

PROPOSED ORDINANCE NO. 2004-11
AN AMENDMENT OF CHAPTER 28 (ZONING ORDINANCE)
OF THE ORDINANCES OF THE TOWN OF BRISTOL REGARDING
FORMULAR BUSINESSES

Adopted May 12, 2004

WHEREAS, the Town Council wishes to provide further clarity regarding its regulation of business establishments in the historic district, pursuant to jurisdiction conveyed by R.I.G.L. 45-24- 27 *et. seq.* and R.I.G.L. 45-24.1-1 *et. seq.* (as amended); and

WHEREAS, there exist in the Town of Bristol historic districts as shown on the map entitled, "Map of Historic Districts, Town of Bristol, Rhode Island," together with a list of properties within the downtown district (Attachment 1) and a list of structures of historic or architectural value not located within the boundaries of an established historic district (Attachment 2) as may be amended from time to time, and which is filed at the office of the town clerk, all of which is in hereafter collectively referred to as the "Historic District" or the "Historic District Zone;" and the Historic District is an essential part of Bristol's unique identity and should be appropriately preserved; and

WHEREAS, the Town Council recognizes that the Historic District draws many visitors each year and receives nationwide exposure for its Fourth of July Celebration, and the continuation of such business and exposure is vital to Bristol's economic future; and

WHEREAS, the Town Council recognizes that the Historic District supports and fosters the preservation of the many outstanding historic properties in the Historic District and is necessary to maintain the high property values; and

WHEREAS, the Town Council recognizes that the long-term health of the Historic District Zone would be advanced by promoting a blend of unique and diverse commercial offerings for residents and visitors; and

WHEREAS, the Town Council wishes to promote a Historic District with attractive retail, merchandising, eating, entertainment and recreation opportunities offering residents and visitors alike a diverse and wholesome environment for commercial, cultural, civic and social pursuits that are identifiable with the Town of Bristol; and

WHEREAS, the Town Council recognizes that notwithstanding the marketability of a business's goods or services or the visual attractiveness of its establishment, an over-abundance of certain kinds of businesses can be counterproductive and otherwise detract from the appeal of both the streetscape and overall historic downtown experience; and

WHEREAS, the Town Council also recognizes that businesses run in accordance with a standard operating plan, which dictate such things as services, decor, uniforms, retail or menu offerings and the like, present a grave danger to the unique identity of the Historic District, and if unchecked will lead to complete standardization of the Historic District's retail and restaurant offerings; and

WHEREAS, it is anticipated that additional formula businesses will in the foreseeable future find their way to the rental/lease market in the Historic District Zone due to the area's popularity and vibrant downtown experience; and

WHEREAS, the addition of formula businesses in the Historic District Zone, if not monitored and regulated, will serve to frustrate the Town's goal of a diverse retail base with a unique retailing personality comprised of a mix of business offerings; and

WHEREAS, in light of the foregoing considerations, the Town Council has determined that the public welfare of the Town's residential, retail, business and tourist based community, as articulated by the principles found in the Comprehensive Plan, will now be served and advanced by monitoring and regulating the establishment of formula businesses in the Historic District Zone through the mechanism of special use permits issued by the zoning board of the Town of Bristol, together with amending the standards for relief from the zoning board so as to be consistent with amendments previously enacted by the General Assembly ;

NOW, THEREFORE: The Town Council of the Town of Bristol, Rhode Island DOES ORDAIN that the Town of Bristol Municipal Code is amended as follows (new language is shown as underlined and repealed language is shown as ~~strikethrough~~):

SECTION ONE - Amend Section 14-4.2(2)c by adding the following:

c. The historic district commission shall pass only on exterior features of the structure and its appurtenances and shall not consider interior arrangement, nor shall it disapprove applications except in regard to the standards and considerations set forth in this section. Provided however, that with regard to applications for Formula Businesses, as defined in Section 28-1 of the Code, the historic district commission may review and regulate any interior features, including without limitation signs, which are visible to passers-by through any window, opening, or open door; may review and regulate any exterior facade or sign colors so as to prevent the use of a "corporate color scheme" to defeat the purposes of the Formula Business regulations; and may (independently of the zoning board) give consideration to the standards set forth in Section 28-150(h) of the Code.

SECTION TWO - Amend Section 28-1 by adding the following definition:

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.

SECTION THREE - Amend Section 28-150 by adding the following subsection (h):

(h) Special use permit for a Formula Business in the Historic District Zone.

(1) In addition to the standards set forth in subsection 28-409(c)(2), and in addition to any and all conditions imposed by the Bristol Historic District Commission in granting a Certificate of Appropriateness; in considering a special use permit to a Formula Business in the Historic District Zone, the board shall require that ALL of the following standards be met:

- a. Approval of the formula business establishment will 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;
- b. Approval of the formula business establishment will contribute to a diverse and appropriate blend of businesses in the Historic District Zone;
- c. Approval of the formula business establishment will complement those businesses already in the Historic District Zone and help promote and foster the local economic base as a whole.
- d. The formula business establishment will be compatible with existing surrounding uses; has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambiance; and the proposed intensity of uses on the site is 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 two thousand five hundred (2,500) square feet of gross floor area.
 2. The street frontage of any individual Formula Business shall not exceed sixty-five feet (65') 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 a substantial impact to the public safety from increased traffic. At the discretion of the zoning board, the applicant may be required to submit a traffic study, prepared by a RI Registered Professional Engineer, approved by the board.
 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.
 8. No signs which are internally illuminated shall be allowed.

(2). Approval of the formula business establishment will be consistent with the policies and standards of the Comprehensive Plan and the Historic Preservation requirements contained in Chapter 14 of the Town Code.

SECTION FOUR - Amend Section 28-281 by adding the following language:

Sec. 28-281. Historic district zone.

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

Cross references: Historic preservation, ch. 14.

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

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

The historic downtown district is unique not only because of its well preserved historic structures, but because of its small individualized shops and restaurants as well. Bristol's historic downtown district is recognizable nationwide. It attracts hundreds of thousands of visitors each year, a large part of whom come to enjoy and experience the unique character of the nation's most patriotic town and its numerous quaint shops and restaurants. This unique character would be adversely affected by a proliferation of "formula businesses" which are required by contractual or other arrangements to be virtually identical to businesses in other communities as a result of standardized services, merchandise, decor, uniforms and the like. The development of such businesses, if unchecked and unregulated, would conflict with the distinct atmosphere and unique character for which Bristol's historic downtown district is famous. Therefore, the Town Council finds that in order to preserve the character of the historic downtown district, it is reasonable and necessary to adopt this ordinance which would monitor and regulate the establishment of formula businesses in the Historic District Zone through the mechanism of special use permits, in accordance with Section 28-409 of this Code.

(d) Regulation. A formula business, as defined in Section 28-1 of this Code, seeking to operate within the Historic District Zone, as established in Section 14-3 of this Code, is required to first obtain a Certificate of Appropriateness from the Historic District Commission, and is then required to obtain a special use permit from the Zoning Board in accordance with Section 28-409, including without limitation, the standards set forth in Section 28-150(h). Notwithstanding the foregoing, upon agreement of both the Historic District Commission and the Zoning Board, a joint public hearing of both bodies may be held, with each body then voting separately in the order set forth above.

SECTION FIVE - Amend Section 28-409 by adding and deleting the following language as indicated:

Sec. 28-409. Variances and special use permits.

(a) *Application.*

(c) *Standards for relief.* The following shall be standards for relief:

(1) *Variance.* In granting a variance, the board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant;
- b. That such hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
- c. That the granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan of the town;
- d. That the relief to be granted is the least relief necessary;
- e. The board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
 1. In granting a use variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of this chapter. Nonconforming use of neighboring land or structures in the same district and permitted use of land or structures in an adjacent district shall not be considered grounds for granting a use variance; and
 2. In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, ~~which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property.~~ The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

(2) *Special use permit.* In granting a special use permit, the board shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- a. That the special use is specifically authorized by this chapter, and setting forth the exact ~~subsection~~ section of this chapter containing the jurisdictional authorization;
- b. That the special use meets all of the ~~criteria~~ standards set forth in the subsection of this chapter (Section 28-150) authorizing such special use; and
- c. That the granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive plan of the town.

SECTION SIX - Add a Footnote to the Use Table as follows:

See Sections 28-150 and 28-281 for Formula Business (as defined in Section 28-1) in the Historic District Zone which also require a Special Use Permit.

SECTION SEVEN - These amendments shall take effect upon their passage.