

**Town of Naples**

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**ORDINANCE ADOPTING A MORATORIUM TO  
PROHIBIT THE REDUCTION OF COMMERCIAL, BUSINESS AND  
RETAIL SPACE AND USES IN THE VILLAGE DISTRICT**

Adopted: February 20, 2020

A true copy, attest:

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Judy Whynot, Town Clerk

## **SECTION 1. RECITALS**

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

1. The Town of Naples relies upon the designated Village District and the commonly known area called the Downtown as the keystone economic generators for a viable local economy. If the land uses in those areas experience changes of use to residential, it is expected that the ability of Naples to attract the necessary customers and tourists whose discretionary expenditures would be limited in this District thereby causing a further decline in revenues to remaining business, retail and commercial activities, ultimately leading to a demise of the downtown and village districts; and
2. The Town of Naples continues to experience changes of commercial uses in its downtown that could adversely affect the long-term viability of the downtown and of the Village District through poor planning and use of existing properties that may be converted to non-commercial or retail space; and
3. As a result of the foregoing issues, the Board of Selectmen have determined that appropriate strategic planning is necessary so that changes in commercial, business and retail uses can be complimented with residential uses and thereby support a viable future economic base for the community as a whole; and
4. The Town currently has no regulations governing the potential of conversions from retail, business and commercial uses to residential uses. The absence of such a land use ordinance is considered as a threat and devastation to the long-term viability of the Naples economy: and
5. Such an outcome is not in the best interest of the Downtown, the Village District or to the community at large creating an extraordinary tax burden upon the balance of all property owners in the Town of Naples.
6. The Town needs a reasonable period of time to prepare and adopt amendments to its ordinances and regulations in order to prevent serious public harm from the unregulated conversions from commercial, business or retail spaces and uses to a blend that incorporates residential uses in accordance with appropriate economic and community development planning standards; and
7. Pursuant to 30-A M.R.S. § 4356, the Town may adopt a moratorium ordinance governing such conversions and land use opportunities.

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

## **SECTION 2. MORATORIUM**

The Town does hereby declare a moratorium on all conversions of commercial, retail and business spaces and use with exceptions in this ordinance, to avoid adverse impacts to the Town's Village District and Downtown.

No person or organization shall propose any demolition and/or reconstruction, renovation or improvements to any commercial, retail or business spaces or uses located in the geographic boundaries of the Village District and Downtown and abut Rt. 302 and are within '350 feet from the State of Maine highway right of way and replace it with residential uses except as noted in this ordinance, for the duration of this moratorium. No officer, official, board, agency, or employee of the Town shall accept, process, issue, approve, deny, or in any other way act upon any application for a license, permit, or any other type of land use approval related to a a conversion except as noted for the duration of this moratorium.

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

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, and regardless of the Effective Date, this moratorium shall govern and apply to all proceedings, applications, and proposals related this moratorium prohibiting the reduction of commercial, business and retail spaces and uses in the Village District. Any conversion of commercial, business retail or business space or uses that were or are pending before any officer, official, board, agency, or employee of the Town on or at any time after **July 22, 2019** (the "Date of Applicability") shall come under this date of applicability.

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

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

## **SECTION 5. EXCEPTIONS**

This moratorium does not limit the privileges or rights afforded to any person or organization that proposes to develop the subject property by demolition and/or reconstruction, renovation or improvements to any commercial, retail or business building or property located within the geographic boundaries of the Village District and Downtown if any of the exceptions below are met:

- The owner of a commercial property or their agents or lessees may propose new construction, renovations of existing commercial or residential properties or the demolition of said structures so long as the first floor of any replacements, renovations or new construction serves solely as a business, retail or commercial use. For the purpose of this ordinance business, retail and commercial uses include motel and hotel establishments. Motel and hotel construction or renovations must have at a

minimum, twelve lodging units whether they be one or multiple bedroom units. Upper floors may be proposed as business, retail, commercial or residential uses subject to current planning, building or other land use codes at the time of the application.

- Other than first floor restrictions for business, retail and commercial uses, the upper floors for any residential use may include but not be limited to single family short term or long-term rental apartments, condominiums, bed and breakfast or nightly residential rentals.
- Any use or property that lie outside of the delineation along Rt. 302 and are outside the set back of ‘350 feet as measured from the State of Maine highway right of way, are not affected by this ordinance.
- All proposals must meet the necessary off-street parking requirements as well as all life safety code, building and health codes and any other occupancy code requirements in effect at the time of the application to the Planning Board.

## **SECTION 6. CONFLICTS/SAVINGS CLAUSE**

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

## **SECTION 7. VIOLATIONS**

If any conversion of business, retail or commercial space or use occurs during the moratorium, the Town of Naples retains the right to assign a violation and penalties against the property owner or their agent. Further, if such a violation of this moratorium occurs, each day of any continuing violation shall constitute a separate violation of this moratorium and the Town shall be entitled to all rights available to it pursuant to 30-A M.R.S. § 4452, including, but not limited to fines and penalties, injunctive relief, and reasonable attorney fees and costs in prosecuting any such violations.