

**MORATORIUM ORDINANCE  
PROHIBITING THE ISSUANCE OF ANY LICENSES OR PERMITS  
FOR THE ESTABLISHMENT OR OPERATION OF  
AN ADULT USE ESTABLISHMENT**

**TOWN OF NAPLES**

Adopted: February 20, 2020

A true copy, attest:

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Judy Whynot, Town Clerk

## TOWN OF NAPLES, MAINE

### ORDINANCE ADOPTING A MORATORIUM PROHIBITING THE ISSUANCE OF ANY LICENSES OR PERMITS FOR THE ESTABLISHMENT OR OPERATION OF AN ADULT USE ESTABLISHMENT

#### SECTION 1. RECITALS

WHEREAS, the legislative body of the Town of Naples, Maine (the “Town”) makes the following findings:

1. Current police power ordinances are inadequate to address the issue of certain types of establishments known in general as adult use establishments, as defined below in Section 2; and
2. The unregulated location and operation of such adult use establishments raise legitimate and substantial questions about the impact of such activity and these establishments on the Town, including questions as to compatibility with existing land uses and development in the Town; potential adverse health and safety effects on the community, and the possibility of illicit, undesirable and/or unlawful activity; and
3. As a result of the foregoing issues, the operation of adult use establishments within the Town have potentially serious implications for the health, safety and welfare of the Town and its residents; and
4. The Town currently has no regulations governing adult use establishments, and existing ordinances are insufficient to prevent serious public harm that could result from unregulated activity in connection with adult use establishments; and
5. An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of adult use establishments in the Town; and
6. The Town needs a reasonable period of time to prepare and adopt amendments to its ordinances and regulations in order to develop requirements and regulations to control the negative secondary effects of such unregulated adult use establishments while not interfering or intending to address, limit or otherwise curtail protected speech or expression, and to provide performance standards and regulations relating to the time, place and manner of operation of adult use establishments; and
7. Pursuant to 30-A M.R.S. § 4356, the Town may adopt a moratorium ordinance on adult use establishments.

NOW, THEREFORE, BE IT ORDAINED by the voters of the Town of Naples, Maine, in Town Meeting assembled, as follows:

## **SECTION 2. MORATORIUM, ADULT USE ESTABLISHMENT DEFINED**

The Town does hereby declare a moratorium on all adult use establishments and the location, operation or licensing of any and all such establishments within the Town.

No person or organization shall develop or operate an adult use establishment within the geographic boundaries Town for the duration of this moratorium. No officer, official, board, agency, or employee of the Town shall accept, process, issue, approve, deny, or in any other way act upon any application for a license, permit, or any other type of land use approval related to an adult use establishment for the duration of this moratorium.

An “adult use establishment” is defined as follows: Adult use establishments include, but are not limited to, any retail business, including but not limited to any bookstore, newsstand, novelty store, night club, bar, cabaret, amusement arcade or theater which:

- Keeps for public patronage or permits or allows the operation of any adult amusement device as defined in this section;
- Customarily exhibits motion pictures or displays any other visual representation described or advertised as being X-rated or for adults only or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such or similar phrases;
- Maintains a substantial inventory of sexually oriented or sexually explicit materials; and/or
- Customarily provides entertainment primarily involved with the explicit depiction or description of sexual intercourse or sexual acts (as defined in Title 17-A M.R.S. § 251).

## **SECTION 3. DATE OF APPLICABILITY**

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this moratorium shall govern and apply to all actions, proceedings, applications, and proposals related to an adult use establishment that were or are pending before any officer, official, board, agency, or employee of the Town on or at any time after **April 8, 2019** and, to the extent allowed by 30-A M.R.S. § 3007(6), shall nullify the issuance of any final approval of any officer, official, board, agency, or employee of the Town made on or at any time after **April 8, 2019** authorizing any adult use establishment activity (the “Date of Applicability”).

## **SECTION 4. EFFECTIVE DATE; DURATION**

This moratorium shall take effect immediately upon its adoption by the voters of the Town (the "Effective Date") and shall remain in full force and effect for a period of 180 days from the Date of Applicability or until this moratorium is extended or repealed, whichever shall occur first.

#### **SECTION 5. CONFLICTS/SAVINGS CLAUSE**

Any provisions of the Town's ordinances or regulations that are inconsistent or conflicting with the provisions of this moratorium are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this moratorium is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision herein.

#### **SECTION 6. VIOLATIONS**

If any adult use establishment activity is conducted or established in violation of this moratorium, each day of any continuing violation shall constitute a separate violation of this moratorium and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to fines and penalties, injunctive relief, and reasonable attorney fees and costs in prosecuting any such violations.