


**TOWN OF NAPLES
BUSINESS LICENSING ORDINANCE**

ADOPTED:

ATTESTED:



Michelle Thibodeau, Town Clerk

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SECTION 1: PURPOSE AND SCOPE

Purpose

The purpose of this Ordinance is to establish a unified licensing process and standard for all types of business licenses that the Town issues. Through this Ordinance, the Town seeks to apply reasonable controls on businesses and maintain accurate business contact information as it seeks to protect public health, safety, and welfare.

Authority

This Ordinance is enacted pursuant to the authority granted in 22 M.R.S. § 1602(4) and the home rule power conferred by Article VIII, part Second of the Maine Constitution, and 30-A M.R.S. §§ 2102, 2109 and 3001.

Licensed Activities

No person shall engage in any business without having first complied with all applicable rules and regulations and having paid the proper fee and obtained a license, therefore.

Exemptions from license requirement or fees.

- Persons acting pursuant to an order or process of a court of competent jurisdiction and persons acting in accordance with their powers and duties as public officers, such as sheriffs and marshals, shall not be required to secure a local license.
- Public and private hospitals, as defined in the laws of the State, shall not be required to secure a local business license.
- Persons traveling by foot, wagon, automotive vehicle, or any other type of conveyance, from place to place, from house to house or from street to street selling magazines or other merchandise by sample, list, or catalogue for future delivery shall be required to obtain a local itinerant mobile vendor's license.
- Persons licensed in accordance with state law to maintain an automobile graveyard or junkyard shall not be required to obtain a local license to also operate as a junk collector.
- Persons who use their own homes to provide foster care to children shall not be required to obtain a local license.
- Public or private school cafeterias and nursing homes shall not be required to obtain a local food service establishment license.
- Producers, growers, and processors of local food or food products in the town of Naples are exempt from licensure and inspection with respect to their provision or sale of local food and food products to consumers within the local food system of the town.
- Single family residences typically advertised as short-term rentals for vacation use

SECTION 2: GENERAL PROVISIONS

Licensing Authority

The Board of Selectmen shall serve as the Town's licensing Board for new Business Licenses.

Licenses Not Transferrable

A license shall be specific to the applicant and the property and shall not be transferrable to another person or property.

License Expiration

All licenses shall expire on December 31st of each year. Renewals must be obtained before January 31st.

Display of License Placard Required

When the Board issues a new license, renews a license, or amends a license, the Town Manager's Office shall issue a newly printed license placard. This license placard shall be displayed at the licensed establishment such that it is readily visible to customers, people at the establishment, and Town officials.

The license placard shall indicate the following information:

- applicant's name
- establishment name
- street address of the establishment
- license type(s)
- date of license issuance
- date of license expiration
- if applicable, seating capacity or occupancy limits; and
- other limits or restrictions specified by the Board

Inspections

All businesses may be subject to inspection. The following shall apply.

Required Inspections

Each establishment shall be subject to inspected by Town staff as a condition of the issuance of a new license. In cases where a Town license had not been required of an establishment before the adoption of this Ordinance, an inspection shall not be required.

For each license type, the Ordinance specifies which departments may be required to inspect and describes the frequency and nature of inspections (see Section 4.2). Submittal of an application to the Town Manager's Office constitutes agreement to make the premises available for inspection during regular working hours. Such inspections shall generally be conducted prior to action by the Board of Selectmen but may be deferred by the Board if the operation is seasonal and not open at the time of application, or for other good cause.

Code Inspection. Code inspections are to be conducted by a Code Enforcement Officer (CEO). The purpose of code inspection is to look for signs of septic failure/septic tank pumping/grease trap cleaning (as applicable), to look for code-related problems such as exposed wiring or faulty plumbing, and to look for compliance with standards and requirements of this Ordinance and applicable permits and approvals. For a new or expanded establishment, the CEO shall also verify the possession of a valid Occupancy Permit from the Town.

Fire Inspection. Fire inspections are to be conducted by the fire department with jurisdiction. The purpose of fire inspection is to ensure initial and ongoing compliance with life/safety code requirements, with a focus on safe means of egress, exit signs, emergency lighting, audible alarms, building sprinkling, provision of fire extinguishers, and other such matters. For a new or expanded establishment, the fire inspector shall also verify compliance with the possession of any approvals needed from the State Fire Marshal's Office.

Police Inspection. Police inspections are to be conducted by the Cumberland County Sheriff's Department. The purpose of police inspection is to help prevent violations within their jurisdiction authority.

Application Fee

The application fee shall be paid at the time of application submittal and shall be non-refundable. The following shall apply.

New Licenses and Renewals

Annual fee - \$10

Amended License - \$10 (No fee for updating contact information for licenses holder)

There shall be no prorated fee for less than a year's License.

Saving Clause

In the event any provision of this Ordinance is found by a court of competent jurisdiction to be invalid, this finding shall not affect the remainder of this Ordinance.

Effective Date

Except as otherwise provided, this code and any subsequent amendments shall take effect immediately upon approval by the voters of the Town of Naples.

SECTION 3: APPLICATION PROCESS

Application Procedures

An application shall be submitted to obtain a new license, renew an existing license, or amend a current license. The review process is identical for each of these procedures, except for the public hearing (see Section 3).

Application Form and Instructions

The Board shall adopt, and may from time to time amend, an application form and printed application instructions. These shall be available in the Town Manager's Office and on the Town's web site.

Exception for Established Businesses

In cases where a Town license had not been required of an establishment prior to the adoption of this Ordinance, a newly required license shall be obtained no later than January 31st following the date of ordinance adoption.

Submittal of Application

The applicant shall complete and submit to the Town the application form along with any requested supplemental information and materials per the instructions included with the form. Application materials shall be delivered to the Town Manager's Office by any of the following means:

- Delivered in-person to the Town Manager's Office at the Town Office during regular business hours; or
- Delivered by mail to Town Manager/License Application, P O Box 1757, Naples, ME 04055; or
- Emailing to: townclerk@townofnaples.org

Timing of Application

The application for a new or amended license may be submitted at any time in December, but the License must be obtained before the licensed activity is started. Generally, it is best to apply 30 days in advance of the new license year.

License Renewals

An application for license renewal shall be submitted no sooner than 30 days before the expiration of the current License(s). The Select Board delegates the licensing authority to the Town Manager for Business License renewals.

Administrative Review of Application

The Town Manager's Office shall initiate an administrative review of the application by the Departments as specified in this Ordinance. Copies of the application shall be distributed to (as necessary): any department which may be required to evaluate the application and/or perform an inspection; the Sheriff's Department for information about any criminal record of the applicant (where applicable) and to the Tax Collector for verification that all taxes have been paid for the property and business in question.

Public Hearing/Notice

The Board shall conduct a public hearing prior to deciding on an application for a new license. The public hearing is an opportunity for the public to offer input to the Board, either speaking at the hearing or by providing written comments to be read at the meeting.

New business license applications for a property in which an identical business did not preexist within the last 365 days shall be subject to public hearing with the Select Board. Prior to the Board meeting at which the application will be considered, the Town Manager's Office shall provide public notice in accordance with the following:

Agenda

An agenda for the meeting shall be posted in the Town Office no later than noon the Friday before the Board meeting. This agenda shall identify the name of the applicant, the name of the business, the street address of the property, and the type of licenses being applied.

Legal Notice if a Public Hearing

If there is to be a public hearing, legal notice of the hearing shall be required. Such notice shall indicate the same information as included on the agenda, plus the date, time, and place of the hearing. No later than seven days in advance of the meeting, the notice shall be: published in a newspaper with general circulation in Town, posted in at least two public places in Town, and posted on the Town's web page.

Notice to Applicant

The applicant shall be notified by first-class mail or email of the Board meeting at which the Board will act on the application. If there is to be a public hearing, the applicant shall be asked to attend if a public hearing in case there are questions to be answered.

Abutters Notices

The Board shall notify the parcel owners of properties located within 250 feet of the business property of a public hearing by certified mail, proof of mailing receipts to be kept on file at the Town Office. Parcel owners shall be notified utilizing the contact information listed in the most recent tax records of the Town of Naples.

Businesses Predating this Ordinance

In cases where a Town license had not been required of an existing establishment prior to the adoption of this Ordinance, the public notice and hearing shall not be necessary unless that establishment had been closed and has been out of business for more than 365 days prior to the application being submitted to the Town.

Conflicting Provision

In the event there are conflicting requirements in state statute or another ordinance, the standard which imposes the higher standard for public notification shall apply.

Decision

The Board shall vote to make one of the following decisions.

Approval

The Board shall approve an application when the applicant demonstrates full compliance with this Ordinance and other applicable Town codes. Conditions may be imposed by the Board to achieve the purposes of this Ordinance and other applicable Town codes, as follows:

Conditions Precedent

The Board may impose conditions precedent to ensure the applicant fulfills certain obligations prior to receipt of the License. (Example: septic tank to be pumped before the License is issued.)

Denial

Except as provided below, the Board shall deny an application that has not demonstrated compliance with the requirements of this Ordinance and other relevant Town ordinances. The motion to deny must identify the specific reason(s) for denial.

Life Safety 101 Code

With a corrective plan approved in writing by the Fire Chief, an applicant may be allowed not more than two years to correct identified Life Safety 101 Code violations, and licenses may be issued during this time.

Consent Agreements

Where a Consent Agreement with the Board of Selectmen allows a violation to persist for a period of time before being fully remedied, licenses may be issued during this time.

Appeals

Any decision, action, or inaction pertaining to this Ordinance by the Board may be appealed to Cumberland County Superior Court unless otherwise specified by license type per Section 4. Any appeal must be filed within 30 days of the decision or action being appealed.

Enforcement

Enforcement of this Ordinance shall be as follows.

Enforcement Responsibilities

Enforcement authority under this Ordinance is the Code Enforcement Officer (CEO), the Fire Chief, or the Sheriff's Department with jurisdiction or their designee. Reference in this Ordinance to the enforcement authority of the Fire Chiefs in no way diminishes their authority under Life Safety 101 and other applicable codes and statutes.

Enforcement Actions

Actions taken to enforce this Ordinance shall generally follow the sequence provided here, except that steps may be skipped in the event there is an expectation that delay would cause significant harm to public health or safety.

Reminder

When a business fails to obtain a license, renew its License (s) in a timely manner, or fails to comply with conditions of its License or the provisions of this Ordinance, the Town Manager's Office shall contact the person to remind them of the requirement to obtain a license, renew their license or to comply with the license requirements. If the lapse in the license(s) exceeds 30 days, this matter shall be turned over to the designated enforcement-authority for formal enforcement action. Documentation of the reminder shall be noted and retained by the Town.

Notice of Violation

In the event, the Reminder does not result in compliance, a Notice of Violation shall be issued. This Notice shall document the violations in terms of actions and code sections violated and shall order the violation to cease immediately unless a later deadline is expressly included. This notice shall be delivered in person or by any means where a receipt is documented in writing (such as certified mail/return receipt requested).

Board of Selectmen's Action

In the event the Notice of Violation does not result in compliance, the matter shall be documented in writing and turned over to the Board. For any violation forwarded to the Board and not resolved within seven working days thereafter, the Board shall schedule a public hearing on the matter. Public notice shall meet the requirements as specified in Section 3, except that the license holder shall be notified by certified mail or an equivalent means, sent at least seven days prior to the public hearing. If the Board chooses to take enforcement action, it shall have the authority to take any of the following actions, which is not necessarily a sequence of steps but rather a list of options:

Suspend License. The Board may suspend the License (s) for a fixed period of time not to exceed 30 days. No license may be suspended more than once per year.

Revoke License. The Board may revoke the license (s). If revoked, the license holder shall not re-apply for a new license within 60 days of the Board's vote.

Prosecute. The Board may initiate any actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate and necessary to enforce the provisions of this Ordinance in the name of the Town. If a prosecution is successful, the Town shall not accept any applications for a new or renewed license within 120 days of the Court Decision.

Penalties

Any person who violates this Ordinance shall be subject to a civil penalty of \$100.00 per day per violation for the first offense, \$250.00 per day per violation for the second offense and subsequent offenses within a two-year period. The "per day" period shall begin at the first date on which the violation can be demonstrated.

Waiver / Payment of Fines

Any person charged with a violation of this section shall be allowed to waive such violation and tender to the Town of Naples the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officers shall be required. If the offender pays the waiver fine, the matter will be closed in the Town of Naples Records system and listed as a subsequent offense for future violations.

If the offender chooses not to pay the waiver fine, he/she shall appear in court on the specified date to answer for the ordinance violation. If the offender is found to have committed the offense in court, fines, applicable court fees, attorney's fees, and prosecution costs may apply.

SECTION 4: STANDARDS**General Standards and Requirements Applicable to All Licenses**

The following shall be considered prior to any license-related actions by the Board, and compliance shall be required throughout the license period. Failure to comply with these standards and requirements shall be a basis for enforcement action pursuant to this Ordinance.

Taxes and Fees Paid

All property taxes, personal property taxes, and any Town fees shall be paid in full before the License is issued. Compliance shall be verified by the Tax Collector before issuance, renewal, or amendment of a license.

Public Safety Activity

A report shall be requested from the emergency responders providing service to Naples, indicating the number of emergency responses to the business in the previous year and the nature of the emergency response.

Land Use Compliance

The licensed activity shall occur on a property permitted, approved, or grandfathered for the use. Compliance shall be verified by the CEO before the Board issues or amends a license.

Code Compliance

All license holders shall comply with all Town codes. Compliance shall be verified by the CEO before the Board issues, renews, or amends a license. If a violation has been cited in writing, it shall be resolved before the Board issues, renews, or amends a license.

Life Safety Code Compliance

For any license which requires a fire inspection, the purpose of such inspection shall be to ensure compliance with Life Safety 101 Code requirements.

SECTION 5: DEFINITIONS

The following definitions shall apply in this Ordinance:

ABUTTERS: Owners of a parcels located within 250 feet of the property for which a license is being applied. All measurements to determine the distance from the applicant's premises shall be taken from the applicant's property line to all property lines within 250 feet. Parcels that are only partially within 250 feet of the applicant's property shall be notified.

APPLICANT: During the application process, "applicant" is defined as follows:
The principal owner of the establishment is the applicant. If a corporation is the principal owner, then the principal stockholder of the corporation is the applicant.

If the principal owner is not primarily responsible for the actual operation of the establishment, then the person (or people) primarily responsible for the actual operation of the establishment shall be included as a co-applicant.

BOARD: The Naples Board of Selectmen.

BUSINESS: Any efforts of an individual, an organization or enterprising entity engaged in commercial, industrial, or professional activities to produce and sell goods and services for profit.

CEO: Naples Code Enforcement Officer. Any of the individuals appointed by the Board of Selectmen to fulfill duties of code enforcement within the Town.

EMERGENCY RESPONDERS: The Naples Fire and Emergency Medical Services, Naples Marine Safety, Casco Naples Raymond Animal Control Officer, and Cumberland County Sheriff's Department.

FIRE DEPARTMENT: The Naples Fire Department

LICENSE: A grant of authority from the Board to an applicant and their establishment to conduct a particular activity on a specific property pursuant to this Ordinance and/or state law.

LICENSE AMENDMENT: A change to the license holder, business owner, or activity being licensed.

LICENSE HOLDER: Same as "Applicant," but after completion of the application process and issuance of the License.