

## ARCATA, CA -- FORMULA RESTAURANTS

### 9.42.164 Formula Restaurants. Revised 8/21

This Section establishes [standards](#) and procedures for the siting and operation of formula restaurants, where allowed by Article [2](#) ([Zoning Districts](#) and Allowable [Land Uses](#)).

- A. Formula restaurants [shall](#) comply with the following [standards](#):
1. The total number of formula restaurants in the [City](#) at any one time [shall](#) be limited to nine.
  2. Formula restaurants are prohibited in the Central Conservation Area and Plaza Area Historic [District](#).
  3. No more than six formula restaurants [may](#) establish in the Valley West [Neighborhood](#) at any one time.
  4. A mobile food and beverage vendor associated with, and branded by, a formula restaurant [may](#) only locate on the premises of the associated formula restaurant.
- B. A restaurant, cafe, or coffee shop operated as an [accessory use](#) that is not independently branded from the [primary use](#), and is not franchised from, or owned by, a parent company that is a restaurant, cafe, or coffee shop, [shall](#) not be regulated as a formula restaurant. (Ord. 1546, eff. 7/16/2021)