

**TOWN OF NAPLES
OUTDOOR GATHERING ORDINANCE**

**Adopted at Town Meeting June 27, 1998
Amended June 11, 2002
Amended February 20, 2020
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 Gathering Ordinance.

Section 1.2 AUTHORITY

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

Section 1.3 PURPOSE

It is recognized that an outdoor gathering in the Town of Naples (the “Town”) attracting the attendance of 200 or more persons, whatever the duration, may create a hazard to public health, safety, and welfare. Accordingly, the purpose of this Ordinance is to control such outdoor gatherings in order to protect the public health, safety, and welfare of the people of the Town 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 a Major Outdoor Gathering or a Minor Outdoor Gathering, as defined by this Ordinance, or make one’s property available for a Major Outdoor Gathering or a Minor Outdoor Gathering by lease, contract, or otherwise within the Town unless and until a permit has been obtained in accordance with Article 2 of this Ordinance.

Section 1.5 DEFINITIONS

Major Outdoor Gathering - Any gathering held outdoors with the intent to attract the continued attendance of 200 or more persons for two or more continuous hours, regardless of whether admission is charged. “Major Outdoor Gathering” does not include gatherings sponsored by any public school and held on public school property or gatherings sponsored by the Town and held on Town-owned property.

Minor Outdoor Gathering - Any gathering held outdoors with the intent to attract the continued attendance of 200 persons or more for less than two continuous hours, regardless of whether admission is charged. “Minor Outdoor Gathering” does not include gatherings sponsored by any public school and held on public school property or any gatherings sponsored by the Town and held on Town-owned property.

ARTICLE 2 - GENERAL

Section 2.1 PERMITS

Section 2.1.1 Permit Required. No Major Outdoor Gathering or Minor Outdoor Gathering shall be allowed in the Town unless a permit has been granted in accordance with this Ordinance. If a sign or signs are requested for a mass gathering event held outside of the Town, a permit authorizing such signs is required. Such “Sign Only” permits must meet the standards of Section 3.4 of this Ordinance.

Section 2.1.2 Reviewing Authority. The Town Manager or his/her designee shall review and grant all permits for Minor Outdoor Gatherings where alcohol will not be served and all “Sign Only” permits; provided, however, that the Town Manager may require, in the Town Manager's sole discretion, that an application for such permits be instead reviewed and granted by the Select Board. The Select Board shall review and grant all permits for Minor Outdoor Gatherings where alcohol will be served and all permits for Major Outdoor Gatherings, whether or not alcohol will be served. The Town Manager and the Select Board are collectively herein referred to as the “Reviewing Authority.”

Section 2.1.3 Annual Renewal Required. Permits shall be granted on a calendar year basis, and may be renewed annually. If an Major Outdoor Gathering or a Minor Outdoor Gathering is proposed to occur regularly throughout the year, the approximate dates of all such occurrences must be identified at the time the application is submitted.

Section 2.1.4 Application; Fees. Applications for any Major Outdoor Gathering or Minor Outdoor Gathering permit shall be submitted in writing to the Town Clerk together with a fee as listed in the Fee Schedule established by Order of the Select Board. Applications for any Major Outdoor Gathering or Minor Outdoor Gathering permits shall be submitted on a form provided by the Town and shall include the name of the applicant, the name of the entity that is sponsoring or hosting the gathering, the location where the gathering will take place, the anticipated number of persons in attendance, the anticipated length of time of the gathering, and a general description of the proposed gathering.

Section 2.1.5 Review Process; Decision. The Reviewing Authority shall not issue a permit for a Major Outdoor Gathering or a Minor Outdoor Gathering unless it has determined that the standards of this Ordinance have been met and the premises to be used for said gathering and said gathering itself will be in compliance with all applicable ordinances, articles, bylaws, safety codes, rules and regulations of the Town and state law, including without limitation 22 M.R.S. § 1601 (requiring a permit for certain mass gatherings from the Commissioner of the Maine Department of Health and Human Services), or its successor provision, as it may be amended from time to time. The Reviewing Authority shall make a decision on a Major Outdoor Gathering or Minor Outdoor Gathering application within 30 days of receiving a complete application. If the permit is denied by any Reviewing Authority, the applicant shall be provided, in writing, with the reasons for the denial.

Section 2.1.6 Public Notice. Upon receipt of a complete application, the Town shall send written notice of the receipt of an outdoor gathering permit application to every property owner within 250 feet of the premises of the proposed Major Outdoor Gathering or Minor Outdoor Gathering. All measurements to determine the distance from the premises shall be taken from the property lines of the premises to all property lines located within 250 feet. Parcels that are only partially within 250 feet of the premises shall be notified. For Major Outdoor Gatherings or Minor Outdoor Gatherings that are proposed to be primarily conducted in rights of ways, such as road races, the Town shall notify property owners located within 250 feet of the proposed Major Outdoor Gathering or Minor Outdoor Gathering locations at the beginning and the end of the event, such as the start and end locations of road races. The applicant shall be responsible for paying to the Town the costs of all public notices, including notices to property owners, required by this section, prior to the issuance of a decision on an application under this Ordinance.

Section 2.1.7 Appeals. 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. § 2691. The Board of Appeals may grant or reinstate the permit if it finds that the applicant meets all applicable 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 applicable Town ordinance, article, bylaw, rule or regulation, or of state law.

Section 2.1.8 Public Costs. The permit holder shall be responsible for reimbursing the Town for all actual, direct public costs associated with all approved Major Outdoor Gatherings or Minor Outdoor Gatherings. At the time of permit approval, the Reviewing Authority shall establish the amount of a public costs escrow account. The public costs escrow account shall be established and the amount paid at least 10 business days before the first date of the permitted Major Outdoor Gathering or Minor Outdoor Gathering; provided, however, that if the permit authorizes more than one date for a Major Outdoor Gathering or Minor Outdoor Gathering in any given calendar year, the assessed public costs escrow may be paid on a pro rata basis least 10 business days before each date of the Major Outdoor Gathering or Minor Outdoor Gathering. For the purposes of this Ordinance, public costs shall mean the costs incurred by the Town that would not have been incurred if the Major Outdoor Gathering or Minor Outdoor Gathering were not held, and shall include, without limitation: (i) the cost, at the

regular hourly rate plus benefits, of police, fire, and rescue personnel, as well as any other Town inspector or municipal staff providing safety, administrative support, or clean-up services before, during, or after the Major Outdoor Gathering or Minor Outdoor Gathering; (ii) for the cost of use of public safety vehicles and equipment by Town personnel; and (iii) if Town personnel are providing services at overtime rates, the overtime rates plus benefits. Any remaining unspent funds in the public costs escrow account shall be returned to the permit holder within 30 days after the final permitted date of the Major Outdoor Gathering or Minor Outdoor Gathering.

Section 2.1.9 Damage Costs on Public Property. A permit holder sponsoring or conducting any Major Outdoor Gatherings or Minor Outdoor Gatherings on public property must leave the public property free of trash or any other damage within 48 hours after each permitted Major Outdoor Gathering or Minor Outdoor Gathering date. In addition to the public costs escrow account required under Section 2.1.8 herein, at the time of permit approval, the Reviewing Authority shall establish the amount of a damage costs escrow account. The damage costs escrow shall be established and the amount paid at least 10 business days before the first date of the permitted Major Outdoor Gathering or Minor Outdoor Gathering; provided, however, that if the permit authorizes more than one date for a Major Outdoor Gathering or Minor Outdoor Gathering in any given calendar year, the assessed damage costs escrow may be paid on a pro rata basis least 10 business days before each date of the Major Outdoor Gathering or Minor Outdoor Gathering. The amount of the damage costs escrow shall be \$100 for every one hundred persons expected to attend the permitted Major Outdoor Gathering or Minor Outdoor Gathering, rounded up to the nearest 100 persons, except that no damage costs escrow shall exceed \$5,000. The Town may expend funds from the damage costs escrow account within 48 hours after each permitted Major Outdoor Gathering or Minor Outdoor Gathering date if it determines, in its sole discretion, that the permit holder has not adequately cleaned and repaired the affected public property. Any remaining unspent funds in the damage costs escrow shall be returned to the permit holder within 30 days after the final permitted date of the Major Outdoor Gathering or Minor Outdoor Gathering. If the cost of clean-up or repair of damage exceeds the damage costs escrow, the permit holder shall reimburse the Town for all of the expenses incurred by the Town.

Section 2.1.10 Insurance and Indemnity.

- a. The permit holder shall submit to the Town a Certificate of Insurance with all coverages required by the permit not less than 14 calendar days before the first date of a permitted Major Outdoor Gathering or a Minor Outdoor Gathering. If the permitted Major Outdoor Gathering or a Minor Outdoor Gathering will be held on public property, the Certificate of Insurance shall name the Town of Naples as added insured on all applicable policies.
- b. The permit holder shall submit to the Town an indemnification agreement on the permit holder's letterhead stating that, on behalf of the permit holder and his/her heirs, executors, administrators, legal representatives, assignees and successors in interest (collectively, "Successors"), the permit holder shall unconditionally release, discharge, hold harmless, and promise to indemnify the Town and its officers, officials, employees, agents, successors, assigns from and against all rights and claims, damages or causes of action of any type for personal injury, bodily injury (including death), property damage, emotional distress or any other damages—including claims arising directly or indirectly out of the Town's own negligence, if any—which Successors have or which may hereafter accrue to them, and any and all damages that may be sustained by Successors directly or indirectly in connection with, or arising out of, the permitted Major Outdoor Gathering or Minor Outdoor Gathering.

ARTICLE 3 - PERFORMANCE STANDARDS

Section 3.1 Standard of Review. Before issuing a permit, the Reviewing Authority must determine that the proposed Major Outdoor Gathering or Minor Outdoor Gathering will not adversely affect the comfort, convenience, safety, health and welfare of the people of Naples and the protection of the Town's environment. In making this determination, the Reviewing Authority shall consider the following factors: the proposed hours of the Major Outdoor Gathering or Minor Outdoor Gathering; the adequacy of sanitary facilities, security, and parking facilities; the impact on traffic and public safety; the technical and financial capacity of the permit holder to comply with all applicable performance standards in this Ordinance, and any other factors affecting the comfort, convenience, health, safety, or welfare of the people of Naples and the protection of its environment. The Reviewing Authority may, in its discretion, condition any permit to ensure that any approved Major Outdoor Gathering or Minor Outdoor Gathering will not adversely affect the comfort, convenience, safety, health and welfare of the people of Naples and the protection of the Town's environment.

Section 3.2 Performance Standards for Major Outdoor Gatherings and Minor Outdoor Gatherings. All Major Outdoor Gatherings and Minor Outdoor Gatherings are subject to the following performance standards:

- a. **Hours of Operation.** All Major Outdoor Gatherings and Minor Outdoor Gatherings shall be conducted between 9AM and 11PM, except during Blues Festival and on the Fourth of July when they may occur between 9AM and 1AM.
- b. **Compliance with Applicable Laws.** All Major Outdoor Gatherings and Minor Outdoor Gatherings shall be subject to all other applicable Federal, State and local laws and regulations.

Section 3.3 Additional Performance Standards for Major Outdoor Gatherings. All Major Outdoor Gatherings are subject to the following additional performance standards:

- a. **Water Supply.** At least 3 gallons of water per person per day shall be provided for drinking and washing purposes during every Major Outdoor Gathering. All water points should be conveniently accessible and well identified.
- b. **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 each Major Outdoor Gathering. All refuse shall be collected at least one time per day. All refuse shall be cleared from the site and within 150 feet of the site within twenty-four (24) hours following the Major Outdoor Gathering.
- c. **Lighting.** If a Major Outdoor Gathering is expected to extend beyond daylight hours, the assembly areas must be adequately lighted, but should not reflect beyond the assembly area unless the adjacent property is uninhabited. Light levels should be at least five foot candles.
- d. **Size of Site.** The assembly area of each site of a Major Outdoor Gathering shall provide at least 20 square feet per person anticipated to attend.
- e. **Access and Parking.** Each site of a Major Outdoor Gathering must be accessible by either a public or private road with 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 anticipated to attend 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.
- f. **Sanitary Facilities.** Toilets shall be provided as required by the Reviewing Authority. 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 a Major Outdoor Gathering is proposed to occur on more than one day in a calendar year, the toilet 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 practicable.
- g. **Public Safety.** Unless otherwise expressly authorized by the Reviewing Authority, all provision of police or security services, fire services and emergency medical services shall comply with the recommendations of the Fire and Rescue Chief and the Sheriff's Department.
- h. **Safety.** Any necessary electrical systems and electrical equipment must be installed and maintained in accordance with all applicable State standards and the Town's electrical codes. The Electrical Inspector shall inspect all electrical systems before the first permitted date of the Major Outdoor Gathering. The proposed grounds and related facilities shall be designed in such a way to minimize the risk of fire. The proposed grounds and related facilities shall be inspected by the Fire and Rescue Chief before the first permitted date of the Major Outdoor Gathering. If on-site fire prevention equipment is deemed necessary by the Fire and Rescue Chief, the equipment and associated personnel shall be on the site before the first permitted date of the Major Outdoor Gathering.

- i. **Alcohol.** If alcohol will be sold, or served at a Major Outdoor Gathering that charges admission, the applicant must submit evidence of liquor liability insurance and of a valid license to sell and serve alcohol.
- j. **Sound Level Limitation.** If an applicant is proposing more than one Major Outdoor Gathering per calendar year on the same site, the sound level shall not exceed 70 decibels on average over any 15 minute period using the “A-weighted equivalent sound level,” as defined by the Maine Department of Environmental Protection, at the nearest property line of a residential lot, bed and breakfast, hotel, motel, or campground.

Section 3.4 Signs.

- a. **Signage.** Unless otherwise authorized or conditioned by the Reviewing Authority, temporary signage advertising any approved Major Outdoor Gathering or Minor Outdoor Gathering is limited to five (5) signs that are each no greater than thirty-two (32) square feet in area and displayed for not more than one month prior to the first approved date of a Major Outdoor Gathering or Minor Outdoor Gathering. All permitted signage must be removed within three (3) days after the final approved date of the Major Outdoor Gathering or Minor Outdoor Gathering.
- b. **“Sign Only” Permits.** Signs advertising mass gathering events held outside of the Town shall be limited to no more than five (5) signs that are each no greater than six (6) square feet in area and displayed for no more than one month before the date of the mass gathering event. All permitted signage must be removed within three (3) days after the mass gathering event.

ARTICLE 4 – SUSPENSION AND REVOCATION

Section 4.1 Suspension and Revocation. The Select Board, regardless of the initial Reviewing Authority, may suspend or revoke a Major Outdoor Gathering or Minor Outdoor Gathering permit or may refuse to issue subsequent permits upon finding (i) that the permit holder has violated one or more of the conditions of its permit, the provisions of this Ordinance, or any applicable ordinances, articles, bylaws, codes, rules, regulations, or laws; (ii) that the violation(s) are likely to occur again, or (iii) that the violation(s) constitute a detriment to the public health, safety, or welfare. The Select Board may suspend or revoke a permit only after the permit holder has been given notice and an opportunity to be heard. The permit holder must receive notice of the proposed suspension or revocation at least fourteen (14) days prior to the suspension or revocation hearing; provided, however, that the Select Board may shorten this notice time period if the Select Board finds that an emergency posing and imminent threat to the public health, safety, or welfare exists and requires immediate action.

ARTICLE 5 – PENALTY, SEPARABILITY & EFFECTIVE DATE

Section 5.1 PENALTY

This Ordinance may be enforced by the Town Manager or his or her designee pursuant to 30-A M.R.S. § 107, as amended from time to time, and the contract for law enforcement services between the Town of Naples and Cumberland County Commissioners, if such contract exists. In addition, this Ordinance may be enforced by the Town’s code enforcement officer pursuant to 30-A M.R.S. § 4452(1).

Any person who violates any provision of this Ordinance shall be subject to a penalty of not less than five hundred dollars (\$500.00) for each offense. The penalty provided in this Section 5.1 shall be in addition to any other penalty provisions provided in other Town ordinances, and shall be in addition to all other remedies available to the Town at law and in equity, including but not limited to the remedies available under 30-A M.R.S. § 4452 *et seq.* Each day that a violation exists or continues shall constitute a separate offense. Refusal to comply with a suspension or revocation of a permit issued by an authorized representative of the Town of Naples will be punishable by a fine of two thousand five hundred dollars (\$2,500). All fines shall be payable to the Town of Naples.

Section 5.2 SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other provision. Nothing in this Ordinance shall relieve a permit holder from complying with all requirements of other applicable ordinances, including specifically the permitting requirements of the Naples Entertainment Ordinance, where applicable.

Section 5.3 EFFECTIVE DATE

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