

MEMORANDUM

TO: Kate Matthews, Code Enforcement Officer

CC: Kathy Eddy, Assistant to Code Enforcement & Planning
Jason Rogers, Town Manager
Randy Thurston, Code Enforcement Officer

From: Jamel Torres, Senior Planner, North Star Planning

RE: Section 400 – Definitions Ordinance Modifications
Section 504 – Zoning Districts Ordinance Modifications
Section 607 – Home Occupation Ordinance Modifications

Date: February 14, 2024

North Star Planning (NSP) staff attended the Ordinance Review Committee's (ORC's) meeting on January 17, 2024 and reviewed proposed modifications to the Town's Land Use Ordinance relative the following sections –

- Section 400 – Definitions
- Section 504 – Zoning Districts
- Section 607 – Home Occupation

NSP staff has made several modifications to these sections in the Town's Land Use Ordinance, based on feedback received at the January 17, 2024 ORC meeting.

Modifications to the Naples Land Use Ordinance –

As requested, NSP staff has compiled all of the proposed modifications within the Land Use Ordinance into one cohesive document, which is included with your packet. The specific modifications can be found below.

Section 400 Definitions:

Page 1:

- Drafted new definitions for the following uses –
 - Functionally Water-Dependent Uses
 - Home Occupation, Minor
 - Home Occupation, Major

Section 504 Zoning Districts:

Page 3:

- Modified Section 504.1.c. as requested. This modification includes more specific language related to uses located within the Shoreland Zoning Overlay District.

Page 4:

- Modified Section 504.2.c. as requested. This modification includes more specific language related to uses located within the Shoreland Zoning Overlay District.

Page 7:

- Modified Section 504.3.c. as requested. This modification includes more specific language related to uses located within the Shoreland Zoning Overlay District.

Page 9:

- Modified Section 504.4.c. as requested. This modification includes more specific language related to uses located within the Shoreland Zoning Overlay District.

Section 607 Home Occupation

Page 12:

- Deleted Section 607.5. as requested.

Page 13:

- Deleted “Functionally Water Dependent Use” from Sections 607.5.c.iv. and 607.6.c.iv. as requested.

Page 14:

- Added language referring to Section 6.c. to Section 607.6.d. for consistency purposes.

Section 400 Definitions

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 or inland waters and that can not be located away from these waters. These uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas. Navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage facilities are not considered to be a functionally water-dependent use. All functionally water-dependent uses shall meet all applicable dimensional and frontage standards in accordance with the underlying zoning district in which they are located.

Home Occupation, Minor: An occupation or profession which is secondary to the dwelling use for living purposes, does not change the character thereof and is wholly occupied within the principle or accessory structure. A home occupation, minor shall not utilize more than twenty percent (20%) of the total floor area of the dwelling unit in which it is located. It shall be managed by a member of the family residing within the dwelling unit, with a maximum of two (2) employees who do not reside in the dwelling unit employed. The occupation or office must be wholly located within the principle or accessory structure. A home occupation, minor requires review and approval by the Code Enforcement Officer.

Home Occupation, Major: An occupation or profession which is secondary to the dwelling use for living purposes, does not change the character thereof and is wholly occupied within the principle or accessory structure. A home occupation, major shall not utilize more than fifty (50%) of the total floor area of the dwelling unit in which it is located. There shall be no more than five (5) persons, inclusive of residents, employed by the home occupation. The occupation or office must be wholly located within the principle or accessory structure. A home occupation, major requires review and approval by the Planning Board.

Section 504 Zoning Districts

1. Rural Area.

a. Purpose.

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.

b. Permitted Uses.

1. Accessory Apartment
2. Agriculture
3. Boarding Stable
4. Cemetery
5. Commercial Tower
6. Community Living Facility
7. Contractor's Yard
8. Day Care Facility
9. Duplex
10. Essential Services
11. Home Occupation
12. Individual Private Campsite
13. Manufactured Housing
14. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
15. Mineral Exploration
16. Mobile Home
17. Multi-family Dwelling
18. Municipal Facility
19. Place of Worship
20. Public Facility
21. Residential Dwelling Unit
22. School
23. Seasonal Dwelling
24. Solar Energy System, Accessory

25. Solar Farm, Medium
26. Solar Farm, Large
27. Timber Harvesting
28. Yard Sale

c. Prohibited Uses

1. All uses not specifically noted as permitted in Section 504.1.b. are prohibited. In addition, any uses prohibited in the Naples Shoreland Zoning Ordinance are not permitted in the Rural Area District if the use is also located within the Shoreland Zoning Overlay District.

de. Dimensional Standards.

1. Minimum Lot Size: 40,000 sq ft
2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads)
3. Minimum Road Frontage: 100 ft
4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
5. Maximum Height: 55 ft
6. Back Lots – does not apply to subdivisions approved after 1986
 - a. Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft
 - c. Maximum Height: 55 ft

ed. District Standards.

1. [Reserved]
2. Critical Rural Area.
 - a. Purpose.

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.

b. Permitted Uses.

1. Essential Services
2. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
3. Municipal Facility
4. Place of Worship
5. Public Facility
6. Timber Harvesting

c. Prohibited Uses

1. All uses not specifically noted as permitted in Section 504.2.b. are prohibited. In addition, any uses prohibited in the Naples Shoreland Zoning Ordinance are not permitted in the Rural Area District if the use is also located within the Shoreland Zoning Overlay District.

d. Dimensional Standards.

1. Minimum Lot Size: 60,000 sq ft
2. Minimum Road Frontage: 100 ft
3. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
4. Maximum Height: 55 ft
5. Back Lots – does not apply to subdivisions approved after 1986
 - a. Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft
 - c. Maximum Height: 55 ft

e. District Standards.

1. [Reserved]

3. Commercial Area.

A. Purpose.

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. All commercial uses or services must meet the land area of the minimum lot size for a single-family residence.

b. Permitted Uses.

58. Accessory Apartment
2. Adult Entertainment Establishment (subject to the provisions of Section 601)
3. Agriculture
4. Amusement Facility
5. Automobile Sales
6. Automotive Repair Services and Garages
7. Bed and Breakfast
8. Boarding and Lodging Facility
9. Boarding Stable
10. Campground
11. Cemetery
12. Commercial School
13. Commercial Tower
14. Community Garden
15. Community Living Facility
16. Contractor's Yard
17. Convalescent or Rest Home
18. Day Care Facility
19. Duplex
20. Essential Services
21. Flea Market
22. Home Occupation
23. Hotel
24. Individual Private Campsite
25. Library
26. Light Manufacturing (subject to the limitations set forth in Section 508)

27. Kennel
28. Manufactured Housing
29. Marina
30. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
31. Mineral Exploration
32. Mineral Extraction
33. Mobile Home
34. Mobile Vendor
35. Multi-family Dwelling
36. Municipal Facility
37. Museum
38. Nursing Home
39. Personal Services
40. Place of Worship
41. Private Utility Substation
42. Public Facility
43. Recreational Facility, Indoor
44. Recreational Facility, Outdoor
45. Recreational Facility, Public
46. Residential Dwelling Unit
47. Residential Institution
48. Restaurant
49. Retail Use
50. School
51. Seasonal Dwelling
52. Service Business
53. Solar Energy System, Accessory
54. Solar Farm, Medium
55. Solar Farm, Large
56. Timber Harvesting
57. Wholesale Sales
58. Yard Sale

c. Prohibited Uses

1. All uses not specifically noted as permitted in Section 504.3.b. are prohibited. In addition, any uses prohibited in the Naples Shoreland Zoning Ordinance are not permitted in the Rural Area District if the use is also located within the Shoreland Zoning Overlay District.

d. Dimensional Standards.

1. Minimum Lot Size: 40,000 sq ft
2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads)
3. Minimum Road Frontage: 100 ft
4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
5. Maximum Height: 55 ft
6. Back Lots – does not apply to subdivisions approved after 1986 a.
Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft c.
Maximum Height: 55 ft

ed. District Standards

1. When the installation of a sidewalk is not practical at the time of application, the applicant may enter into an agreement with the Town opting to escrow the total cost of materials and installation in the name of the Town of Naples and as agreed to by the Road Commissioner. Escrowed funds would then be used at the Town's discretion for a future sidewalk installation when and where it may be more practical for the Town's needs. The agreement and escrow would satisfy the sidewalk construction requirement for development application approval.

4. Residential Growth Area.

- a. Purpose.
The area of the town where residential growth shall be encouraged. The area will allow all types of residential development including mobile home parks.
- b. Permitted Uses.

1. Accessory Apartment
2. Agriculture
3. Bed and Breakfast
4. Boarding and Lodging Facility
5. Cemetery
6. Commercial Tower
7. Community Living Facility
8. Community Garden
9. Convalescent or Rest Home
10. Day Care Facility
11. Duplex
12. Essential Services
13. Home Occupation
14. Individual Private Campsite
15. Library
16. Manufactured Housing
17. Medical Marijuana Registered Caregiver (subject to the provisions of Section 614)
18. Mineral Exploration
19. Mobile Home
20. Mobile Home Park
21. Multi-family Dwelling
22. Municipal Facility
23. Museum
24. Nursing Home
25. Place of Worship
26. Public Facility
27. Residential Dwelling Unit
28. Residential Institution
29. School
30. Seasonal Dwelling
31. Solar Energy System, Accessory
32. Solar Farm, Medium
33. Timber Harvesting

34. Yard Sale

c. Prohibited Uses

1. All uses not specifically noted as permitted in Section 504.4.b. are prohibited. In addition, any uses prohibited in the Naples Shoreland Zoning Ordinance are not permitted in the Rural Area District if the use is also located within the Shoreland Zoning Overlay District.

de. Dimensional Standards.

1. Minimum Lot Size: 40,000 sq ft
2. Net residential density:
 - a. Duplex Dwelling: 30,000 sq ft per dwelling unit
 - b. Multi-family Dwelling: 20,000 sq ft per unit, plus 10,000 sq ft per unit for common space (including roads)
3. Minimum Road Frontage: 100 ft
4. Setbacks:
 - a. Minimum Front Setback measured from the right-of-way: 20 ft
 - b. Minimum Side and Rear Setback: 20 ft
 - c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.
5. Maximum Height: 55 ft
6. Back Lots – does not apply to subdivisions approved after 1986 a.
Access via Right-of-Way: 20 ft minimum in width
 - b. Minimum Setbacks: 20 ft c.
Maximum Height: 55 ft

5. Village District Area.

a. Purpose.

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, Flea Markets, and Gas Stations are prohibited in the Village Zoning District.

b. Permitted Uses.

1. Residential Uses:

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

- b. Two family dwellings which may include manufactured housing, but shall not include mobile homes or doublewides.
 - c. Multi-family dwellings which may include manufactured housing but shall not include mobile homes or doublewides.
2. Commercial Uses:
 - a. 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:
 - a. 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).
 6. Accessory Apartment
 7. Amusement Facility
 8. Aquaculture
 9. Bed and Breakfast
 10. Boarding and Lodging Facility
 11. Cemetery
 12. Community Living Facility
 13. Day Care Facility
 14. Duplex
 15. Essential Services
 16. Governmental Facility
 17. Home Occupation
 18. Hotel
 19. Library
 20. Manufactured Housing
 21. Marina
 22. Medical Marijuana Registered Caregiver (subject to Section 614)
 23. Mineral Exploration
 24. Multi-family Dwelling
 25. Municipal Facility

26. Museum
27. Place of Worship
28. Public Facility
29. Residential Dwelling Unit
30. Restaurant
31. Retail Use
32. Seasonal Dwelling
33. Solar Energy System, Accessory
34. Timber Harvesting
35. Yard Sale

c. Prohibited Uses

1. All uses not specifically permitted in 504.5.b 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 G are not permitted in the Village District.

d. Dimensional Standards. The following space and bulk standards shall apply in the Village District:

1. Minimum Lot Size

- a. Lots without access to public water and sewer: 40,000 sq ft b.
Lots served by public water and sewer: 15,000 sq ft

2. Setbacks:

- a. Minimum Front Setback measured from the right-of-way: 20 ft
- b. Minimum Side and Rear Setbacks: 20 ft
- c. The Code Enforcement Officer may allow for reductions from the Minimum Front, Side and Rear Setback requirements as set forth in Section 208.2 and 208.3.

3. Minimum Road Frontage: 100 ft

4. Maximum Height: 55 ft

5. Maximum building coverage: 50%

6. Maximum impervious area: 75%

Section 607 Home Occupation

1. Purpose. The purpose of this section is to ensure home occupations balance the economic and community benefits of allowing home-based businesses with the goal of protecting the quality of life of the surrounding residential neighborhood from unreasonable or unsafe intrusions and nuisances inappropriate to a residential setting. Regulation of home occupations should not prohibit beneficial and unobtrusive uses and should provide standards to protect health, safety and general welfare of the surrounding neighborhood.
2. Applicability. These regulations take a two-tier approach to regulating home occupations. At the least intrusive level are business activities that by their nature and intensity will be compatible with a residential location. These types of businesses are considered minor home occupations and require only review by the Code Enforcement Officer for compliance with the standards. A major home occupation in a residential district has the potential to be incompatible with its neighborhood setting. Therefore, a public hearing with notification to abutting property owners and Planning Board approval is necessary. A more extensive business activity that does not satisfy the standards for a major home occupation is treated as a type of commercial use and does not qualify as an acceptable type of home occupation. Such businesses should be located in an appropriately zoned area of the Town.
3. A Home Occupation, Minor shall not utilize more than twenty percent (20%) of the total floor area of the dwelling unit. In the case the Home Occupation utilizes more than twenty percent (20%) of the total floor area of the dwelling unit; it should be considered a Home Occupation, Major.
4. A Home Occupation, Major shall not utilize more than fifty percent (50%) of the total floor area of the dwelling unit.
5. ~~Prohibited uses: The following uses, as defined in Section 400, are prohibited as Home Occupations.~~

6.5. Home Occupation, Minor

- a. Permit Required. A permit must be obtained from the Code Enforcement Officer prior to the installation of a Home Occupation, Minor.
- b. The granting of a home occupation shall apply to the applicant only while the applicant resides at the property.
- c. Standards.
 - i. Compliance with the definition of Home Occupation. The Home Occupation, as an accessory use, must be secondary to the dwelling use for living purposes and does not change the character thereof. The occupation or the office must be wholly located within the principle or accessory structure.

- ii. Employment. Home occupation or office will be managed by a member of the family residing within the dwelling unit. Up to two (2) employees who do not reside in the dwelling may be employed in a home occupation.
 - iii. Outdoor Storage and Exterior Displays. Outdoor storage, exterior displays, and exterior indication of the Home Occupation will not be permitted.
 - iv. Business Hours. Business activities involving clients or customers on the premises or vehicular traffic to and from the premises must not be conducted between the hours of 7PM and 8AM, except for a Bed and Breakfast or; a Daycare Facility ~~or a Functionally Water-Dependent Use~~.
 - v. Parking. A plan must be submitted to the Code Enforcement Officer showing sufficient and safe parking for customers, clients, and workers use during normal business operations.
 - vi. Signage. Not more than one (1) sign will be permitted and must not be more than three (3) square feet. Any Signage must meet the standards in Section 700.
 - vii. Noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare will not be detectable beyond property limits.
- d. Conditions. The Code Enforcement Officer may place conditions on the Home Occupation to minimize impacts on area properties. The conditions must be related to the Code Enforcement Officer's findings on the standards of Home Occupation.

7.6. Home Occupation, Major

- a. Approval Required. Planning Board approval, including public notice and a public hearing, must be obtained prior to the installation of a Home Occupation, Major.
- b. The granting of a Home Occupation shall apply to the applicant only while the applicant resides at the property.
- c. Standards.
 - i. Compliance with the definition of Home Occupation. The Home Occupation, as an accessory use, must be secondary to the dwelling use for living purposes and does not change the character thereof. The occupation or the office must be wholly located within the principle or accessory structure.
 - ii. Employment. There must be no more than five (5) persons, inclusive of residents employed by the Home Occupation.
 - iii. Outdoor Storage and Exterior Displays should be minimized to the greatest extent possible. All outdoor storage of equipment, or items associated with the home occupation must be screened from view of abutting properties and from all streets.
 - iv. Business Hours. Business activities involving clients or customers on the premises or vehicular traffic to and from the premises must not be conducted between the hours of 7PM and 8AM, except for a Bed and Breakfast or; a Daycare Facility ~~or a Functionally Water-Dependent Use~~.

- v. Parking. A plan must be submitted to the Planning Board showing sufficient and safe parking for customers', clients', and workers' use during normal business operations to prevent parking from overflowing off the site. The creation of more than four (4) off-street parking spaces must be located, designed, screened, and landscaped to minimize adverse impact on abutting properties.
 - vi. Signage. Not more than one (1) sign will be permitted and must not be more than three (3) square feet. Any signage must meet the standards in Section 700.
 - vii. Noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare will not be detectable beyond property limits.
- d. Conditions. The Planning Board may place conditions on the Home Occupation to minimize impacts on area properties. The conditions must be related to the Planning Board's findings on the standards of Home Occupations set forth in Section 6.c. in this Ordinance.

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