

Summary of Changes to Special Amusement Ordinance

Article II.3.A-G, II.4.D-G, and II.7.A-B – These sections are largely duplicative in the existing ordinance. They have been combined into one section (II.3.A-G) and repetitive portions deleted.

Article II.3.A – Clarifies the timeframe for the Select Board to hold a public hearing on an application and render a decision. As currently written, the ordinance requires a decision after a public hearing within 15 days of the application being filed, which is impossible in some circumstances because of the *Republican Journal's* publication schedule and public hearing notice requirements under state law.

Throughout:

- “Board of Selectmen” replaced with “Select Board,” and “Selectman” replaced with “Municipal Officer,” in accordance with state law.
- Defined terms (“Entertainment” and “Licensee”) capitalized.
- Internal cross-references corrected.
- Typographical errors corrected.

TOWN OF NORTHPORT
SPECIAL AMUSEMENT ORDINANCE

ARTICLE I. TITLE, PURPOSE AND DEFINITION

1. Title

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

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-Ordinance~~ is adopted pursuant to the Town's authority under 28-A M.R.S.A. § 1054 and 30-A M.R.S.A. § 3001.

3. Definitions

- (1) Entertainment - For the purposes of this Ordinance, "~~E~~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~~Ordinance, "~~licensee~~Licensee" shall include the holder of a liquor 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~~Licensee.

ARTICLE II. GENERAL

1. Permit Required

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

Applications for all special amusement permits shall be made in writing to the ~~Board of Selectmen~~Select Board and shall state the name of the applicant; their residence address; the name of the business, business address; if a corporation, the names and addresses of the principal officers and State of residence; the nature of the 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~~Select Board in the issuing of the permit, including but not limited to a copy of the applicant's (current) liquor license.

2. Classes of Permits.

Special Amusement Permits granted by the ~~Board of Selectmen~~Select Board shall be limited to the following classes:

- Class A: Single instrumentalist without mechanical amplification;
- Class B: Single instrumentalist and vocalist without mechanical amplification;
- Class C: One or more vocalists and/or instrumentalist without mechanical amplification;
- Class D: Any one of the above with mechanical amplification;
- Class E: Dancing with any of the above or accompanied by music produced by radio or other mechanical device;

A. And any permit granted shall be for one of the above noted classes. A Licensee shall not permit on the Licensee's premises, any music, dancing or Entertainment which exceeds that permitted by the Class of their permit, during the period for which their permit is valid as otherwise determined by this Ordinance.

B. During the period for which the license is valid, the Licensee may reapply for a new Special Amusement Permit, if the Licensee ~~he~~ elects to permit dancing, music or Entertainment that exceeds that permitted by the current permit. Said reapplication shall be governed by all the provisions of this Ordinance with respect to applications for a Special Amusement Permit in general, including the payment of the permit fee of \$25.00 (twenty five dollars).

3. Permit Procedures

A. The Select Board shall, prior to granting a permit, hold a public hearing within fifteen (15) days of the date a completed application is presented to the Select

Board, during which testimony will be received from the applicant or his or her designated agent and/or any interested member of the public.

B. Any Licensee requesting a Special Amusement Permit from the Select Board shall be notified in writing of its decision no later than fifteen (15) days from the date the application was received by the Select Board.

C. The Select Board shall grant a permit unless it finds 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.

DB. In the event that a Licensee is denied a permit, the Licensee shall be provided with the reasons for the denial in writing.

EC. The Licensee may not reapply for a permit within thirty (30) days after denial of an application. The reasons for the denial must be corrected before reapplication.

F. The fee for a special amusement permit shall be \$25.00 and the applicant shall pay the cost of publication of the hearing notice at the time of application.

G. A permit shall be valid only for the license year of the applicant's existing liquor license.

4. Suspension or Revocation of a Permit

A. The ~~Board of Selectmen~~Select Board may, after a public hearing preceded by notice to ~~the permit holder~~interested parties, deny, suspend, or revoke any special amusement permit that has been issued under this Ordinance, on the grounds that the music, dancing, or ~~E~~entertainment so permitted constitute a detriment to the public health, safety, or welfare, or violate any municipal ordinances, articles, bylaws, rules or regulations.

B. *Additional grounds.* In addition to the general standards for denial, suspension or revocation identified in ~~S~~subsection ~~A~~4 of this ~~S~~section, a permit may be denied, suspended or revoked upon a determination of the existence of one or more of the following grounds:

1. The applicant has offered or will offer ~~E~~entertainment, which includes;

(a) 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

- (b) The actual or simulated touching, caressing or fondling of the breasts, buttocks or genitals;
 2. 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;
 3. There is a clear and immediate danger that a breach of the peace will occur if the activity is permitted;
 4. 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;
 5. The permit ~~licensee~~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;
 6. 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
 7. There has been an occurrence of ~~E~~Eentertainment as described in ~~S~~Subsection ~~12~~12(a) of this ~~S~~Section.
 8. 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 Ordinance
 9. There has been an occurrence of conviction of illegal or controlled substances.
- C. No permit holder shall allow on the permitted premises any activity described in paragraphs (~~12~~12)(a) ~~and through (bd)~~ of this ~~S~~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.
- ~~D. The fee for a special amusement permit shall be \$25.00 and the applicant shall pay the cost of publication of the hearing notice at the time of application.~~
- ~~E. 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 fifteen (15)~~

~~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.~~

~~F. 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.~~

~~G. A permit shall be valid only for the license year of the applicant's existing liquor license.~~

5. Inspections

A. 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 licenseeLicensee, 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 SelectmenSelect Board to make the inspection, at any reasonable time that admission is requested.

B. In addition to any other penalty which may be provided, the Board of SelectmenSelect Board may revoke the special amusement permit of any licenseeLicensee 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 licenseeLicensee or person in charge of the premises, at the time it is sought to make the inspection.

6. Rules and Regulations

A. The Board of SelectmenSelect Board 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 Eentertainment 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.

7. Permit and Appeal Procedures

~~A. The Board of Selectmen shall, prior to granting a permit, hold a public hearing within fifteen (15) 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.~~

~~B. Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of their decision no later than fifteen (15) 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.~~

AC. Any ~~licensee~~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:

1. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate the Town's ordinances or regulations;
or
2. The denial, revocation or suspension was arbitrary or capricious.

B. 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.

8. Admission

A licensed motel, restaurant, tavern or restaurant malt liquor ~~licensee~~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

1. Penalty

- A. This Ordinance shall be enforced by any Town employee or Town official appointed by the ~~Board of Selectmen~~Select Board to hold such authority.
- B. Upon finding a violation of any provision of this Ordinance by a court of competent jurisdiction, a ~~licensee~~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~~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.

2. SReparability

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

3. Effective Date

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

Revised: June 3, 2019
June 19, 2023

Attest a True Copy:

Amy Eldridge, Town Clerk

TOWN OF NORTHPORT

APPLICATION FOR SPECIAL AMUSEMENT PERMIT

As defined in Article II.1 Section 2-A of the Town of Northport Special Amusement Ordinance, no licenseeLicensee for the sale of liquor to be consumed on his/her licensed premises shall permit on his/her licensed premises any music, except radio or other mechanical device, any dancing or Eentertainment of any sort, unless the licenseeLicensee 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 Board of SelectmenSelect Board. A copy of the Special Amusement Ordinance is available upon request from the Northport Town Clerk or from the Town's website: www.northportmaine.org

Your application for a Special Amusement Permit will be completed on this form and submitted to the Board of SelectmenSelect Board, or its designated agent. Payment of a non-refundable twenty-five (\$25.00) 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 SelectmenSelect Board, prior to granting a permit, shall hold a public hearing within fifteen (15) days of the date a completed application is submitted-presented to the Select Boardmen. Testimony will be received from the applicant, or its 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 Eentertainment 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 that may be 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 **E**entertainment will take place. You must also depict whether the **E**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

Maine, Waldo County

Date: _____

| The undersigned being ~~the Municipal Officers Board of Selectmen~~Select Board 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: /___/

Deny: /___/

Said application for a Special Amusement Permit is for the following Class: _____

- | The following activities shall be prohibited on the ~~licensee~~Licensee's premises:
 - All Class Permits not approved for by this permit; and
 - All Entertainment noted in Section 4. B, 1 (a+b)

| _____
Chair~~man~~

| _____
~~Selectman~~Vice Chair

| _____
~~Selectman~~Municipal Officer