

TOWN OF NAPLES

OUTDOOR ENTERTAINMENT ORDINANCE

Adopted at Town Meeting June 27, 1998

Amended June 11, 2002

Attested by Town Clerk

ARTICLE 1

TITLE, PURPOSE AND DEFINITIONS

Section 1.1 TITLE

This ordinance may be known as and cited as the Town of Naples Outdoor Entertainment Ordinance.

Section 1.2 AUTHORITY

This Ordinance is enacted pursuant to the authority granted in Title 22, Section 1601, et seq., of the Maine Revised Statutes and the home rule power conferred by Article VIII, part Second of the Maine Constitution and Title 30-A, Sections 2101, 2109 and 3001 of the Maine Revised Statutes.

Section 1.3 PURPOSE

It is recognized that a mass outdoor gathering in the Town of Naples, whatever the duration, may create a hazard to public health, safety and welfare. Accordingly, the purpose of this ordinance is to control mass outdoor gatherings and outdoor entertainment in order to protect the public health, safety and welfare of the people of Naples and to protect the Town's environment.

ARTICLE 2

GENERAL

Section 2.1 PERMITS

Section 2.1.1 No outdoor entertainment shall be allowed on the grounds of any business establishment in the Town of Naples unless a permit has been approved by the Naples Planning Board. No outdoor entertainment sponsored by a business establishment will be allowed anywhere in the town of Naples unless a permit has been approved by the Naples Planning

Board. No outdoor entertainment for which admission is charged will be allowed anywhere in the Town of Naples unless a permit has been approved by the Naples Planning Board. Non-profit organizations that have been based in the Town of Naples for at least one year do not have to obtain a permit, but are subject to all other requirements of this ordinance.

Section 2.1.2 Permits may be granted on an annual basis renewable yearly if the entertainment event occurs twelve or more times a year. Permits may be granted on a per event basis for entertainment events that occur fewer than twelve times a year.

Section 2.1.3 Before issuing a permit the Planning Board shall determine that the proposed outdoor entertainment will not adversely affect the comfort, convenience, safety, health and welfare of the people of Naples and the protection of its environment. Factors that will be considered in making that determination shall include hours of performance, adequacy of sanitary facilities, security, and parking facilities, impact on traffic, impact on public safety, and any other conditions deemed necessary to assure the comfort, convenience, safety, health and welfare of the people of Naples and the protection of its environment.

Section 2.1.4 Applications for all Outdoor Entertainment Permits shall be submitted in writing to the Planning Board Secretary together with a non-refundable permit fee of \$200 for an annual permit. Any establishment that has a Special Entertainment License will be given a credit of seventy-five dollars (\$75.00) toward the two hundred dollar (\$200.00) permit fee. A one day event permit will cost twenty-five dollars (\$25.00) plus the cost of Public Notices and the cost of notices to abutters. Applications for Outdoor Entertainment Permits shall include the name of the applicant, the name of the business establishment that is sponsoring or hosting the event, the location upon which the event will take place, a general description of the event, and the names and mailing addresses of all owners of property abutting the property where the event will take place.

Section 2.1.5 The Planning Board shall not issue a permit for outdoor entertainment unless the standards of this Ordinance have been met and the premises to be used for the event and the event itself will be in compliance with all ordinances, articles, bylaws, appropriate safety codes, rules and regulations of the Town of Naples and State Law. The Planning Board shall make a decision on an outdoor entertainment permit application within 30 days of receiving a completed application. If the permit is

denied, the applicant shall be provided, in writing, with the reasons for the denial.

Section 2.1.6 Any applicant who has been denied a permit or whose permit has been revoked, may, within thirty days of the denial or revocation appeal the decision to the Naples Board of Appeals as defined in 30-A.M.R.S.A. § 2691. The Board of Appeals may grant or reinstate the permit if it finds that the applicant meets all the criteria of this ordinance, or if the denial or revocation was arbitrary or capricious, or if the denial or revocation was not based on a violation of any Naples ordinance, article, bylaw, rule or regulation, or of State Law.

ARTICLE 3

ENFORCEMENT, PENALTIES, SEPARABILITY AND EFFECTIVE DATE

Section 3.1 ENFORCEMENT AND PENALTIES

This ordinance shall be enforced by the Cumberland County Sheriffs Department PURSUANT TO 30-A M.R.S.A. § 107 and the contract for law enforcement services between the Town of Naples and Cumberland County Commissioners. Any person who violates any provision shall be subject to a penalty of not less than one hundred dollars (\$100.00) and not more than twenty-five hundred dollars (\$2500.00) for a first violation. Subsequent violations shall be subject to a penalty of not less than one hundred dollars (\$100.00) and not more than five thousand dollars (\$5000.00). Each day that such a violation exists shall constitute a separate violation. The Town of Naples shall be entitled to recover its costs, including attorneys fees, if it prevails. All fines shall be payable to the Town of Naples.

Section 3.2 REVOCATION

The Planning Board may either revoke the annual permit or may refuse to issue subsequent annual or per event permits of any person upon finding that the permit holder has violated one or more of the conditions of its Outdoor Entertainment Permit or if the Planning Board finds that the violations are likely to occur again in future mass gathering events sponsored by the permit holder. The Planning Board may revoke a permit only after the permit holder has been given notice and an opportunity to be

heard. The permit holder must receive notice of the proposed
revocation at least fourteen (14) days prior to the revocation hearing.
The Planning Board may shorten the time period prescribed in this
Section 3.2 for a per- event permit if the Board finds that an emergency
posing an imminent threat to the public health, safety or welfare exists
and requires immediate action.

Section 3.3 SEPARABILITY

The invalidity of any provision of this ordinance shall not invalidate any other provision.

Section 3.4 EFFECTIVE DATE

The effective date of this ordinance shall be when enacted by the Town of Naples. Enacted on June 27, 1998.