

## **ORDINANCE NO. 760**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA, AMENDING TITLE 14 OF THE CARPINTERIA MUNICIPAL CODE TO ADD ZONING REGULATIONS PERTAINING TO THE ESTABLISHMENT OF FORMULA BUSINESSES**

**WHEREAS**, due to concern over identified negative impacts associated with an over-proliferation of formula businesses, on July 11, 2022, the City of Carpinteria's ("City") City Council initiated an amendment to the Carpinteria Municipal Code ("CMC") pertaining to the establishment of formula businesses; and

**WHEREAS**, the City's zoning code currently allows operation of formula businesses within the City, provided that such businesses meet all applicable legal requirements and have obtained an occupancy clearance and other necessary entitlements from the City; and

**WHEREAS**, the City adopted its General Plan/Local Coastal Plan ("GP/LCP") as a comprehensive, long-term plan for the City's development, and many of the City's GP/LCP objectives and policies were enacted to limit commercial development that would impair the City's distinctive small beach town charm and character. Among others, those land use objectives and policies include the following:

- Land Use Element Objective LU-3: Preserve the small beach town character of the built environment of Carpinteria, encouraging compatible revitalization and avoiding spawl development at the City's edge;
- Policy LU-3d: Establish a commercial sector that balances the retail and service needs of citizens and tourists;
- Policy LU-3g: Provide for a range of business activities that bring vitality, revenue, and employment to Carpinteria and are compatible with its small town character; and

**WHEREAS**, the City has adopted Resolution No. 5500, a Sustainable Community Policy, in part, as a basis for creating strategies that allow it to adapt to ever-changing environmental, economic, social and physical stressors. Among the directives of the City's Sustainable Community Policy are the following:

- Promote a diversified and resilient local economy that reflects the unique attributes of the region and provides necessary and desirable products and services for both residents and visitors;
- Attract and retain downtown retailers, hotels, corporate headquarters and Research and Development uses that can be successful in and complimentary to the community;
- Establish support for small business development;
- Maintain and enhance the unique identity of the community and built environment to sustain a strong sense of place and community; and

**WHEREAS**, the City's character as a classic California beach town; the City's desire to foster businesses that serve both the needs of City residents and visitors and thereby ensure the community's quality of life; the resiliency of the City's vibrant, small-scale, diversified commercial character; and the City's ongoing economic vitality all require that the City maintain and encourage establishment of diverse business types and sizes, including smaller and mid-sized businesses; and

**WHEREAS**, formula businesses are, by their very nature, standardized (including their architecture, decor, color schemes, and signage) and not unique, and therefore do not enhance the unique small town character that the City Council finds necessary to maintain the City's economic vitality, including a viable visitor industry in the City; and

**WHEREAS**, as City staff noted in a May 9, 2022 Staff Report, many formula businesses are increasingly locating in downtowns and neighborhood business districts en masse, squeezing out independent businesses and causing a speculative run-up in rents that result in the wholesale transformation of a business district. In addition to causing such downtowns and business districts to lose their distinctive appeal, the rent increases caused by an influx of formula businesses can force independent entrepreneurs and low margin/service businesses that serve the surrounding neighborhood's basic needs to close or move out of the area; and

**WHEREAS**, as further noted by City staff in its May 9, 2022 Staff Report, local economies dominated by formula businesses tend to be solely profit-based and therefore disinterested in meeting the community's needs, rather than filling a local niche or complementing existing businesses in similar categories. Formula businesses also often invest locally generated profits outside of the community, disappearing quickly when economic conditions shift or corporate strategy changes, and leaving behind vacancies with higher rent expectations; and

**WHEREAS**, the impacts described above may result in existing small businesses losing customers and having fewer business opportunities, and may further lead to long-term urban decay and increased vacancies in commercial real estate, both of which could lead to a decline in tax revenue for the City; and

**WHEREAS**, for all of the reasons described herein, the City Council finds that the unregulated proliferation of formula businesses could lead to a lack of diversity in City businesses, which would substantially harm the important City interests listed above and create substantial public health, safety and welfare problems for the City, its residents, and its businesses; and

**WHEREAS**, this Ordinance is not premised on maintaining local ownership of businesses, or protecting existing businesses, or preventing formula businesses from doing business in the City. The purpose of this Ordinance is to maintain the City's unique, special character, the diversity and vitality of the City's commercial districts, and the quality of life of City residents; and

**WHEREAS**, the City Council adopted Urgency Ordinance Nos. 755 and 757 implementing and extending a moratorium on issuance of Certificates of Occupancy or other entitlements for the establishment of new formula businesses within the City, with the exception

of the Casitas Plaza and the Shepard Place Shops, in order to study, develop, and consider permanent regulations for formula businesses within the City; and

**WHEREAS**, the City of Carpinteria Planning Commission (“Planning Commission”) considered draft Ordinance No. 760 at their December 5, 2022 hearing, wherein they recommended approval and adoption of the Ordinance to the City Council, with certain modifications; and the Planning Commission considered the draft Ordinance No. 760 again, with further modifications proposed by the City Council, at their [date] hearing; and

**WHEREAS**, the City Council has conducted a publicly noticed hearing and received evidence regarding the proposed Ordinance; and

**WHEREAS**, the City Council has determined that it is appropriate and in the City’s best interest to exempt from this ordinance an Exclusion Zone, defined as the properties fronting the portion of Casitas Pass Road from Carpinteria Avenue to Highway 101, including the Casitas Plaza Shopping Center and the Shepard Place Shops, because this area has historically contained a number of formula businesses that provide important services upon which the local community and visitors alike depend; and,

**WHEREAS**, it has been determined that regulating formula businesses as included in this Ordinance is consistent with the City’s GP/LCP as well as within the City’s best interest.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CARPINTERIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals Incorporated.**

The above recitals are incorporated herein and are each relied upon independently by the City Council in its adoption of this Ordinance.

**SECTION 2. Amendment of Title 14 of the Carpinteria Municipal Code.**

Title 14 of the CMC is hereby amended to (1) add Chapter 14.53, the text of which is attached hereto as Exhibit A and fully incorporated herein by reference; and (2) amend Chapter 14.08 to add Section 14.08.276, the text of which is attached hereto as Exhibit B and fully incorporated herein by reference.

**SECTION 3. Effective Date.**

This Ordinance shall be in full force and effect thirty days following second reading of the Ordinance. Before the expiration of fifteen (15) days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View News, a newspaper of general circulation, published in the City. Only those entitlements for which the right to proceed with the associated development, facility, or activity has vested pursuant to the provisions of State law prior to the effective date of this Ordinance may proceed without violating the provisions of this Ordinance.

**SECTION 4. Severability.**

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

**SECTION 5. CEQA Exemption.**

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Code of Regulations, CEQA Guidelines sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a "project" as defined in section 15378), and 15061(b)(3) (the activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA). The Ordinance generally prevents changes in the environment and thus has no potential for resulting in physical change to the environment, either directly or indirectly.

**SECTION 6. Publication.**

The City Clerk shall certify as to the passage of this Ordinance and cause the same to be published and posted in the manner prescribed by California law.

**PASSED, APPROVED, AND ADOPTED** this [date], by the following vote:

**AYES: COUNCILMEMBER(S):**

**NOES: COUNCILMEMBER(S):**

**ABSENT: COUNCILMEMBER(S):**

**ABSTAIN: COUNCILMEMBER(S):**

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Mayor, City of Carpinteria

**ATTEST:**

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Brian C. Barrett, CMC, City Clerk  
City of Carpinteria

*I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held this [date].*

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Brian C. Barrett, CMC City Clerk  
City of Carpinteria

**APPROVED AS TO FORM:**

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Jena S. Acos, on behalf of Brownstein  
Hyatt Farber Schreck, LLP, acting as  
City Attorney of the City of Carpinteria

Ordinance No. 760 EXHIBIT A

Chapter 14.53  
Regulation of Formula Businesses

Sections:

14.53.010	Purpose and intent
14.53.020	Definitions
14.53.030	Geographic scope
14.53.040	Restrictions on establishment of formula businesses
14.53.050	Application for public interest exception
14.53.060	Relocation of formula businesses

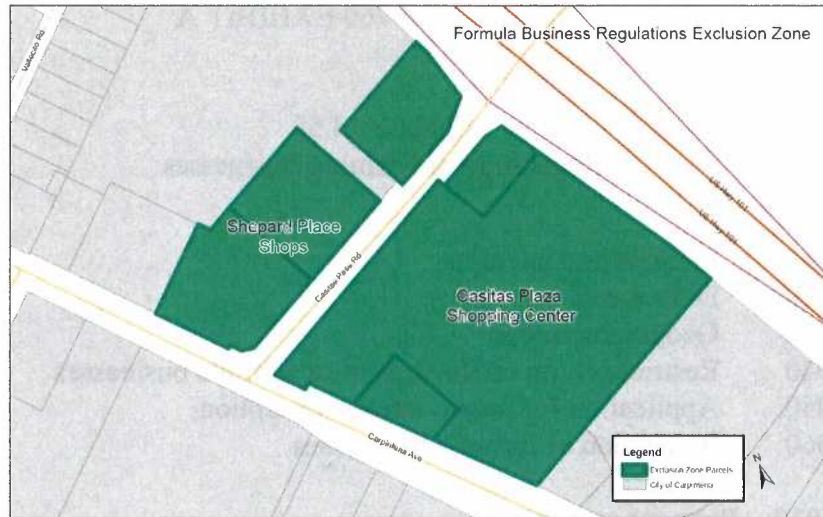
**Section 14.53.010 – Purpose and intent.**

The purpose of this chapter is to regulate the location and operation of formula businesses within the city, in order to maintain the city’s character as a classic California beach town with vibrant, small-scale, and diversified commercial activity. The city has determined that preserving a balanced mix of businesses within the city is necessary to ensure the long-term economic vitality of neighborhood and visitor-serving businesses and the community as a whole, and that an over-proliferation of new formula businesses in areas outside the exclusion zone would be detrimental to that goal. It is therefore the intention of the city that an over-proliferation of formula businesses outside the exclusion zone not be allowed.

**Section 14.53.020 – Definitions.**

The following terms, as used in this chapter and in Section 14.08.276, shall be defined as follows:

- A. “Array of services or products for sale” means fifty (50) percent or more of in-stock merchandise, menu items, or services offered.
- B. “Color scheme” means the selection of colors used throughout the business, such as on the furnishings, wall coverings, or as used on the façade. Standardized lighting is considered part of the color scheme.
- C. “Decor” means the style of interior finishes, such as the style of furniture, wall coverings, or permanent fixtures.
- D. “Exclusion zone” means the parcels fronting the portion of Casitas Pass Road from Carpinteria Avenue to Highway 101, including the entirety of Casitas Plaza Shopping Center and the Shepard Place Shops, as shown more specifically in the map below:



- E. “Façade” means the face of a building or tenant space oriented onto a street or open space. Awnings are considered part of the façade.
- F. “Formula business” shall have the meaning set forth in Section 14.08.276.
- G. “Professional services” means services that are customarily provided by a licensed professional in an office setting, such as legal, insurance, title, accounting, mortgage, real estate, architecture, engineering, and similar services.
- H. “Trademark/Service mark” means a word, phrase, symbol, or design (or a combination of words, phrases, symbols, or designs) that identifies and distinguishes the source of a product or service from one entity from those of others.
- I. “Uniform or other employee apparel” means items of clothing such as aprons, pants, shirts, dresses, hats, and pins (other than name tags), as well as standardized colors of clothing.

**Section 14.53.030 – Geographic scope.**

The provisions of this chapter shall apply everywhere within the limits of the city, with the exception of the exclusion zone where the provisions of this chapter shall not apply.

**Section 14.53.040 – Restrictions on establishment of formula businesses.**

Subject to the provisions of Sections 14.53.030 and 14.53.050, no certificate of occupancy issued pursuant to Chapter 5.05 of this code that has as its result the approval or allowance of the operation of a formula business shall be issued, granted, or approved by any employee, department, or commission of the city.

**Section 14.53.050 – Application for public interest exception.**

In the event that an applicant for a certificate of occupancy pursuant to Chapter 5.05 of this code is determined by the community development director to be a formula business, that applicant may apply to the planning commission for a public interest exception to the restriction set forth in

Section 14.53.040. The application shall be made pursuant to Section 14.78.030 of this code, except that the standards and findings below shall be substituted for those set forth in Section 14.78.030(2). The planning commission shall have the discretion to grant the public interest exception upon its determination that all of the findings below apply:

- (a) The proposed formula business will not result in an over-concentration of formula businesses in the immediate vicinity, or in the city as a whole;
- (b) The proposed formula business will contribute to an appropriate balance of small, medium, and large-sized businesses in the city;
- (c) The proposed formula business has been designed to preserve and enhance the city's small beach town character and to integrate existing community architectural and design features, which will preserve such character for the city's residents and visitors;
- (d) If the proposed formula business will use more than ten thousand (10,000) gross square feet of space, the proposed formula business will provide needed goods or services, will promote the city's economic vitality, and will be compatible with existing and planned uses in the vicinity;
- (e) The establishment, maintenance, or operation of the proposed formula business will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the vicinity of the proposed formula business, or be detrimental or injurious to property and improvements in the vicinity or to the general welfare of the city;
- (f) As applicable, the goods or services offered by the proposed formula business are unavailable in the community and will help residents and visitors avoid the need to shop out of the community for said goods or services; and
- (g) The proposed formula business 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.

**Section 14.53.060 – Relocation or change of ownership of formula businesses.**

This chapter shall not apply to bar the continued operation of such formula businesses already in possession of a valid certificate of occupancy issued pursuant to Chapter 5.05 of this code that (1) relocates to another location within the city, including a formula business located within the exclusion zone that relocates to outside of the exclusion zone, or (2) undergoes a change of ownership, provided that (in the sole discretion of the community development director) all operations of the formula business remain substantially the same.



Ordinance No. 760 EXHIBIT B

Chapter 14.08  
Definitions

**Section 14.08.276 – Formula business**

“Formula business” means any commercial business operating as a retail sales, restaurant/food service, and/or hotel or motel establishment, and which: (a) has more than seven (7) locations anywhere in the United States of America, and (b) has two (2) or more of the following features common to all or substantially all of its locations: standardized array of services or products for sale, façade, architecture, decor or color scheme, uniform or other employee apparel, signage, or trademark/servicemark. Notwithstanding any other provision of this chapter, the following types of businesses are not formula businesses: office space, professional services, banks or credit unions, grocery stores, nonprofit businesses, pharmacies, automobile service stations, or theaters/performing arts spaces.