

TOWN OF NAPLES

LAND USE ORDINANCE

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ATTESTED: _____
JUDY WHYNOT, TOWN CLERK

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Section 100 — General

101 Title

This chapter shall be known and cited as the "Land Use Ordinance of the Town of Naples, Maine" and will be referred to herein as "this chapter," or, "this Ordinance."

102 Authority

This Ordinance is adopted pursuant the enabling provisions of Article VII, Part 2, Section 1 of the Maine Constitution, the provisions of title 30-A, MRSA Sections 3000-3006, Sections 4351-4358 (home rule), the State's growth management law, Title 30-A, MRSA, Sections 4311 et. seq.

103 Purpose

The purposes of this ordinance are:

1. To implement the provisions of the Town's Comprehensive Plan;
2. To encourage growth in the identified growth areas of the Community, and to guide growth in the rural areas;
3. To promote and protect the health, safety, and general welfare of the residents of the community;
4. To encourage the most appropriate use of land throughout the community;
5. To promote traffic safety;
6. To promote safety from fire and other elements;
7. To provide an allotment of land in new developments sufficient to allow reasonable growth while maintaining adequate enjoyment of community life;
8. To conserve natural resources;
9. To prevent and control water pollution;
10. To protect fish spawning grounds, aquatic life, bird and other wildlife habitat;
11. To protect buildings and lands from flooding and accelerated erosion;
12. To protect archaeological and historic resources, and to protect the historic character of the Town of Naples;
13. To protect wetlands; to control building sites, placement of structures and land uses; and
14. To conserve natural beauty, rural character, and open space and

15. To regulate the adverse secondary effects of adult entertainment establishments (including, without limitation, reduction in residential and commercial values, perceived or actual increased crime, adverse impacts of noise and traffic, and risk for minors from exposure) in order to promote the health, safety, and welfare of the Town's citizens by establishing reasonable and uniform time, place, and manner regulations on adult entertainment establishments. It is neither the purpose nor the effect of this Ordinance to limit or restrict the content of any communicative materials, restrict or deny access by adults to sexually oriented materials protected by the First Amendment, deny access by distributors and exhibitors of sexually oriented entertainment to their intended market, or condone or legitimize the distribution of obscene materials.

104 Applicability

The provisions of this Ordinance will apply to all land and all structures within the boundaries of the Town of Naples in the area depicted on the official Land Use Map of the Town of Naples dated 6/27/98.

105 Conflicts with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, including the Naples Shoreland Zoning Ordinance, the more restrictive provision shall control.

106 Validity and Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision will not invalidate any other section or provision of the Ordinance.

107 Amendments

1. This Ordinance and the Official Zoning Map may only be amended by a majority vote at a Town Meeting.
2. The Selectpersons shall not place any proposed amendment to this Ordinance or to the Official Zoning Map on the Town Meeting Warrant until the Planning Board has held a public hearing on the proposed amendment. Notice of the public hearing shall be given pursuant to 30-A M.R.S.A. Sections 4352(9) and (10) as amended, and pursuant to 38 M.R.S.A. §438-A (1-B) in instances where property is being considered for placement in a resource protection zone.
3. Following the public hearing, the Planning Board shall recommend approval or denial of the proposed change.
4. Amendments to the text of this Ordinance or to the Official Zoning Map may be proposed by the Planning Board, the Board of Selectpersons, or by a written petition of the Town citizens pursuant to 30-M.R.S.A. Sections 2522 and 2528. A signed petition shall not be a prerequisite for the Planning Board to hold a public hearing when the Planning Board or the Board of Selectpersons initiate proposed amendments.

Section 200 Administration

201 Administrative Bodies and Personnel

1. Code Enforcement Officer. The Code Enforcement Officer shall be appointed in accordance with the provisions of State Law and is to enforce the provisions of this Ordinance.
2. Planning Board. The Planning Board shall ensure that all applicable standards of this Ordinance are met by all applications requiring Planning Board review under all applicable ordinances.
3. Board of Appeals. The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of subsection H. Appeals.

202 Permits Required

After the effective date of this Ordinance, no building, sign or other structure shall be erected, altered, moved or demolished and no person shall, without first obtaining a building permit and/or certificate of occupancy, engage in any use of land or structure requiring a permit in the district in which said use would occur; or replace an existing use or structure; or renew a discontinued non-conforming use.

1. Building Permits and Certificates of Occupancy. The Code Enforcement Officer shall issue building permits and certificates of occupancy as required by this Ordinance.
2. Application Fee. An application fee for a building permit or for a certificate of occupancy shall be paid to the Town by the applicant according to an official fee schedule determined by the Board of Selectpersons, copies of which shall be available at the Town Office. Application fees shall be paid by a check payable to the Town of Naples and shall not be refundable. No building permit or certificate of occupancy shall be issued until the fee is paid.

203 Permit Applications

1. Every applicant shall submit to the Code Enforcement Officer a written application form with the application fee for the permit or permits required. The application forms will be provided by the Town.
2. All applications and the first page of any plans or supporting documentation must be signed by the owner or owners of the property, or by such other person authorizing the work, certifying that the information in the application is complete and correct. If the person submitting the application is not the owner or the lessee of the property, then that person must submit a letter of authorization from the owner or lessee.
3. Upon receiving the application for any permit, the Code Enforcement Officer will note the date the application was received on the application form. Within thirty (30) business days, the Code Enforcement Officer shall determine if the proposed use is an allowed use

under this Ordinance. If the incorrect form(s) and/or fee(s) have been submitted, or if the proposed use is not allowed by this Ordinance, the Code Enforcement Officer shall notify the applicant in writing of the proper forms and fees which must be submitted, or that the proposed use is not permitted.

204 Procedure for Administering Permits

1. Determination of Complete Application. Within thirty (30) business days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing that the application has been accepted as a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.
2. Timing of Actions. The Code Enforcement Officer shall approve, approve with conditions, or deny a permit application within thirty (30) business days of the date of acceptance of the application as a complete application.
3. Approval. Permits shall be approved if the proposed use of the structure is found to be in conformance with the purposes and provisions of this Ordinance.
4. Burden of Proof. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
5. Applications Also Requiring Site Plan, Subdivision, or Planning Board Approval. Any applicant for a building permit or certificate of occupancy for a use or structure which is subject to review and approval by the Planning Board under the Site Plan Review Ordinance, the Subdivision Ordinance, or any other Town Ordinance shall first apply to the Planning Board for review and approval as required by those ordinances. Upon receiving the applicable Planning Board approvals, the applicant may then submit an application or a building permit or certificate of occupancy. If any Federal or State approvals are required for the project, they must also be obtained prior to submitting the application for a building permit or certificate of occupancy.

205 Expiration of Permits

If no substantial start, as defined in this Ordinance, is made in construction or in use of the property within one year from the date of issuance of a building permit or certificate of occupancy, then that building permit or certificate of occupancy shall lapse and become void.

206 Installation of Public Utility Service

No public utility, water district, sanitary district, or utility company of any kind may install services to any structure located in the Shoreland Zone, or to any lot or dwelling unit in a subdivision as defined by Title 30-A, M.R.S.A., Section 4401, unless a written authorization attesting to the validity and currency of all local permits required by this or any other Town Ordinance has been issued by the Code Enforcement Officer. Following installation of service, the company or district shall forward the written authorization to the Code Enforcement Officer indicating that the installation has been completed.

207 Enforcement Procedure

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provisions of this Ordinance, or any of the terms and conditions imposed on any permit issued pursuant to this Ordinance are being violated, he or she shall notify in writing the person responsible for such violation and order the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and maintained as a permanent record.
2. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
3. The Code Enforcement Officer shall keep a record of all essential transactions, including applications submitted, permits granted or denied, revocation actions, revocations of permits, appeals, court actions, violations investigated, violations found, and fees collected. In the case of violations, the Code Enforcement Officer shall, on an annual basis, submit a summary of the record of such violations to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.
4. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings that they deem necessary, either legal or equitable, including seeking injunctions of violations and the imposition of civil penalties, that may be necessary to enforce this Ordinance in the name of the Town of Naples. The Municipal Officers or their authorized agent are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations and imposing fines without court action.
5. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders, allows or conducts any activity in violation of this Ordinance shall be subject to civil penalties and other remedies in accordance with Title 30-A M.R.S.A. Section 4452.

208 Appeals

1. Administrative Body.

The Naples Board of Appeals as appointed and composed pursuant to the Naples Shoreland Zoning Ordinance shall decide administrative and variance appeals under this Ordinance and in accordance with Title 30-A, MRSA Section 4353.

2. Powers and Duties

- a. Administrative Appeals. The Board of Appeals shall have the following powers and duties: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by, or failure to act by,

the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.

3. Variance Appeals. To authorize variances upon appeal, within the limitations set forth in this Ordinance.
 - a. Variances may be granted only from dimensional requirements, including frontage, lot area, lot width, structure height and percentage of lot coverage.
 - b. Setback Reduction Appeals. Setback reduction appeals are available in the Village District, but the setback variance will be limited to ten (10) percent of the required setback.
 - c. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - d. The Board shall allow for disability and handicapped variances that met the requirements of Title 30-A MRSA Section 4353.4-A and 4-B.
 - e. A variance granted under this subsection shall be restricted to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. Conditions on such a variance may be imposed, including limited the variance to the duration of the disability or the time the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A Section 4553 and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
 - f. The Board shall not grant a variance unless it finds that:
 - i. The proposed structure or use would meet the requirements of this Ordinance except for the specific provisions which have created the nonconformity and from which relief is sought; and
 - ii. The strict application of this Ordinance would result in undue hardship. The term "undue hardship" shall mean all of the following:
 1. That the land in question cannot yield a reasonable return unless the variance is granted;
 2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 3. That the granting of a variance will not alter the essential character of the neighborhood;

4. That the hardship is not the result of any action taken by the applicant, by the owner, by any prior owner, or by anyone with the consent of the owner or any prior owner.
- g. The Board of Appeals shall limit any variances granted as strictly as possible to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and, in doing so, may impose such conditions for a variance as it deems necessary. The party receiving the variance must comply with the conditions imposed and the failure to comply with any conditions imposed is a violation of this Ordinance.
- h. In areas subject to the Mandatory Shoreland Act, a copy of all variances considered by the Board of Appeals shall be submitted to the Department of Environmental Protection at least twenty (20) days prior to action by the Board.

209 Appeal Procedures

1. **Time Limit.** If the Code Enforcement Officer or Planning Board disapproves an application or grants an approval with conditions that are objectionable to the applicant or to any abutting landowner or other aggrieved party, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance has been misconstrued or wrongfully interpreted, the applicant, any abutting landowner, or other aggrieved party may appeal the decision of the Code Enforcement Officer or Planning Board in writing to the Board of Appeals within 30 days after the Code Enforcement Officer's decision is made.
2. **Written Notice.** Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why it should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures along with other physical features of the lot pertinent to the relief requested.
3. **Record of Case.** Upon being notified of an appeal, the Code Enforcement Officer or Planning Board shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
4. **Public Hearing.** The Board of Appeals shall hold a public hearing within thirty-five (35) days of its receipt of an appeal request. Notice of the public hearing of each appeal shall be published at least once in a newspaper of general circulation in the Town of Naples at least fourteen (14) days prior to the date of the hearing. Notice of the hearing shall also be mailed to the applicant, the Planning Board, the Municipal Officers, and to the abutting property owners at least fourteen (14) days prior to the hearing date.
5. **Decision by the Board of Appeals**

- a. A majority of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or the Planning Board, or to decide in favor of the applicant on any matter which it is required by this Ordinance to decide.
 - c. The person filing the appeal shall have the burden of proof.
 - d. The Board of Appeals shall not conduct a de novo hearing but shall review the record that was before the Code Enforcement Officer or Planning board and may hear oral argument on that record. If the Code Enforcement Officer's or Planning Board's record is insufficient, the Board of Appeals may remand the matter to the Code Enforcement Officer or Planning Board for further proceedings. The Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon finding that the decision is contrary to the provisions of this Ordinance or that the decision is unsupported by substantial evidence in the record. Whenever the Board of Appeals does not affirm the decision of the Code Enforcement Officer or Planning Board, the case shall be remanded to the Code Enforcement Officer or Planning Board with instructions.
 - e. The Board shall decide all appeals within thirty-five (35) days after the close of the public hearing, unless that timeframe is not practical or the parties consent to a longer timeframe, and shall issue a written decision on all appeals. The Board of Appeals must issue written notice of its decisions to the petitioner, the petitioner's representative or agent, the Planning Board and the Municipal Officers within seven (7) days after the decision is rendered, as required by Title 30-A MRSA, Section 2691 (3)(E), and to the Code Enforcement Officer.
 - f. All decisions shall become part of the public record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.
6. Appeal to Superior Court. Any party may take an appeal, within forty-five (45) days of the date of the vote on the original decision of the Board of Appeals to Superior Court from any order, relief or denial in accordance with Maine Rules of Civil Procedure, Rule 80B.
 7. Reconsideration. The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision. A vote to reconsider and the action taken on that reconsideration must occur and be completed within thirty (30) days of the original decision. The Board may conduct additional hearings and receive additional evidence and testimony.
 8. Certificate of Variance. A certificate evidencing the variance shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days after it was granted in accordance with the provisions of Title 30-A MRSA, Section 4353, paragraph 5.

Section 300 Reserved

Reserved for Nonconforming Standards

Section 400 Definitions

In this chapter, the following terms shall have the following meaning unless a contrary meaning is required by the text or is specifically prescribed. In addition to the following definitions performance standards regulating specified land uses should be reviewed in the, “District Standards,” for each zoning district (Sec. 600) and the, “Performance Standards,” (Sec. 700) that apply to all zoning districts in the Town.

Abandoned Sign: A sign that identifies or provides information pertaining to a business, lessor, lessee, service, owner, product, event, or other activity, and which no longer exists at the premises where the sign is located or for which no legal owner can be found.

Accessory Apartment: A living area within a single-family dwelling or within a structure accessory to a single family dwelling, such as a garage or barn, that is designed and equipped with housekeeping facilities so that it can be occupied by a person or persons living independently from the person(s) occupying the single family dwelling.

Accessory Structure. A use or structure, which is incidental and subordinate to the principal use or structure. Accessory uses when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Accessory Use. A subordinate use of a principal building, other structure or land, or a subordinate building or other structure:

- The use of which is customary in connection with the principal building, or other structure or use of land;
- The use of which is clearly incidental to the use of the principal building, other structure or use of land;
- Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot is in the same ownership or part of the same establishment.

Adjacent Upland. Means the land abutting a body of water to which an aquatic structure may be attached, or which affords immediate access to an aquatic structure.

Adult Book and Novelty Store: An establishment that offers for sale or rental, for any form of consideration, any one or more of the following: Books, magazines, periodicals, or other printed matter, or photographs, films, digital data, or other visual representations that are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas; or instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

Adult Cabaret: An establishment that regularly, commonly, habitually, or consistently features: (a) one or more persons who appear in a State of Nudity; or (b) live performances that are distinguished or characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities; or (c) films, motion pictures, video cassettes, slides, photographic reproductions, digital data, or other image producing devices that are distinguished or characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or (d) one or more persons who engage in exotic or erotic dancing or performances that are intended to appeal to the prurient interests or titillation of an audience or customers.

Adult Entertainment Establishment: An establishment, any portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise furnishing or dealing in services, materials, devices, or paraphernalia of any kind which, when taken as a whole, appeal to prurient interests and lacks serious literary, artistic, political, or scientific value. “Adult Entertainment Establishment” includes, but is not limited to: adult arcades, adult amusement stores, Adult Book and Novelty Stores, Adult Cabarets, adult motels, adult motion picture theaters, adult spas, adult theaters, adult video stores, adult viewing booths or viewing facilities, escort agencies, establishments featuring strippers or erotic dancers, on-site video screening establishments, sexual encounter centers, unlicensed massage parlors, or any other commercial establishments whose goods, services, materials, devices, or paraphernalia depict or describe Specified Sexual Activities or Specified Anatomical Areas.

A-Frame Sign: A sandwich board sign that is connected at the top or bottom.

Aggrieved Party. An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agricultural Land Management Practices. Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock productions and conservation of related soil and water resources.

Agriculture: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Amusement Facility. Private commercial premises which are maintained or operated primarily for the amusement, patronage or recreation of the public.

Animated Sign: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Aquaculture. The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquatic Structure. Shall mean any functionally water-dependent structure designed to be placed in or over a great pond or a river and shall include, without limitation docks, wharves, piers and floats extending over the water starting at the normal high-water mark.

Awning: A fabric or plastic cover mounted on a rigid frame and extending perpendicular to the side of a building.

Awning Sign: A sign that is painted on or affixed to an awning structure. An awning is a non-structural covering that projects from a wall, usually for the purpose of shielding a doorway or window.

Back Lot: Must conform to the current minimum lot size criteria, except for road frontage requirements. A back lot may only be created on a lot in existence as of June 8, 2001. No more than two (2) back lots are allowed on a parcel of land. A back lot shall be accessed by a right of way of no less than twenty (20) feet in width.

Balloon Sign: A lighter-than-air, gas-filled balloon tethered in a fixed location that contains a message on its surface or attached to the balloon in any manner.

Banner or Flag: Any fabric or similar flexible material, usually attached to a staff or pole, which contains distinctive colors, patterns, symbols, emblems, insignia or other symbolic devices.

Barns, Stables and other Agriculturally Related Buildings: Buildings that are used primarily for agricultural purposes i.e. crop and livestock.

Bed and Breakfast: An owner-occupied single-family residence that is licensed by the State of Maine to offer from three (3) to eight (8) rooms for overnight stay to the general public. Breakfast may be offered to overnight guests, however, no evening meals shall be offered.

Bedroom: A room, whether or not combined with any functions, customarily used or dedicated for the purpose of sleeping for one or more individuals, it shall include rooms used as dens, lofts and the like.

Boarding or Lodging Facility: Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two (2) weeks, and where a family residing in the building acts as proprietor or owner and where there are no provisions for cooking in any individual room other than the main.

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area and parking spaces for vehicles and trailers.

Building: Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind.

Campground: An area devoted to overnight recreational or educational use where the land is divided into sites or lots for which a charge is made, either on a short term basis, by sale, rent, lease or condominium type of financing or ownership; and/or any area or tract of land to

accommodate two (2) or more parties in temporary living quarters, including but not limited to tents, recreational vehicles or other shelters.

Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Caregiver: A person who renders healthcare and/or gives assistance in living to those in residence who require the service in everyday living.

Changeable Copy Sign: A sign on which the characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign. Also known as a reader board.

Church: A place of organized worship.

Cluster: Separate ownership of individual units in a multiple unit building or a group of three (3) or more individual units on a single parcel that meets the current minimum lot size.

Commercial: Connected with the business of buying, selling, storing of goods, services, or the provision of facilities for a fee.

Commercial Aquatic Structure: Means an aquatic structure serving persons other than those owning or lawfully occupying the adjacent upland, or an aquatic structure, the use of which is sold, rented or leased for consideration of any kind whether on a short term or a long-term basis.

Commercial Recreation: Any commercial enterprise, which receives a fee in return for the provision of some recreational activity including, but not limited to, racquet clubs, health clubs, amusement facilities.

Commercial School: An educational institution, which is commercial or profit oriented. Examples thereof are: dancing, music, riding, correspondence, aquatic schools, driving or business.

Commercial Tower: Includes radio, radar, television or radiotelephone transmitting, repeating or broadcasting towers and necessary accessory structures, but not studios or offices for such activities.

Commercial Use: The use of lands, buildings or structures, other than a "home occupation", or Adult Entertainment Establishment, defined herein, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units. For the purposes of this ordinance, adult entertainment establishments are not considered a commercial use.

Commercial Vehicle: A vehicle used for commercial purposes including, but not limited, to trucks, buses and trailers.

Community Living Facility: As required by State Law under Title 30-A, M.R.S.A. Section 4357 28, a community living facility is defined as a housing facility for eight (8) or fewer mentally handicapped or developmentally disabled persons which is approved, authorized, certified or licensed by the State. A community living facility may include a group home, foster home or intermediate care facility.

Comprehensive Plan: Any part or element of the over-all plan or policy for development of the Town as defined in Title 30 M.R.S.A. Chapter 239, Section 4961.

Conditional Use: A use that may be permitted in zones where it otherwise would not be permitted. The use must be consistent with the Comprehensive Plan for uses in those districts, and may be approved only after review by the Planning Board, notice to abutting landowners by certified mail and a public hearing. A conditional use is a use that would not be approved or appropriate without restrictions, but which may be permitted provided that all performance standards and other requirements are met. Approval shall be granted only for the applicant and is not transferable.

Condominium: Separate ownership of individual units in a multiple unit building or a group of three (3) or more individual units.

Construction: Structural changes or additions to a building or a structure other than repairs and modification in building equipment.

Construction Drawing: Means drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, pavements, cross-section of streets, miscellaneous structures, etc.

Construction Sign: An on-premise sign located on a site where construction is occurring, providing the name, address or other identifying information for the contractor, architect, landscape architect, engineer and/or other participants in the construction process. Signs to be removed upon completion of construction.

Convalescent or Rest Home: A facility in which nursing care and medical services are performed under the general direction of persons licensed to provide medical care in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require, on a 24-hour basis, nursing care and related medical services.

Cross-sectional area: The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight-line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH. The diameter of a standing tree measured 4.5 feet from ground level.

Daycare Facility. An establishment, including a private residence, where three (3) or more children under the age of six (6) are cared for in return for compensation.

Designated Mooring Area. A cluster of moorings in an area not subject to hazards of navigation and designated by the Harbor Master.

Development. A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring on land located within the Shoreland Zone.

Dimensional Requirements. Numerical standards relating to spatial relationships including, but not limited to, setback, lot area, shore frontage, road frontage and height.

Directional or Traffic Safety Sign: A sign identifying entrances, exits, parking areas, or other operational features of premises and/or providing directions for the safe and/or efficient flow of vehicular or pedestrian traffic. This includes municipal informational kiosks and signs.

Double-faced Signs: A sign with two faces or panels, neither of which is visible at the same time.

Drive-through Menu Sign: A sign associated with drive-through windows or kiosks, typically illustrating the menu or specials for an establishment, and directed to drive-through traffic.

Driveway. A vehicular access-way serving not more than one (1) lot.

Duplex. A dwelling that has accommodations for two families without regard to whether such accommodations are identical or not. May be adjacent or separate floors.

Dwelling. A room or group of rooms designed and equipped exclusively for use as permanent, seasonal or temporary living quarters for only one family, including provisions for living, cooking and eating. The term shall include mobile homes but not recreational vehicles or tents.

Easements: The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of a property.

Electronic Message Sign: A sign on which the characters, letters, or illustrations can be changed automatically or through electronics. An electronic sign, typically comprising a liquid crystal diode (LCD), light-emitting diode (LED), plasma, or other digital illuminated display that contains one or more messages. An electronic message sign is different from an illuminated sign in that the illumination of the display creates the message, rather than an internal or external light source illuminating the message.

Emergency Operations: Operations conducted for the public health, safety or general welfare, such as, protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Entertainment: Shall include any amusement, performance, exhibition or diversion for the patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with entertainment value.

Essential Services: The construction, alteration or maintenance of gas, electrical, solar, wind, or communication facilities; steam, fuel, electric power or water transmission or distribution lines, tower and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic

signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Event Sign: A sign associated with an event being held in the Town of Naples or an event in a neighboring town which must be approved through the Event Ordinance by the Board of Selectmen.

Expansion of Structure: An increase in the floor area or volume of a structure, including all extensions, such as, but not limited to, attached decks, garages, porches and greenhouses.

Fairway: Shall mean a navigable channel in a restricted area of water body, which may but need not be marked with channel markers.

Family: One or more persons occupying a premise and living as a single housekeeping unit.

Final Subdivision Plan: The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, must be filed for the record with the Municipal Clerk and County Registry of Deeds.

Flashing Sign: A sign whose illumination is not constant in intensity at all times when in use, and which exhibits changes in light, color, direction or animation. Illuminated signs, which indicate the date, time and temperature, will not be considered flashing signs.

Flight School: An operation that teaches how to fly an aircraft including balloons.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure, such as porches and decks.

For Sale/Rent/Lease Sign: An on-premises sign advertising the property as available for sale, rent or lease.

Forest Management Activities. Includes timber cruising and other forest evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar associated activities, but not the construction, creation or maintenance of land management roads.

Forested Wetland. A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation. The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

Free Standing Sign. A self-supporting sign not attached to any building, wall or fence, but in a fixed location. This does not include moveable, portable or trailer type signs.

Freshwater Wetland. Freshwater swamps, marshes, bogs and similar areas other than forest wetlands, which are:

- of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of ten (10) acres; and
- inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Frontage. The linear distance between the sidelines of a lot, measures along the lot line that borders upon whatever right-of-way serves as legal access to the lot. The following ways shall constitute legal access to a lot along which frontage may be measured:

1. A way accepted by or established as belonging to the Town of Naples, Cumberland County or the State of Maine, provided access is not specifically prohibited;
2. A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan;
3. A way which has not been accepted by a governmental unit which was established prior to the effective date of the Maine Subdivision Act (September 22, 1971) and is documented in a plan or deed recorded in the Registry of Deeds; and
4. A private way created by a deeded right-of-way which is a minimum of twenty (20) feet in width, which serves no more than two (2) lots, neither of which shall be part of a subdivision which meets all of the requirements for the district in which it is located, and which meets the following standards for improvement:
 - a. The roadway shall be constructed with a minimum of twelve (12) inches of road gravel, shall have a minimum width of the surface of the travel way of sixteen (16) feet, and shall have adequate surface and subsurface drainage.
 - b. A private way shall not serve as access to any lot in a subdivision nor shall any private way created after the date of adoption of this section be offered to the Town for acceptance as a Town way until it is brought up to the standards of the Town of Naples.
5. In the case of a lot situated on a curve of a way or on a corner of two ways, the measurement of frontage may include the entire length of the property along such a way or ways.

Functionally Water-Dependent Uses. Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, by are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marina, navigation aids, basins and channels, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or processing

water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

Governmental Use. Any property owned, operated or maintained by a municipal, state or federal government, which is used for a government function.

Great Pond. Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great Pond Classified GPA. Any great pond classified GPA pursuant to 38 M.R.S.A., Article 4-A, Section 465-A. This Section 17 classification includes some, but not all impoundments of rivers that are defined as great ponds.

Gross Floor Area. Equals the length times the width of any building.

Gross Floor Area (regarding aquatic structures). Means the "footprint" which the aquatic structure would make on the earth if viewed from above.

Ground Cover. Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Height of a Structure. The vertical distance between the mean original (prior to construction) grade at the uphill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas and similar appurtenances, that have no floor area.

Home Occupation. Accessory use conducted within a dwelling or accessory structure by the residents thereof, which is clearly secondary to the dwelling, used for living purposes and does not change the character thereof.

1. Home occupation or office will be managed by a member of the family residing within the dwelling unit. Up to two employees who are not members of the family may be employed in a home occupation, and;
2. The occupation or office will be located wholly within the principal or accessory structures, and;
3. Exterior displays, exterior storage of materials, and exterior indication of the home occupation will not be permitted except for daycares, preschools or the like with not more than 12 clients and home gardening, and;
4. Residential/Home Occupation will be allowed not more than one (1) sign of not more than three (3) square feet, and;
5. Noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare will not be detectable beyond property limits, and;

6. A home occupation shall apply to only the applicant only while the applicant resides at the property.

Hotel. A building in which lodging or meals and lodging are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office. The hotel may contain such accessory services and facilities as newsstands, personal grooming facilities and restaurants.

Identification Sign. A sign giving the name, logo, trademark, or other identifying symbol, the nature or type of business and address of an occupant of the building, business, complex or establishment on the premises where it is located, but containing no other advertising matter.

Illumination Sign. Any sign lit by electric bulbs, florescent or neon tubes. Neon tubes used as abstract, graphic, decorative or architectural elements shall not be considered an Illuminated Sign.

Impervious Surface. Structures and other man-made improvements to land and material covering the land, which substantially reduce the infiltration of water. Impervious surfaces shall include, but not be limited to, roofs, paved areas, parking lots and driveways, regardless of surface materials.

Increase in Intensity. Any sudden modification of use, which results in the increased traffic flow, increased noise levels or an increase in wastes generated.

Increase in Nonconformity of a Structure. Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions, which in-fill irregularly shaped structures.

Industrial. Connected with the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals.

Individual Private Campsite. An area of land which is not associated with a campground, but which is developed for repeated camping with a tent, recreational vehicle or otherwise by only one group not exceeding ten (10) individuals and which involves site improvements which may include, but not be limited to, gravel pads, parking area, fire places or tent platforms.

Institutional. A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipality owned or operated building, structure or land used for public purposes.

Internally Illuminated Sign: A sign with an artificial light source incorporated internally for the purpose of illuminating the sign; includes signs made from neon or other gas tube(s) that are bent to form letters, symbols, or other shapes.

Landmark Sign. Any sign of artistic or historic merit, uniqueness or extraordinary significance to the Town as identified by the local Historical Society or the Municipal Officers.

Legal Family. Means legal by marriage, adoption or blood relationship.

Legislative Body. Town Meeting.

Library. A place in which literary and artistic materials, such as books and periodicals are kept for reading, reference or borrowing; a collection of reading materials.

Licensee. Shall include the holder of a license issued under any Statute of the State of Maine.

Light Manufacturing. The mechanical or chemical transformation of materials or substances into new products, either finished or semi-finished, and including the assembling of component parts, the manufacturing or products and the blending of materials. All production operations shall occur within a fully enclosed building or structure.

Lot. A legally recorded parcel of land which may either be conforming or legally nonconforming.

Lot Area. The area of land enclosed within the boundary lines of a lot minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

Manufactured Housing. Means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported by the use of an independent chassis to a building site. (See Maine State Housing Act definition)

Marina. A business establishment having frontage on navigable water and as its principal use, providing for hire offshore moorings or docking facilities for boats and which must also provide accessory services, such as, boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market Value. The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price lists.

Mineral Exploration. Hand sampling, test boring or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral Extraction. Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat or other like material from its natural location and to transport the product removed away from the extraction site.

Minimum Lot Width. The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Mobile Home. Means a structural unit designed for occupancy, constructed in a manufacturing facility and transported by the use of its own chassis to a building site.

Mobile Home Park. An area designed or planned for the placement of two or more mobile homes with design and lot size standards as required in the Naples Subdivision regulation. See also, State Regulation for Mobile Home Parks, Chapter 953.

Mobile Vendor: A person, excluding artists and performance artists, as those terms are defined in the Naples Mobile Vendors Ordinance, who is engaged in selling or offering to sell goods, services, food or beverages, out of doors on public or private property as allowed in the Mobile Vendors Ordinance. Mobile Vendors in conformance with the requirements of the Naples Mobile Vendors Ordinance are allowed to operate in every zoning district.

Mooring. Apparatus placed in the water consisting of an anchor connected to a mooring ball to which a boat can be attached.

Mooring Ball. A device designed to float, is anchored in water and colored white with a single blue horizontal band clearly visible above the water line.

Moveable Sign. A sign designed or constructed so as to be readily moved or relocated, including, but not limited to, portable signs or sandwich signs supported by legs.

Moveable Structure. A structure that is not sitting on a foundation.

Multi-Family Dwelling. A residential structure consisting of three or more attached dwelling units.

Municipal Aquatic Structure. An aquatic structure that is owned by the Town of Naples.

Municipal Facility. A facility that is open to the public, owned or leased by the municipality and operated under its direct supervision, including but not limited to, schools, museums, libraries, offices, garages and parking areas.

Municipality. Town of Naples, Maine.

Museum. An indoor or outdoor facility, public or private, for the preservation of items for antiquity, art or natural history.

Native. Indigenous to the local forests.

Nonconforming Condition. Nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time the Shoreland Zoning Ordinance, Minimum Lot Size Ordinance or the Land Use Ordinance or subsequent amendment took effect.

Nonconforming Lot. A single lot of record, at the effective date of adoption or amendment of the Shoreland Zoning Ordinance, Minimum Lot Size Ordinance, or Land Use Ordinance, which does not meet the area, frontage or width requirements of the district in which it is located.

Nonconforming Structure. A structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time the Shoreland Zoning Ordinance, Minimum Lot Size Ordinance, or Land Use Ordinance or subsequent amendments took effect.

Nonconforming Use. Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time of the Shoreland Zoning Ordinance, Minimum Lot Size Ordinance, or Land Use Ordinance or subsequent amendments took effect.

Normal High-Water Line (non-tidal waters). That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Nudity or State of Nudity: The appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Nursing Home. Any facility, which provides meals, lodging and twenty-four (24) hour nursing care for compensation.

Off-Premises Sign. A sign which directs attention to a business, organization, product, service, event, cause, entertainment, or other activity conducted, sold, or offered at a location other than the premises on which the sign is located.

On-Premises Sign. A sign that advertises, calls attention to or identifies the occupant of the premises on which the sign is maintained, or the business transacted thereon or advertises the property itself or any part thereof as for sale or rent.

Official Map. Any map adopted by the Municipality.

Official Submittal Date. The time of submission of a Pre-application Plan. Final Plan for Minor Subdivision, Preliminary Plan for Major Subdivision or Final Plan for Major Subdivision shall be considered the submission date of the application for such Plan approval to the Board, complete and accompanied by any required fee and all data required by these standards.

Painted Wall/Roof Sign. A sign painted directly on the surface of a structure.

Person. An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having joint or common interest, or other legal entity.

Personal Services. Establishment primarily engaged in providing services involving the non-medical care of a person or of his or her apparel, as exemplified by beauty shops, barber shops, shoe repair, photographic studios, coin-operated laundries and similar establishments.

Piers. Docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:

- Temporary: structures, which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
- Permanent: structures, which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Planning Board. The Planning Board of the Municipality created under Title 30, M.R.S.A., Chapter 239, Section 4952 or Chapter 201-A, Section 1917.

Point of Attachment: Means the point on an aquatic structure where the structure is physically attached to an adjacent upland. If an aquatic structure is not attached to the land, the "point of attachment" shall mean the point on the structure closest to the adjacent upland.

Posting Sign: A sign related to trespassing or hunting, etc.

Preliminary Sub-Division Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Preexisting Nonconforming Sign: Any sign which was lawfully in existence prior to the effective date of this ordinance or conformed to the provisions of this ordinance at the time it was erected but does not conform to the provisions of this ordinance.

Premises: A lot, parcel, tract or plot of land together with the building(s) and structure(s) thereon.

Primary or Legal Residence: A primary or legal residence in a building or dwelling being currently used by the owner as his/her main place of dwelling or home. A person may have only one primary or legal residence.

Primitive Trails: A public or private path or trail, with a tread path no more than three (3) feet in width and an overall clearance of four (4) feet in width, established for walking, hiking, non-motorized biking purposes, snow-shoeing, or cross-country skiing. Primitive trails are not structures if there is no base material used such as, but not limited to, pavement, concrete, gravel or similar material.

Principal Structure. A building other than one, which is, used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use. A use other than one, which is wholly incidental or accessory to another use on the same premises.

Private Utility Substation: An area allowing for switching, transferring or transmitting of utilities.

Professional Office: The place of business of, including, but not limited to, doctors, lawyers, accountants, architects, surveyor, banks, psychiatrists, psychologists, counselors and financial advisors, but not including Personal Services.

Projecting Sign: An outdoor sign which is affixed to a building or other structure and which extends more than six (6) inches beyond the surface to which it is affixed.

Public Facility: Any facility, including, but not limited to, buildings, property, recreation areas and roads which are owned, leased or otherwise operated or funded by a governmental body or public entity.

Public Safety Sign: A sign which has no advertising function but provides information or guidance to the public on potential safety hazards. Examples include: low clearance, high voltage, etc.

Push Cart: A nonmotorized vehicle used for the sale of goods or services with dimensions no greater than forty-eight (48) inches in width, ninety-six (96) inches in length and ninety-six (96) inches in height.

Recent Flood Plain Soils: The following soil series as described and identified by the National Cooperative Soil Survey: Alluvial, Cornish, Charles, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, Winooski.

Recreational Facility: A place designed and equipped for participation in sports, leisure time activities and other customary and usual recreational activities, excluding boat-launching facilities.

Recreational Structures: Any commercial facility used for recreational purposes including, but not limited to, golf courses, driving ranges, batting ranges, tennis courts, swimming pools and amusement rides.

Recreational Vehicle: A vehicle or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one or more persons and which may include a pick-up camper, travel trailer, tent trailer, camp trailer and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be registered with the State Division of Motor Vehicles.

Refuse: Means all combustible or non-combustible putrescible or non-putrescible solid or liquid wastes.

Replacement Subsurface: Wastewater Disposal System: A system intended to replace:

1. an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or
2. any existing overboard wastewater discharge.

Residential Buildings: Single family dwellings, duplexes, cluster, apartments and condominiums.

Residential Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and

containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time period. Recreational vehicles are not residential dwelling units.

Residential Institution: A use providing recreation, counseling education and/or other rehabilitative services where the individuals commonly reside at the facility.

Restaurant: A place where meals are served, for payment, to members of the public. Both sit down and take out operations are included.

Resubdivision: The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Roof Sign: A sign painted on or attached to the roof of a building.

Sandwich Board: A self-supporting, double-paneled sign, whose panels are not parallel but are connected along one edge and separated along the opposite edge. If connected at the top or bottom, it is an A-frame sign.

Sanitary Facilities: means toilet, privies, lavatories, urinals, drinking fountains and any service building or room provided for installation and use of these units.

School: Includes parochial, private, public, nursery school, college, university and accessory uses; and shall exclude commercially operated schools of beauty culture, business, driving, music, dance, flight and similar establishments.

Seasonal Dwelling: A dwelling that is not used as a permanent place of residence and occupied continuously for not more than seven (7) months in any calendar year.

Service Business: A business where the primary function shall be, but not limited to, work done for or conferred upon another individual, excluding retail sales of goods and including hotels, motels and bed and breakfasts.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service:

a. the placement of wires and/or the installation of utility poles is located entirely upon the premises or the customer requesting service or upon a roadway right-of-way; and

b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service:

a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback-Land: Setbacks are footage requirements for the installation of all structures from the front, rear and side property lines of all lots.

Setback-Water: The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore Frontage: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the side lot lines with the shoreline.

Shoreland Zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, or river within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; or within seventy* five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline: The normal high-water line, or upland edge of a freshwater wetland.

Sign: Any permanent or temporary device, structure, fixture, painting, emblem, or visual that uses words, graphics, colors, illumination, symbols, numbers, or letters for the purpose of communicating a message. For purposes of this ordinance, the term "sign" does not include (i) signs located completely within an enclosed building and not exposed to view from the exterior of the building is not a sign for purposes of this ordinance, or (ii) signs erected and maintained for public safety and welfare, or pursuant to and in discharge of any governmental function, or required by law, ordinance, or governmental regulation.

Significant Wildlife Habitat: Includes habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding area as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery area for Atlantic Sea Run Salmon as defined by the Atlantic Sea Run Salmon Commission; and

shorebird nesting and feeding and staging areas as defined by the Department of Inland Fisheries and Wildlife.

Specified Anatomical Area: (a) The human male genitals in a discernibly turgid state, even if fully and opaquely covered; or (b) less than completely and opaquely covered genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

Specified Sexual Activity: (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered; (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (c) masturbation, actual or simulated; or (d) excretory functions as part of or in connection with any of the activities set forth in (a), (b), or (c).

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area.

Street: The word "street" means and includes such ways as alleys, avenues, boulevards, highways, roads, streets and other rights-of-way. The term "street" shall also apply to areas on subdivision plans designated as "street", etc.

Structure: Anything constructed, erected or placed on the ground, which is permanent, temporary or mobile. Structure includes, but is not limited to building, mobile homes, recreational vehicles, commercial vehicles, piers and floats, storage and processing facilities. Boundary walls, fences, flagpoles, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors are not considered structures. Temporary structures are allowed as long as they do not stay a duration of more than one week.

Temporary Structure: Limited to a certain period of time.

Subdivision: A subdivision shall be the division of a tract or parcel of land into three (3) or more lots for the purpose, immediate or future, of lease, sale, development or building, whether this division is accomplished by immediate platting of the land or by sale of the land by metes and bounds. The term subdivision shall include the subdivision of land for non-residential purposes, mobile homes parks and re-subdivision of land.

Subdivision, Major: Any subdivision containing more than four (4) lots, or any subdivision requiring any new public street extension or the extension of municipal facilities.

Subdivision, Minor: A subdivision containing not more than four (4) lots.

Substantial Start: Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Wastewater Disposal System: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture,

mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Temporary Adjacent Upland Access Structure: Means the portion of the dock, ramp, gangway, bridge, stairs, etc., located above the normal high-water mark, which provides access to the aquatic structure.

Temporary Sign: A sign constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or other like material and that appears to be intended to be displayed for a limited period of time.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15.P, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Trail Spur: A primitive trail with no base material that extends towards the shoreline from a recreational trail.

Transportation Service: Businesses, which transport people for a fee, including but not limited to, limousine services, buses, taxicabs, airplanes or trolleys.

Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere and only applies to that portion of the tributary stream located within the Shoreland zone of the receiving water body or wetland.

Upland Edge of a Wetland: The boundary between upland and wetland. For the purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Use: Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Vegetation: All live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at 4 feet above ground level.

Vehicle Sign: A sign on or affixed to an inoperative bus, car, boat, trailer, or other motor vehicle that is used primarily for the purpose of advertising or messaging and not for the regular function of a motor vehicle. (Also known as mobile billboards.)

This provision is not intended to prohibit signs painted upon or applied directly to a vehicle which is actively used in the regular function of a business, as long as it is parked within a legal parking space on the site

Volume of a Structure: The volume of all portions of a structure enclosed by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Wall Sign: A sign, which is attached directly on a building surface with the sign surface parallel or painted on the wall rather than perpendicular to the building surface.

Water Body: Any great pond, river, or stream.

Water Crossing: Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines and cables, as well as, maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities. **Watercraft:** Shall mean any craft capable of floating on or in the water, with or without power, regardless of size.

Watercraft Parking Facility: Means a privately or publicly owned commercial aquatic structure designed to provide docking space for motorized and unmotorized watercraft on a short-term basis.

Wetland: A freshwater or coastal wetland.

Window Sign: Any sign placed on, inside or enclosed within a window or door facing the outside and which is visible from the exterior.

Wholesale Sales: Trade that involves the sale of merchandise to retailers for resale or to industrial, commercial or institutional users.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Yard Sale (Garage, Barn Tag, etc.): A sale usually conducted out of doors, of new/used goods by a private home or groups of homes, or a non-profit organization or organizations. No more than three (3) consecutive days and not more than forty-five (45) days per year.

Section 500 Zoning Districts

501 Establishment of Zoning Districts

The Town of Naples is hereby divided into the following Districts:

1. Rural Area.
 - a. Limited Residential Area. Home occupations and commercial activities in the rural area are grandfathered for their present use. Forestry, agricultural activities and residential uses except for mobile home parks are allowed in the rural area. Excessive growth and sprawl should be discouraged in the rural area.
2. Critical Rural Area.
 - a. Conservation land and easements, parks, critical habitat areas, significant wetlands and stream protection areas, lake and stream setbacks as shown on Shoreland Zoning Map, State of Maine Critical Wildlife Area Map, 100-year Floodplain Map (F.E.M.A.), National Wetlands Inventory Map, State, Regional and Local Public Land Trust Maps: this area shall remain undeveloped and not allow residential or commercial uses except for non-profit non-residential facilities. Campgrounds are prohibited in the Critical Rural zoning district.
3. Commercial.
 - a. The area where future commercial development outside of the village district shall take place. Residential use, except for mobile home parks, will be allowed in the Commercial zoning district. Light manufacturing is allowed in the Commercial zoning district subject to the limitations set forth in Section 507. Adult Entertainment Establishments are allowed in the Commercial zoning district subject to the provisions of Section 601.
4. Residential Growth Area.
 - a. The area of the town where residential growth shall be encouraged. The area will allow all types of residential development including mobile home parks.
5. Village District Area.
 - a. The Village District area shall be a mixed residential, commercial and municipal service area. Architectural design matching the historical character and small-town image of the area shall be applied to all new construction and maintenance of existing buildings. Campgrounds are prohibited in the Village Zoning District.

A. Permitted Uses

1. Residential Uses:

Single family detached dwellings, which may include manufactured housing, but shall not include mobile homes or doublewides.

Two family dwellings which may include manufactured housing, but shall not include mobile homes or doublewides.

Multi-family dwellings which may include manufactured housing but shall not include mobile homes or doublewides.

2. Commercial Uses:

Retail businesses, street vendors with less than 64 square feet of sales area, pushcarts, service businesses, and professional offices.

3. Municipal and Other Governmental Uses

4. Institutional Uses

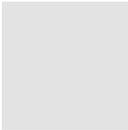
5. Mixed Uses Including Home Occupations:

Residential use and non-residential use are permitted on the same lot in the Village District (this includes only those uses otherwise allowed in the Village District).

B. Prohibited Uses

All uses not specifically permitted in Section 5A are prohibited. In addition, commercial towers, new and used motor vehicle sales, unlicensed massage businesses, street vendors utilizing more than 64 square feet of sales area, and any uses prohibited in the Naples Shoreland Zoning Section 15 F are not permitted in the Village District.

c. Standards



The following space and bulk standards shall apply in the Village District:

Minimum lot size for newly created lots:

Residential:	60,000 sq.ft.
Commercial:	40,000 sq.ft.

Minimum lot area per principal non-residential structure:

1. On lots without public water and sewer 40,000 sq.ft.
2. On lots with public water and sewer 15,000 sq.ft.

** Existing Lots: Reference the Minimum Lot Size Ordinance* *

Minimum lot frontage	100 ft.
Minimum setbacks:	
Front - Non-residential structure	10 ft.
Front - Residential structure	20 ft.
Side - all structures	10 ft.
Rear - Principal Structures	20 ft.
Rear - Accessory Structures	10 ft.
Maximum structure height	55 ft.
Maximum lot coverage - total of all building footprints is not to exceed	50%
Maximum impervious surface - total of all impervious non-vegetated surfaces, including buildings is not to exceed	75%

6. Causeway Overlay District.

- a. The Causeway Overlay District shall be a mix of commercial uses on the ground level and residential and/or commercial uses on upper levels. The Causeway Overlay District overlays the Shoreland Zoning Limited Commercial District, as shown on the Official Shoreland Zoning Map.
- b. Only those uses permitted in the Shoreland Zoning Limited Commercial District (as set forth in Section 14, Table 1 of the Shoreland Zoning Ordinance for the Town of Naples) shall be allowed in the Causeway Overlay District, except as follows:
 - i. No residential use shall be allowed on the ground level of any structure, whether a single-story or a multi-story structure.
 - ii. Residential, commercial, governmental, institutional, and any other permitted use, including a combination thereof, shall be allowed on any upper level of a multi-story structure.

c. All land uses and structures within the Causeway Overlay District shall conform with the following minimum lot area, shore frontage, and setback requirements:

i. Minimum lot area and minimum shore frontage requirements:

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
Residential use (per dwelling unit)	40,000	200
Commercial, Governmental, or Institutional use (per principal structure)	60,000	300
Public and Private Recreational Facilities	40,000	2000

ii. Minimum setback requirements:

Minimum shore setback from normal high water mark (ft.): 100
 Minimum setback from lot lines (ft.): 20

The requirements set forth in this Section 501.6.c supersede the minimum lot area, shore frontage, and setback requirements set forth in Section 15.A of the Shoreland Zoning Ordinance for the Town of Naples. All other requirements of Section 15.A shall apply.

502 Establishment of an Official Zoning Map

1. The Official Zoning Map is hereby adopted as part of this Ordinance. It shall be located at the town office in paper and computer image formats and shall be the final authority as to the current zoning status of the land and water areas, buildings, and other structures of the town.
2. If action of the Town Meeting amends districts or district boundaries, such change shall promptly be entered on the Official Zoning Map and certified on the map as follows: "on (date), by the action of the Town Meeting, the following changes were made on the Official Zoning Map: (brief description of the nature of changes)," which entry shall be signed by the Planning Board and attested by the Town Clerk.
3. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of number of changes or additions, the Town Meeting may adopt a new Official Zoning Map, which shall supersede the prior Official Zoning map. The new Official Zoning Map which shall be identified by the signature of the Planning Board attested by the Town Clerk, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map (date of adoption of map being replaced) as part of the Zoning Ordinance of the Town of Naples, Maine."

The superseded Official Zoning Map shall be preserved together with available records pertaining to its adoption or amendment.

503 Zoning District Boundaries

1. Where uncertainty exists with respect to the boundaries of any district as shown on the Official Zoning Map, the following rules shall apply:
 - a. Where district boundaries are so indicated as to approximately follow lot lines, such lot lines shall be construed to be such district boundaries;
 - b. Where District Boundaries are indicated as approximately following the center lines of roads, streets, highways, streams, rivers or other public/semi-private rights-of-way, such center lines shall be construed to be such boundaries;
 - c. Boundaries indicated as following shorelines shall be construed to follow such shores, and in the event of change in the shoreline shall be construed as moving with the actual shoreline;
 - d. Where uncertainty exists in determining the precise location of any district boundary line, or where physical or cultural features existing on the ground are in conflict with those shown on the Official Zoning Map, the Board of Appeals with advice from the Planning Board, shall interpret the district boundaries.

504 Existing Commercial Activities outside the commercial area

Such uses are grandfathered for their present use only, and home occupations will be allowed in all areas except the critical rural area.

505 Compliance

All activity in any of the Zoned area shall comply with all applicable Naples Ordinances and the Shoreland Zoning Ordinance and shall be in compliance with the Naples Comprehensive Plan.

506 Accessory Apartments

The purpose of this Section is to encourage a diversity of housing options that help maintain a viable year round population; provide homeowners with a means of obtaining, through tenants in either the accessory apartment or the single family dwelling, rental income, companionship, security and services; develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in life; and protect neighborhood stability, property values and the single-family residential appearance of the property and the neighborhood by ensuring that accessory apartments are installed under the conditions of this Section.

- A. Within the Shoreland Zone:** Accessory apartments are prohibited in the Shoreland Zone.

B. Outside the Shoreland Zone: The Code Enforcement Officer may issue a permit for the installation/construction of an accessory apartment provided the following standards and criteria are met:

- (1) The single-family dwelling and the accessory apartment must be owned by the same person and may not be sold separately.
- (2) The owner must occupy either the single-family dwelling or the accessory apartment as his/her primary or legal residence. Continued occupancy of the accessory apartment upon sale or transfer of the property is conditioned upon the new owner agreeing to the owner occupancy requirement. Transfer of ownership requires a new accessory apartment permit be issued prior to occupancy if the new owner wants to continue the accessory apartment use.
- (3) The accessory apartment shall contain a maximum total floor area of six hundred (600) square feet.
- (4) The accessory apartment shall have no more than one (1) bedroom.
- (5) Accessory apartments are only allowed on conforming lots. The Code Enforcement Officer may require the lot area be established by a survey signed and sealed by a Maine licensed land surveyor.
- (6) Proper ingress and egress shall be provided to the accessory apartment. An entrance leading to a foyer with entrances leading from the foyer to the single-family dwelling and the accessory apartment is permitted.
- (7) Only one (1) accessory apartment is allowed per lot.
- (8) An application to the Code Enforcement Officer for an accessory apartment shall be accompanied by the Registration of Accessory Apartment Form available from the Code Enforcement Officer, filled in by all owners of the property. Upon approval of the application by the Code Enforcement Officer, the applicant shall record the Registration of Accessory Apartment Form in the Cumberland County Registry of Deeds within ninety (90) days after the Code Enforcement Officer's approval of the permit, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded. Failure to do so shall void the accessory apartment permit, and the approval can only be revived by submission and approval of a new application. If the property containing the accessory apartment is transferred to another owner or if the owner to whom the accessory apartment permit was issued ceases to occupy the property, the use of the accessory apartment must cease. In the event of a change in ownership of the property, the new owner may continue or resume the use of the accessory apartment by submitting a new Registration of Accessory Apartment Form to the Code Enforcement Officer and recording the new Registration of Accessory Apartment Form in the Cumberland County Registry of Deeds, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded. A Registration of Accessory Apartment Form is valid for five (5) years from the date of recording. At

the end of the five (5) years, the registration shall lapse, and the accessory apartment permit shall expire unless:

- (a) a new Registration of Accessory Apartment Form showing no changes from the previously recorded form is presented to and approved by the Code Enforcement Officer and recorded in the Cumberland County Registry of Deeds within ninety (90) days after the Code Enforcement Officer's approval of the permit, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded; or
 - (b) if any of the information on the form has changed, a new permit is obtained from the Code Enforcement Officer and a Registration of Accessory Apartment Form is recorded in the Cumberland County Registry of Deeds within ninety (90) days after the Code Enforcement Officers' approval of the permit, with a copy of the recorded document provided to the Code Enforcement Officer within ten (10) days of it being recorded.
- (9) In order for an accessory apartment to be added to a lot, the lot must comply with the Town of Naples Minimum Lot Size Ordinance and the requirements of the State Minimum Lot Size law, 12 §§ 4807 – 4807-G for multiple unit housing, whichever minimum lot size requirement is larger. The applicant shall have the burden to establish the lot area. The Code Enforcement Officer may require the lot area to be established by a survey signed and sealed by a Maine licensed land surveyor. The wastewater disposal system on the property in question shall be functioning properly at the time of application. In addition, the applicant must submit a new HHE-200 form as documentation that the existing system can support the addition of an accessory apartment. The HHE-200 form, after review and approval by the Local Plumbing Inspector, shall be recorded by the applicant at the Cumberland County Registry of Deeds at the same time that the Registration of Accessory Apartment form is recorded, with a copy of the HHE-200 form as recorded provided to the Code Enforcement Officer within ten (10) days of it being recorded. Failure to provide a copy of the HHE-200 form to the Code Enforcement Officer within ten (10) days of it being recorded shall void the accessory apartment permit.
- (10) The applicant shall comply with all applicable zoning, building, plumbing, electrical and fire safety codes in effect at the time of permit application.
- (11) One (1) off-street parking space shall be provided for the accessory apartment or as many parking spaces deemed necessary by the Code Enforcement Officer to accommodate the actual number of vehicles used by occupants of both the single-family dwelling and the accessory apartment. There shall be no on-street parking associated with an accessory apartment.
- (12) No use, dimensional or other variances shall be granted for installation/construction of an accessory apartment.
- (13) An accessory apartment that complies with the requirements of this Section shall not be considered a dwelling unit.

- (14) If the property is found to be in non-compliance with the standards contained in this Section, the non-compliance shall be considered a violation of this Ordinance and may subject the owner and/or occupant to further enforcement action and possible civil penalties.

507 Limited Allowance of Light Manufacturing in Commercial District

Light manufacturing use is allowed with Planning Board site plan review and approval in those portions of the Commercial zoning district with (i) frontage along State Route 11 or (ii) frontage on Route 302 and located north of the Village District, subject to the following standards;

1. Space and Bulk Standards
 - a. Minimum lot size
 - 2 acres
 - b. Minimum Frontage on State Route 11
 - 200 feet
 - c. Front setback for Principal and Accessory Structures and buildings
 - 50 feet
 - d. Minimum side and rear setbacks for Principal and Accessory structures and buildings
 - 50 feet
 - e. Maximum height for Principal and Accessory Structures and buildings
 - 55 feet buildings or structures)
 - f. Maximum footprint of Principal Structure or building
 - 20,000 square feet
 - g. Maximum combined total footprint of all Accessory Structures or buildings
 - 10,000 square feet
 - h. Maximum Impervious Surface lot coverage area
 - 50 Percent
2. Development Standards
 - a. Street line landscaped area

A strip of land not less than 25 feet in width shall be maintained as a vegetated area adjacent to the front property line. This area shall be appropriately landscaped and maintained as a vegetated area. Where tree lines exist along existing streets or roads, an effort shall be made to preserve this feature and suitable provisions made to protect it through deed covenants or easements. This vegetated area shall not be used as parking, for the storage or display of materials, or for the location of dumpsters or similar items. Access drives may cross

this area but drives or accessways providing internal circulation shall not be located within this area.

b. Residential buffer

A 50-foot buffer strip shall be maintained along any lot line adjoining a lot being used for residential purposes. This buffer strip shall be maintained as a vegetated area and shall not be used as parking, for the storage or display of materials, or for the location of dumpsters or similar items. A visual barrier shall be established within the buffer strip by landscaping and/or fencing.

3. Performance Standards

Light manufacturing uses shall conform to all site plan review standards, plus the following:

- a. All production operations shall occur within a fully enclosed building or structure.
- b. No equipment, materials or derelict vehicles shall be stored on the site unless they are enclosed within a secure area and screened from view from public streets and adjacent properties.
- c. Equipment and other activities shall not produce vibration measured at the lot line which is perceptible without instruments. In no case shall vibration at the lot line exceed .003 of one inch.
- d. No offensive, harmful or noxious odors shall be emitted that create a public nuisance or hazard beyond the lot line of the parcel.
- e. No electromagnetic interference shall be permitted that does not conform to State and federal standards.
- f. Off-street parking shall be located on the same lot with the principal building. Parking areas shall be arranged so that it is not necessary for vehicles to back into the street.
- g. Parking stalls and aisle layout shall conform to the standards in Table 1 of this subsection.

Table 1 - Parking Stall and Aisle Layout

Parking Angle (in degrees)	Stall Width	Skew Depth	Stall Depth	Aisle Width
90	9' 0"	0' 0"	18' 0"	24' 0" two-way traffic
60	8' 6"	10' 6"	18" 0"	16' 0" one-way traffic only
45	8' 6"	12' 9"	17' 6"	12' 0" one-way traffic only

30	8' 6"	17' 0"	17' 0"	12' 0" one-way traffic only
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- h. In parking lots utilizing a parking angle of 90 degrees, thirty percent (30%) of the spaces shall be created with a stall width of 10'-0" and a stall depth of 20'-0". Remaining spaces shall be created with a stall width of at least 9'-0" and a stall depth of at least 18'-0".
- i. In lots utilizing diagonal parking, the direction of proper traffic flow shall be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- j. A minimum of 1.5 parking spaces per 500 square feet of floor area shall be provided, but in no case less than one space for every two employees.
- k. The closest boundary of the parking area shall be within 300 feet of the principal building for which the spaces are required.
- l. Five percent (5%) of the total parking area, including maneuvering areas but not including access roads which are not a part of the parking area itself, shall be landscaped and maintained with trees, shrubs, and other natural vegetation, in a manner approved by the Planning Board.
- m. The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six (6) inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.
- n. A system of surface drainage and erosion control shall be provided in such a way that the water runoff shall be disposed of on the site of development and, to the extent practicable, done so through the wise use of the natural features of the site.
- o. Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.
- p. Off-street loading: Each loading bay shall have minimum dimensions of 50 feet by 14 feet and may be located either within a building or outside and adjoining an opening in the building. Every part of such loading bay shall be located completely off the street. In case trucks, trailers, or other motor vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, additional space shall be provided so that such vehicle shall park or stand completely off the street. All loading bays and waiting areas shall be screened.

Section 600 Performance Standards

601 Adult Entertainment Establishments

Adult Entertainment Establishments shall be permitted in the Commercial zoning district, provided that the following standards are met.

1. Age Restricted. No Adult Entertainment Establishment may permit any person under the age of 18 years onto the premises in which the Adult Entertainment Establishment is located.
2. Location Restricted. An Adult Entertainment Establishment may not operate or be located within 5,000 feet of any of the following structures or uses:
 - a. A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities.
 - b. A public park or recreation area, a playground, nature trails, athletic field, basketball or tennis courts, skating rink or other similar recreation area.
 - c. A public or private educational facility, including but not limited to a child care facility, nursery school, preschool, kindergarten, elementary school, private school, intermediate school, junior high school, middle school, high school, vocational school, career and technical education center, career and technical region, secondary school, continuation school, special education school, day center, junior college, or university. "Educational facility" includes the school grounds.
 - d. Any public or private facility that caters to minors, including but not limited to an ice cream store, toy store, summer camp, or nonprofit facility primarily serving youth such as the YMCA or the Boys and Girls Club.
 - e. Another Adult Entertainment Establishment.

Measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the nearest property line of the premises where the Adult Entertainment Establishment operates to the nearest property line of the structures or uses identified in subsections 2.a through 2.d, above. For purposes of subsection 2.e, above, the distance between any two Adult Entertainment Establishments shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each Adult Entertainment Establishment is located.

A lawfully operating Adult Entertainment Establishment is not rendered nonconforming by the subsequent location of any structure or use identified in subsections 2.a through 2.d, above, within 5,000 feet of said lawfully operating establishment, provided the rights of said establishment have vested prior to the location of one of said structures or uses. Vesting shall have occurred if the owner of the Adult Entertainment Establishment: (i) exercised due diligence in attempting to comply with the law, (ii) demonstrated good faith throughout the review proceedings before the Board, (iii) expended substantial unrecoverable funds in reliance on the Board's approval, (iv) the period during which an appeal could have been taken from the Board's approval of the application has expired, and (v) there is insufficient evidence to prove that individual property rights or the public health, safety, or welfare would be adversely affected by the project as approved.

3. No Co-Location. An Adult Entertainment Establishment may not operate in the same building or structure, or portion thereof, containing another Adult Entertainment Establishment.

4. No merchandise or activities of any Adult Entertainment Establishment shall be visible from a point outside of said establishment.
5. Signage. An Adult Entertainment Establishment shall install an 8.5 x 11 inch sign at each entrance to the establishment stating “No Admission Under 18” or similar wording accepted by the reviewing authority. No flashing lights, words, lettering, photographs, silhouettes, or drawings shall be used on the exterior of any building or be visible from the exterior of any building in which an Adult Entertainment Establishment is operating. All other signage for an Adult Entertainment Establishment shall comply with the requirements of Section 710 of this Ordinance.
6. No Adult Entertainment Establishment shall be open between the hours of 11PM and 9AM.
7. No Overnight Assembly. Overnight assembly or stay at the premises of an Adult Entertainment Establishment by any patron, customer, or employee (except security personnel) of said establishment is prohibited.
8. Prohibited Activities. Notwithstanding anything to the contrary in this Ordinance, the following uses and activities are prohibited:
 - a. Public Indecent Conduct. All acts of public indecency, as defined in 17-A M.R.S. § 854, as may be amended from time to time, on the premises of an Adult Entertainment Establishment are prohibited.
 - b. Adult Spas. Unlicensed massage parlors, also known as adult spas, are prohibited.
 - c. Nude Entertainment. No person may appear in a state of nudity while acting as a salesperson, wait staff person, entertainer, dancer, performer, or in any other capacity as an owner, manager, agent, contractor, or employee in an Adult Entertainment Establishment that is licensed to serve liquor to its patrons. No person may cause, permit, procure, counsel, or assist any person to violate this prohibition.
 - d. Public Displays of Specified Sexual Activities or Specified Anatomical Areas. No Adult Entertainment Establishment may display, facilitate the display, or cause or permit the display of Specified Sexual Activities or Specified Anatomical Areas in such manner that such Specified Sexual Activities or Specified Anatomical Areas are visible from any public or private right-of-way, roadway, highway, or sidewalk.
 - e. Obscenity. Furnishing, offering to furnish, or advertising to furnish for any form of consideration any obscene materials or obscene performances, whether or not associated with an Adult Entertainment Establishment, is prohibited.

Section 700 Signs

701 Purpose

The purpose of this ordinance is to regulate signs in order to promote and protect the public health, safety, and welfare; to protect property values; enhance and protect the physical appearance of the community; preserve scenic and natural beauty; reduce distractions and obstructions caused by signs that may contribute to traffic hazards and accidents; and implement the Naples Comprehensive Plan's objective to protect and enhance the rural character of the Town of Naples, by requiring new and replacement signage to be:

- A. In keeping with Naples' unique small-town Maine character and the historic New England character of its Village District by (i) complementing, to the greatest extent possible, the unique aesthetics of the Naples location, with emphasis on natural materials and color schemes and traditional New England designs, and (ii) reflecting the Town's character, history, and its Western Maine lakes and mountains aesthetic;
- B. Creative and distinctive in a way that is expressive of the individual identity of the proprietors and enhances an attractive economic and business climate;
- C. In keeping with the use of intimate, traditional New England materials and finishes such as gold leaf, carved signs, wrought iron, stone and natural materials that invoke a historic look; and
- D. Compatible with its surroundings and without adverse effects to nearby properties or the environment, including Naples' Dark Sky rural character.

702 Applicability

All signs within the geographic boundary of the Town of Naples must be designed, installed, and maintained in accordance with the provisions of this ordinance.

703 Sign Permits

- A. Except as otherwise expressly provided herein, no person shall erect, display, enlarge, replace, relocate, physically reword, redesign, alter, or substantially repair a sign without first applying for and obtaining a permit from the Code Enforcement Officer.
- B. Applications for a sign permit shall be on forms prescribed and provided by the Code Enforcement Officer and shall be submitted to the Code Enforcement Officer. Applications shall be accompanied by scaled drawing(s) and specifications. The drawing(s) shall include a rendering of the proposed sign and shall show the location of the sign on the premises, and the specifications shall include sufficient information to demonstrate compliance with the provisions of this ordinance. A record of such applications, drawings and specifications shall be kept on file in the Town Office. No sign permit shall be issued unless the application, drawings and specifications are in all respects in conformance with this ordinance.

- C. All signs requiring a sign permit shall be properly maintained and shall not be erected within any State or Town right of way.
- D. A sign permit shall lapse if the permitted sign is not installed within one (1) year of the permit date of issue.
- E. The fee for sign permits, inspections and certificates shall be established by the Board of Selectmen.
- F. The Code Enforcement Officer shall, within thirty (30) days from the date of filing a complete application for a sign permit, grant or deny the sign permit application in writing. In the case of denials, the Code Enforcement Officer shall provide, in writing, the basis for said denial.

704 Maximum Sign Area

For purposes of calculating the maximum size of a sign, the sign area shall be calculated as follows: Sign area shall include all sign surfaces that communicate a sign's message, except that sign area shall include only one side of a double-faced sign. Sign area shall not include any structural supporting elements, except if such elements are visually prominent, designed to attract attention, or otherwise integral to communicating the sign's message. Any physical address that is required to be an integral part of a freestanding sign shall not be counted as part of the maximum size of a sign.

705 Exempt Signs

The following signs are allowed in all zoning districts without a permit from the Code Enforcement Officer:

- A. Temporary signs, not greater than 6 square feet in sign area and not displayed for more than six weeks per calendar year. Temporary signs shall not be attached or painted onto any fences, trees or other natural features, utility poles, or the like. Temporary signs shall not be placed so as to impair vision or traffic or in any manner create a hazard or disturbance to the health and safety of the public. All temporary event signs must be approved by the Board of Selectmen.
- B. Directional or Traffic Safety Signs and Gas station Rate signs: signs identifying entrances, exits, parking areas or other operational features of premises and/or providing directions for the safe and/or efficient flow of vehicular or pedestrian traffic. This includes municipal informational kiosks and signs.
- C. Signs identifying the name, address, and profession of a permitted residence or a home occupation, provided such sign does not exceed six square feet in sign area.
 - D. Signs located on or in the rolling stock of common carriers, or on registered motor vehicles, except vehicle signs.

706 Prohibited Signs

The following signs and illuminations are prohibited in every zoning district:

- A. Off-premise signs (also known as billboards).
- B. Abandoned signs.
- C. Beacon lighting.
- D. Balloon signs.
- E. Signs attached to utility poles, public benches, streetlights, rails, or fences.
- F. Signs that obstruct pedestrian traffic or visibility.
- G. Signs that limit motor vehicle drivers' or bicyclists' sight distance, that could be confused with official highway signs or signals, that unduly distract motor vehicle drivers' or bicyclists' attention, or that otherwise impair public safety.
- H. Signs illuminated by, composed of, or containing flashing, intermittent, rotating, or moving lights, except for electronic message signs.
- I. Signs that move or that incorporate any pennant, ribbon, streamer, spinner, balloon, inflatable, or other similar moving, fluttering, or revolving device.
- J. Signs, flags, or banners greater than 35 feet in height or, if building-mounted, extending above the building's roofline.
- K. Vehicle signs.
- L. Any sign emitting sound, except drive-through menu signs.
- M. Animated signs.
- N. Roof signs.
- O. Changeable copy signs.
- P. Signs painted on a sidewalk or stairs

706 Permits Procedure

1. It shall be unlawful for any person to erect, repair, alter or relocate any sign, (except as exempted by other provisions of this ordinance) without first obtaining a sign permit from the Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to review and sign permit applications to determine conformance with the standards of this ordinance and with the standards of all other codes and ordinances of the Town of Naples.
2. Applications for a sign permit shall be available at the Town Hall.
3. Applications for sign permits shall include a sketch of the sign and a site drawing showing location of the sign on land or building with relevant measurements.

4. Once an application is determined by the Code Enforcement Officer to be complete it shall be acted upon by the Code Enforcement Officer within thirty (30) days of completion and receipt of appropriate fees.

707 Pre-existing Nonconforming Signs

- A. Preexisting nonconforming signs, other than preexisting nonconforming temporary signs, are allowed in all zoning districts without a permit, subject to the requirements of this Section 707.
- B. Maintaining and removing preexisting nonconforming signs. Except as set forth in Section 707 E. below, preexisting nonconforming signs may be maintained in their preexisting size, configuration, design, and location. Preexisting nonconforming signs which are altered, relocated, or replaced must comply with all provisions of this ordinance; provided, however, that if a preexisting nonconforming sign is involuntarily destroyed by any cause then the sign must be replaced, in-kind, within 12 months of the date of involuntary destruction in order to maintain its preexisting nonconforming status; otherwise, the sign shall be subject to all provisions of this ordinance. Preexisting roof signs, however, must be replaced, in-kind within 6 months of the date of involuntary destruction; otherwise, the roof sign shall be prohibited.
- C. Documentation of preexisting nonconforming signs. To qualify as a preexisting nonconforming sign, documentation showing the existence of the sign before the effective date of this ordinance must be submitted to the Code Enforcement Officer within 1 (one) year of the effective date of this ordinance. Any person or entity owning or controlling any preexisting nonconforming sign shall be responsible for providing such documentation to the Code Enforcement Officer. Documentation shall include photographs, plans, drawings, news clippings, correspondence, affidavits, sworn statements, or other materials sufficient to establish, to the satisfaction of the Code Enforcement Officer, the legal existence of a sign.
- D. The Code Enforcement Officer shall maintain files of preexisting nonconforming signs, as follows:
 1. Files of signs erected prior to the effective date of this ordinance shall contain documentation evidencing the legal existence of such signs.
 2. Files of sign erected after the effective date of this ordinance shall contain records of, or documentation evidencing, the issuance of a sign permit for such sign.
- E. Notwithstanding the above Section 707.B. any sign existing as of the date of enactment of this ordinance is grandfathered in its existing configuration and therefore not subject to the provisions of this ordinance until such time as the primary use of the parcel changes or there is a change of ownership at which time the sign(s) must be replaced pursuant to a valid permit issued in conformance with the maximum size and all other requirements of this ordinance. All grandfathered signs must meet the lighting standards in Section 2.11.
- F. Any existing business sign in the Rural Area and Residential Growth, outside of the commercial and village district, are grandfathered for their existing configuration and therefore not subject to the provisions of this ordinance until such time as the primary use of the parcel changes or there is a change of ownership at which time the sign(s) must be replaced pursuant to a valid permit issued in conformance with the Village District Standards.

708 Abandoned Signs

Abandoned signs in disrepair shall be removed by the sign permit holder and/or the owner of the building or premises at which the abandoned sign is located within ninety (90) days from the date the sign was abandoned. Where the owner of the property on which an abandoned sign is located fails to timely remove the sign, the Town may remove the sign.

709 Village District Sign Standards

Objective: In keeping with the goals of the Sign Ordinance and preserve Naples Character, freestanding sign structures should employ materials and finishes with natural color schemes, styles and materials (timber, stone, etc.) that invoke a “Maine” look. To complement sign installations, traditional, native/non-invasive landscaping is recommended to accompany the installation and enhance the intimate town appearance.

A. Freestanding Signs within the Village District. The following standards shall apply to any freestanding sign located within the Village District:

1. No more than one freestanding sign, not to exceed 24 square feet in size, shall be allowed on any parcel, except that a freestanding sign advertising multiple businesses or operations that are co-located on a parcel or in a building shall not exceed 32 square feet in size.
2. The structural supporting elements for a freestanding sign shall not exceed 8 feet in width or 10 feet in height.
3. In addition to the freestanding sign:
 - a. No more than a total of two banners or flags shall be allowed on any parcel, except that multiple businesses or operations co-located on a parcel or in a building may display up to four banners or flags. Each banner or flag shall not exceed 16 square feet in size. Banners and flags may only display during hours of operation. Banners and flags must be placed no farther than 10 feet from the primary structure on the parcel.
 - b. Per business: During business hours, no more than one sandwich board or one A-frame sign, not to exceed 6 square feet in size and 4 feet in height, shall be allowed on any parcel and are not allowed within the right of ways.
4. No sign shall be internally illuminated externally lit signs shall employ warm white lighting.
5. The physical address of the property where a freestanding sign is displayed must be an integral part of the freestanding sign and may not exceed two square feet in size. The physical address element of the sign shall not be counted in determining the maximum size of the sign.
6. Changeable copy signs and electronic message signs are prohibited.

B. Wall, projecting and Awning Signs within the Village District. The following standards shall apply to any wall or awning sign located within the Village District:

1. No more than one wall or projecting sign, not to exceed 24 square feet in size, shall be allowed on any parcel, except that a wall sign advertising multiple businesses or operations that are co-located in a building shall not exceed 24 square feet in size or 5% of the size of any exterior wall of the building, whichever is greater. No wall sign shall extend above the eaves of a building. All wall signs must be firmly attached to building.
2. Awning signs shall contain lettering no larger than 6 inches in height and shall only contain name and address of business.

710 Commercial and Light Industrial District Sign Standards

Objective: In keeping with the goals of the Sign Ordinance and preserve Naples Character, freestanding sign structures should employ materials and finishes with natural color schemes, styles and materials (timber, stone, etc.) that invoke a “Maine” look. To complement sign installations, traditional, native/non- invasive landscaping is recommended to accompany the installation and enhance the intimate town appearance.

A. Freestanding Signs within the Commercial or Light Industrial District. The following standards shall apply to any freestanding sign located within the Commercial District or Light Industrial District:

1. No more than one freestanding sign, not to exceed 32 square feet in size, shall be allowed on any parcel, except that a freestanding sign advertising multiple businesses or operations that are co-located on a parcel or in a building shall not exceed the following maximum sign size: two businesses or operations – 48 square feet; three or more businesses or operations – 64 square feet. Directional or traffic safety signs containing logos or other advertising features shall count against the maximum sign area.
2. The structural supporting elements for a freestanding sign shall not exceed 12 feet in width and 20 feet in height.
3. In addition to the freestanding sign:
 - a. No more than a total of two banners or flags shall be allowed on any parcel, except that multiple businesses or operations co-located on a parcel or in a building may display up to four banners or flags. Each banner or flag shall not to exceed 16 square feet in size. Banners and flags may only display during hours of operation. Banners and flags must be placed no farther than 10 feet from the primary structure on the parcel. No banners or flags are allowed for Adult Entertainment Establishments.
 - b. No more than one drive-through menu sign, not to exceed 24 square feet in size, 20 feet in height, and 12 feet in width shall be allowed on any parcel.

- c. Per business: During business hours, no more than one sandwich board or one A-frame sign, not to exceed 6 square feet in size and 4 feet in height, shall be allowed on any parcel and are not allowed within the right of ways. No A-frame or sandwich board signs are allowed for Adult Entertainment Establishments.
- d. No more than one electronic message sign, not to exceed 12 square feet in sign and co-located on the freestanding sign, shall be allowed on any parcel. No electronic message signs are allowed for Adult Entertainment Establishments.
- 4. Signs may be internally illuminated, except that no internally illuminated signs are allowed for Adult Entertainment Establishments.
- 5. The physical address of the property where a freestanding sign is displayed must be an integral part of the freestanding sign and may not exceed two square feet in size. The physical address element of the sign shall not be counted in determining the maximum size of the sign.
- 6. Freestanding changeable copy signs are prohibited.
- B. Wall, projecting and Awning Signs within Commercial or Light Industrial District. The following standards shall apply to any wall or awning sign located within the Commercial District or Light Industrial District:
 - 1. No more than one wall or projecting sign, not to exceed 32 square feet in size, shall be allowed on any parcel, except that multiple businesses or operations co-located on a parcel or in a building may each display a wall sign not to exceed 32 square feet in size. No wall sign shall extend above the eaves of a building. All wall signs must be firmly attached to building.
 - 2. Awning signs shall contain lettering no larger than 6 inches in height and shall only contain name and address of business.

711 Reserved

712 Illumination of Signs

Within the Village District, internally illuminated signs and electronic message centers are prohibited, except grandfathered signs in Section 707 (E). All illuminated signs must meet the following standards:

- A. No sign shall be illuminated more than 0.3-foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance. Brightness shall be controlled to be in keeping with an intimate small town, in scale with its surroundings and other signage. In accordance with ISA illuminance and/or Veridian luminance brightness specifications may be employed and enforced at the discretion of the Code Enforcement Officer pursuant to Article III.
- B. Internally lit signs shall not exceed 0.3-foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance.

- C. Any externally lit sign shall be warm white and shall be downward lit and must be fully shielded.
- D. All lighting and illumination shall:
 - a. Be effectively shielded so as to illuminate the sign surface only and prevent beams or rays of light from being directed at any portion of the traveled way of a public roadway skyward or onto any residential property;
 - b. Be of such low intensity or brilliance so as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.
- E. All illuminated freestanding ground signs shall have underground electrical service unless the local electric utility will not permit such underground service.
- F. The display on each side of the changeable sign may be changed no more frequently than once every one (1) minute.
- G. All electronic signs must be shut off no later than 10:00 p.m. and may be turned on no earlier than 7:00 a.m. the following day in the Village District.
- H. No live or pre-recorded videos, transitions, scrolling or animations are allowed.
- I. Upon power reset or malfunction, electronic message signs must return to the proper program and correct brightness or go to blackout.
- J. Certification of the illuminated sign by a certified brightness compliance tester must be submitted to the Code Enforcement Officer after installation, or upon request from the Code Enforcement Officer.

713 General Sign Standards

The following sign standards shall apply to all signs allowed, with or without a permit, under this ordinance:

- A. Signs must be kept clean, neatly painted, and free from hazards (including, without limitation, faulty wiring and loose fastenings).
- B. Signs must be designed, installed, and maintained at all times in such safe condition so as not to be detrimental to the public health, safety, and welfare; not be detrimental to the physical appearance or scenic or natural beauty of the community; or constitute a distraction or obstruction, or impair vision or traffic; or results in a nuisance due to illumination, placement, display, or manner of construction.

714 Enforcement

- A. This ordinance shall be administered and enforced by the Code Enforcement Officer or such other individual as designated by the Town of Naples Board of Selectmen.
- B. Violations and penalties. If the Code Enforcement Officer finds that any provision of this ordinance is being violated, the Code Enforcement Officer shall notify by registered or certified mail the person determined to be responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. Any person, corporation or entity found in violation of any provisions of this ordinance shall be punished by a fine pursuant to 30-A M.R.S. § 4452, and each day that the violation continues shall constitute a separate offense.

- C. The Board of Selectmen may order the removal of any sign which represents a hazard to public health or safety, or which is found to be in such disrepair that it fails to perform its function. The owner of a sign ordered removed shall have 30 days to conform with this ordinance before removal of the sign by the Town. In the event a sign poses a serious and imminent threat to the public health and safety, the Town may remove the sign immediately and promptly thereafter shall provide notice to the owner of the sign.

715 Appeals; Variances

- A. Appeals. Any party aggrieved by a decision of the Code Enforcement Officer may appeal to the Board of Appeals within 30 days after the Code Enforcement Officer's decision is rendered by filing an appeal at the Town Office on forms approved by the Board of Appeals and accompanied by a fee as established by the Board of Selectmen. Appeals from decisions of the Code Enforcement Officer shall be de novo. The Code Enforcement Officer shall transmit to the Board of Appeals the decision and all documents and other evidence on which the decision was based, which may be considered as evidence in the de novo proceeding. The Board of Appeals shall conduct a public hearing at which all persons shall have the right to present additional testimony and documentary evidence. At the public hearing, any party shall have the right to cross-examine witnesses. The standard of review shall be whether, on the basis of the evidence before the Board of Appeals, the application conforms to the requirements of this ordinance. The burden of proof shall be upon the applicant for the permit. The Board of Appeals shall have authority to grant or deny a permit or to remand the matter to the Code Enforcement Officer for further proceedings. The Board of Appeals shall not continue a public hearing except for good cause. Any aggrieved party may appeal a decision of the Board of Appeals to the Maine Superior Court in accordance with 30-A M.R.S.A. § 2691 and Rule 80B of the Maine Rules of Civil Procedure.
- B. Variances. Upon application therefor, the Board of Appeals may grant a variance upon making a finding of undue hardship as defined in 30-A M.R.S.A. § 4353(4).

716 Miscellaneous

- A. Amendment. This ordinance may be amended from time to time by a majority vote at any Town Meeting.
- B. Validity; Severability. The invalidation of any section or provision of this ordinance by a court of competent jurisdiction shall not invalidate any other section or provision thereof.
- C. Conflicting Provisions. The provisions of this ordinance are minimum requirements. Whenever the application of this ordinance is at variance with the requirements of any other statute, rule, regulation, ordinance, deed restriction or covenant, the more restrictive provision shall govern.
- D. Substitution. Notwithstanding any provision of this ordinance to the contrary, to the extent that this ordinance allows a sign containing commercial copy, it shall allow a non-commercial sign to the same extent.
- E. Effective Date. This ordinance shall become effective on the date of adoption at Town Meeting.

Section 800 Street Vendor

801

Purpose

The purpose of this Ordinance is to regulate mobile vending and other activities on property owned or under the control of the Town of Naples and mobile vending on private property in order to create a vibrant, attractive and diverse use of the Town's commercial areas and green spaces.

802

Definitions

The definitions used in this section are specific to this Ordinance. The other words used in this Ordinance shall have the meaning provided by the Town of Naples Definitional Ordinance or Webster's Dictionary, unless the context clearly dictates another meaning or interpretation.

Artist means a person creating works of art, or selling, offering to sell, or displaying for sale, works of art created by the artist who is offering it for sale.

Ice cream truck means a motorized vehicle utilized for the sale of ice cream, gelato, Italian ice or frozen yogurt products or novelties.

Kiosk means a small, light structure with one or more open sides.

Mobile food service establishment means an establishment that stores, prepares, serves, or sells food for human consumption and is capable of movement on a daily basis, having all facilities contained within the unit and is not fixed to a location for operation or transaction of business. Food trucks are considered a mobile food service establishment.

Performance Artist means a person engaged in performance activity on public property for the purpose of providing public entertainment and self-expression, such as playing a musical instrument, dancing, singing, pantomime, juggling or magic.

Mobile vendor means a person, excluding artists and performance artists, who is engaged in selling or offering to sell goods, services, food or beverages, out of doors on public or private property as allowed in this Ordinance.

Special event: means an event outside of the host property's normal business or activity and is being held as a celebration, a promotion and/or marketing. Special events may be on public or private property

Street, except where the language is more specific, means any public street, sidewalk, alley, path, park, playground or other Town-owned or Town-controlled property, or any portion thereof, which is open for use by the public as a matter of right or privilege.

Works of Art means materials or objects with expressive content such as paintings, prints, photography or sculpture.

803 Insurance and Indemnification required

A. Insurance.

All persons who receive a license from the Town pursuant to this Ordinance shall be required, to the Town's satisfaction, to maintain in full force and effect at all times, a policy of comprehensive public liability insurance with limits of no less than \$400,000 for bodily injury, death and property damage, naming the Town of Naples as additional insured. A certificate of insurance must be provided before a mobile vendor's license is issued.

B. Indemnification.

All persons who receive a license from the Town pursuant to this Ordinance shall be required to defend, indemnify and hold the Town harmless from any claims resulting from licensed activities.

ARTICLE II MOBILE VENDORS AND ARTISTS

804 Licenses

A. Mobile vendor's license required.

- (1) With the exception of the activities described in Section 2.1.B, all mobile vendors are required to have a license from the Town.
- (2) Mobile vendor's licenses shall be issued for a period of one year.
- (3) Temporary mobile vendor's licenses for participation in sidewalk sales, street festivals or other special events may be issued for a period of no less than one (1) day and no more than five (5) days.
- (4) No temporary mobile vendor's licenses shall be issued for vendors on private property.

B. License not required for certain activities.

No mobile vendor's license shall be required for:

- (1) Conducting business on Town-owned property pursuant to a lease, contract, or other agreement with the Town;
- (2) Operating a licensed farmer's market stall;
- (3) Activities conducted by Municipal departments.
- (4) Events on private residential or commercial lots where mobile vendors are the caterer for a private gathering and where the host of the event is responsible for all expenses and where tickets are not sold to attend the event.

C. Compliance with regulations.

Mobile vendors exempted from the license requirement must still comply with all federal, state and local laws and ordinances and with any time, place and manner restrictions applicable to licensed mobile vendors such as, for example, hours of operation. Any license issued under this Ordinance shall contain such terms, conditions and restrictions as the Municipal Officers shall require. Said licenses may be subject to such terms and conditions as the Municipal Officers or their designee deem advisable, including restrictions on the time, place and manner of operation.

D. Revocation.

Licenses authorized under this Ordinance may be revoked at any time for cause by the Municipal Officers or their designee upon actual notice to the holder and an opportunity to be heard.

805 Mobile Vendors on Public Property

The following provisions shall apply to mobile vendors operating on property owned or controlled by the Town during street festivals, sidewalk sales and other special events approved by the Town

A. Street festivals, sidewalk sales and special events.

- (1) Mobile vendors licensed for operation on public property may operate in designated vendor locations within and during street festivals, sidewalk sales or other special events.
- (2) The Town may issue temporary mobile vendor licenses for operation within street festivals, sidewalk sales or other special events, provided that the applicant meets all of the requirements set forth in this Ordinance and that the organizer of the street festival, sidewalk sale or other special event has approved the street vendor's participation in the event.

B. Location.

- (1) For street festivals, sidewalk sales and other special events, the Town may establish designated mobile vendor locations on public property for assignment to qualifying applicants through the issuance of temporary licenses.
- (2) There may be a limited number of mobile vendor locations established by the Town.
- (3) In the event that the Town receives more qualified applicants than available mobile vendor locations, the Town shall create a waiting list for said qualified applicants and administer the waiting list in a manner that is in the best interest of the Town.

C. Operation.

- (1) Mobile vendors shall operate in compliance with this Ordinance, with any rules or regulations adopted by the Municipal Officers, and with any license conditions.
- (2) Mobile vendors shall operate only from a designated vendor location established by the Town, pursuant to a temporary license approved by the Municipal Officers.
- (3) Mobile vendors shall operate only from a location that is approved by the Town and shall display at all times a numbered license issued by the Clerk's office.
- (4) No license issued under the provisions of this Ordinance shall be used at any time by any person other than to whom it was issued.
- (5) Unless otherwise authorized by the Town, the mobile vendor shall be removed at the end of each event and the space shall be cleaned of all debris by the mobile vendor.

D. Sale of goods.

Mobile vendors who sell or offer to sell goods or services are prohibited from using any equipment or selling or offering to sell any goods or services not specifically authorized by the license and shall not operate in any manner that would constitute an unfair or deceptive trade practice under state law.

E. Sale of food or beverages.

- (1) The sale of food or beverages by mobile vendors shall only be permitted from a fully licensed mobile food service establishment.
- (2) Mobile vendors shall provide approved waste paper receptacles for use by customers, shall maintain the immediate area free of litter generated by customers, and shall arrange for proper disposal of waste.
- (3) The sale of food and beverages by mobile vendors shall only be permitted from a fully licensed mobile food service establishment

806

Mobile Vendors on private property

The following provisions shall apply to mobile vendors operating on private property.

A. Location.

- (1) Mobile vendors, offering their products to the general public, shall only operate in the Commercial District.
- (2) Mobile vendors, offering their products to the general public, shall be allowed in any District during a special event.

B. Operation.

- (1) Mobile vendors shall operate in compliance with this Ordinance, with any rules or regulations adopted by the Municipal Officers, and with any license conditions.
- (2) Mobile vendors shall only operate pursuant to an annual license approved by the Municipal Officers.
- (3) Mobile vendors shall display at all times a numbered license issued by the Clerk's office.
- (4) No license issued under the provisions of this Ordinance shall be used at any time by any person other than to whom it was issued.

C. Sales and display area.

- (1) Mobile vendors shall operate in an area located entirely on private property.
- (2) The owner of the property shall provide toilet facilities to the vendor.

D. Sale of goods.

Mobile vendors who sell or offer to sell goods or services are prohibited from using any equipment or selling or offering to sell any goods or services not specifically authorized by the license and shall not operate in any manner that would constitute an unfair or deceptive trade practice under state law.

E. Sale of food or beverages.

- (1) The sale of food or beverages by mobile vendors shall only be permitted from a fully licensed mobile food service establishment.
- (2) Mobile vendors shall provide waste paper receptacles for use by customers, shall maintain the immediate area free of litter generated by customers, and shall arrange for proper disposal of waste.

807

Artists

Artists and performance artists shall operate in compliance with this Ordinance and with any rules or regulations adopted by the Municipal Officers.

A. Display.

Artists and performance artists shall not create, perform, sell or display art:

- (1) Within any area designated by the Municipal Officers for a sidewalk sale, street festival, farmers' market, or other special event, except as authorized by the Municipal Officers;
- (2) On any sidewalk or in any other location so as to impede the free passage of vehicles or pedestrians, obstruct the entrance to or exit from private property, jeopardize public safety, or otherwise inconvenience the public;
- (3) On a public street or on public benches, monuments or structures; or
- (4) In a manner that uses private property to display artwork without the permission of the property owner.

808

Ice Cream Trucks

- (1) No ice cream truck shall stop at any time for the purpose of making sales on or along that portion of Route 302 between Goodridge Drive and Lake House Road, commonly known as the Causeway.
- (2) No ice cream truck shall stop at any time for the purpose of making sales if such stop is located within five hundred (500) feet of a licensed fixed or mobile food service establishment.
- (3) No ice cream truck shall stop for the purpose of making sales if such stop prevents the safe passage of other motor vehicles on the public street.

809

Prohibited operations

A. Location of operations.

No mobile vendor shall operate:

- (1) On public property, except during festivals or other special events approved by the Municipal Officers pursuant to a temporary mobile vendor's license;

B. Licensed persons.

No license issued under the provisions of this Ordinance shall be used at any time by any person other than to whom it was issued.

C. Hours of operation.

No mobile vendor shall operate between the hours of 12:00 a.m. and 8:00 a.m. unless authorized by the Town.

D. Generators.

The use of generators by mobile vendors shall be prohibited unless authorized by the Town.

Application

A. Contents of application.

Applicants for a mobile vendor's license under this Ordinance must file with the Municipal Officers a sworn application in writing on a form to be furnished by the Town Clerk which shall supply, at a minimum, the following information:

- (1) Name and business description of the applicant.
- (2) Address (legal and local).
- (3) A brief description of the nature of goods, services, food or beverages to be sold.
- (4) The length of time for which the license is desired.
- (5) If a vehicle is to be used, a description of the same, with proof of current registration and insurance.
- (6) A current photo ID.
- (7) Proof of current Maine resale certificate, where applicable.
- (8) If on private property, the name of the property owner, location, and written permission from the property owner.
- (9) If on private property, a description of the sales area location and dimensions.
- (10) A description and design of any kiosk and its dimensions.
- (11) Proof of required state and local licenses and approvals for mobile food service establishments.

B. When filed.

- (1) For vendors on Public property, the application shall be filed with the Municipal Officers not less than 21 days before the date on which it is proposed to commence mobile vending operations.
- (2) For vendors on Private property, the application shall be filed with the Municipal Officers not less than 21 days before the date on which it is proposed to commence mobile vending operations.

C. Application fee.

- (1) At the time of filing the application the following fees shall be paid to the Town Clerk as established by Order of the Board of Selectpersons.
- (2) Non-profit organizations are exempt from the application fee.
- (3) The Municipal Officers may waive, in their sole discretion, application fees for temporary licenses.

D. One license per applicant.

Mobile vendor's licenses shall be limited to one per applicant.

A. Public hearing.

B. The Municipal Officers shall, prior to granting a license and after reasonable notice to the municipality and the applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken. Public hearings shall not be required for temporary licenses.

Notification of denial or approval.

Any applicant requesting a mobile vendor's license from the Municipal Officers shall be notified in writing of the Municipal Officers' decision no later than fifteen (15) days after the decision. In the event a license is denied or approved with conditions, the applicant shall be provided with the reasons for denial or conditions in writing. The applicant may not reapply for a license within thirty (30) days after an application for a license that has been denied.

811

Occupancy of publicly owned or controlled lands

A. Authorization required for occupancy of streets.

(1) No person shall place or cause to be placed in or on, or shall suspend over, any street in the Town any article or thing whatsoever, including but not limited to buildings or structures, permanent signs or portable signs, except as duly authorized by the Municipal Officers. The Town is in no way required or obligated to grant such authorization, and any authorization will take into consideration its effects on public health, safety, welfare and aesthetics of the Town. Authorizations are nontransferable and unassignable. All Federal, State or local permits or licenses must be in place and in good standing at all times of operations.

(2) The Municipal Officers or their designee is hereby authorized to issue revocable licenses for the location, protection, maintenance and use of articles, structures, trees, and other installations placed in, on, above, or beneath streets or other public property, upon receipt of proof of insurance in a form and in an amount satisfactory to the town.

(3) Except during declared festivals or other approved events that require a mobile vendor's or occupancy license under this Ordinance, this section shall not apply to a table or other structures used by:

- Artists to create or sell works of art;
- Persons engaged in an activity protected by the First Amendment to the United States and Maine Constitutions, including but not limited to the distribution of political or religious literature or the gathering of signatures on petitions.

- (4) Business owners may not place benches or flower pots on Town sidewalks or in public spaces without obtaining authorization from the Municipal Officers.

B. Outdoor dining license required.

- (1) No person shall expand a food service establishment to the outside on any street, way or public place in the Town except under a duly authorized outdoor dining license issued by the Municipal Officers.
- (2) The Municipal Officers or their designee is hereby authorized to issue revocable licenses for outdoor dining in Town parks or other Town owned or controlled spaces.

C. Sidewalk signs and other structures regulated.

- (1) The Municipal Officers are hereby authorized to promulgate from time to time such reasonable rules and regulations governing the design, construction, size and location of portable sidewalk signs as may be consistent with this Ordinance or other applicable ordinances; and in furtherance of the public interest.
- (2) The Municipal Officers are further authorized to promulgate such other regulations as may be required for the location of other installations or structures in or use of the public ways, and for outdoor dining on streets, ways or other public places.

812

Festivals and Special Events

A. Nonprofit and for profit sponsors of special events.

Organizations (private, nonprofit, or for profit) wishing to use public property for festivals or other special events shall apply to the Town for a permit pursuant to the Town of Naples Outdoor Entertainment Ordinance. As part of the application process, the applicant shall describe the intended properties that will be used as part of the event as well as any vendors that may participate during the event.

B. Festival area designated; permission from festival organizer required.

The Municipal Officers may designate an area for a street festival or other special event. In the event of such festival designation, mobile vendors shall be required to obtain necessary licenses. Mobile vendors, other than those operating pursuant to an annual license for a designated vendor location, must obtain the permission of the festival organizer to conduct business within the festival area.

813 Farmers' Market

A. Farmers' Market Stalls.

Persons wishing to operate a stall during a Town Farmers' Market shall apply to the Town for authorization.

B. Farmers' Market Rules.

The Municipal Officers are hereby authorized to promulgate from time to time such reasonable rules and regulations governing the Town Farmers' Markets.

814

Prohibitions

A. Vehicle restrictions.

No vehicle engaged in the conveyance of passengers over regular routes shall be operated on any roadways within public parks except those that may be designated for such purposes by the parks authority.

B. Vandalism prohibited.

No person shall in any manner cut, mar, deface, injure or destroy any growth, buildings, fences or other structures in or upon streets or public property.

C. Littering prohibited.

No person shall deposit or leave refuse of any kind in or upon any of the parks or public grounds except in containers specifically provided for such refuse.

D. Skating, skateboarding or bicycling.

Skating, skateboarding or bicycling shall not be allowed on any portion of the areas known as the Boardwalk or sidewalks in areas designated as the Causeway.

815

Fees for Street Occupancy

A. Fees for licenses issued under this Article shall be established by Order of the Board of Selectpersons.

B. Fees for the issuance of a revocable outdoor dining license.

Outdoor dining on streets, sidewalks or other public ways or public spaces shall be established by Order of the Board of Selectpersons.

C. Waiver.

The Municipal Officers may waive, in their sole discretion, license fees for nonprofit entities and participants in farmers' market, festivals and other special events.

816

Enforcement and penalties

A. Authorization of Code Enforcement Officer and Town Manager.

The Code Enforcement Officer and Town Manager or his or her designee is authorized to enforce this Ordinance.

B. Violation notification.

If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, the Code Enforcement Officer shall provide notification in writing to the person responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it.

C. Commencement of enforcement action.

The Code Enforcement Officer may commence an enforcement action requesting, among other things, correction of the violation, civil penalties, attorney's fees and costs; such enforcement action may see injunctive relief.

Section 4.2 PENALTIES

Violation of any provision of this Ordinance or any lawful order relating to this Ordinance by the Code Enforcement Officer shall be subject to a fine established by Order of the Board of Selectpersons. In the event that the Town incurs any expense in the enforcement of this Ordinance, including but not limited to court costs and attorney's fees, the Town shall be entitled to collect such costs from the violator. Any penalties or costs assessed shall be payable to the Town of Naples.

Section 4.3 APPEALS

A. Appeal to Municipal Officers.

Whenever a person shall deem themselves aggrieved by an order made by the Code Enforcement Officer or Town Manager or designee, the person may file an appeal to the Municipal Officers within ten (10) days of the date of the order, and the person shall be afforded a hearing on the matter before the Municipal Officers. Unless by their authority the order is revoked or amended, such order shall remain in force and be forthwith complied with by the person in its original form or as amended.

B. Revocation or amendment.

In cases of applicability or interpretation of the rules or regulations, the Municipal Officers may revoke or amend such order made by the Code Enforcement Officer or Town Manager or designee.

C. Extensions or exceptions.

In cases where compliance with such order made by the Code Enforcement Officer or Town Manager or designee would cause a disproportionate burden on the appellant, the Municipal Officers may extend the time limit or grant exceptions to the order, or waive requirements of this Ordinance or any applicable rules or regulations, provided that the Municipal Officers shall give due consideration to the purposes of the rules or regulations in preserving

public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

ARTICLE V
SEVERABILITY, INCONSISTENCY AND EFFECTIVE DATE

Section 5.1 SEVERABILITY

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

Section 5.2 INCONSISTENCY

If provisions of this Ordinance conflict or are inconsistent with other provisions of this Ordinance, with the provisions of other ordinances of Town of Naples, or with laws, ordinances, rules or regulations of the federal government or the State of Maine, the stricter requirements shall apply and control.

Section 5.3 REPEAL OF STREET VENDOR ORDINANCE

As of the effective date below, the Town of Naples Street Vendor Ordinance adopted June 16, 2010 is hereby repealed by the enactment of this Ordinance.

Section 5.3 EFFECTIVE DATE

The effective date of this Ordinance shall be when enacted by the Town of Naples.

Section 900 Site Plan Review

901 Purpose

The Town of Naples determines that large scale development or major land use changes have a profound effect upon the cost and efficiency of municipal services, upon the environment of the Town of Naples, and upon the general health, safety and welfare of the residents of the Town. Unplanned development may result in overcrowded schools and highways, increased costs of municipal services and degraded air and water quality. The purpose of this ordinance is to ensure an orderly growth of the Town and to minimize the detrimental effects of that growth which is caused by development, by way of but not limited to: commercial, industrial, retail or institutional buildings, structures and/or uses, campgrounds and mobile home parks.

902 Applicability

This section of the Ordinance shall apply to all development proposals and changes of use defined herein in the Town of Naples. No building permit shall be issued for any development requiring Site Plan Review until the plans, drawings, sketches and other documents required under this Ordinance have been reviewed and approved by the Planning Board.

1. Development means and includes:

- a. Proposals for new construction of commercial, retail, industrial, utility, institutional and recreational buildings and structures of more than 1600 square feet of floor space or additions of more than 800 square feet of floor space. New construction or additions may either be additions of units within an existing structure or the expansion of an existing structure or the construction of additional buildings on the same lot.
 - b. Such requirements of construction shall be cumulative. Review shall be required if the new construction, alteration or addition results in a building or buildings that exceeds 1600 square feet of floor space or a total expansion (whether the addition of units within an existing structure or added floor space or added floor space in additional buildings on the same lot) of 800 square feet after June 28, 1997.
 - c. Proposals for new construction of buildings and structures for campgrounds, rental cottages or cabins, motels or hotels, and multifamily dwellings that exceed 2,500 square feet of floor space or additions in excess of 1,600 square feet of floor space either by addition of units within an existing structure or by expansion of an existing structure or by added floor space in additional buildings on the same lot. Such requirements of construction and addition shall be cumulative.
 - d. Proposals to convert residential uses to nonresidential uses other than those defined as home occupations, or to convert single family dwelling to multi-family dwellings.
 - e. Proposals to pave, remove earth materials or grade areas of more than 15,000 square feet of non-vegetated area within a five-year period.
2. A change in the use of land or structures that meets either of the following criteria shall require at least limited site plan review:
- a. A proposed change in use that is located on a site or in a building that originally received site plan review; or
 - b. A proposed change in use that is located on a site or in a building that meets the review thresholds in Section 702.1.a - d, inclusive and is a use that would require site plan review if it were proposed as a new development.
 - c. A change in use requiring site plan review occurs when a project that is covered under Section 3.B.1, 3.B.2 or 3.B.3 above changes to a use that was not considered in the original site plan approval or, if there was no prior approval, changes to a use different from what was originally constructed or has historically been implemented. Examples include a change from an office to a retail store or from a retail store to an industrial use or from a retail store to a restaurant. A proposal to change one retail use to a different kind of retail use, such as a change from a drug store to a candy store or a convenience store would not be considered a change in use. A proposal to increase the number of residential units in a structure would be considered a change in use.
3. This section of the ordinance does not apply to:

- a. Construction of one detached single-family or one duplex dwelling on a lot and customary outbuildings for the use of the residents thereof.
 - b. Construction of barns, stables and other agriculturally related buildings other than buildings for the purpose of processing agricultural related products.
 - c. Land management practices for agricultural or forestry purposes.
 - d. Legally existing buildings, structures and uses as they existed and to the extent they were used at the time of adoption of this Ordinance.
 - e. Home occupations, including yard sales.
 - f. Fairs, bazaars, sales and festivals, temporary in nature, conducted by nonprofit organizations.
 - g. All new and existing municipal facilities of the Town of Naples are exempt from Planning Board Review but must meet all of the conditions as specified in the Ordinance and all other town ordinances.
4. Construction, site development and landscaping shall be carried out in accordance with the plans, drawings, sketches and other documents approved by the Planning Board unless altered with Planning Board approval. Nothing in this Section shall be construed to prevent ordinary maintenance and improvement of existing structures and facilities.

903 General Provisions

1. The Planning Board may require the filing of a performance bond, a certified check payable to the Town, an irrevocable letter of credit or the execution of a conditional agreement assuring the applicant's performance of the applicant's obligations under its permit. Such measures may be required to properly completion of some or all site improvements including, but not limited to roads, parking areas, sewage systems, water lines, open areas, and sedimentation and erosion control systems.
2. The Planning Board shall require the applicant or the applicant's authorized agent to deposit in escrow with the Town an amount of money to cover the costs for any professional review of the site plan documents which the Board may feel is reasonably necessary to protect the environmental quality or general welfare of the Town.
 - a. Maximum amounts for this escrow payment shall be established by the Board of Selectmen. Amount to be deposited shall be shown on the Fee Schedule in accordance with The Naples Planning Board Land Use Fee Schedule.
 - b. This escrow payment shall be made before the Board engages any outside party to undertake this review and make recommendations to the Board.

- c. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner's agent.
3. Any proposed development shall be in conformity with the Comprehensive Plan of Naples and with the provisions of all local codes or regulations or any State Law which the municipality is responsible for enforcing.

904 General Regulations

The following regulations shall be complied with in addition to the performance standards contained in Section 706, Criteria and Standards, of this Land Use Ordinance for residential, institutional, industrial and commercial developments.

1. All uses requiring federal, state and/or local licensing shall obtain such license before a Site Plan Review Permit is granted by the Planning Board.
2. The Planning Board, as a condition of approval, may require assurances to protect the health, safety and general welfare of the community.
3. Any industrial or commercial use proposed by an applicant may be authorized only if the Planning Board finds that the specific industrial or commercial use as proposed will have no more significant effect upon abutting or nearby land and its existing uses than other similar industrial or commercial uses of the same category as defined by local, state, and federal codes and guidelines.

905 Waivers

1. Upon the request of the applicant, the Planning Board may waive any of the site plan review administration or submission requirements if the Planning Board determines that:
 - a. there will be no adverse effects on the neighborhood or the site.
 - b. that the purposes of site plan review continue to be met.
 - c. the scale or nature of the project is of a size that makes the information unnecessary
 - d. there are special circumstances of the site that make compliance with specific application requirements or standards an unnecessary burden upon the applicant, as long as such a waiver will not adversely affect the abutting landowners and the general health, safety and welfare of the Town.
2. Any waivers or exceptions granted must be listed on the final plan.
3. There will be no waivers on road paving standards.

906 Administration

The following procedures and requirements shall apply to all applications for Site Plan Review:

1. Prior to formal application, the applicant or his authorized agent may request a pre-application conference with the Planning Board or its designated staff to discuss the plan and its compliance with town standards. Comments made at such a meeting shall be advisory in nature. The Planning Board may request that the applicant arrange for a site inspection with the Board or one or more individuals appointed by the Board's Chairperson to act as the Board's representative.
2. All applications for Site Plan Review shall be made in writing to the Planning Board secretary on forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application.
3. The Planning Board shall be empowered to administer application fees as set by the Selectmen and listed in the Town of Naples Fee Schedule.
4. The Planning Board may require the applicant or his authorized agent to deposit funds in escrow sufficient to cover the costs for any professional review of the site plan documents which the Planning Board determines is reasonable to protect the Town as authorized by the Town of Naples Land Use Fee Schedule. This escrow payment shall be made before the Planning Board engages any outside party to undertake this review and to make recommendations to the Planning Board. Any part of this escrow payment in excess of the final costs for the review shall be returned to the applicant or his agent.
5. At least fourteen (14) days prior to the Planning Board meeting at which the applicant wishes to be heard, the applicant shall submit a letter of intent to appear before the Planning Board.
6. Eight (8) copies of the completed application for Site Plan Review, together with the documentation required in these regulations shall be submitted at least fourteen (14) days prior to the Planning Board meeting at which the applicant wishes to be heard. However, any application which does not include the documentation required by these regulations will not be scheduled for review by the Planning Board and shall be returned to the applicant by the Planning Board secretary with an indication of the additional information required.
7. Preliminary review of the application for completeness shall be done by the Code Enforcement Officer. The Planning Board shall be the ultimate authority on the completeness of an application and shall make a finding of fact during its initial review as to whether the application is complete. If the Board finds the application is incomplete, the Planning Board shall inform the applicant of what information is necessary to complete the application.
8. Prior to taking final action on any Site Plan Review application, the Planning Board may hold a public hearing to afford the public the opportunity to comment on the application. Notice of the date, time and place of such hearing shall be published in a newspaper of

local circulation at least ten (10) calendar days prior to the public hearing meeting the requirements of 1 M.R.S.A., Section 60.

9. Within forty-five (45) days after the public hearing or sixty (60) days after receiving a complete application, the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
10. When a development is subject both to Site Plan Review and to Subdivision Review, the Planning Board shall conduct a concurrent review. Criteria and standards of the Site Plan Review Ordinance shall be employed in addition to the requirements and standards of the Subdivision Ordinance.

907 Submission Requirements – Site Plan Review

A formal application for Site Plan Review shall contain eight (8) copies of at least the following exhibits and information:

1. Written Information
 - a. A fully executed and signed copy of the application for Site Plan Review
 - b. Owner's name, address and signature.
 - c. Name and addresses of all abutting property owners plus a description of the project, to be used by the Planning Board to notify the abutters by certified mail of the proposed project, proof of mailing receipts to be kept on file at the Town Office. Owners of abutting properties shall be those listed in the most recent tax records of the Town of Naples.
 - d. If the site is not to be served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site evaluator shall be provided.
 - e. A list of waivers of any town requirements or ordinance provisions requested. Waiver requests shall state the basis and reasons for granting the waiver.
 - f. A statement from the Fire Chief that the property is accessible by present fire apparatus and detailing any additional on-site fire protection facilities required.
 - g. Copies of any proposed or existing easements, covenants and deed restrictions.
 - h. Copies of all required state approvals and permits, provided however, that the Planning Board may approve site plans subject to the influence of specific state licenses and permits in cases where it is not feasible for the applicant to obtain at the time of Site Plan Review.
 - i. A description and design of proposed temporary and permanent signs, including location, size and lighting.

- j. A phosphorus analysis is required if proposed project is within the Shoreland Zone or the non-vegetated area exceeds 40,000 square feet. The analysis of phosphorus loading shall utilize the methods contained in the latest revised edition of the manual Phosphorus Control in Lake Watersheds, published by the Maine Department of Environmental Protection, and shall require third party review.
- k. A soil and erosion control plan approved by the Cumberland County Soil & Water Conservation District, showing:
 - i. The existing and proposed method of handling stormwater run-off.
 - ii. The direction of flow of the run-off through the use of arrows.
 - iii. The location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins and storm sewers.
 - iv. Engineering calculation used to determine drainage requirements based upon a 25-year storm frequency, if the project will significantly alter the existing patterns due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.

2. Site Plan Information

- a. A site plan drawn at a scale sufficient to allow review of the items listed under Criteria and Standards, but not more than one hundred (100) feet to the inch for that portion of the total tract of land being proposed for development.
- b. Perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points showing true north point, graphic scale, corner of parcel, date of survey and total acreage.
- c. The lot area of the parcel, street frontage and the Town Land Use Ordinances requirements for minimum lot size and frontage.
- d. Existing and proposed topography of the site at two (2) foot contour intervals if major changes to the existing topography are being proposed.
- e. Existing land cover and vegetation conditions.
- f. Soil types and location of soil boundaries as certified by a registered engineer or certified soil scientist.
- g. Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in two or more zoning districts.
- h. Total area of any land within 500 feet of the proposed project which is owned owner by the applicant.
- i. The location of all buildings within fifty (50) feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.

- j. All surface water features within 500 feet of the project boundaries, including perennial streams and wetlands.
- k. Location of all wells and septic systems within 150 feet of the property boundary.
- l. The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping.
- m. The location of all building setbacks as required by the Town Land Use Ordinances.
- n. The location, size and character of all signs and exterior lighting.
- o. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of entrances and exits of vehicles to and from the site on to public streets, curb and sidewalk.
- p. Drainage plan to describe the location and size of road culverts, road drainage ditches, phosphorus and runoff control measures and other similar features.
- q. A utility plan showing provisions for water supply and wastewater disposal including the size and location of all piping, holding tanks, leach field, etc.
- r. Building plans showing plans of all floors and all elevations.

908 Criteria and Standards

The following criteria and standards are to be used by the Planning Board in judging applications for Site Plan Review and shall serve as minimum requirements for approval of a site plan. In all instances, the burden of proof shall be on the applicant to demonstrate compliance with each standard.

1. Preservation of Landscape.
 - a. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation when and where desirable, and keep any grade changes in character with the general appearance of neighboring areas. Existing vegetation, buffering, landscaping and building siting are potential methods of preserving scenic vistas.
2. Relation of Proposed Building to the Environment
 - a. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed building. Special attention shall be paid to the scale of the proposed building(s), massing of the structure is), and such natural features as slope, orientation, soil type and drainage courses. Architectural features of the proposed structures shall be

considered for all developments fronting on Route 302 from the fire station to the Crooked River Bridge to conform as close as practical to existing structures in the surrounding area.

3. Vehicular Access

- a. The proposed layout of access points shall be designed so as to avoid adverse impact on existing vehicular and pedestrian traffic patterns. The proposed site layout shall give special consideration to the location, number and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, pedestrian-vehicle contacts and existing or proposed traffic signalization shall be considered.

4. Parking and Circulation

- a. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide interior-circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the arrangement and use of parking areas. These facilities shall be safe and convenient and, insofar as practicable, shall not detract from the proposed buildings and neighboring properties. Sufficient off-street parking must be provided for both employees and customers of the newly constructed facility. All parking areas must be set back a minimum of 10 feet from the property line on any State numbered route.

5. Surface Water Drainage.

- a. Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions or the public storm drainage system and shall be held to a zero percent or less off-site increase after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five (25) year storm frequency.

6. Utilities.

- a. The site plan shall show what provisions are being proposed for water supply and wastewater disposal. Electric, telephone and other utility lines shall be installed underground unless the Planning Board waives this requirement as on a determination that underground placement is not possible because of site conditions. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.

7. Advertising Features.

- a. The size, location, design, color, texture, lighting and material of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.

8. Special features.

- a. A buffer zone shall be required between commercial and residential properties using plantings or other screening methods as shall be reasonably required to prevent the commercial use from being incongruous with the existing or contemplated environment and the surrounding properties. The Planning Board may require buffer zones between commercial properties where differences in the use of the properties or the natural features of the properties make buffers appropriate. All buffers and screening must be maintained indefinitely by the property owner.

9. Exterior Lighting.

- a. All exterior lighting shall be designed to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

10. Emergency Vehicle Access

- a. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

11. Landscaping.

- a. Landscaping shall be designed and installed to define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas.
- b. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, plants, grading and the use of building and materials in an imaginative manner. All landscaping and buffer areas required by the Planning Board to be on the site plan must be maintained by the applicant and successor owners and/or occupants.

12. Environmental Considerations.

- a. Adequate provision shall be made to control noise, vibrations, smoke, heat, glare, fumes, dust, toxic matter, odors and electromagnetic interference generated by proposed uses or activities on the site such that these impact shall not be readily detectable at any point along lot lines so as to produce a public nuisance or hazard.

13. Signs.

- a. Areas outside of the Shoreland Zoning District shall comply with following: One free-standing sign per property is permitted. Free-standing signs shall have a maximum surface area of thirty-two (32) square feet per sign face per property where posted speed limits are less than thirty-six (36) miles per hour and a maximum of sixty-four (64) square feet per sign face per property where posted speed limits exceed thirty five (35) miles per hour. The maximum height for free-standing signs shall be twenty (20) feet. For each business in excess of three (3) located on a single property parcel, an additional nine (9) square feet sign area per business shall be allowed.

14. Municipal Services

- a. The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, emergency medical unit, solid waste program, schools, municipal services and facilities.

15. Air Pollution.

- a. The development will not result in undue air pollution. In making this determination, the applicant shall, if require by the Planning Board, consult federal and state authorities to determine applicable air quality laws and regulations, and furnish such evidence to the board.

16. Noise Levels.

- a. Will not violate any noise control provisions in effect in the Town of Naples or the State.

909 Expiration of Notice of Decision

Following the issuance of a Notice of Decision, if no substantial start is made in construction or in the use of the property within one year of the date of the Notice, the Authority granted in the Notice of Decision shall lapse and become void. One-year extensions may be granted by the Planning Board, in its sole discretion, only upon written application by the owner of the property.

910 Appeals

If the Planning Board disapproved an application or grants approval with conditions that are objectionable to the applicant or to any abutting landowner or other aggrieved party, or when it is claimed that the provisions of this Land Use Ordinance do not apply, or that the true intent and meaning of the Land Use Ordinance has been misconstrued or wrongfully interpreted, the applicant, any abutting landowner, or other aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within 30 days after the Planning Board's decision is rendered. The Board of Appeals may reverse the Planning Board's decision after holding a public hearing, and upon application, therefore, may grant a variance upon making a

finding or undue hardship as defined in 30-A M.R.S.A. §4353(4). Public hearings shall be held according to Title 31A, M.S.R.A., Section 2691.

Section 1000 Subdivision

1001 Purpose and Review Criteria

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Naples, Maine, the Board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

1. Will not result in undue water or air pollution. In making this determination it shall at least consider:
 - a. The elevation of land above sea level and its relation to the flood plains,
 - b. the nature of soils and subsoils and their ability to adequately support waste disposal;
 - c. the slope of the land and its effect on effluents;
 - d. and the applicable State and local health and water resources regulations.
 - e. The Planning Board requires that allocations for phosphorus loading are to be based on the most current data available in the Code Enforcement Office;
2. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
6. Will provide for adequate solid and sewage waste disposal;
7. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
8. Will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services;
9. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;

10. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any; and
11. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water and will meet all the requirements of the Naples Shoreland Zoning Ordinance.
12. As a condition of approval, the Planning Board will require any further division of an approved subdivision, or lots therein, to be reviewed and approved by the Planning Board.

1002 Authority and Administration

1. Authority

- a. These standards have been prepared in accordance with provisions of Title 30-A M.R.S.A., Sections 4401-4406.
- b. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Naples, Maine".

2. Administration

- a. The Planning Board of the Town of Naples, hereinafter called the Board, shall administer these standards.
- b. The provision of these standards shall pertain to all the land proposed for subdivision as herein defined within the boundaries of the Town of Naples.
- c. The Planning Board shall require the applicant or his/her authorized agent to deposit in escrow with the Town an amount of money to cover the costs for any professional review of the plan and documents which the Board may feel is reasonably necessary to protect the environmental quality or general welfare of the Town. Maximum amounts for this escrow payment shall be established by the Board of Selectpersons.
 - i. This escrow payment shall be made before the Board engages any outside party to undertake this review and make recommendations to the Board.
 - ii. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or his agent.
 - iii. Maximum amount to be deposited shall be as shown on the Fee Schedule.2.2.4
- d. The Planning Board will not process an application or a new subdivision or for an amendment to an approved subdivision for any subdividing party currently in default of any requirement of a previously approved subdivision.

1003 Preapplication

1. Submissions

- a. A Sketch Plan shall be submitted to the Planning Board for informational purposes only.
- b. The Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should include the data listed in Section 804.3 or such of it as the Planning Board determines is necessary for its consideration of the proposed Sketch Plan (* See Appendix x and xi for sample Sketch Plan and Survey Map)
- c. General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawing required above. This information shall include data on existing covenants, medium intensity soil survey and soil interpretation sheets and available community facilities and utilities and information describing the subdivision proposal such as, number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas and other public areas, proposed protective covenants and proposed utilities and street improvements.

1004. Review Procedure and Submissions for Minor Subdivision

1. General

- a. The Planning Board may require, where it deems it necessary for the protection of public health, safety and welfare that a Minor Subdivision comply with all or any of the requirements specified for Major Subdivisions.

2. Procedure

- a. Within six months after submission of the Sketch Plan, the subdivider shall submit an application for approval of a Final Plan* at least fifteen (15) days prior to a scheduled meeting of the Board. Failure to do so shall require re-submission of the Sketch Plan to the Planning Board for reclassification. The Final Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board.
- b. All applications for Plan approval for Minor Subdivisions shall be accompanied by a fee as shown on the Town of Naples fee schedule, payable by check to the Town of Naples, Maine, stating the specific purpose of the fee.
- c. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
- d. The Planning Board shall, within forty-five (45) days from the date of submission, approve, modify and approve, or disapprove the Final Plan. The Board shall

specify in writing its reasons for any such modification or disapproval. If the Board fails to take action within forty-five (45) days as specified above, the Final Plan shall be deemed disapproved.

* See Appendix xiv for sample final plan

3. Submissions

- a. The subdivision plan for a Minor Subdivision shall consist of one original and nine copies of one or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch, which shall be legibly reproduced on a durable material or clearly drawn in India ink or linen and the size of the sheets shall be 8 inches x 11 inches or a multiple thereof, but in no case larger than 34 x 44 inches. Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies.
- b. The application for approval of a Minor Subdivision shall include all the information presented on the Sketch Plan plus the following:
- c. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- d. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required and shall be referenced as shown on the Plan.
- e. A soils report identifying the soils boundaries and names in the proposed development with the soil's information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. The intensity of this study must identify changes in soil conditions down to one eighth acre or as determined by the Planning Board. A lot by lot soils suitability determination for house building with septic sewage disposal or, if appropriate, house building with public sewage disposal, will be made in accord with the Soil Suitability Guide for Land Use Planning in Maine and will accompany the plot plan soils study.
- f. All on-site sewage and water supply facilities shall be shown designed to meet the minimum specifications of these standards and all pertinent State and local ordinances. Compliance shall be stated on the Plan and signed by a licensed engineer.
- g. Proposed name of the subdivision or identifying title, and the name of the Municipality in which it is located.

- h. The date, north point, graphic map scale, name and address of record owner and subdividing party, and names of adjoining property owners.
- i. A soil erosion and sediment control plan containing the endorsement of the Cumberland County Soil and Water Conservation District.

1005. Review Procedure and Submissions for Major Subdivision, Preliminary Plan

1. Procedure

- a. Within six months after submission of the Sketch Plan, the subdivider shall submit an application for the consideration of a Preliminary Plan* for a major Subdivision. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board.
- b. The application for conditional approval of the Preliminary Plan shall be accompanied by a fee as shown on the town of Naples fee schedule payable by check to the Town of Naples, Maine, stating the specific purpose of the fee.
- c. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
- d. Within forty-five (45) days after formal submission of a Preliminary Plan, the Planning Board shall take action to give preliminary approval, with or without modifications or disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board, and the subdivider shall be notified in writing. Failure of the Planning Board to act within such forty* five (45) day period shall constitute disapproval of the Preliminary Plan. Prior to preliminary approval the Planning Board shall hold a public hearing.
- e. When granting preliminary approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
 - i. the specific changes which it will require in the Final Plan;
 - ii. the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare, as decided by the Selectmen;
 - iii. the amount of improvements or the amount of all bonds, therefore which it will require as prerequisite to the approval of the Final Subdivision Plan. The decision of the Planning Board plus any conditions imposed shall be noted on three (3) copies of the Preliminary Plan. One copy shall be returned to the subdivider, one retained by the Planning Board and one forwarded to the Municipal Officers.

f. Preliminary approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the Final Subdivision Plan, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at a public hearing.

g. After review of the Preliminary Plan, the Planning board may require a site walk

* See Appendix xiii for sample Preliminary Plan

2. Submissions

a. Location Map* The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over fifty (50) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The Location Map shall show: 1) all the area within two thousand (2,000) feet of any property line of the proposed subdivision, or; 2) any smaller area between the tract and all surrounding existing streets, provided any part of such a street used as part of the perimeter for the Location Map is at least five hundred (500) feet from any boundary of the proposed subdivision.

b. Within such area the Location Map shall show:

- i. All existing subdivisions and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, namely, those directly abutting or directly across any street adjoining the proposed subdivision.
- ii. Locations, widths and names of existing, filed or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in Paragraph 1, above.
- iii. The boundaries and designations of zoning districts, school districts and parks or other public spaces.
- iv. An outline of the proposed subdivision together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider's entire holding.

* See Appendix xii for sample Location Map

3. Preliminary Plan

The Preliminary Subdivision Plan shall be submitted in ten (10) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of 1-inch equals not more than one hundred (100) feet, showing or accompanied by the following information:

- a. Proposed subdivision name or identifying title and the name of the Municipality.
- b. Name and address of record owner, subdivider and designer of Preliminary Plan.
- c. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, watercourses and other essential existing physical features.
- d. The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
- e. The provisions of the Zoning Ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision. At present: 1) Shoreland Zoning; 2) forty thousand (40,000) square feet minimum lot size.
- f. The location and size of any existing sewers and water mains, culverts and drains on the property to be subdivided.
- g. Location, names and present widths of existing and proposed streets, highways, easements, building envelopes, buffers, stormwater and/ or phosphorus control measures, alleys, parks and other public open spaces.
- h. The width and location of any streets or other public ways or
- i. places shown upon the Official Map and the Comprehensive Plan, if any, within the area to be subdivided, and the width, location, grades and street profiles of all streets or other public ways proposed by the subdivider.
- j. Contour lines at intervals of not more than five (5) feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum of existing grades where change of existing ground elevation will be five (5) feet or more.
- k. A soils report identifying the soils boundaries and names in the proposed development with the soil's information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. The intensity of this study must identify changes in soil conditions down to one eighth acres, or area as determined by the Planning Board. A lot by lot soils suitability determination for house building with septic sewage disposal or, if appropriate, house building with public sewage disposal, will be made in accord with the Soil Suitability Guide for Land Use Planning in Maine and will accompany the plot plan soils study.
- l. Typical cross sections of the proposed grading for roadways (and sidewalks, if included in plans).

- m. Date, true north point and graphic scale.
- n. Deed description and map of survey of tract boundary made and certified by a registered land surveyor, tied into established reference points.
- o. Connection with existing supply or alternative means of providing water supply to the proposed subdivision.
- p. Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed.
- q. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and ground water conditions, depth to maximum ground water level, location and results of percolation tests.
- r. Provisions for collecting and discharging storm drainage, in the form of a drainage plan.
- s. Preliminary designs of any bridges or culverts, which may be required.
- t. The proposed lot lines with approximate dimensions and suggested locations of buildings.
- u. The location of temporary markers adequate to enable the Board to locate readily and appraise the basic layout in the field.
- v. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, or land to be left permanently unused.
- w. The location of all natural features or site elements to be preserved.
- x. A soil erosion and sediment control plan containing the endorsement of the Cumberland County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission.

1006. Review Procedures and Submissions for Major Subdivision, Final Plan

1. Procedure

- a. The subdivider shall, within six months after the preliminary approval of the Preliminary Plan, file with the Planning Board an application for approval of the Final Subdivision Plan* in the form described herein. If the Final Plan is not submitted to the Planning Board within six months after the approval of the Preliminary Plan, the Planning Board may refuse without prejudice to act on the Final Plan and require re-submission of the Preliminary Plan.

See Appendix xiv for sample Final Plan

- b. A public hearing may be held by the Planning Board within thirty (30) days after the time of submission of the Final Plan for approval. This hearing shall be advertised in a newspaper of local circulation at least ten (10) days before such hearing and notice of said hearing shall be posted in at least three (3) prominent places at least ten (10) days prior to the hearing, and to the clerk of the appropriate adjacent municipality in the case of a Plan located within five hundred (500) feet of a municipal boundary, at least ten (10) days prior to the hearing.
 - c. The Planning Board shall, within forty-five (45) days from the submission of the final plan or the public hearing, approve, modify and approve or disapprove the Final Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such forty-five (45) day period shall constitute disapproval of the Final Plan.
2. Outside agency approvals, Maine Department of Environmental Protection. If applicable, such approvals will be required in writing before official submission of the Final Plan. Such approvals are required when the subdivision:
- a. Occupies a land area in excess of 30 acres and consists of at least 15 lots for single-family, detached, residential housing, common areas and open space, or
 - b. Occupies a land area in excess of 20 acres and consists of at least 5 lots, other than lots for single-family, detached, residential housing, common areas and open space, or
 - c. Involves a structure or structures, having in excess of 60,000 square feet of ground area coverage, or
 - d. Requires a license from the Department of Environmental Protection under some other regulation such as waste discharge or air quality, or
 - e. In any other way falls within the jurisdiction of and is subject to review by the State of Maine Environmental Improvement Commission.

3. Outside agency approvals, water supply. Water supply system proposals contained in the Subdivision Plan shall be approved in writing before submission of the Final Plan. Such approval must come from:
 - a. The servicing Water Department of existing public water service is to be used, or
 - b. The State of Maine, Department of Health and Welfare if the subdivider proposes to provide a central water supply system, or
 - c. A civil engineer registered in the State of Maine if individual wells serving each building site are to be used. The Board may also require the subdivider to submit the results of water quality tests as performed by the Maine Department of Health and Welfare.

4. Outside agency approvals, wastewater. Sewage disposal system proposals contained in the Subdivision Plan shall be properly endorsed and approved in writing before submission of the Final Plan. Such approval must come from:
 - a. The servicing Sanitary Sewer District if existing public disposal systems are to be used, or
 - b. The State of Maine, Department of Health and Human Services if a separate central sewage collection and treatment system is to be utilized, subdivider or
 - c. The Maine Department of Environmental Protection if the municipal system to be utilized is inadequate by State standards and the waste generated is of a "significant" nature, or is the waste is to be discharged, treated or untreated, into any body of water.

5. Final Plan

The Final Plan shall consist of ten (10) copies of one (1) or more maps or drawings, which shall be printed or reproduced in the same manner as the Preliminary Plan. Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:

- a. All of the information presented on the Preliminary Plan and Location Map and any amendments thereto suggested or required by the Board.
- b. The name, registration number and seal of the land surveyor, architect, engineer or planning consultant who prepared the plan.
- c. Street names and line, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.
- d. Sufficient data acceptable to the Municipal Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where practical these should be tied to

reference points previously established.

- e. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.
- f. By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by him.
- g. Lots and blocks within the subdivision numbered in accordance with local practice.
- h. Permanent reference monuments shown thus: "X". They shall be constructed in accordance with specifications herein and their location noted and referenced upon the Final Plan.
- i. A performance guaranty to secure completion of all improvements required by the Board and written evidence that the Municipal Officers are satisfied with the sufficiency of such bond.

1007 General Requirements

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

1. Any proposed subdivision shall be in conformity with a Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.
2. Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing services and facilities. The Final Plan shall include a list of the construction items that will be completed by the subdivider prior to the sale of lots; and the list of construction and maintenance items that must be borne by the municipality, which shall include, but not be limited to:
 - a. Schools, including busing
 - b. Road Maintenance and snow removal.
 - c. Police and fire protection.
 - d. Solid waste disposal
 - e. Recreation facilities.
 - f. Runoff water disposal drainage ways and/or storm sewer enlargement with sediment traps

3. The Board shall further require the subdivider of a Major Subdivision to provide accurate cost estimates to the town for the above services and the expected tax revenue of the subdivision.
4. The Board shall require the subdivider to provide a minimum of 10% of his total area for open space. Areas reserved for open space shall be easily accessible from all lots within the subdivision.
5. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.
6. The Board shall not approve such portions of any proposed subdivision that:
 - a. Are located within the 100-year frequency flood plain as identified by an authorized Federal or State agency, or when such identification is not available, are located on flood plain soils identified and described in the National Cooperative Standard Soil Survey.
 - b. Are located on land which must be filled or drained or on land created by diverting a watercourse; except the Board may grant approval if a central sewage collection and treatment system is provided. In no instance shall the Board approve any part of a subdivision located on filled or drained Great Ponds (natural body of water ten (10) acres or more in size).
 - c. Employs septic sewage disposal and is located on soils rated poor or very poor by the Maine State Plumbing Code. Where soils are rated fair for septic sewage disposal, the minimum lot size shall be forty thousand (40,000) square feet.
7. Wherever situated, in whole or in part, within two hundred-fifty (250) feet of the high-water line of any pond, lake, river, a proposed subdivision shall conform to the Naples Shoreland Zoning Ordinance.
8. No division of land shall be approved if it is determined by the Planning Board that the parcel has been harvested in violation of rules of "Liquidation Harvesting", pursuant to 12 MRSA Section 8866, et. Seq ("Forest Practices").
9. Lot Size and Layout
 - a. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
 - b. Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.

- c. The subdividing of the land shall be such as to provide that all lots shall have a minimum frontage of one hundred (100) feet on a street and two hundred (200) feet on water.
 - d. Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
 - e. Side-lot lines shall be substantially at right angles or radial to street lines.
 - f. Where a tract is subdivided into lots substantially larger than the minimum size required in the Zoning District in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these standards.
10. Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both, as will assure that no flooding occurs and all stormwater can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.
11. The size, type and location of public utilities, such as, streetlights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with local practice.
- a. Utilities shall be installed underground except as otherwise approved by the Board.
12. Street trees, esplanades and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.
13. The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least twenty (20) feet wide between abutting properties that are so endangered.
14. The following are required improvements: monuments, street signs, streets, sidewalks, water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of these standards.

1008 Design Standards

- 1. Monuments.

- a. Permanent monuments shall be set at all corners and angle points of the subdivision boundaries and at all street intersections and points of curvature.
- b. Monuments shall be stone or iron post with engineer's cap, located in the ground at final grade level, and indicated on the Final Plan. If stone monuments are set, drill holes, one half inch (1/2") deep shall locate the point or points described above.

2. Street Signs.

- a. Streets that join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, or bare phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board.
- b. Street name signs shall be furnished and installed by the subdivider. The type, size and location shall be consistent with other Naples street signs.

3. Streets.

In accordance with a Comprehensive Plan of the municipality and for the purposes of these standards, streets are classified by function, as follows:

- a. Major Streets The term "Major Streets" includes Arterial Streets which serve primarily as major traffic ways for travel between and through towns; and Collector Streets, which serve as feeders to arterial streets, as collectors of traffic from minor streets and for circulation and access in commercial and industrial areas.
- b. Minor Streets. Local streets, which are used primarily for access to abutting residential, commercial or industrial properties.

4. Street Layout.

- a. Proposed streets shall conform, as far as practical, to such Comprehensive Plan or policy statement as may have been adopted, in whole or in part, prior to the submission of a Preliminary Plan.
- b. All streets in the subdivision shall be so designed that, in the opinion of the Board; they will provide safe vehicular travel while discouraging movement of through traffic.
- c. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Grades or streets shall conform as closely as possible to the original topography.

- d. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty (20) foot wide easement in the line of the street to provide continuation of pedestrian traffic or utilities to the next street.
- e. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the Town or in a designated Association, under conditions approved by the Planning Board.
- f. In front areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary by the Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district. In no case shall the street have a right-of-way width less than fifty (50) feet nor have less than two (2) nine (9) foot travel lanes and two (2) three (3) foot parking lanes.
- g. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the Plan, marked "Reserved for Road Realignment (or Widening) Purposes". It shall be mandatory to indicate such reservation on the Plan when a proposed widening or realignment is shown on the Official Map. Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Minimum Lot Size or Land Use Ordinance.
- h. Where a subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets (street parallel to arterial street providing access to adjacent lots), reverse frontage (that is, frontage on a street other than the existing or proposed arterial street) with screen planting contained in a non-access reservation, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- i. Subdivisions containing fifteen (15) lots or more shall have at least two (2) street connections with existing public streets or streets shown on the Official Map if such exists, or streets on an approved Subdivision Plan for which a bond has been filed.
- j. Entrances onto existing or proposed collector streets shall not exceed a frequency of one per four hundred (400) feet of street frontage. Entrances onto existing or proposed arterial streets shall not exceed a frequency of one (1) per one thousand (1,000) feet of street frontage.
- k. Minor Streets in the subdivision shall be so laid out that their use by through traffic will be discouraged.

5. Street Design and Construction Standards.

- a. All streets in a subdivision shall be designed and constructed to meet the standards for streets in Appendix 1, according to their classification as determined by the Planning Board:
- b. Grades of all streets shall conform in general to the terrain and shall not be less than one-half (1/2) of one (1) percent nor more than five (5) percent for arterial streets. Six (6) percent for collector streets or ten (10) percent for minor streets in residential zones, but in no case more than three (3) percent within fifty (50) feet of any intersection.
- c. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Board so that clear visibility shall be provided for a distance of two hundred (200) feet.
- d. Intersections of streets shall be at angles as close to ninety (90) degrees as possible and in no case shall two (2) streets intersect at an angle smaller than sixty (60) degrees. To this end where one (1) street approached another between sixty-ninety (60-90) degrees the former street should be curved approaching the intersection.
- e. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A distance of at least two hundred (200) feet shall be maintained between centerlines of offset intersecting streets.
- f. Street lines at intersections shall be cut back to provide for curb radii of not less than twenty-five (25) feet for ninety (90) degree intersections and thirty (30) feet for intersections less than ninety (90) degrees.
- g. Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow twenty-five (25) foot sight lines between intersecting streets shall be cleared of all growth (except isolated trees) and obstructions above the level three (3) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.
- h. A dead-end street or cul-de-sac shall be reviewed by the Fire Chief and approved at the discretion of the Planning Board after advisement from the Fire Chief and shall be provided with a suitable turn-around at the closed end. When a turning circle is used it shall have a minimum outside curb radius of sixty-five (65) feet.
- i. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water to prevent flooding of the pavement and erosion of adjacent surfaces.
- j. Side slopes shall not be steeper than three (3) feet horizontal and one (1) foot vertical, graded, loamed, (six (6) inches compacted) and seeded as required.

- k. Street curbs and gutters shall be required on all streets within Maine Department of Transportation defined urban compact areas and shall be required at the discretion of the Planning Board in rural areas.
- l. Where curb and gutter are not required, stabilized shoulders and proper drainage shall be the responsibility of the subdivider in compliance with the requirements herein.
- m. All roadways within the subdivisions shall be constructed according to road specifications herein as overseen by the municipal road commissioner or third-party inspector.
- n. Sidewalks shall be installed at the expense of the subdivider where the subdivision abuts or fronts onto a major street and at such locations as the Board may deem necessary.

6. Parking.

- a. Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.

7. Planting and Landscaping

- a. All esplanade or planting strip areas at sides of streets shall receive at least six (6) inches of compacted topsoil (loam) free of stones over one (1) inch in diameter, sods, and clay. Base materials shall be removed prior to placement of topsoil.
- b. Planting strips to be limed at the rate of one (1) pound per ten (10) square feet and fertilized at the rate of one (1) pound of 10-10-10 fertilizer per fifty (50) square feet or equivalent and seeded with a conservation mix endorsed by the Cumberland County Soil and Water Conservation District.
- c. When required by the Planning Board, street trees shall be planted in the esplanade areas of all new streets.
 - i. Trees of the 1" magnitude: (Birch, Beech, Linden, Oak, Pine, Sugar Maple, Basswood) shall be planted at forty-sixty (40-60-foot intervals).
 - ii. Trees of the 2"d magnitude: (Hawthorn, Flowering Crabapple, etc.) may be planted at intervals of less than forty (40) feet.

8. Water Supply

- a. A public water supply system with fire hydrants shall be installed at the expense of the subdivider, or, if in the opinion of the Board, service to each lot by a public water system is not feasible, the Board may allow individual wells to be used, which shall likewise be installed at the expense of the subdivider, unless subdivider is only selling lots, not developing them.

- b. Storage shall be provided as necessary to meet fire protection needs as reviewed by the Fire Chief.
- c. The Planning Board may require the subdivider shall demonstrate by engineering reports prepared by a civil engineer registered in the State of Maine, that the proposed subdivision will not result in an undue burden on the source.
- d. The water supply shall be designed and installed in accordance with requirements of the Maine Department of Health and Human Services.
- e. Dug wells are not permitted on lots developed by the subdivider.
- f. If a central water supply system is provided by the subdivider, location and protection of the source and design, construction and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the Manual for Evaluating Public Drinking Water Supplies, Public Health Service No 1180 (1969).

9. Sewage Disposal

- a. If a private sewage disposal system is proposed, the subdivider shall submit locations and results of tests to ascertain subsurface soil and ground water conditions, depth to maximum ground water level, location and results of percolation tests for review and approval under the State of Maine Subsurface Wastewater Disposal Rules.

10. Surface Drainage

- a. Where a subdivision is traversed by a watercourse, drainage way or future sewer line, or where the Board feels that surface water drainage to be created by the subdivision should be controlled for the protection of the subdivision and owners of property abutting it, there shall be provided an easement or drainage right-of-way and culverts, catch basins or other means of channeling surface water within such subdivision and over the property of owners abutting upon it, of such nature, width and location as an engineer deems adequate.
- b. The subdivider shall provide a statement from a Civil Engineer, registered in the State of Maine, that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in adjacent properties. The subdivider shall submit a surface drainage plan showing ditching culverts, easements and other proposed improvements.
- c. Topsoil shall be considered part of the subdivision. Except for surplus topsoil for roads, parking areas and building excavations, it is not to be removed from the site.
- d. Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Board may require a subdivider to take measures to correct and prevent soil erosion in the proposed subdivision.

1009 Performance Guarantee and Post Approval Activities

1. Before the submission of a Final Plan, the subdivider shall provide the Town with improvement guarantees if road construction, offsite improvements, utilities, common water and/or sewer, recreational land, phosphorus or stormwater controls or drainage work is planned.
2. Improvement guarantees must be established for a time period of two and a half years from Final Plan approval.
3. Improvement guarantees shall be in the form of one or more of the guarantee options listed below that will cover at least 100% of the cost of completion, as estimated by a registered professional engineer.
 - a. Performance Bonds. Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine in a form satisfactory to the Planning Board. The bond shall be payable to the Town of Naples and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and as approved by the Planning Board.
 - b. Letter of Credit. Under this improvement guarantee option, the subdivider shall provide as a guarantee an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Planning Board, such letter of credit to be in a form satisfactory to the Planning Board. The Letter of Credit shall be deposited with the Planning Board and shall certify the following:
 - i. That the creditor does guarantee funds in an amount equal to the costs of completing all required improvements as estimated for the subdivider by a Registered Professional Engineer approved by the Planning Board,
 - ii. In case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Naples immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the credit limit stated in the letter;
 - iii. That the letter of credit is valid for the period of time required by the Planning Board. The period of time, not less than two (2) years and six (6) months from the date of subdivision approval, shall be stated in the letter. During that time, the letter may not be withdrawn or reduced in amount except with the approval of the Planning Board.
 - c. Cash Escrow. Under this improvement guarantee option, the subdivider shall provide as guarantee cash held in an account at a bank or other reputable institution subject to the approval of the Planning Board. The subdivider shall enter into an agreement with the Town that shall stipulate the terms under which the Town may accept a cash escrow.

4. Procedure

- a. The subdivider shall file with the Planning Board a proposed improvement guarantee, a plan by a professional engineer for the required improvements and estimates to complete the required work by at least two contractors.
- b. The Planning Board may request an opinion of the improvement plan and the cost of the improvements from a third party, cost to be incurred by subdivider. The third party shall also recommend what types of inspections would be required to guarantee the standards of this Ordinance and the approved plan are met. The recommended inspections shall become part of any improvement guarantee accepted by the Planning Board.
- c. The Planning Board shall determine whether the form, amount and duration of the improvement guarantee are sufficient.
- d. In the event the Planning Board refuses to approve the proposed improvement guarantee as filed by the subdivider, they shall notify the subdivider in writing. The Planning Board shall not grant final approval until it has received a sufficient guarantee. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.
- e. The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider.

5. Time Limit for Project Completion

- a. All required improvements within a subdivision shall be completed within two (2) years of final subdivision approval. The improvement guarantee must provide performance protection to the Town during said two (2) year period plus at least six (6) months following the expiration of the two (2) year period. The additional six (6) month period is required as protection to the Town in the event the subdivider fails to complete the required improvements or fails to complete them satisfactorily.

6. Extension of Project Completion Deadline

- a. The Planning Board may extend the completion deadline for two (2) additional years at one-year increments only where the subdivider presents substantial reason for doing so.
- b. No request for extension shall be considered until at least six (6) months prior to the original or extended completion deadline.
- c. Before extending the initial deadline or the initial extension, the Planning Board shall require that the improvement guarantee be extended in duration to cover the extended period of time plus an additional six (6) month period. Before extending the initial deadline or the initial extension, the Planning Board shall review the

form and amount of the improvement guarantee to make certain it remains adequate.

7. Inspection and Certification

- a. The subdivider shall notify the Planning Board in writing of the time when he proposes to commence construction of such improvements so that the Planning Board can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- b. For road construction, the following inspections are required by, and must be approved by, the Road Commissioner or third-party inspector, at the subdivider's expense, before work may continue:
 - i. Stumping and grubbing;
 - ii. Sub-grade preparation, and drainage;
 - iii. Application of the base gravel;
 - iv. Application of final grade;
 - v. Hot top and seeding.
- c. If the Road Commissioner or third-party inspector shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Code Enforcement Officer and Planning Board. The Code Enforcement Officer shall then notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the municipality's rights under the bond.

8. Incomplete or Unsatisfactory Work

- a. If the Planning Board determines, according to the procedures laid out in Section 810.7, Inspection and Certification, that the improvements have not been satisfactorily completed according to the accepted subdivision plan within the agreed upon time, they shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee. They shall cause the incomplete or unsatisfactory work to be completed and to be paid for from the improvement guarantee assets.
- b. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work, and associated costs, shall be returned to the subdivider at the discretion of the Planning Board.

9. Upon completion of the improvements, the subdivider shall file the following with the Code Enforcement Officer:

- a. A sworn statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan and that the engineer knows of no defects from any cause in the improvements;
 - b. A sworn statement from the subdivider that the improvements are free and clear of any encumbrance or lien and that the subdivider knows of no defects from any cause in the improvements.
10. As soon as the subdivider has filed the statements required in Section 810.8 of this Ordinance and the Planning Board or their authorized representative have inspected the improvements and certified that they are satisfactorily completed, the Planning Board shall release the previously required improvement to the subdivider.
11. Reduction of Guarantee. The Planning Board may release, at their discretion, the guarantee subject to the following provisions:
 - a. The project is 90% complete as determined by the Planning Board.
 - b. There are no deficiencies in the project.
 - c. A cash bond performance guarantee is agreed to for one-hundred fifty percent (150%) of the remaining cost of the project.

1010 Final Approval and Filing

1. Upon completion of the requirements in Section 806 and 807 above and notion to that effect upon the Plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board and shall be filed by the applicant with the Municipal officers.
2. The Plan shall then be filed with the Cumberland County Registry of Deeds. Any Subdivision Plan not so filed or recorded within ninety (90) days of the date upon which such Plan is approved and signed by the Planning Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days.
3. At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. The applicant may file a section of the approved Plan with the Municipal Officers and the Registry of Deeds if said section constitutes at least 10% of the total number of lots contained in the approved Plan. In these circumstances, Plan approval of the remaining sections of the Plan shall remain in effect for three years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider.
4. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan,

unless the Plan is first re-submitted and the Planning Board approves any modifications. In the event that a Final Plan is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Municipal Officers and the Registry of Deeds.

5. Public Acceptance of Streets, Recreation Areas

- a. The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the Municipality of any street, easement, or other open space shown on such Plan.
- b. When a park, playground, or other recreation area shall have been shown on the Plan, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

1011 Enforcement

Any person violating this Ordinance or 30M.R.S.A. sections 4401-4406, shall be subject to the enforcement provisions of 30M. R. S.A. section 4452.

1012 Appeals

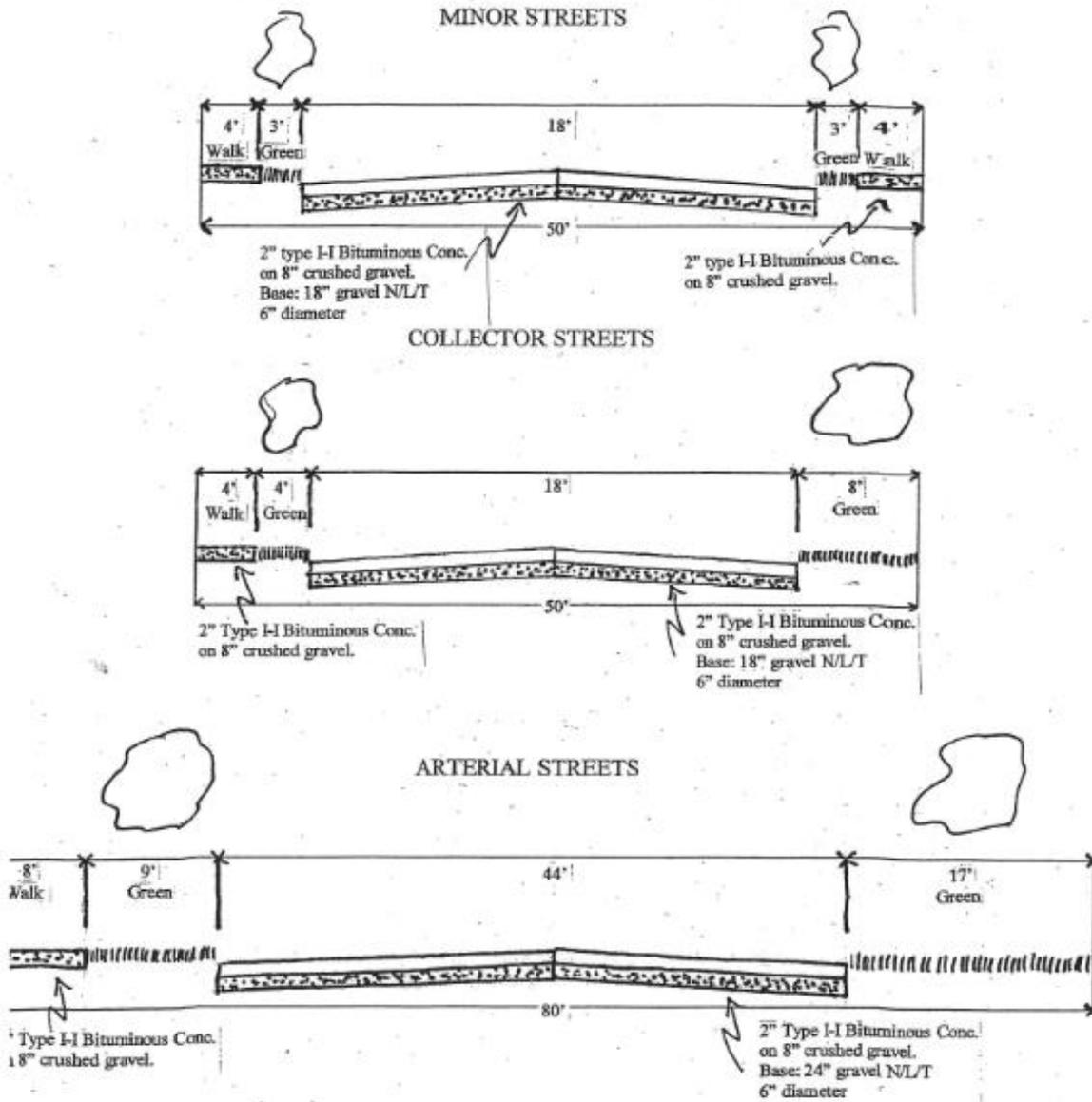
An appeal from a decision of the Planning Board may be taken to the Board of Appeals if one has been established by the municipality in accordance with Title 30, M.R.S.A. Chapter 213, Section 2411.

Appendix A: Design and Construction Standards for Streets

Design and Construction Standards for Streets				
		Arterial Streets	Collector Streets	Minor Streets
1	Minimum Width	80'	50'	50'
2	Minimum width of pavement	44'	18'	18'
3	Minimum grade	0.50%	0.50%	0.50%
4	Maximum grade	5%	10%	10%
5	Maximum grade at intersections	3% within fifty (50) feet of intersection		
6	Minimum angle of intersections	60°		
7	Width of shoulders	9'	4'	3'
8	Minimum centerline radii on curves	800'	200'	200'
9	Minimum tangent length between reverse curves	300'	200'	100'
10	Road base minimum	24"	18"	18"
	Sub-base (bank gravel)	18"	15"	15"
	Upper base surface gravel	6"	6"	6"
11	Asphalt paving	2.5"	2.5"	2"
12	Road crown minimum	1/4" per 1'	1/4" per 1'	1/4" per 1'
13	Sidewalk width (where required)	8'	4'	4'
	Base course (gravel)	8"		
	Surface	2" bituminous hot-top		
14	Dead-end or cul-de-sac streets			
	Width	50'		
	Length	as approved by the Fire Chief		
15	Radii of turn-around at enclosed end or other turn around as approved by the Fire Chief			
	Property line (minimum)	65'		
	Pavement (minimum)	50'		
	Property line radii at intersection (minimum)	10'		
16	Curb radii at intersections			
	90-degree intersections	25'		
	Less than 90-degree intersections	30'		

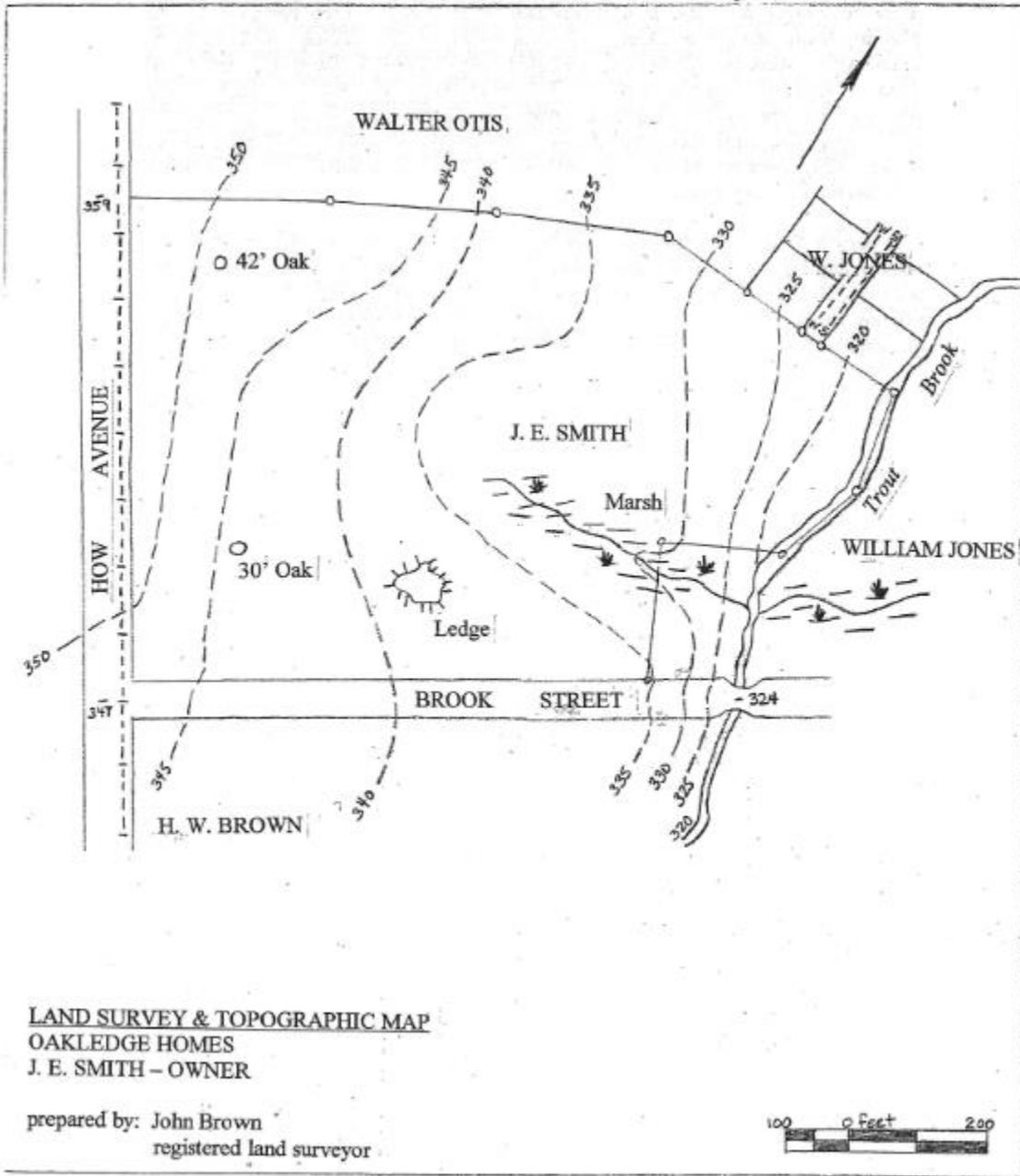
Appendix B: Geometric Standards, Streets – Minimum Requirements

GEOMETRIC STANDARD – STREETS MINIMUM REQUIREMENTS



Appendix C: Sample Plan Examples

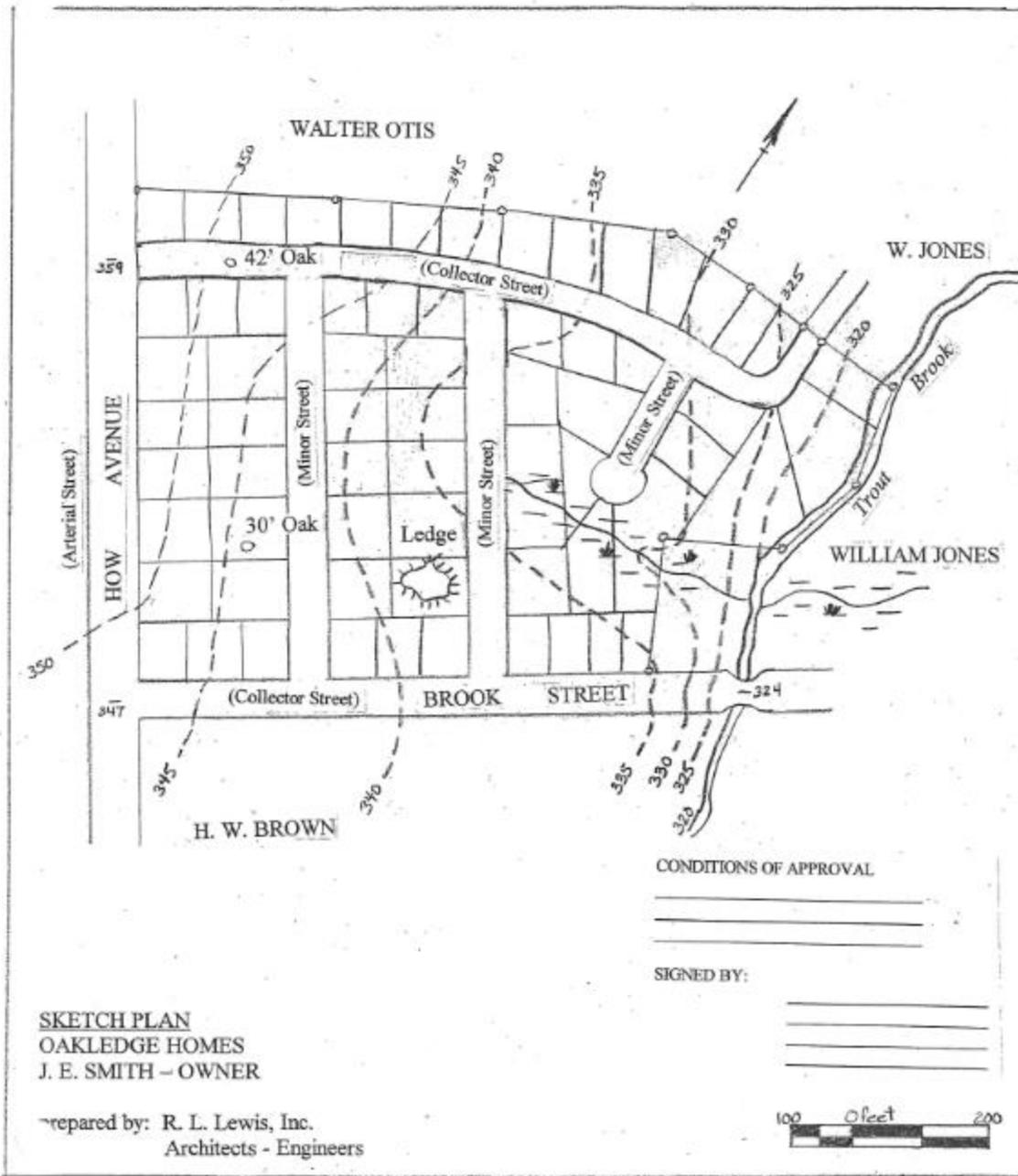
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LAND SURVEY AND TOPOGRAPHIC MAP



see text page 9

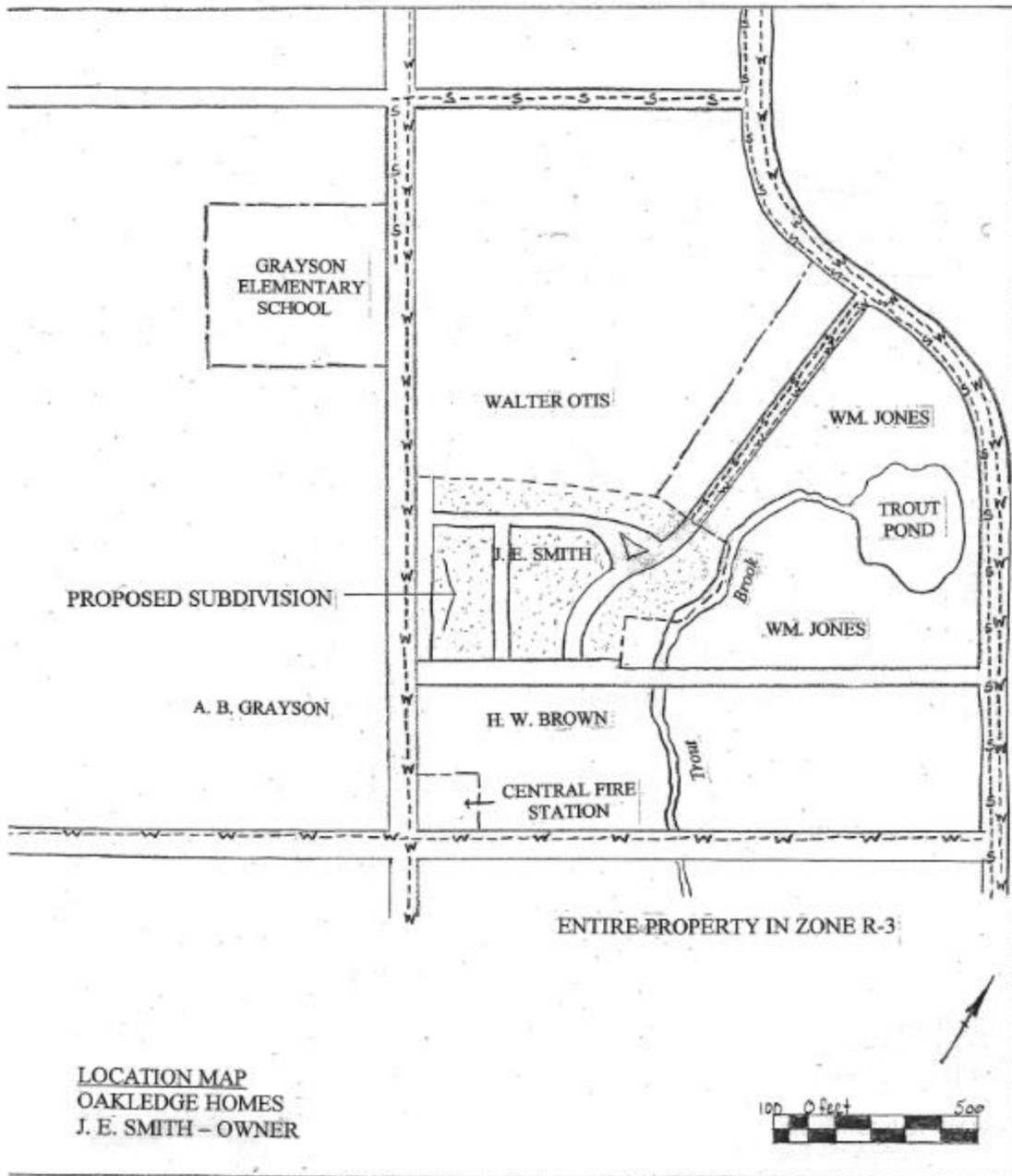
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(Sample)
SKETCH PLAN



See text page 9

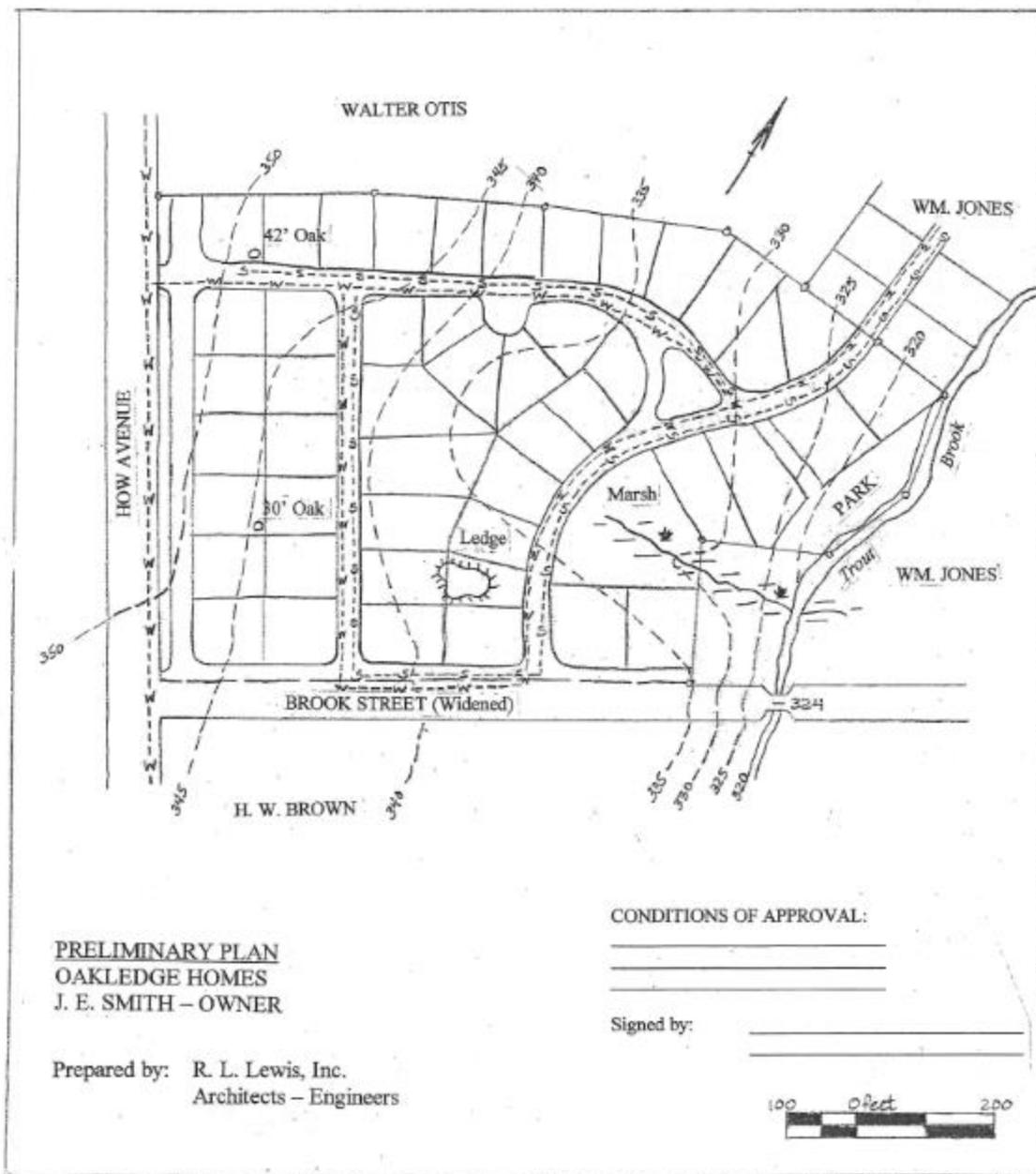
(Sample)
LOCATION MAP



LOCATION MAP
OAKLEDGE HOMES
J. E. SMITH - OWNER

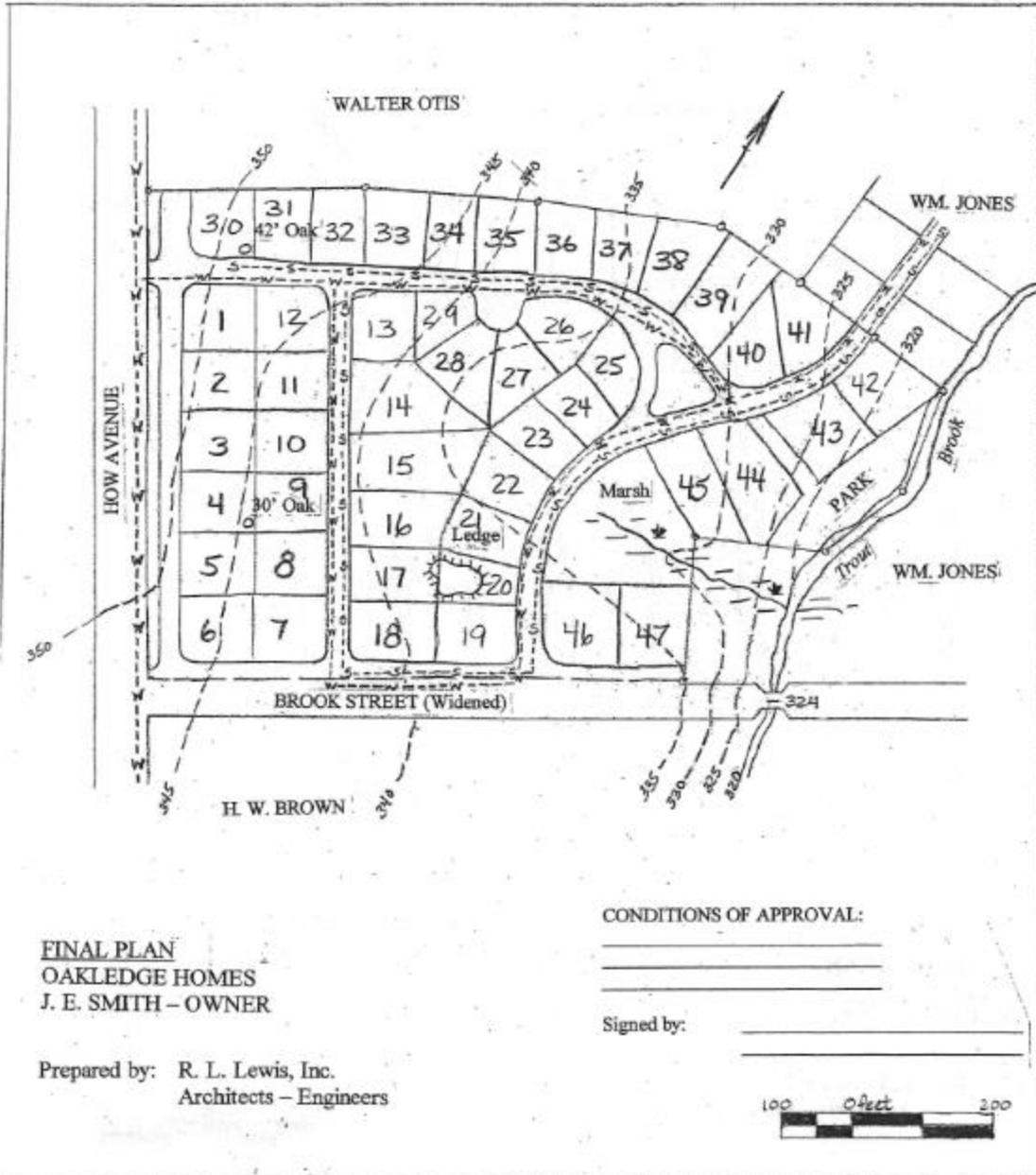
See text page 14

(Sample)
 PRELIMINARY PLAN
 After Review of Sketch Plan*



* See text page 13

(Sample)
FINAL PLAN*

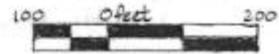


FINAL PLAN
OAKLEDGE HOMES
J. E. SMITH - OWNER

Prepared by: R. L. Lewis, Inc.
Architects - Engineers

CONDITIONS OF APPROVAL:

Signed by: _____



*See text page 10