

SPECIAL AMUSEMENT ORDINANCE OF THE TOWN OF NORTHPORT

ARTICLE I. TITLE, PURPOSE AND DEFINITION

1.1 Title

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Northport.

1.2 Purpose

This Ordinance is enacted to fulfill the requirements of 28-A M.R.S.A. §1054. The purpose of this Ordinance is to control the issuance of special permits for music, dancing, or entertainment in facilities licensed by the State of Maine to sell liquor, without infringing on protected First Amendment rights. This section is adopted pursuant to the Town's authority under 28-A M.R.S.A. §1054 and 30-A M.R.S.A. §3001.

1.3 Definitions

- (1) Entertainment - For the purposes of this Ordinance, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided a) by professional entertainers; b) by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value; or c) by patrons induced by prizes or otherwise to engage in activities with an entertainment value.
- (2) Licensee - For the purpose of this Section, "licensee" shall include the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent or employee of any such licensee.

ARTICLE II. GENERAL

2.1 Permit Required

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music except radio or other mechanical device, or any dancing or entertainment of any sort unless the licensee shall have first obtained from the Board of Selectmen a special amusement permit.

Applications for all special amusement permits shall be made in writing to the Board of Selectmen and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the nature of his business, including a specific description of any entertainment to be offered; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether the applicant, including all

partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the Board of Selectmen in the issuing of the permit, including but not limited to a copy of the applicant's (current) liquor license.

2.2 Grounds and procedure for denial, suspension or revocation

- (1) *Generally.* The Board of Selectmen may, after a public hearing preceded by notice to the licensee, deny suspend or revoke any special amusement permits which are sought or have been issued under this division on the grounds that the music, dancing, live sporting exhibitions or entertainment so permitted constitute a detriment to the public health, safety, or welfare, or violate any municipal ordinances, articles, bylaws, rules or regulations, or the provisions of this chapter.
- (2) *Additional grounds.* In addition to the general standards for denial, suspension or revocation identified in subsection 1 of this section, a permit may be denied, suspended or revoked upon a determination of the existence of one or more of the following grounds:
 - a. The applicant has offered or will offer entertainment, which includes;
 - (i) Exposing to view the male or female genitals, pubic hair or anus, or the vulva or any portion of the female breasts at or below areola area thereof. "Exposing to view" includes, without limitation, appearing without an opaque covering or appearing with only an opaque covering which adheres to the skin, such as body paint; or
 - (ii) The actual or simulated touching, caressing or fondling of the breasts, buttocks or genitals;
 - b. The permitted activity, or persons on the premises for purposes of participating in a permitted activity, or persons patronizing licensed premises, has caused one or more breaches of the peace;
 - c. There is a clear and immediate danger that a breach of the peace will occur if the activity is permitted;
 - d. The permitted activity of persons patronizing the permitted premises will substantially adversely affect the peace and quiet of the neighborhood or a substantial portion thereof;
 - e. The permit licensee has violated any provision of this chapter in the conduct of the activity for which the permit has been applied or has been issued;

- f. There has been an occurrence of any event subsequent to issuance of the permit which would have been a basis for denial of the permit; this shall be grounds for revocation of the permit; or
 - g. There has been an occurrence of entertainment as described in subsection 2(a) of this section.
 - h. The applicant has failed to fully complete the application forms, knowingly made an incorrect statement of a material nature on such a form, failed to supply any additional documentation required or reasonably necessary to determine whether such permit is issuable, or failed to pay any fee required under this chapter;
- (3) No permit holder shall allow on the permitted premises any activity described in paragraphs (2)(a) through (d) of this section, without regard to whether such activity is carried on by professional entertainers, employees or any other person and without regard to whether any compensation is paid by the permit holder.
 - (4) The fee for a special amusement permit shall be \$25.00; also the applicant shall pay the cost of publication of the hearing notice at the time of application.
 - (5) The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the public and the applicant, hold a public hearing within 30 days of the date the request was received, at which the testimony of the applicant and that of any interested member of the public shall be taken.
 - (6) The Board of Selectmen shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws.
 - (7) A permit shall be valid only for the license year of the applicant's existing liquor license.

2.3 Inspections

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or state law, or are reasonably necessary to ensure or secure compliance with any ordinance provision or state law it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized and appointed by the Board of Selectmen to make the inspection, at any reasonable time that admission is requested. Whenever an analysis of any commodity or material is reasonably necessary to ensure or secure conformance with any ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the Board of Selectmen may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis or who interferes with such officer, official or employee while in the performance of his duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

2.4 Rules and Regulations

The Board of Selectmen is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health and safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

2.5 Permit and Appeal Procedures

- (1) The Board of Selectmen shall, prior to granting a permit, hold a public hearing within 30 days of the date a completed application is filed with the Town, during which testimony will be received from the applicant or his or her designated agent and/or any interested member of the public. Notice of the public hearing shall be placed in a local weekly paper a minimum of seven (7) calendar days before the hearing.
- (2) Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of their decision no later than thirty (30) days from the date his application was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within Thirty (30) days after an application for a permit is denied.
- (3) Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the Northport Board of Appeals within thirty (30) days of the denial, suspension, or revocation. The Board of Appeals may grant or reinstate the permit if it finds that:
 - a. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate the Town's ordinances or regulations;
or
 - b. The denial, revocation or suspension was arbitrary or capricious.

Appeals from decisions of the Board of Appeals shall be taken within forty-five (45) days to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

2.6 Admission

A licensed motel, restaurant, tavern or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

ARTICLE III PENALTY, SEPARABILITY & EFFECTIVE DATE

3.1 Penalty

This Ordinance shall be enforced by any Town employee or Town official appointed by the Board of Selectmen to hold such authority.

Upon finding a violation of any provision of this Ordinance by a court of competent jurisdiction, a licensee shall be punished by a fine of not more than Three Hundred Dollars (\$300.00) for the first offense, and up to Five Hundred Dollars (\$500.00) for each subsequent offense, to be recovered on complaint, to the use of the Town of Northport. In addition, any licensee found in violation of this Ordinance shall pay the reasonable attorney fees for prosecution, and costs of prosecution. A court of competent jurisdiction may also issue orders of abatement or permanent injunctions to prohibit similar repeat violations.

3.2 Separability

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

3.3 Effective Date

The effective date of this Ordinance shall be immediately upon passage of this Ordinance.

APPLICATION FOR SPECIAL AMUSEMENT PERMIT

AS DEFINED IN SECTION 2.1 OF THE TOWN OF NORTHPORT SPECIAL AMUSEMENT ORDINANCE, NO LICENSEE FOR THE SALE OF LIQUOR TO BE CONSUMED ON HIS LICENSED PREMISES SHALL PERMIT, ON HIS LICENSED PREMISES, ANY MUSIC, EXCEPT RADIO OR OTHER MECHANICAL DEVICE, ANY DANCING OR ENTERTAINMENT OF ANY SORT UNLESS THE LICENSEE SHALL HAVE FIRST OBTAINED FROM THE MUNICIPALITY IN WHICH THE LICENSED PREMISES ARE SITUATED A SPECIAL AMUSEMENT PERMIT SIGNED BY AT LEAST A MAJORITY OF THE MUNICIPAL OFFICERS. A COPY OF THE SPECIAL AMUSEMENT PERMIT ORDINANCE IS AVAILABLE UPON REQUEST FROM THE NORTHPORT TOWN CLERK.

YOUR APPLICATION FOR A SPECIAL AMUSEMENT PERMIT SHOULD BE FILED ON THIS FORM WITH THE BOARD OF SELECTMEN OR ITS DESIGNATED AGENT. **PAYMENT OF A NON-REFUNDABLE \$25 FEE, PLUS PAYMENT OF THE COST OF PUBLICATION OF THE HEARING NOTICE, IS REQUIRED AT THE TIME THE APPLICATION IS FILED. YOU MUST ALSO SUBMIT A COPY OF YOUR CURRENT LIQUOR LICENSE WITH YOUR APPLICATION.**

THE BOARD OF SELECTMEN SHALL, PRIOR TO GRANTING A PERMIT, HOLD A PUBLIC HEARING WITHIN 30 DAYS OF THE DATE YOU FILE YOUR COMPLETED APPLICATION AT WHICH TIME TESTIMONY WILL BE RECEIVED FROM YOU OR YOUR DESIGNATED AGENT AND/OR ANY INTERESTED MEMBER OF THE PUBLIC. FAILURE TO ATTEND THE PUBLIC HEARING MAY RESULT IN A DELAY IN ISSUING THE PERMIT.

* * * * *

Name of Applicant for Permit: _____

Address of Applicant: _____

Telephone # of Applicant: _____

Name of Business: _____

Address of Business: _____

Location where entertainment will be provided (if different):

Telephone # of Business: _____

Nature of Business: _____

Is Business a Corporation, Partnership or Proprietorship? (Circle One)

Identify by name, address and phone number each and every shareholder, partner and corporate officer (President, Vice President, Secretary and Clerk) if the applicant is a Corporation, LLC or Partnership.

Type of Entertainment Planned: _____

Have you ever had a license to conduct the business? _____

Have you ever had any license suspended or revoked? _____

If so, please describe circumstances:

Have the applicant or any partners or corporate officers ever been convicted of a criminal offense punishable by imprisonment for any period of time? _____

If so, describe in detail: _____

Current Liquor License #: _____

YOU MUST ATTACH A PROPORTIONATELY ACCURATE DIAGRAM OF THE PREMISES WHICH DEPICTS WHERE THE ENTERTAINMENT WILL TAKE PLACE. YOU MUST ALSO DEPICT WHETHER THE ENTERTAINMENT WILL BE CONDUCTED INSIDE OR OUTSIDE OF THE BUILDING.

Dated: _____

Signed: _____

Print Name: _____

Capacity (e.g. owner, manager, partner): _____

TOWN OF NORTHPORT
SPECIAL AMUSEMENT PERMIT

Approval: /___/

Denied: /___/

Date: _____ at Northport, Maine Waldo County

The undersigned being Municipal Officers of the Town of Northport, hereby certify that we have given public notice on this application and held a public hearing thereon as required by the Town's Special Amusement Ordinance, and hereby approve said application.

Chairman

Selectman

Selectman