

TOWN OF NAPLES

OUTDOOR ENTERTAINMENT GATHERING ORDINANCE

Adopted at Town Meeting June 27, 1998
Amended June 11, 2002
Attested by Town Clerk

ARTICLE 1 - TITLE, PURPOSE AND DEFINITIONS

Section 1.1 TITLE

This ordinance may be known as and cited as the Town of Naples Outdoor Entertainment Ordinance

Section 1.2 AUTHORITY

This Ordinance is enacted pursuant to the authority granted in Title 22 Section 1601 et seq. of the Maine Revised Statutes and the home rule power conferred by Article VIII part Second of the Maine Constitution and Title 30-A, Sections 2102, 2109 and 3001 of the Maine Revised Statutes

Section 1.3 PURPOSE

It is recognized that an ~~an~~ mass outdoor gathering in the Town of Naples, whatever the duration, may create a hazard to public health, safety and welfare. Accordingly, the purpose of this ordinance is to control mass outdoor gatherings and outdoor entertainment in order to protect the public health, safety and welfare of the people of Naples and to protect the Town's environment.

Section 1.4 APPLICABILITY

No person, corporation, association or group of any kind shall sponsor, promote or conduct an outdoor gathering, as defined, or make one's property available for a mass gathering by lease, contract, or otherwise within the Town of Naples, until a permit has been obtained.

Section 1.4.1 Permits for minor outdoor gatherings without alcohol being served may be obtained by the Naples Town Manager, except that the Town Manager may require that an application for a minor outdoor gathering be obtained by the Board of Selectpersons or the Planning Board if the event is controversial because of the type or location of the event being proposed.

Section 1.4.2 Permits for Major Outdoor Gatherings without alcohol being served may be obtained by the Planning Board, except the Planning Board may require that an application for a major outdoor gathering be obtained by the Board of Selectpersons if the event is controversial because of the type or location of the event being proposed.

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Section 1.4.3 Major or minor outdoor gatherings where alcohol will be served shall be obtained by the Board of Selectpersons of the Town of Naples.

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Section 1.5 DEFINITIONS

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Major outdoor gathering - is a gathering held outdoors with the intent to attract the continued attendance of 200 persons or more for 5 or more continuous hours regardless of whether admission is charged.

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Minor outdoor gathering is a gathering held outdoors with the intent to attract the continued attendance of 250 persons or more for more than 2 continuous hours regardless of whether admission is charged.

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ARTICLE 2 - GENERAL

Section 2.1 PERMITS

Section 2.1.1 No outdoor ~~entertainment gathering~~ shall be allowed ~~on the grounds of any business establishment~~ in the Town of Naples unless a permit has been approved ~~by the Naples Planning Board~~. ~~No outdoor entertainment sponsored by a business establishment will be allowed anywhere in the town of Naples unless a permit has been approved by the Naples Planning Board. No outdoor entertainment for which admission is charged will be allowed anywhere in the Town of Naples unless a permit has been approved by the Naples Planning Board.~~ All major and minor outdoor gatherings shall be conducted between 9AM and 11PM. ~~Non profit organizations that have been based in the Town of Naples for at least one year do not have to obtain a permit, but are subject to all other requirements of this ordinance.~~

Commented [JH1]: I am wondering if both the SAO and OGO should have consistent times. We have a 10:30 PM limit in the SAO but 11 PM here.

Section 2.1.2 Permits may be granted on an annual basis renewable yearly if the entertainment event occurs ~~regularly throughout the year, or on an individual basis. If an annual permit is requested, all of the dates of the events must be known at the time the application is submitted. The applicant shall decide whether to apply for an annual or an individual basis permit. Any applicant may apply for a single or series of individual permits at the same time provided all of the dates are known at the time the application is submitted, twelve or more times a year. Permits may be granted on a per event basis for entertainment events that occur fewer than twelve times a year.~~

Commented [JH2]: Business owners didn't like this as it is difficult to plan a year in advance.

Section 2.1.3 Before issuing a permit the ~~Planning Board~~ Town Manager, Planning Board or Board of Selectpersons as applicable shall determine that the proposed outdoor entertainment will not adversely affect the comfort, convenience, safety, health and welfare of the people of Naples and the protection of its environment. Factors that will be considered in making that determination shall include hours of performance, adequacy of sanitary facilities, security, and parking facilities, impact on traffic, impact on public safety, and any other conditions deemed necessary to assure the comfort, convenience, safety, health and welfare of the people of Naples and the protection of its environment.

Section 2.1.4 Applications for all Outdoor ~~Entertainment-Gathering~~ Permits shall be submitted in writing to the ~~Planning Board Secretary~~ Town Clerk together with a fee as established by Order of the Board of Selectpersons, non-refundable permit fee of \$200 for an annual permit. ~~Any establishment that has a Special Entertainment License will be given a credit of seventy five dollars (\$75.00) toward the two hundred dollar (\$200.00) permit fee. A one day event permit will cost twenty five dollars (\$25.00) plus the cost of~~ Public Notices and the cost of notices to abutters. Applications for major and minor Outdoor ~~Entertainment-Gathering~~ Permits shall be submitted on the form provided by the Town and shall include the name of the applicant, the name of the business establishment that is sponsoring or hosting the event, the location upon which the event will take place, a general description of the event, and the names and mailing addresses of all owners of property abutting the property where the event will take place.

Commented [JH3]: We need the same abutter's notice range language

Section 2.1.5 The Town Manager, Planning Board, or the Board of Selectpersons shall not issue a permit for an outdoor entertainment gathering unless the standards of this Ordinance have been met and the premises to be used for the event and the event itself will be in compliance with all ordinances, articles, bylaws, appropriate safety codes, rules and regulations of the Town of Naples and State Law. The Town Manager shall make a decision on an outdoor gathering application within 15 days of receiving a complete application. The ~~Planning Board~~ or Board of Selectpersons shall make a decision on an outdoor ~~entertainment-gathering~~ permit application within 30 days of receiving a completed application. If the permit is denied by either the Town Manager, Planning Board or the Board of Selectpersons, the applicant shall be provided, in writing, with the reasons for the denial. At the time of approval, the Town Manager, Planning Board or the Board of Selectpersons shall establish the amount of the escrow fund to be established as outlined in Section 2.1.7 below.

Commented [JH4]: Maybe consider moving this to the 2.1.7 paragraph. Seem out of place here.

Section 2.1.6 Any applicant who has been denied a permit or whose permit has been revoked, may, within thirty days of the denial or revocation appeal the decision to the Naples Board of Appeals as defined in 30-A.M.R.S.A. § 2691. The Board of Appeals may grant or reinstate the permit if it finds that the applicant meets all the criteria of this ordinance, or if the denial or revocation was arbitrary or capricious, or if the denial or revocation was not based on a violation of any Naples ordinance, article, bylaw, rule or regulation, or of State Law.

Section 2.1.7 Public costs - The applicant is responsible for covering all public costs. For the purposes of this Ordinance, public costs shall mean the costs incurred by the Town that would not have been incurred if the outdoor gathering was not held. For example, the cost of police, fire and rescue personnel as well as any other town inspector or municipal staff. The public cost includes an established rates determined by the Selectboard for public safety vehicles and equipment at the regular hourly rate plus benefits for all personnel. If personnel are providing services at overtime rates, the overtime rates plus benefits shall be paid by the applicant. If any funds remain in the escrow after covering all of the public costs, the remaining amount of the escrow will be paid to the applicant within 30 days of the event.

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Section 2.1.8 Performance guarantee for outdoor gatherings on public property Outdoor gathering that will be held on public property must leave the public property free of trash or any other damage on the property. The applicant will be required to establish a cash escrow account at the time the permit is issued to cover the estimated public cost plus a damage escrow of three dollars (\$3) for each person expected to attend the event for any damage that occur on the property. If damage occurs on the property and if all trash is removed, the damage escrow will be returned to the applicant within 30 days of the event. If the cost of repairing the damage exceeds the damage escrow, the applicant will be required to reimburse the Town for all of the expenses incurred repairing the damage.

If an applicant is permitted for more than one event per year, the escrow for public cost and damage if on public property can be paid on an event by event basis. All escrows shall be set up at least ~~5~~ 10 business days before the event.

ARTICLE 3 PERFORMANCE STANDARDS FOR MAJOR OUTDOOR GATHERINGS

Section 3.1 All applications for a major outdoor gathering are subject to the following performance standards to reduce the dangers to the health and safety of the public. All proposed mass outdoor gatherings shall be subject to all other applicable Federal, State and local laws and regulations.

Section 3.2 Water Supply – at least 3 gallons of water per person per day shall be provided for drinking and washing purposes. All water points should be conveniently accessible and well identified.

Section 3.3 Refuse Disposal – at least one fifty (50) gallon container or its equivalent should be provided and made accessible for each 100 persons anticipated to attend. All refuse shall be collected at least one time per day. All refuse shall be cleared from the site within twenty-four (24) hours following the mass gathering.

Section 3.4 Lighting – if a mass gathering is expected to extend beyond daylight hours, the assembly areas must be adequately lighted but not reflect beyond the assembly area unless the adjacent property is uninhabited. Light levels should be at least five foot candles.

Section 3.5 Size of Site – the assembly area of each site shall provide at least 20 square feet per person.

Section 3.6 Access and Parking – The access to the site from either a public or private road shall be at least 100 feet of sight distance for every 10 miles per hour, prorated as needed, of the posted speed limit. For example, if the posted speed limit of the public or private road adjacent to the site is 35 miles, visibility must be at least 350 feet in either direction. At least one parking space for every four (4) persons shall be provided. Service roads to parking areas shall be at least twelve (12) feet wide for one-way traffic and twenty-four (24) feet wide for two-way traffic. If parking will be provided on an unpaved site with no striping or other means of designating an individual parking space, at least 1 acre for every 100 cars or 30 buses shall be provided for parking.

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Section 3.7 Sanitary Facilities – Toilets shall be provided at a rate of two (2) for the first 100 person at the site and one toilet for each additional 150 persons or fraction part thereof after that. At least one toilet shall be handicapped accessible. Each toilet shall be provided with a door that can be secured for privacy and shall have a continuous supply of toilet paper. If an event is more than one day, the facilities shall be cleaned and waste removed daily. If portable toilets are used, they should be placed in a shady area to the greatest extent possible.

Commented [JH5]: We have a recommended number of units chart that we would like to go by because it also factors the time of the event.

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Section 3.8 Medical – Medical services shall be provided as required by the Naples Chief of Rescue

Commented [JH6]: We have guidelines set up for this as well.

Section 3.9 Safety – All electrical system and electrical equipment is installed, it will be installed and maintained in accordance with all applicable State standards and the Town’s electrical codes. The Naples Electrical Inspector shall inspect all electrical systems before the event begins. The grounds and related facilities shall be approved by the Naples Chief of Fire and shall be used in such a way to prevent fire. If fire prevention equipment is deemed necessary by the Naples Chief of Fire, the equipment and associated personnel shall be on the site.

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ARTICLE 3 ENFORCEMENT, PENALTIES, SEPARABILITY AND EFFECTIVE DATE

Section 3.1 ENFORCEMENT AND PENALTIES

This ordinance shall be enforced by the Cumberland County Sheriff’s Department Pursuant to 30-A M. R. S. A. § 107 and the contact for law enforcement services between the Town of Naples and Cumberland County Commissioners. Any person who violates any provision shall be subject to a penalty of not less than one hundred dollars (\$100.00) and not more than twenty-five hundred dollars (\$2,500.00) for the first violation.

Subsequent violation shall be subject to a penalty of not less than one hundred dollars (\$100.00) and not more than five thousand dollars (\$5,000.00). Each day that such a violation exists shall constitute a separate violation. The Town of Naples shall be entitled to recover its costs including attorney’s fees, if it prevails. All fines shall be payable to the Town of Naples.

Section 3.2 REVOCATION

The ~~Planning Board of Selectpersons~~, regardless of the initial permitting authority, may either revoke a major or minor outdoor gathering the annual permit ~~of or~~ may refuse to issue subsequent annual or per event permits of any person upon finding that the permit holder has violated one or more of the conditions of its Outdoor Entertainment Gathering Permit or of the ~~Planning Board~~ Board of Selectpersons finds that the violations are likely to occur again in future mass-outdoor gathering events sponsored by the permit holder. The ~~Planning Board~~ Board of Selectpersons may revoke a permit only after the permit holder has been given notice and an opportunity to be heard. The permit holder must

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receive notice of the proposed revocation at least fourteen (14) days prior to the revocation hearing. The ~~Planning Board~~[Board of Selectpersons](#) may shorten the time period prescribes in this Section 3.2 for a per-event permit if the Board finds that an emergency posing and imminent threat to the public health, safety or welfare exists and required immediate action.

Section 3.3 SEPARABILITY

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

Section 3.4 EFFECTIVE DATE

The effective date of this ordinance shall be when enacted by the Town of Naples, Enacted on June 27, 1998.