

THE COMMISSIONERS OF ST. MICHAELS

OFFICE OF CODE ENFORCEMENT, PLANNING AND ZONING

SETTLED 1670-1680

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ST. MICHAELS, MD 21663

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TO: Planning Commission
FROM: Steve Ball, Town Planner/Zoning Officer 
MEETING DATE: March 2, 2023
RE: Zoning Ordinance Text Amendment
FORMULA BUSINESSES (FRANCHISES & CHAIN STORES) –
PROPOSED AMENDMENTS AND PROCESSES

APPLICANT: Town of St. Michaels, Town Commissioners

REQUEST: The request is to amend the St. Michaels Zoning Ordinance to provide for new regulations regarding formula type of businesses. Formula businesses are also known as franchises or chain type stores with certain common standardized components of business operations.

The Town Commissioners have discussed the need to regulate formula type businesses. The discussions indicate a concern that having too many, or poorly designed formula businesses could potentially negatively impact the historic nature, scale and character of the community and that further regulations may be warranted.

BACKGROUND: On January 25, 2023, The Town Commissioners approved Resolution 23-04, establishing a 6-month moratorium on certain type of formula related businesses. On February 8th they discussed this issue again and subsequently directed staff to develop a Zoning Ordinance amendment to further carry out regulating such businesses as a part of the ordinance. At that meeting, staff presented three types of options to consider for the regulation of franchises. This included: a) prohibiting all type of formula businesses; b) prohibiting some type of formula businesses but allowing other types; or c) allow for the review of all proposed formula businesses only as a special exception review process as considered at a public hearing before the Board of Zoning Appeals and only permitted if found in compliance with associated criteria for review and approval. The language in the moratorium is structured similar to option “b”, above.

After discussing this issue in February, the Commissioners directed staff to draft a hybrid type of zoning code which would allow for some formula businesses outright without public hearings, but to also allow for consideration of other type of formula businesses only if approved as a special exception by the Board of Zoning Appeals.

The formula businesses allowed outright as stipulated in the moratorium includes: banks, real estate brokerages or agencies, grocery stores, and businesses engaged in the sale of maritime related themed products made from recycled materials. These uses are maintained as permitted outright in the draft code amendment (See definitions section in the draft ordinance).

ZTA Formula Businesses

A draft of the proposed ordinance (Exhibit “A”) is attached with changes highlighted in bold, underlined and in yellow for your review. The proposed changes to the Zoning Ordinance modify the definitions §340-11 to create a detailed definition of formula businesses. It also adds language to §340-43 Use Categories, to explain that some formula businesses are allowed outright as a permitted use, and other types require the approval through a public hearing special exception process. An additional change is made to §340-56 Table of Permitted Uses to indicate in the table that some uses are permitted “P” and some uses are allowed only as Special Exceptions “SE”. When the category in the table indicates “P/SE”, this means that some formula businesses are exempt from special reviews, but other new formula businesses (franchises or chain stores) can only be allowed through a special exception public hearing process. These would be flagged by staff at the time of building permit application to be sure they follow the correct process and procedures.

A note was included at the bottom of that table to link it with the text in §340-43, explaining the difference and the required process. The special exception criteria for review and approval are attached as exhibit “B” for your information so you can see the standards that will be used to measure compliance for new projects which would be required to have a special exception approval.

Also of note is that the text recognizes that some existing franchises are currently in place and may continue operating as permitted, but would be legally non-conforming if the changes are adopted. Should such businesses cease operating for a period of 6 months, they would lose this status and be required to conform with the new code requirements as adopted.

The Planning Commission is requested to review the proposed changes to the Zoning Ordinance as to whether or not the amendment is consistent with the Town’s Comprehensive Plan. The staff submits that the following objectives and strategies support amending the code as presented in the draft ordinance:

Chapter 1, Land Use & Growth Management

Objective 1.3: Ensure Town codes are effective, enforced and simplified to the extent possible.

Strategy: 1.3.1: Review permitting processes and procedures.

Objective 1.5 Enhance the development of the commercial district.

Chapter 8, Historic and Cultural Resources Protection

Objective 8.2: Support the St. Michaels Historic District Commission and zoning regulations applicable to the Historic District

Chapter 11, Community Character, Design and Appearance

Strategy 11.1: Encourage design qualities in future redevelopment that reinforce St. Michaels’ unique character and identity.

PUBLIC NOTICES: Public notices of the public hearing were advertised in the Easton Star Democrat on February 16th and February 23rd. The notice was posted in Town Hall as well as on the town's web page. A constant contact distribution email was also sent announcing the public hearing at the Planning Commission on March 2, 2023.

SUMMARY/RECOMMENDATION: The proposed amendment to the code allows some type of formula businesses to operate in town. It also allows consideration for other type of formula businesses but does not permit them outright, but only if found to have a compatible design with limited impacts on the community. It reflects the direction of the Town Commissioners. Staff supports the amended code as presented and recommends approval.

The Planning Commission should consider the changes and determine if the proposed changes are consistent with the Comprehensive Plan and direct staff to send your recommendations to the Town Commissioners for their consideration

ATTACHMENTS:

“A” Draft Zoning Ordinance text

“B” Special Exception Criteria for Approval

Introduction –
Discussion -
Public Hearing -
Adopted -
Enacted -

ORDINANCE NO. ____

**AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF ST. MICHAELS;
CHAPTER 340 ZONING, TO AMEND ARTICLE II DEFINITIONS, ARTICLE VII
PERMITTED USES FOR FORMULA BUSINESSES AND FOR PURPOSES OF
UPDATING THE CODE IN REGARDS TO CRITERIA AND APPROVAL PROCESSES
FOR SUCH**

WHEREAS, the Commissioners of St. Michaels (the “Commissioners”), a Municipal Corporation, have been delegated certain powers pursuant to the Maryland Annotated Code, Local Government Code, Division II, and Land Use Article, Division II to govern the zoning and land use within its municipal boundaries; and

WHEREAS, the Commissioners have the power to amend the Chapter 340 Zoning of the St. Michaels Town Code under §340-193 Power to amend, and shall do so under the provisions of §340-195 Text amendments; and

WHEREAS, the Planning Commission reviewed proposals for such, discussed the issue and made recommendations on the proposed amendments at their meeting on March 2, 2023 including opening the meeting for public comment and consideration of such and made a recommendation to the Town Commissioners;

WHEREAS, On _____ 2023, the Town Commissioners discussed establishing a formula business regulations ordinance and associated review and approval processes;

WHEREAS, the Commissioners of St. Michaels introduced Ordinance No. ____ on _____, 2023

WHEREAS, public notice was published on _____, 2023 and on _____, 2023 concerning amendments to Chapter 340 of the Code of the Town of St. Michaels substantially in the form as hereafter set forth, and;

WHEREAS, public notice was published on _____, 2023 and _____, 2023 that a public hearing would be held by the Commissioners on _____, 2023 concerning amendments to Chapters 340 of the Code of the Town of St. Michaels substantially in the form as hereafter set forth; and

WHEREAS, after having given due public notice, the Commissioners conducted a public hearing on _____ 2023 to receive public comments on the aforesaid amendments; and

WHEREAS, for the reasons stated herein, the Commissioners deem it is the interest of the public health, safety and welfare of the citizens of the Town, and for good government of the Town, to enact such ordinances;

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Enacted -

44

45 NOW, THEREFORE BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF
46 ST. MICHAELS that Chapter 340 Zoning of the Code of the Town of St. Michaels is hereby
47 amended as follows, with all revisions of new language shown in **bold and underlined** and deleted
48 language shown with a ~~strikethrough~~.

49

Chapter 340. Zoning

50

51

AMENDMENT 1.

52

§340-11 Definitions.

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54

FINANCIAL ASSURANCE – A performance bond, letter of credit, cash deposit, insurance
55 policy, or other instrument of security acceptable to the Town Commissioners.

56

FORMULA BUSINESS -- A “formula business” is a retail or wholesale sales establishment,
57 including but not limited to a hotel, motel, convenience store, drive-in establishment, retail store,
58 wholesale store, restaurant, bar, pub, dance hall, nightclub, cocktail lounge, or tavern, that:

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1. is in common ownership with 12 or more other establishments of the same nature that are
61 operating as a single brand and/or more than three of which are operating in Maryland; or

62

63

2. is a franchised establishment of a business entity with 12 or more other locations operating
64 as a single brand, whether franchised or directly owned by a parent entity, more than three
65 of which are operating in Maryland; or

66

67

3. regardless of ownership, is required by contractual or other business arrangement to
68 maintain in common with 12 or more other establishments, more than three of which are
69 operating in Maryland, any two or more of the following substantially identical features:

70

71

a. Standardized menu or standardized array of merchandise with 50% or more of in-stock
72 merchandise from a single distributor bearing uniform markings,

73

74

b. Trademark or service mark, defined as a word, phrase, symbol or designs that identifies
75 and distinguishes the source of the goods from one party from those of others, on
76 products or as part of store design;

77

78

c. Standardized interior décor including, but not limited to style of furniture, wall-
79 coverings, displays or permanent fixtures;

80

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d. Standardized color scheme used throughout the interior or exterior of the establishment;

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- 83 e. Standardized uniform for any group of staff members, including but not limited to,
- 84 aprons, pants, shorts, shirts, smocks or dresses, hat and pins (other than name tags); or
- 85
- 86 f. Standardized building façade, floor area design or layout.
- 87

88 The term Formula Business shall not be interpreted to include (1) banks; (2) real estate brokerages
89 or agencies; (3) grocery stores; or (4) businesses engaged primarily in the sale of goods with a
90 maritime-related theme that are made from recycled materials.

91
92 FRONTAGE: -- The boundary between a plot of land or a building and the public road onto which
93 the plot or building fronts. Frontage may also refer to the full length of this boundary. The
94 Planning Commission may consider a private access drive as frontage where such drive provides
95 the primary access to and egress from those properties.
96

97 *****

98 §340-43 Use categories

99 C. Specific Use types. Some use subcategories are further broken down to identify specific types
100 of uses that are regulated in a different way than the subcategory as a whole. For example, the
101 commercial category is broken down into several subcategories as the distinction between
102 personal services compared to marine services is apparent when one considers the difference
103 between the product and physical characteristics. Formula businesses are broken into different
104 use categories and noted as follows.

105 Proposed formula businesses are only allowed in certain zoning districts and are permitted outright
106 for banks, real estate brokerages or agencies, grocery stores or businesses engaged primarily in the
107 sale of a maritime-related theme that are made from recycled materials. (See definitions Article II,
108 §340.11 Formula Businesses). All other type of formula businesses are required to apply for
109 consideration only through a Special Exception approval process with the Board of Zoning
110 Appeals and must conform to the associated design and development criteria prior to authorization.
111 (See§340-56, Table of Permitted Uses).

112 All existing approved formula businesses that are not permitted outright but that are in operation
113 at the date of approval of this ordinance may continue to operate and are considered legal non-
114 conforming uses. If such businesses are closed or otherwise cease operating for a period of six
115 months or more, such legal non-conforming status is no longer valid and requires application of a
116 new approval in conformance with this process.

117 *****

118 *(INSERT REVISED TABLE OF PERMITTED USES HERE)*

119

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120

121 AND BE IT FURTHER ORDAINED AND ENACTED, that this Ordinance shall take effect
122 twenty (20) days from the date of its enactment, having been read at two (2) meetings of The
123 Commissioners of St. Michaels and having been passed by a yea and nay vote of The
124 Commissioners of St. Michaels

125 HAVING BEEN READ for the second time and passed by a yea and nay vote of The
126 Commissioners of St. Michaels at a Public Meeting of the Commissioners of St. Michaels held on
127 this ___ day of _____, 2023 via a virtual meeting.

128 BREIMHURST _____

129 DUPONT _____

130 HARROD _____

131 MERCIER _____

132 WHITTINGTON _____

133 I HEREBY CERTIFY that the above Ordinance No. ___ was passed by a yea and nay vote of
134 The Commissioners of St. Michaels on this ___ day of _____, 2023.

135

136 ATTEST THE COMMISSIONERS OF ST. MICHAELS

137 _____ (Seal) By: _____

138 Robert Straebel,
139 Town Administrator

David Breimhurst, President

140

141 I HEREBY CERTIFY that an exact copy of this Ordinance was posted from the ___ day of
142 _____, 2023, at 8:30 o'clock a.m. on this ___ day of _____, 2023, at 4:30
143 o'clock p.m., on the bulletin board at the Town Office in St. Michaels, Maryland, and that a
144 summary of the aforesaid Ordinance No ___, the date of its passage, its effective date and the fact
145 that the entire text of the Ordinance may be read on the website of the Town Office, St. Michaels,
146 Maryland, for at least twenty (20) days following the passage, has been published at least once
147 each week for two (2) consecutive weeks following the passage of said Ordinance in a newspaper
148 having general circulation in the Town of St. Michaels.

149

150 _____ (Seal)

151 Vickie Sharp,
152 Town Clerk

ATTACHMENT “B”

SPECIAL EXCEPTION CRITERIA FOR REVIEW AND APPROVAL

These criteria would be used in evaluating new project proposals in special exception applications. They are provided here as reference for your information.

The Board of Zoning Appeals finds from a preponderance of the evidence that the proposed use will satisfy all the following standards:

- (a) The use will be consistent with the purposes and intent of the St. Michaels Comprehensive Plan.*
- (b) The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance.*
- (c) The scale, bulk, and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area and will not be detrimental to the economic value of the neighboring properties. For those properties lying within the Town Historic District, final architectural review and approval will be required from the Historic District Commission.*
- (d) The use will not constitute a nuisance to other properties and will not have significant adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances.*
- (e) The use will not have a significant adverse impact on public facilities or services, including roads, schools, water and sewer facilities, police and fire protection, or other public facilities or services.*
- (f) The use will not have a significant adverse effect on marine, pedestrian, or vehicular traffic.*
- (g) The use will not adversely affect the public health, safety, or general welfare.*