

ATTACHMENT D

FORMULA BUSINESS INFORMATION

FORMULA BUSINESS ORDINANCE RESEARCH

Recent Formula Business Ordinances in the US

Many jurisdictions across the country have passed formula business ordinances in the last decade as a response to the proliferation of “big box” and chain stores. The first step in crafting a formula business ordinance is to create one or more definitions for a “formula business”. Once defined, communities have been able to restrict formula businesses in various ways. Some have placed bans on formulas citywide, others in only certain areas or districts of the city. Other communities have restricted the total number or percent of formula businesses overall. This strategy can be found all over the country. Take this brief list for example:

- *Sonoma, California* maintains four formula business definitions and regulates where these businesses are permitted. Per the regulations, new "formula" businesses locating in the Historic District need to meet Use Permit requirements relating to diversity, balance, and community character. The Use Permit requirement also applies to new formula businesses in locations outside the Historic District if they are larger than 10,000 square feet. In addition, the City's formula business ordinance specifically prohibits new large-scale formula restaurants, defined as having more than 250 existing outlets, from locating in the Sonoma Plaza area. The formula business requirements do not apply to the City's four largest shopping centers: Sonoma Marketplace Shopping Center, Fifth West Plaza, Sonoma Valley Center, and Maxwell Village Shopping Center. This jurisdiction does not offer an exemption for “locally-based” businesses. However, when a 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 Sonoma Municipal Code Section 19.54.040, Use permits:
 - 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;
 - 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 Plaza Retail district:

- 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.
- Definitions:¹
 - “Formula business”: auto parts sales, building material stores, furniture, furnishings and equipment stores, general retail uses, grocery stores, personal services, or restaurants, as defined in this section, which are required by contractual or other arrangement or affiliation to maintain a standardized (“formula”) array of services and/or merchandise, menu, employee uniforms, decor, facade design, signage, color scheme, trademark or servicemark, name, or similar standardized features, which cause them to be substantially identical to 10 or more other businesses in the United States regardless of ownership or location at the time that the application is deemed complete.

¹ Sonoma Municipal Code, Section 19.92.020(F).

1. “Standardized array of services” shall be defined as a common menu or set of services priced and performed in a consistent manner.
 2. “Standardized array of merchandise” shall be defined as 50 percent or more of in-stock merchandise from a single distributor bearing uniform markings.
 3. “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 of one party from those of others.
 4. “Servicemark” 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 a service of one party from those of others.
 5. “Decor” shall be defined as the style of interior furnishings, which may include but is not limited to style of furniture, wallcoverings or permanent fixtures.
 6. “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.
 7. “Facade” shall be defined as the face or front of a building, including awnings, looking onto a street or an open space.
 8. “Uniform apparel” 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.
 9. “Signage” shall be defined as a sign pursuant to SMC Titles 18 and 19.
 - “Formula business, large”: a formula business which occupies or is proposed to occupy a tenant space having an area of 10,000 square feet or greater.
 - “Formula business, small”: a formula business which occupies or is proposed to occupy a tenant space having an area of less than 10,000 square feet.
 - “Formula restaurant, large”: a formula restaurant substantially identical to 250 or more other restaurants in the United States regardless of ownership or location at the time that the application is deemed complete.
- *Calistoga, California* has regulated chain stores since 1995. The no-formula ordinance applies to restaurants and lodgings, and considers a business with three (3) or more locations to be a chain. It also states that a chain business’ name or logo cannot be displayed anywhere on the property or employee uniforms, and the color scheme and architecture must be distinctive from other chain locations. This jurisdiction does not offer an exemption for “locally-based” businesses.
 - Definition:² “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;

² Calistoga Municipal Code. Section 17.04.132.

- 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).
- *San Francisco, California* restricts formula businesses in their neighborhood districts but not in the downtown or tourist districts. This jurisdiction does not offer an exemption for “locally-based” businesses.
 - Definition:³ “Formula Retail”: a type of retail sales or service activity or retail sales or service establishment that has eleven (11) or more other retail sales establishments in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to the eleven (11) establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.
 - *Coronado, California* has two formula ordinances on the books. The Formula Restaurant Ordinance allows no more than 10 formula restaurants in the City. The Formula Retail Ordinance requires formula retail businesses to obtain a special use permit from the City and judged on a case-by-case basis based on its appropriateness. The latter was upheld by a California Appeals Court in 2003. This jurisdiction does not offer an exemption for “locally-based” businesses.
 - Definitions:⁴
 - "Formula Retail": a type of retail sales activity or retail sales establishment (other than a "formula fast food restaurant") which is required by contractual or other arrangement to maintain any of the following: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized feature.
 - “Formula Fast Food Restaurant”: any “Fast food restaurant” having both of the following characteristics: (a) uses trademark, logo, service mark or other mutually identifying name or symbol that is shared by fifteen or more restaurants; and (b) serves a prescribed (“formula”) menu that is substantially the same as fifteen or more restaurants that shares its trademark, logo, service mark or other mutually identifying name or symbol.

³ San Francisco Planning Code, Section 303.1(B).

⁴ Coronado Municipal Code. Appendix 1, Glossary of Terms.

- *McCall, Idaho* limits formula businesses to no more than 10 percent of the total number of “like businesses” in town. This jurisdiction does not offer an exemption for “locally-based” businesses.
 - Definitions:⁵
 - “Retail, Formula”: a retail, service retail, or restaurant business (including fast food and coffee shops) that is required by contractual or other arrangement to maintain standardized services, merchandise, menus, ingredients, food preparation, uniforms, decor, logos, architecture, signs, or similar features.
 - “Restaurant, Formula”: An eating establishment devoted to the preparation and offering of food and beverages for sale to the public for consumption either on or off the premises 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 menus, ingredients, food preparation, uniforms, or other standardized features common to a restaurant located elsewhere;
 - (C) Interior decor common to a similar business located elsewhere;
 - (D) Architecture or exterior signs common to a similar business located elsewhere;
 - (E) Use of 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, or food presentation format which causes it to be substantially identical to another restaurant within or outside Valley County.

- *Bristol, Rhode Island* prohibits formula businesses larger than 2,500 square feet from its downtown area. This jurisdiction does not offer an exemption for “locally-based” businesses.
 - Definition:⁶ “Formula Business”: a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized (“formula”) array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than five (5) other businesses regardless of ownership or location. Formula businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B.”

⁵ McCall Municipal Code. Section 3.2.02.

⁶ Bristol Code of Ordinances. Section 28-1.

The important distinction that puts formula business regulation on firm legal ground in these instances is the treatment of all businesses equally, applying the same standards to both the locally owned institution and the national chain. In fact, there is nothing in these laws themselves prohibiting chain stores from adapting in order to comply with these local ordinances. The interesting thing is that, apparently, few do. Per the Institute for Local Self-Reliance,

“A ban on formula businesses does not prevent a chain such as Starbucks from coming in, but it does require that Starbucks open a coffee shop that is distinct — in name, operations, and appearance — from all of its other outlets. Although there are a few examples of a chain complying with a formula business ordinance by opening a unique outlet, in most cases, they refuse to veer from their cookie-cutter formula and opt not to open.”

Additional Sources:

- The New Localization. Formula Business Restriction’s & The Fight Against Cookie Cutter Places. 2014. Available: <<https://thenewlocalization.com/2014/12/07/formula-business-restrictions-the-fight-against-cookie-cutter-places/>>.
- Institute for Local Self-Reliance. Formula Business Restrictions. 2008. Available: <<https://ilsr.org/rule/formula-business-restrictions/>>.
- North Bay Business Journal. Breaking the chains: Napa Valley discourages ‘formula’ businesses. 2017. Available: <<http://www.northbaybusinessjournal.com/northbay/napacounty/6984579-181/napa-valley-retail-hospitality-regulation?artslide=0>>.

Example Restaurant Chains in the US

The following table summarizes restaurant chains with less than 50 total units (i.e., stores). Some of these restaurants exist in California and may be desirable within Sebastopol. For example, Lemonade aims to offer a seasonally changing menu of California-inspired comfort foods made in-house daily. With locations mostly in Southern California, Lemonade recently branched up north, entering the San Francisco market. Currently, Lemonade maintains five locations in the Bay Area (Burlingame, Palo Alto, Walnut Creek, West Portal, and Yerba Buena Island).

Analysis of Cities with Formula Business Ordinances

When enacting a formula business ordinance, a city should articulate within the ordinance and its legislative history the public purposes the law will serve and specify how the restrictions will fulfill those purposes. This is key to crafting a sound ordinance that will not be susceptible to legal challenges. In response to a formula business ordinance proposed by the City of Malibu, a group of business owners submitted an analysis of cities with formula business ordinances to the City of Malibu Planning Commission in 2013. The letter and analysis are included after the following table.

RESTAURANT CHAINS WITH LESS THAN 50 UNITS

<i>Chain</i>	<i>US Systemwide Sales</i>	<i>% Change in Sales</i>	<i>Total US Units</i>	<i>% Change in Units</i>	<i>Average Unit Volume</i>
Fiorella's Jack Stack Barbecue	\$28,300,000*	11.0%	5	25.0%	\$6,300,000*
5 Napkin Burger	\$25,200,000*	4.6%	6	20.0%	\$4,580,000*
Rocco's Tacos and Tequila Bar	\$37,900,000*	18.8%	7	16.7%	\$5,825,000*
Pinstripes	\$42,000,000*	12.3%	7	16.7%	\$6,460,000*
Dos Caminos	\$45,800,000*	6.5%	7	16.7%	\$7,050,000*
b	\$25,600,000*	24.9%	9	28.6%	\$3,200,000*
The Matador	\$28,800,000*	11.6%	9	28.6%	\$3,600,000*
NoRTH Italia	\$36,800,000*	20.7%	9	28.6%	\$4,600,000*
Matchbox	\$23,100,000*	25.5%	9	50.0%	\$3,080,000*
Bartaco	\$33,200,000*	46.9%	10	42.9%	\$3,900,000*
Rock & Brews	\$44,900,000*	39.9%	10	42.9%	\$5,280,000*
Panini Cafe	\$25,200,000*	10.5%	10	25.0%	\$2,800,000*

<i>Chain</i>	<i>US Systemwide Sales</i>	<i>% Change in Sales</i>	<i>Total US Units</i>	<i>% Change in Units</i>	<i>Average Unit Volume</i>
Dinosaur Bar-B-Que	\$32,200,000*	18.4%	10	25.0%	\$3,575,000*
Arooga's Grille House & Sports Bar	\$27,424,000	29.4%	11	22.2%	\$2,697,000
Blackfinn Ameripub	\$27,300,000*	16.7%	11	22.2%	\$2,730,000*
Tupelo Honey Café	\$40,500,000*	28.2%	11	22.2%	\$4,100,000*
Black Walnut Cafe	\$29,700,000*	39.4%	14	40.0%	\$2,475,000*
Shophouse Southeast Asian Kitchen	\$27,300,000*	58.3%	14	55.6%	\$2,375,000*
The Original Gino's East of Chicago	\$29,300,000*	25.8%	15	25.0%	\$2,170,000*
Boiling Point	\$32,900,000*	26.5%	16	33.3%	\$2,350,000*
Patxi's Pizza	\$25,900,000*	21.0%	17	21.4%	\$1,700,000*
SPIN! Neapolitan Pizza	\$26,000,000*	73.3%	18	80.0%	\$1,860,000*
Luke's Lobster	\$31,900,000*	24.6%	18	38.5%	\$2,060,000*
Mission BBQ	\$30,400,000*	85.4%	19	46.2%	\$1,900,000*

<i>Chain</i>	<i>US Systemwide Sales</i>	<i>% Change in Sales</i>	<i>Total US Units</i>	<i>% Change in Units</i>	<i>Average Unit Volume</i>
Just Salad	\$25,000,000*	36.6%	20	42.9%	\$1,470,000*
Eureka! Restaurants	\$43,000,000*	40.5%	20	42.9%	\$2,530,000*
Modern Market	\$30,000,000*	85.2%	20	100.0%	\$2,000,000*
Burger 21	\$25,400,000*	73.5%	21	40.0%	\$1,410,000*
Rusty Bucket Restaurant and Tavern	\$49,000,000	12.4%	21	23.5%	\$2,800,000
Little Sheep Mongolian Hot Pot	\$45,800,000*	29.4%	21	31.3%	\$2,475,000*
Lemonade	\$46,300,000*	28.6%	21	31.3%	\$2,500,000*
Nando's	\$44,000,000	32.5%	28	40.0%	\$1,950,000
Andy's Frozen Custard	\$30,900,000*	26.6%	29	26.1%	\$1,190,000*
The Brass Tap	\$28,300,000*	88.7%	30	76.5%	\$1,205,000*
Slim Chickens	\$31,700,000*	50.2%	30	76.5%	\$1,350,000*
PizzaRev	\$32,900,000*	93.5%	32	68.4%	\$1,290,000*
BonChon	\$29,400,000*	26.7%	35	45.8%	\$995,000*

Chain	US Systemwide Sales	% Change in Sales	Total US Units	% Change in Units	Average Unit Volume
Snap Kitchen	\$34,100,000*	73.1%	35	78.9%	\$1,285,000*
Pizza Studio	\$39,100,000*	106.9%	35	45.8%	\$1,325,000*
Russo's New York Pizzeria	\$41,209,000	18.0%	36	12.5%	\$1,130,000
Torchy's Tacos	\$32,800,000*	31.2%	38	46.2%	\$1,025,000*
CaffeBene	\$32,500,000*	33.7%	40	29.0%	\$1,000,000*
Wings Etc. Grill & Pub	\$40,200,000*	22.2%	41	28.1%	\$1,100,000*
Uncle Maddio's Pizza	\$28,800,000*	46.9%	41	36.7%	\$810,000*
Sub Zero Ice Cream & Yogurt	\$29,600,000*	22.3%	45	32.4%	\$750,000*
Jimmy's Egg	\$33,225,000	18.9%	46	15.0%	\$788,000

Notes: This data is from 2016.
* = Technomic estimate.
The Future 50 is a measure of the fastest-growing restaurant concepts with annual sales between \$25 million and \$50 million. Data is compiled by Restaurant Business' sister company Technomic. Rankings are based on percent change in total units from 2014 to 2015; chains must have increased systemwide sales in 2015 to qualify. All unit counts are as of Dec. 31, 2015. Information was collected via mail, phone and email. When data was not provided, Technomic estimated sales based on public information, comparable concepts, market and other factors.

Source: Restaurant Business Online. "The Future 50". 2016. Available: <<http://www.restaurantbusinessonline.com/special-reports/future-fifty>>.



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JUL 29 2013
PLANNING DEPT.

Cox, Castle & Nicholson LLP
2049 Century Park East, 28th Floor
Los Angeles, California 90067-3284
P 310.277.4222 F 310.277.7889

David P. Waite
310.284.2218
dwaite@coxcastle.com

July 29, 2013

File No. 067694

VIA EMAIL AND HAND DELIVERY

Jeffrey Jennings, Chair
Mikke Pierson, Vice Chair
David Brotman, Member
John Mazza, Member
Roohi Stack, Member
City of Malibu Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265

Date Received 07.29.13 Time 3:30
Planning Commission meeting of 07.29.13
Agenda Item No. 20
Total No. of Pages 39

Re: Proposed Formula Retail Ordinance: Comparison to Other Ordinances

Dear Chair Jennings and Members of the Planning Commission:

This office represents a group of commercial property owners (the "Owners") in the Civic Center area who maintain significant concerns regarding the City's proposed formula retail ordinance (the "Ordinance"). This letter addresses a common and misinformed perception among many in the City that the proposed Ordinance is similar to those enacted in other cities. In fact, as demonstrated in the attached analysis prepared by ESA Associates, the contemplated Ordinance is more restrictive than each of the 23 ordinances studied.¹ In short, the City's sweeping proposal to regulate the retail market is an unprecedented interference with the most basic operations of private shopping centers and tenants. No other city has so regulated its retail landscape, and with good reason. Below we outline the key differences between the proposed Ordinance and those enacted in other cities.

Eight of the twenty-three studied ordinances address only formula restaurants and fast food establishments. These cities, which include Carmel-by-the-Sea and Solvang, among others, maintain no restrictions or limitations on non-restaurant formula retail, and are therefore poor examples of the types of restrictions Malibu is contemplating.

Of the remaining fifteen ordinances, *not a single one* caps formula retail with an arbitrary percentage of a center or of a parcel within a center that may be occupied by formula retail

¹ ESA studied the 23 ordinances cited by City Planning and members of the public throughout the course of public consideration of the Ordinance.

Jeffrey Jennings, Chair
July 29, 2013
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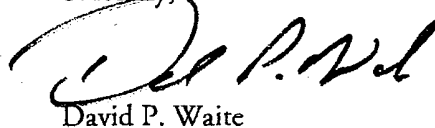
as the Ordinance does.² Many cities that review formula retail for compatibility with their overall retail environments place no limits on the square footage of individual retail stores, and not one limits the percentage of formula retail in a particular shopping center. Thus every other city studied provides much more flexibility to property owners regarding their ability to select tenants.

Further, several cities (Bristol, RI, Fredericksburg, TX, Nantucket, MA, Port Jefferson, NY and Solvang, CA) target their ordinances to historic districts or areas, where there already exists a clearly defined, unique retail environment that is arguably incompatible with modern retail chains. In contrast, Malibu maintains no historic district, nor could it designate one in the Civic Center. There is simply no comparison between the varied, modern retail environment of the Civic Center and the Nantucket, Massachusetts historic district, where many buildings are over 300 years old.

Some construe Ojai as a city that maintains an ordinance that approaches the restrictiveness of Malibu's Ordinance. Yet even in Ojai formula businesses outside of the defined downtown area may be up to 10,000 square feet. Further, Ojai places no limitation on the number of formula retail businesses (other than fast food restaurants, which are not permitted) even in its downtown area, where individual formula retail tenants are limited to 2,000 square feet. Additionally, there are significant differences between Malibu and Ojai. Malibu's population is almost twice as large as Ojai's, and Malibu's daytime population, especially in the summer months, far exceeds that of Ojai. Perhaps most importantly, Ojai's central business district is built out with older, smaller stores and a large historic structure and thus formula retail is not particularly well-suited to the downtown core regardless of the ordinance. In comparison, Malibu's Civic Center is a much larger shopping area, and has numerous parcels available for expansion.

The attached analysis demonstrates conclusively that Malibu's proposed Ordinance is an outlier that would place unprecedented limitations on the basic operation of commercial retail in the City. We urge the Planning Commission to take a more sensible, thoughtful approach and recommend against moving forward with such a restrictive Ordinance.

Sincerely,



David P. Waite

DPW/amd
Enclosures
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² McCall, Idaho, a ski resort city of under 3,000 residents, does potentially cap formula retail if it is substantially similar to "like businesses", although it is unclear how this determination is made. Regardless, the characteristics of Malibu and its retail environment are notably different than those of a small mountain ski resort town.

Jeffrey Jennings, Chair
July 29, 2013
Page 3

cc: Joseph Smith, Senior Planner
Jessica Blair, Administrative Analyst
Tamar C. Stein, Cox, Castle & Nicholson LLP

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Malibu, CA	DRAFT Formula Retail Ordinance	To regulate the location and operation of retail uses within the Civic Center district in order to prevent the proliferation of elements that project a sense of sameness and familiarity and which conflict with and frustrate the City's goals of remaining unique while promoting a diverse retail base within the Civic Center. To encourage retail elements that promote variety while, contributing to and maintaining the City's rural charm and small-town feel.	Formula Retail	Civic Center Commercial District	Formula retail means any type of retail sales activity and/or retail service activity conducted within a retail establishment which, along with 10 or more other existing, operational retail establishments located within the United States, is required to maintain two or more of the following features: 1) standardized array of merchandise of menu (meaning only 50% or more of in-stock merchandise or menu items); 2) standardized color scheme; 3) standardized décor; 4) standardized façade; 5) standardized layout; 6) standardized signage, a service mark, or a trademark; and 7) uniform apparel.	Not indicated	<p>A conditional use permit shall be required for all new formula retail establishments located within the Civic Center commercial district and for existing formula retail establishments located within the Civic Center that relocate to a new tenant space, expand by 200 square feet or more of gross floor area, or increase service area by 50 square feet or more.</p> <p>Exempt uses include:</p> <ul style="list-style-type: none"> • Grocery stores, • Drug stores/pharmacies • Gas station, • Banks/financial services • Real estate, • Insurance, • Post offices • Medical, and • Lower-cost overnight accommodations 	<p>In lieu of the findings required by Section 17.66.080, the Planning Commission shall make all of the following findings of fact, in a positive manner, in order to approve a formula retail use within the Civic Center commercial district:</p> <p>1. The nature of the formula retail use is an otherwise permitted or conditionally permitted use within the subject commercial zone and complies with the policies and standards of the General Plan and Local Coastal Program.</p> <p>2. The formula retail establishment will not impair the City's unique, small town character by promoting a predominant sense of familiarity or sameness in the Civic Center commercial district as viewed from its main arterial streets including Pacific Coast Highway, Cross Creek Road, Civic Center Way, Malibu Road, or Malibu Canyon Road.</p> <p>3. The formula retail establishment will not exceed 2,500 square feet of gross floor area.</p> <p>4. Approval of the formula retail establishment will not result in more than 50 percent of each floor of a shopping center, as</p>	N/A

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
								determined by the percentage of overall square footage or the net number of leasable tenant spaces, (excluding the uses described in Section 17.66.130(F)(2)), whichever is greater, from being occupied by formula retail establishments.	

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Arcata, CA	Formula Retail Sales and Services Ordinance	To regulate the location and operation of formula retail and/or service establishments in order to maintain the City of Arcata's unique small-town character, the diversity and vitality of the community's commercial district, including the Arcata Plaza Historical District, and the quality of life of Arcata's residents; it is assumed that establishing or preserving an appropriate balanced mix of local, regional, and national-based businesses and small, medium, and large-sized business will more effectively serve to achieve this purpose as a strategy to maintain the economic health of our community's business districts, the entrepreneurial	Formula Retail Sales and Services	All commercial districts in the City	A type of retail activity or retail sales and/or services establishment with greater than 10 outlets in the United States, other than "formula fast food restaurant" already addressed in another section of the Land Use code, which is required by contractual or other arrangement to use or maintain any one of the following: standardized array of services and/or merchandise, trademark, logo, service mark, signage, symbol, decor and/or color scheme, architecture, facade, lighting, layout, uniform apparel, or similar standardized feature.	Not indicated	1) Establishments determined to be formula retail and/or service businesses shall obtain a Use Permit, subject to Planning Commission Review, pursuant to findings in Section 9.72.080 of the LCU; 2) The building facade with the primary entrance of a formula retail and/or service establishment shall not have a street level frontage of greater than 50 linear feet and/or have its retail and/or service space occupy more than two stories. Existing structures which do not meet this standard shall be exempt; 3) The cumulative expansion of a formula retail and/or service establishment by 500 or more square feet of floor area, shall require a Use Permit amendment or initiate the Use Permit Process; if the establishment does not already have such a permit. In addition to Use Permit findings as outlined in the Land Use Code, the review authority shall give special consideration to the following guidelines for approval: 1) Existing concentrations of formula retail/services in the City and surrounding areas of influence; 2) Availability of other similar retail/service uses within the City and surrounding areas of influence; 3) Compatibility of the proposed formula retail/service use with the existing architectural and aesthetic character of the surrounding neighborhood; 4) Compatibility	1) The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Land Use Code and the Municipal Code or is a nonconforming use in compliance with subsection 9.90.020A.1; 2) The proposed use is consistent with the General Plan, Local Coastal Program, and any applicable specific plan; 3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and potential future land uses in the vicinity; 4) The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and 5) Granting the permit will not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.	This ordinance applies to all commercial districts within Arcata and is intended to protect the City's small town character, while ensuring the health of all of its business districts. As does the proposed Malibu ordinance the Arcata ordinance considers businesses with more than 10 outlets in the United States as a formula business.

		spirit that is encouraged by the City of Arcata's General Plan 2020, and our small-town eclectic ambience.					of the proposed formula retail/service use with the existing mix of uses within the City and/or surrounding neighborhood; 5) Impact of any formula retail and/or service establishment as non-obtrusive and/or helpful in the preservation of the character of both the City and the specific neighborhood in which the establishment is proposed to operate; 6) Existing retail/service vacancy rates within the surrounding neighborhood and in the City; and 7) Existing mix of Citywide-serving retail/service uses and neighborhood-serving retail/service uses.	
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Bainbridge Island, WA	Ordinance No. 89-28 (Ordinance to Define Formula Take-Out Food Restaurants and Eliminating Formula Take-Out Food Restaurants)	The City Council finds that formula take-out/food restaurants represent a type of business that is automobile-oriented or of a particular nature that the existence of one such restaurant in the High School Road zone is a sufficient maximum number of that user for the village character of Winslow to be preserved. That other or additional restaurants of that type in alizons should not be permitted hereafter; that expansion in number of such establishments should be disallowed entirely in order to establish at this time, an optimal mix of pedestrian-oriented and other kinds commercial and retail establishments; that to preclude further development of such restaurants	Formula Fast Food and Take Out	Citywide (but allowed in High School Road Zone I and II because of an existing formula retail take-out restaurant)	Formula Take-Out Food Restaurant means a restaurant required by contractual or other arrangement to offer standardized menus, ingredients, food preparation, interior and exterior design and/or uniforms; and serves its food in disposable containers.	Banned	None indicated	None indicated	This ordinance only bans formula fast food and take out businesses in the community, and does not address the broad array of uses restricted in Malibu's proposed ordinance. The intent of the ordinance is to preserve the town's pedestrian-oriented village character. The ordinance focuses on a specific type of food establishment in order to address traffic impacts and auto-centric effects this type of business may have on the community.

	<p>In a town of this size prevents commercial overconcentration of automobile-oriented businesses and of that type of retail service establishment and will provide for smaller neighborhood-style pedestrian and other kinds of retail outlets to best serve the varied needs of residents and consumers.</p>							
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Benicia, CA	Ordinance No. 07-15 (Ordinance Amending Land Use Regulations of Commercial District and Adding Site Regulations for Retail Sales Larger than 20,000 Square Feet)	1) Preserve a balanced mix of locally, regionally, and nationally based businesses and small and medium sized businesses to maintain and promote the long-term economic health of community and the community as a whole; 2) Regulate the location and operation of formula businesses in order to maintain the City's unique historic small town character, the diversity and economic vitality of the community's commercial district and the quality of life of Benicia residents.	Formula Restaurants (eating and drinking establishments) and Formula retail >20,000 SF	Citywide (but Formula restaurants are allowed in the CG zone except for the Solano/Davis Square area where a use permit is required)	Formula Business means an eating and drinking establishment that maintains any of the following features in common with more than four other establishments in the nine Bay area counties: standardized array of services and/or merchandise, logo, trademark, sign, service mark, symbol, sign, decor, uniform, menu, or other similar standardized feature.	Not indicated	Retail stores larger than 20,000 square feet and formula restaurants will not be approved unless they meet criteria outlined in the City's Municipal Code (For a list of criteria, see next column "Findings and Decision")	Approval of a use permit for a formula business and retail sales establishment larger than 20,000 square feet requires that the Planning Commission find that the proposed establishment will: 1) Complement existing uses and enhance the economic health of the surrounding area; 2) Be operated in a non-obtrusive manner that preserves the City's or area's distinctive character and concentration of formula and/or retail sales establishments (larger than 20,000 square feet) in the vicinity of the proposed use or citywide; 4) Promote the diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor population; 5) Contribute to an appropriate balance of local, regional or national-based businesses and small, medium and large-sized businesses in the community; and 6) Avoid an appearance commonly associated with strip retail or shopping centers.	The intent of this ordinance is to preserve the City's historic small town character. The ordinance focuses on formula restaurants and formula retail larger than 20,000 SF, though there are some areas in the City where formula restaurants are allowed without discretionary review. In terms of formula retail, the City is focusing more on big-box businesses that may affect the community's small town character.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Mailbu's Draft Ordinance
Bristol, RI	Ordinance No. 2004-11 (Ordinance Regarding Formula Businesses)	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 ambience. 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. The 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	Formula Businesses	Historic Downtown District	Formula Business is a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than one other businesses regardless of ownership or location. Formula businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&B.	Not indicated	A formula business seeking to operate within the Historic District Zone is required to first obtain a Certificate of Appropriateness from the Historic District Commission (design review), and is then required to obtain a special use permit from the Zoning Board. According to the ordinance, the proposed intensity of uses on the site should be appropriate given the uses permitted on the site and on adjoining sites, including but not limited to the following: 1) The size of any individual Formula Business shall not to exceed 2,500 square feet of gross floor area; 2) The street frontage of any individual Formula business shall not exceed 65 feet in width; 3) No drive thru windows shall be permitted; 4) The applicant shall submit a plan indicating the provision for rubbish removal, including the dumpster location with proper screening and buffering so that there are not any substantial impacts to abutting properties; 5) There shall not be substantial impact to the public safety from increased traffic; 6) There shall not be any impacts to the roadway or abutting properties from the loading area; 7) Advertising or anything with the corporate logo, may be forbidden to be displayed in the windows; and 8) No signs which are internally illuminated shall be allowed.	The proposed use would: 1) Not alter the identity of the Historic District Zone in a way which detracts from its uniqueness or contributes to a nationwide trend of standardized downtown offerings; 2) Contribute to a diverse and appropriate blend of businesses in the Historic Zone; 3) Complement those businesses already in the Historic District Zone and help promote and foster the local economic base as a whole; 4) Compatible with existing surrounding uses, has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambience.	This ordinance focuses on the City's Historic Downtown District, which has well preserved historic structures and independent shops and restaurants. The City's downtown character is a tourist attraction and businesses who wish to establish in the area are required to obtain a Certificate of Appropriateness from Historic District Commission. This requirement involves a thorough design review before issuance of a special use permit.

		and unique character for which Bristol's historic downtown district is famous.								
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Calistoga, CA	Ordinance No. 519	Preserve the unique and historic character of Calistoga's downtown commercial district, including regulating the aspect of businesses, services and merchandise that is reflective of the history and people of the community and which has become a cornerstone of the visitor industry which is a key component in the City's economy.	Formula Businesses	Citywide	Formula business shall mean a business which is required by contractual or other arrangement to maintain any of the following: standardized services, décor, uniforms, architecture, signs or other similar features. This shall include but not be limited to retail sales and service, visitor accommodations, wholesale and industrial operations. Formula restaurants shall mean a restaurant devoted to the preparation and offering of food and beverage for sale to the public for consumption either on or off the premises and which is required by contractual or other arrangement to offer any of the following: standardized menus, ingredients, food preparation, décor, uniforms, architecture, or similar standardized features.	Not indicated (formula restaurants and formula visitor accommodations are banned)	Formula restaurants and visitor accommodation are prohibited, while other types of formula businesses are required to undergo review and apply for a special use permit from the Planning Commission.	1) That the proposed development, together with any provisions for its design and improvement, is consistent with the General Plan, any applicable specific plan and other applicable provisions of this code including the finding that the use as proposed is consistent with the historic, rural, small-town atmosphere of Calistoga; 2) That the site is physically suitable for the type and density of development; 3) That the proposed development has been reviewed in compliance with the California Environmental Quality Act (CEQA) and that the project will not result in detrimental or adverse impacts upon the public resources, wildlife or public health, safety and welfare; 4) Approval of the use permit application will not cause adverse impacts to maintaining an adequate supply of public water and an adequate capacity at the wastewater treatment facility; 5) Approval of the use permit application shall not cause the extension of service mains greater than 500 feet; 6) An allocation for water and/or wastewater service shall be made prior to project approval. Said allocation shall be valid for one year and shall not be subject to renewal; 7) That	This ordinance is applied Citywide and was adopted to protect the City's historic downtown commercial district. The ordinance outright prohibits formula restaurants and visitor accommodations, and includes provisions that a development of other types of formula uses must complement and enhance the architectural integrity and eclectic combination of architectural styles of Calistoga.

								<p>the proposed development presents a scale and design which are in harmony with the historical and small-town character of Calistoga; 8) That the proposed development be consistent with and enhance Calistoga's history of independent, unique, and single location businesses, thus contributing to the uniqueness of the town, which is necessary to maintain a viable visitor industry in Calistoga and to preserve its economy; 9) That the proposed development complements and enhances the architectural integrity and eclectic combination of architectural styles of Calistoga; and 10) To receive a use permit, a finding shall be made that the proposed development or use would be resident serving. This finding shall only apply to formula businesses.</p>
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Carmel-by-the-Sea, CA	Formula Business Restriction	Preserve the unique character of the community and protect local businesses.	Formula Restaurants and Formula Fast Food and Take Out	Citywide	A business which: (a) is required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, employee uniforms, interior decor, signage or exterior design; or (b) adopts a name, appearance or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.	Banned	Formula restaurants including fast food, take-out and drive thru establishments are prohibited in the City.	None indicated	This ordinance only bans formula restaurants, including fast food and take out establishments, but does not address retail establishments.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Mailbur's Draft Ordinance
Chesapeake City, MD	Ordinance No. 07-08-13 (Ordinance to Define Certain Formula Businesses and to Eliminate and Allow Certain Formula Businesses in Certain Zones)	Preserve the community's unique historic, rural and small town character while strengthening the local economy by limiting or further regulating in certain district the siting and proliferation of cookie-cutter chain or "formula" businesses that serve to undermine the Town's unique sense of place and history; and that preservation of the existing character, small town charm and scale of the Town's residential, commercial and historic districts is essential to attract residents, tourists and visitors alike.	Formula Businesses	Village & Waterfront Districts, and all commercial areas except one	Formula Business- Except for a service establishment (such as a professional office, insurance agent, stock broker, travel agent, bank, drive-in bank, financial institution, barber shop, beauty shop, dry cleaning/laundry, laundromat, plumber, mechanical contractor, repair and painting, animal services and automotive services shop), a class of retail or wholesale sales establishment including but not limited to a convenience store, drive-in establishment, retail store, wholesale store, restaurant (standard, fast food, fast food cafeteria, fast food carry-out, drive-in or drive-thru), bar, pub, dancehall, nightclub, cocktail lounge, or tavern that along with 50 or more other establishments regardless of location in the United State is required by contractual or other business arrangements to	Banned	Formula businesses are prohibited (but formula fast food, formula drive-in, and formula drive thru restaurants are permitted by Special Exception by the Board of Appeals in the GC District) For formula fast food, formula drive-in, and formula drive-thru restaurants permitted by Special Exception in the GC District: 1) Buildings shall be designed so that facades, signs, and other appurtenances will have an integrated, harmonious and attractively arranged appearance, and in a size and manner which will not adversely affect the appearance of surrounding developments; 2) In place of box-type or internally illuminated signs, the Town may require use of halo-lit signs and die-cut metal sign panels with individually illuminated letters or logos, and may also require alternative materials or lighting solutions, and adjustments to the scale of trademark logos and graphics; 3) The Town may require adjustments to the extent, size or scale of the color scheme, trademark, service mark, signage and decor used throughout the interior or exterior of the establishment to mitigate contrasting color schemes and harmonize the color scheme, trademark, service mark, signage and decor with the surrounding neighborhood.	None indicated	This ordinance is focused on the Village and Waterfront Districts and commercial areas of the City. Though formula businesses are banned in these areas of the City, formula fast food and drive thru establishments are allowed in one district, if specific design standards are met. The ordinance defines a formula business as having 50 or more outlets in the United States.

				maintain any two or more of the following substantially identical features: standardized menu or array of merchandise, trademark or service mark, interior decor, color scheme, uniform, and building facade, floor area design or layout.				
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Coronado, CA	Formula Restaurant Ordinance	The purpose of the standards in this rule is to regulate the number, location and operation of formula fast food restaurants in order to maintain the City's unique village character, the vitality of our commercial districts, and the quality of life of Coronado residents.	Formula Fast Food	Citywide	A formula business is one that is required by contractual or other arrangement to maintain a standardized array of services or merchandise, and standardized architecture, uniforms, logos, decor, etc.	10	New formula restaurants must obtain a special use permit, may not locate on a corner, and must meet design standards.	A Formula Fast Food Restaurant may only be established or relocated: 1) On a site that is not located on a street corner; except such a restaurant may be located on a street corner where the immediate prior use was a Formula Fast Food Restaurant; 2) Where it would not result in two or more Formula Fast Food Restaurant operating on that site (i.e., two or more Formula Fast Food Restaurant business entities requiring separate business licenses), or displaying in a manner visible from public property separate business trademarks, logos, service marks or other mutually identifying names or symbols; for the daily or weekly conducting of business on the same site); 3) When it would not result in Formula Fast Food Restaurant operating at more than 10 sites under the jurisdiction of this Ordinance; and 4) So long as the Planning Commission finds that establishing or relocating the Formula Fast Food Restaurant will not increase the intensity of use on the site to a level that will adversely impact: land uses in the area, pedestrian or motor vehicle traffic, or the public welfare.	This citywide ordinance regulates formula fast food restaurants in the City. The ordinance limits the number of fast food establishments to 10, but allows for new fast food establishment to open provided that there will not be more than 10 fast food facilities in the City. Thus, once there are 10 such facilities in the city, a new fast food establishment can open only if it is taking the place of another fast food business.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Coronado, CA	Formula Retail Ordinance	The purpose of the standards in this Section is to regulate the location and operation of formula retail establishments in order to maintain the City's unique village character, the diversity and vitality of the community's commercial districts, and the quality of life of Coronado residents. It is presumed that establishing or preserving an appropriate and balanced mix of local, regional, and national-based businesses and small, medium or large-sized businesses will more effectively serve to achieve this purpose as a strategy to maintain the economic health of the community's businesses districts and the small-scale eclectic ambience.	Formula Retail	Citywide	Formula Retail means a type of retail sales activity or retail sales establishment (other than a "formula fast food restaurant") which is required by contractual or other arrangement to maintain any of the following: ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized feature.	Not indicated	1) A formula retail establishment may be allowed in the Central Commercial, Limited Commercial and Hotel-Motel Zones with a Major Special Use Permit (MSUP); 2) The cumulative expansion of a formula retail establishment by 500 or more square feet of floor area shall require a Major Special Use Permit amendment or a Major SUP if the establishment does not already have a Major Special Use Permit; 3) A Formula Retail establishment (except for grocery stores, banks, saving and loans, Full Service Restaurants and theaters) shall not have a street level frontage of greater than 50 linear feet on any street or have its retail space occupy more than two stories; 4) A formula retail establishment shall fully comply with all applicable regulations of this Code including Environmental Design Review; and 5) Change of ownership of an existing formula retail establishment shall not, by itself, require obtaining a Major Special Use Permit or Major SUP amendment as applicable.	1) The formula retail establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambience; 2) Approval of the formula retail establishment will be consistent with policies and standards of the General Plan and the Local Coastal Program, and that the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites by these documents; 3) Approval of the formula retail establishment will contribute to an appropriate balance of local, regional or national-based businesses in the community; and 4) Approval of the formula retail establishment will contribute to an appropriate balance of small, medium and large-sized businesses in the community.	This ordinance regulates formula retail throughout the City. The findings to grant a special use permit are very similar to Malibu's draft ordinance. However, Coronado is largely built out, and the ordinance therefore applies to existing commercial development, rather than to new shopping centers and commercial buildings.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Fairfield, CT	Formula Business Restriction	Preserve character of the City's neighborhoods, mitigate traffic impacts, and support locally-owned businesses.	Formula Neighborhood Businesses	Citywide	Formula Neighborhood Business means any business that include, incorporates or utilize any two or more of the following standardized items that cause it to be substantially identical to more than five other stores, restaurants, businesses, offices or institutions regardless of ownership or location: a standardized array of products or merchandise, a standardized menu, uniform apparel, standardized architectural design, layout of facade, standardized decor or color scheme and/or standardized signs, trademarks, service marks or logos.	Not indicated	Formula businesses may not locate within any of the City's twelve neighborhood business districts unless they undergo review and obtain a special use permit. Stores and restaurants in neighborhood business districts can be no more than 4,000 square feet.	None indicated	This ordinance sets the maximum size for stores and restaurants at 4,000 square feet. This maximum is higher than the provision of 2,500 square feet set by the draft Malibu ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Mailbu's Draft Ordinance
Fredericksburg, TX	Ordinance No. 18-002 (Ordinance to add Historic Shopping District Overlay)	The City's Historic Shopping District contains unique German Heritage and Hill Country architecture and its shopping opportunities and the continuation and promotion of such business and exposure is vital to the City's economic future. Certain kinds of businesses can be counterproductive and otherwise detract from the appeal of both the streetscape and overall historic downtown experience, particularly in view of the fact that other sections of the City offer plenty of opportunity for larger businesses and those which require the use of a marketing model or plan similar to those of other like businesses and are more likely to better accommodate the architectural, parking, service and technological needs of such businesses.	Formula Businesses	Historic Downtown District	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 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 10 other businesses regardless of ownership or location at the time of the application.	Not indicated	Standardized (formula) Businesses must obtain a Conditional Use Permit The Planning and Zoning Commission may recommend and the Council shall require that a Standardized Business: 1) will not utilize or contain the features or attributes of a Standardized Business except the service, product or amusement, and a sign, no more than two square feet in size showing the franchise or business affiliation, if desired, 2) be pedestrian oriented as opposed to automobile oriented, to encourage walking in the District, 3) utilize a unique visual appearance that reflects or compliments the historic character of the District, and not project a visual appearance that is homogenous with its elements in other communities, and 4) not be in such close proximity to Standardized Businesses to significantly destroy a mix of standardized businesses with other businesses.	The business will not 1) materially alter the general characteristic of the surrounding areas of the small town German and Hill County environments; 2) detract from the uniqueness of, nor materially alter the identity of, the Historic Shopping District; 3) contribute to the nationwide trend of standardized offerings; 4) impact the intent of the ordinance of the comprehensive plan of the City; and the business will 1) add diversity to the mix of businesses in the area including type of service, amusement, product, price range and the like, 2) complement those businesses already in the Historic Shopping District; 3) help promote and foster the local economic base as a whole, or 4) is currently existing in the District or is regionally or locally based or is serving a community need or local demand.	This ordinance only applies to the City's Historic Downtown District, which contains German Heritage and Hill Country architecture and businesses that the City would like to preserve. The ordinance considers a formula business as being substantially identical to more than 10 other businesses.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
McCall, ID	Formula Business Restriction	Not indicated	Formula Restaurants and Formula Retail Businesses	Citywide	Formula Retail means a retail, service, or restaurant business (including fast food and coffee shops) that is required by contractual or other arrangement to maintain standardized services, merchandise, menus, ingredients, food preparation, uniforms, decor, logos, architecture signs, or similar features. (Exempts gas stations and supermarkets)	No more than 10% of the total number of restaurants and 10% of total "like businesses"	Retail, formula businesses are limited to no more than ten percent (10%) of the total of like businesses in McCall and the area of city impact. "Like businesses" in this context are those which have substantially the same product offering, such as food stores, furniture stores, auto parts stores, etc., and is not the total quantity of all categories of like businesses.	None indicated	This ordinance sets a maximum number of formula restaurants and formula retail businesses at 10% of the total number of restaurants and 10% of the total "like businesses" in the City.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Nantucket, MA	Article 42: Formula Business Overlay District	To address the adverse impact of nationwide standardized businesses of Nantucket's historic downtown area. The proliferation of formula businesses will have a negative impact on the island's economy, historical relevance, and unique character. These uses are therefore prohibited in order to maintain a unique retail and dining experience. Formula businesses frustrate this goal by detracting from the overall historic island experience and threatening its tourist economy.	Formula Businesses	Historic Downtown District	A type of retail sales establishment, restaurant, tavern, bar, or take-out food establishment which is under common ownership or control or is a franchise, and is 1 of 14 or more other businesses or establishments worldwide maintaining three or more of the following features: standardized menu or merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings; trademark or service mark; standardized color scheme; standardized uniform.	Banned	Formula businesses are prohibited from the Historic Downtown District	None indicated	This ordinance focuses on prohibiting formula businesses in the City's Historic Downtown District. Nantucket is known for a unique retail and dining experience that the City would like to preserve. Unlike Malibu's proposed ordinance, this ordinance considers formula businesses as having 14 or more outlets worldwide. In addition, Nantucket's historic district is built out with a well-defined character.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Ogunquit, ME	Ballot Measure	Maintain the town's character and keep dollars circulating in the local economy	Formula Restaurants and Formula Fast Food Restaurants	Citywide	Restaurants that prepare food and beverages on site for public sale and are required by contractual or other arrangements to utilize any of the following: prescribed employee uniforms, interior and exterior color schemes, architectural design, signage, name, presentation format, or similar standardized features which cause the restaurant to be substantially identical to another restaurant regardless of ownership or location.	Banned (Voter Initiative)	None indicated	None indicated	This ballot measure prohibits formula restaurants, including fast food restaurants, but does not address the other types of formula retail uses restricted by Malibu's proposed ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance	
Ojai, CA	Ordinance: Formula Businesses Establishments	To regulate the location and design of formula business establishments in order to maintain the tourist attracting small town character of the City, the diversity of the community's unique commercial areas, and quality of life for visitors and residents.	Formula Businesses and Restaurants (banned Formula Fast Food and Take-Out)	Citywide	Formula Business means a type of commercial business establishment, retail sales or rental activity and retail sales or rental establishment, including restaurants, hotels and motels, which, along with 10 or more other establishments, maintains three or more of the following features: (i) standardized array of merchandise or standardized menu; (ii) standardized facade; (iii) standardized décor or color scheme; (iv) uniform apparel; (v) standardized signage; or (vi) trademark or service mark.	Not indicated	1) A Formula Business may only be established on a site after obtaining a conditional use permit from the City for the operation of that use on such site. Change of ownership, by itself, shall not require obtaining a conditional use permit pursuant to this section. (2) No permit application of any kind shall be accepted or processed for a Formula Business that also possesses at least two of the following characteristics: Specializes in short order or quick service food and/or drink; Serves food and/or drink primarily in paper, plastic or other disposable containers; and payment is made by customers before food and/or drink is consumed.	No conditional use permit shall be issued for a use that is a Formula Business located within the area of the Downtown Commercial Land Use designation of the City's General Plan if either of the following are true: 1) such establishment has street-level frontage exceeding 25 linear feet on any street, or 2) the useable area of the building or structure wherein the Formula Business is to be located exceeds 2,000 square feet. For purposes of this section, "street level frontage" shall include frontage on private parking lots and access ways where the commercial building does not abut a public street. Except as provided in this section, no	In addition to the findings required by Section 10-2.2406 as prerequisite to the issuance of a conditional use permit, the Commission shall make all of the following findings prior to the issuance of a conditional use permit for a Formula Business: 1) The proposed Formula Business will not result in an over-concentration of Formula Business establishments in its immediate vicinity or in the City as a whole; 2) The proposed Formula Business will contribute to an appropriate balance of small, medium and large-sized businesses in the City; and 3) The proposed Formula Business has been designed to preserve and enhance the City's small town character and to integrate existing community architectural and design features which will preserve such character for the City's residents and visitors.	This citywide ordinance prohibits formula fast food and take-out establishments, and conditionally permits formula businesses and restaurants. The ordinance's findings include design requirements in order to preserve and enhance the City's small town character and to integrate into the existing community architecture. The ordinance considers businesses with more than 10 outlets as a formula business.

							conditional use permit shall be issued for a use that is a Formula Business if such establishment exceeds 10,000 square feet of net total floor area.		
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Pacific Grove, CA	Formula Business Restriction	Not indicated	Formula Fast Food and Take Out	Citywide	Formula food service establishments are required by contractual or other arrangements to operate with standardized menus, ingredients, food preparation, architecture, decor, uniforms, or similar standardized features.	Banned	No use permit application shall be accepted, processed or considered for a food service establishment having all of the following characteristics: 1) It specializes in short order or quick service food service; 2) It serves food primarily in paper, plastic or other disposable containers; 3) It delivers food or beverage products in such a manner that customers may remove such food or beverage products from the food service establishment for consumption; and 4) It is a formula food service establishment required by contractual or other arrangements to operate with standardized menus, ingredients, food preparation, architecture, decor, uniforms, or similar standardized features.	None indicated	This citywide ordinance prohibits formula fast food and take-out establishments, but does not address the broad array of formula uses restricted by Malibu's proposed ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Port Jefferson, NY	Ordinance: Formula Food Establishment	Preserve the unique character and ambience of the Historic and Waterfront Districts.	Formula Fast Food and Take Out	Historic and Waterfront Districts	An establishment required by contractual or other arrangements to offer some or all of the following: 1) standardized menus, ingredients, food preparation, decor, external facade and/or uniforms; 2) pre-prepared food in a ready-to-consume state; 3) sold over the counter in disposable containers and wrappers; 4) selected from a limited menu; 5) for immediate consumption on or off the premises; 6) where the customer pays before eating.	Banned	None indicated	None indicated	This ordinance only applies to the City's Historic and Waterfront Districts in order to preserve those areas' unique character. The ordinance prohibits formula fast food and take-out establishments from opening in those specific areas, but does not address the broad array of formula uses restricted by Malibu's proposed ordinance.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Port Townsend, WA	Ordinance No. 2896: Defining and Regulating Formula Retail Establishments	Maintain the small town character of Port Townsend and develop local businesses that provide living wage jobs.	Formula Retail and Formula Restaurants	One commercial zone along the main street; otherwise banned from downtown commercial areas	Formula Retail means a type of retail sales activity or retail sales establishment, including restaurant which, along with ten or more other retail sales establishments, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized décor and color scheme, uniform apparel, standardized signage, a trademark or service mark.	Not indicated	<p>The following businesses are not subject to the provisions of the ordinance:</p> <ol style="list-style-type: none"> 1. Auto sales. 2. Auto tire sales and service. 3. Banks. 4. Gas (fueling) stations and convenience stores selling gasoline or other fuels. 5. Grocery stores. 6. Health care. 7. Services, including professional services (for example, real estate offices, insurance offices, copy centers, and mail centers). 8. Adult entertainment facilities are not subject to this ordinance, but are subject to other city requirements. (Ord. 2916 § 8, 2006; Ord. 2912 § 1, 2005). 	<p>The following regulations shall apply to all formula retail and formula restaurant establishments:</p> <ol style="list-style-type: none"> 1. A formula retail or formula restaurant establishment shall not have a street-level frontage of greater than 50 linear feet on any street or have its retail space occupy more than two stories. For the purposes of this section, "street-level frontage" shall include frontage on private parking lots and access ways where the commercial building does not abut a public street. 2. A formula retail or restaurant establishment may not exceed 3,000 square feet of net total floor area. 3. No drive-through facilities are allowed. 4. Establishment or Relocation. A formula retail or restaurant establishment may only be located or relocated subject to all of the following requirements: <ol style="list-style-type: none"> a. On a site that is not located on a street corner, except such formula retail or restaurant establishment may be located on a street corner where the immediate 	<p>This ordinance regulates formula retail and formula restaurants in one commercial zone along the City's main street. The ordinance restricts the formula business to 3,000 square feet and one formula business per parcel, lot or tract. The ordinance also has a clear exemption for service uses, unlike Malibu's proposed ordinance that exempts only some service uses.</p>

								<p>prior use was a formula retail or restaurant establishment.</p> <p>i. For purposes of this section, "on a street corner" means the business establishment or occupiable building space that is the closest business establishment or occupiable building space within a block, tract, or parcel to the intersection of two streets (whether the business establishment or occupiable building space is immediately adjacent to the street corner or not, or fronts on the street corner or not, or whether the streets are developed in connection with the business establishment). A business establishment is not on a street corner if there is another business establishment or occupiable building space that is closer to the corner. Street corner includes frontage on private parking lots and access ways where the commercial building does not abut a public street.</p> <p>b. Where it would result in no more than one formula retail or restaurant establishment of any type operating within a single building, whether or not</p>
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					<p>the building is located on more than one lot (i.e., two or more formula retail establishments requiring separate business licenses, or displaying in a manner visible from public property separate business trademarks, logos, service marks or other mutually identifying names or symbols, for the daily or weekly conducting of business in the same building, is prohibited).</p> <p>5. Any formula retail or restaurant establishment must be in a building that is shared with at least one other business that is not a formula retail establishment of any type.</p> <p>6. The number of formula retail establishments per lot and maximum formula retail establishment density shall be as follows:</p> <ul style="list-style-type: none">• Lots with less than 20,000 s.f. of lot area=One formula retail establishment/lot• Lots with more than 20,000 s.f. of lot area=One formula retail establishment/20,000 s.f. of lot area. (This provision allows larger lots to have multiple formula retail establishments (i.e., a 40,000 square foot lot may have no more than two formula retail establishments, etc.)	
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								provided the sifting and design of the formula retail establishments meets all other applicable standards.)	
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Mailbu's Draft Ordinance
San Francisco, CA	Ordinance No. 62-04 (Finding for the Need to Regulate Formula Retail Uses)	To protect its vibrant small business sector and create a supportive environment for new small business innovations. The increase of formula retail businesses in the City's neighborhood commercial areas, if not monitored and regulated, will hamper the City's goal of a diverse retail base with distinct neighborhood retailing personalities comprised of a mix of businesses. Specifically, the unregulated and unmonitored establishment of additional formula retail uses may unduly limit or eliminate business establishment opportunities for smaller or medium-sized businesses, many of which tend to be non-traditional or unique, and unduly skew the mix of businesses towards national retailers in lieu of local or regional retailers, thereby decreasing the diversity of merchandise available to residents and visitors and the diversity of purveyors of merchandise.	Formula Retail and Restaurants	Neighborhood commercial areas and most areas Citywide except downtown	The city's regulations define a formula retail use as an establishment that shares common features, such as a standardized array of merchandise, trademark, architecture, and décor, with at least 11 other establishments in the United States. The term "retail use" includes both stores and restaurants.	Not indicated (formula retail and formula restaurants are banned in North Beach and Hayes-Gough)	Throughout most of the city, including all of San Francisco's Neighborhood Commercial Districts, formula retail stores and restaurants are considered conditional uses and require a permit. This means they must be approved by the Planning Commission on a case-by-case basis.	The Planning Commission must consider the following factors when deciding whether to approve a formula business: 1) the existing concentration of formula retail businesses within the neighborhood; 2) whether similar goods or services are already available within the area; 3) the compatibility of the proposed business with the character of the neighborhood; 4) retail vacancy rates in the area; and 5) the balance of neighborhood-serving versus citywide or regional-serving businesses.	This ordinance applies to the City's neighborhood commercial areas and most areas Citywide except downtown. The intent of the ordinance is to protect the City's small business. The purpose and intent of the ordinance is different from Mailbu's draft ordinance, which has similar provisions but identifies its intent as preserving community character and preventing a sense of sameness and familiarity.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
San Juan Bautista, CA	Ordinance 2007-04: Limits on the approval of Large Scale Retail, Formula Retail and Restaurant Businesses	Preserve the existing character and scale of the City's commercial and historic districts in order to continue the City's vitality and ability to attract tourism; and maintain the distinctive small town charm and character enjoyed by current residents.	Formula Retail and Formula Restaurants and Formula Visitor Accommodations	Citywide	FORMULA RETAIL OR RESTAURANT BUSINESS DEVELOPMENT. A retail, restaurant, or fast-food business that is required by contractual or other arrangement to maintain standardized services, merchandise, menus, ingredients, food preparation, uniforms, décor, logos, architecture, signs, or similar features. FORMULA VISITOR ACCOMMODATIONS. A visitor accommodation business that incorporates physical features common among one or more of the other visitor accommodation businesses owned by the same company and that is required by contractual or other arrangement to maintain standardized services, merchandise, uniforms, décor, logos, architecture, signs, or similar features.	Not indicated	Formula Retail or Restaurant Business, and Formula Visitor Accommodations are subject to review by the Planning Commission so therefore the business/applicant shall fill out the Application Requirements for a Conditional Use Permit and any other pertinent applications as specified therein, pay fees specified, and submit plans as set forth therein.	The following findings shall be required: 1) The business offers merchandise and/or services that serve the unmet needs of the population; 2) Although the formula-based business may have other store locations throughout the country, state, or region, the business will complement and enhance the character of the City; 3) Both exterior and interior appearance and presentation of the business is compatible with the existing scale of development, distinctive architecture and pedestrian orientation of the town character and results in an enhancement of the look and feel (i.e., character) of the surrounding area; 4) Signs shall conform to the City sign standards and Design Guidelines; and 5) Drive-thru food establishments shall be prohibited.	This citywide ordinance regulates formula retail, restaurants, and visitor accommodations. The ordinance includes a finding that encourages compatibility with distinctive architecture and pedestrian orientation of the town and utilizes the City's Design Guidelines.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Sanibel, FL	Ordinance No. 96-10: Formula Restaurants	Preserve the small town community, remain unique through a development pattern which reflects the predominance of natural conditions and characteristics, and avoid "auto-urban" development influences. Formula restaurants will more likely increase traffic congestions and diminish the serene pace of the island.	Formula Restaurants	Citywide	An eating place that is one of a chain or group of 3 or more establishments and which satisfies at least two of the following three descriptions: a. it has the same or similar name, trade name, or trademark as others in the chain or group; b. it offers either of the following characteristics in a style which is distinctive to and standardized among the chain or group; 2. uniforms, except that a personal identification or simple logo will not render the clothing a uniform; c. it is a fast food restaurant.	Banned	Formula restaurants are prohibited in the City	None indicated	This citywide ordinance prohibits formula restaurants in the City. The ordinance considers a formula business as having 3 or more outlets. This definition is more stringent than Malibu's definition of 10 or more outlets.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Sausalito, CA	10.44.240 Formula Retail Ordinance	The purpose of the standards in this Section regulate the location and operation of formula retail establishments in order to maintain the City's unique village character, the diversity and economic vitality of the community's commercial districts, and the quality of life of Sausalito residents. The City has determined that preserving unique architecture, signage, graphic and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambience will promote the long-term viability of the community's businesses districts. The City has also determined that preserving a balanced mix of local, regional, and national-based businesses and small and medium sized businesses will maintain and promote the long-term economic health of visitor-serving businesses and the community as a whole. It is therefore the intention of the City	Formula Retail	Central commercial, Shopping Center, and Neighborhood commercial areas	Formula Retail means a type of retail sales activity or retail sales establishment, including food service, which is required to maintain any of the following: ("Formula") array of services and/or merchandise, trademark, logo, service mark, symbol, sign, decor, architecture, layout, uniform, or similar standardized feature.	Not indicated	A Conditional Use Permit shall be required for any Formula Retail establishment in the City.	1) The Formula Retail establishment will be compatible with existing surrounding uses, and has been designed and will be operated in a non-obtrusive manner to preserve the community's distinctive character and ambience; 2) The Formula Retail establishment will not result in an over-concentration of formula retail establishments in its immediate vicinity or the City as a whole; 3) The Formula Retail establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations; 4) The Formula Retail establishment will contribute to an appropriate balance of local, regional or national-based businesses in the community; 5) The Formula Retail establishment will be mutually beneficial to and would enhance the economic health of surrounding uses in the district; 6) The Formula Retail establishment will contribute to an appropriate balance of small, medium and large-sized businesses in the community; and 7) The proposed use, together with its design and improvement, is consistent with the unique	This ordinance applies to the Central Commercial, Shopping Center, and Neighborhood Commercial areas of the City and regulates formula retail establishments. The City has determined that preserving unique architecture, signage, graphic and other design elements so that the City maintains a distinctive visual appearance and small-scale eclectic ambience will promote the long-term viability of the community's businesses districts, and includes design requirements for any formula retail establishment in the City.

		that an over-concentration of formula retail businesses not be allowed, that all permitted formula retail establishments shall create a unique visual appearance that reflect and/or complement the distinctive and unique historical character of Sausalito, and that no such establishment shall project a visual appearance that is homogenous with its establishments in other communities.					historic character of Sausalito, and would preserve the distinctive visual appearance and shopping experience of Sausalito for its residents and visitors.	
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City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
Solvang, CA	Ordinance No. 94-151	To maintain the image of Solvang as a small town village in an open space/agricultural setting. The Village Area is unique not only because of its Danish architecture, but because of its small individualized shops and restaurants. This unique character would be adversely affected by a proliferation of "formula restaurants." The development of such restaurants would conflict with the distinct atmosphere and unique character for which Solvang's Village is famous.	Formula Restaurants	Village District	A restaurant devoted to the preparation and offering for sale of food and beverages to the public for consumption either on or off the premises and which is required by contractual or other arrangements to offer any of the following: standardized menus, ingredients, food preparation, decor, uniforms, or similar standardized features.	Banned	Formula restaurants are prohibited in the Village Center	None indicated	This ordinance prohibits formula restaurants in the City's Village Center. The Village Area is unique not only because of its Danish architecture, but because of its small individualized shops and restaurants. The development of such restaurants would conflict with the distinct atmosphere and unique character for which Solvang's Village is famous.

City, State	Ordinance	Purpose and Intent	Formula Type Regulated	Area Enforced	Definition of Formula Retail/Businesses	Maximum Allowed	Provisions/Requirements	Findings and Decision	Comparison with Malibu's Draft Ordinance
York, ME	Fast Food and Restaurant Prohibition	The historic character of York is unique, and is important to the people of the community and their collective identity as a community. Far more than most communities, York retains a large concentration of historic structures, which are integral to the fabric of the community. York is also traditionally home to small, locally owned and operated businesses. In these senses, York has maintained its identity in a manner unique in the region	Formula Restaurants and Formula Fast Food and Take Out	Citywide	Formula Restaurant shall mean a restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement to offer any of the following: standardized menu, employee uniforms, interior and/or exterior color scheme(s), architectural design, signage or similar standardized features, or which adopts a name or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.	Banned	Formula restaurants are prohibited in the town.	None indicated	This citywide ordinance prohibits formula restaurants and formula fast food and take-out establishments. The ordinance was adopted to preserve the historic character of York, which has retained a large concentration of historic structures.

APPENDIX E

CHAPTER 16.24 UPDATE