

CHAPTER 402

SPECIAL AMUSEMENT ORDINANCE

Town of Yarmouth, Maine

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SPECIAL AMUSEMENT ORDINANCE

ARTICLE I

A. TITLE

This ordinance shall be known and may be cited as the “Special Amusement Ordinance of the Town of Yarmouth, Maine.”

B. PURPOSE

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.

C. DEFINITIONS

“Entertainment” The word entertainment shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full time or part time employees of the licensed premises whose incidental duties include activities with an entertainment value.

“Licensee” The word licensee means the holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine.

ARTICLE II

A. PERMIT REQUIRED

1. No licensee 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 entertainment of any sort unless the licensee shall have first obtained a special amusement permit.
2. The fee for a special amusement permit shall be as provided in Chapter 401 of the Yarmouth Town Code.
3. The Municipal Officers shall grant a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken.
4. The Municipal Officers shall grant a permit unless they find that issue of the permit would be detrimental to the public health, safety or welfare, or would violate Municipal ordinances or rules and regulations.
5. A permit shall be valid only for the license year of the existing license.

B. SUSPENSION OR REVOCATION OF A PERMIT

The Municipal Officers who have issued a permit may, after a public hearing proceed by notice to interested parties, suspend or revoke any permits which they have issued under this Section on the grounds that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare, or violates Municipal ordinances or rules and regulations.

C. RULES AND REGULATIONS

The Municipal Officers are hereby authorized to establish written rules and regulations governing the issuing suspension and revocation of these 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, safety and welfare.

1. These rules and regulations shall be as follows:
 - a. All special amusement permits are issued subject to the provisions of State Laws and Federal Laws, Municipal ordinances and rules and regulations made pursuant thereto, and all municipal, State and Federal licenses and permits required by such laws, ordinances or rules and regulations must be kept in full force and effect by licensees during the entire effective license period of the special amusement permit.
 - b. Permits erroneously issued by the Licensing Board will be considered void and shall be returned to the Licensing Board.
 - c. Wherever reference is made in the following rules and regulations to acts or omissions forbidden on the part of the licensee, corporation or individual, it shall be held and construed to mean acts of such licensee, corporation or individual or their clerk, servant or agent. Whoever is found in charge of a licensed premise or making service or waiting on trade is such licensed premise shall be prima facie construed to be a clerk, servant and agent of the licensee.
 - d. No licensee shall have or permit on his/her licensed premises any slot machine, punch board or any mechanisms which dispenses money or other valuable thing which is redeemable or exchangeable for money or other valuable thing, other than premises properly licensed. Free replays shall not be considered a thing of value. All other types of machines or mechanisms designed for amusement or entertainment may be permitted on licensed premises. Pool tables may be used in designated areas. The licensee and the owner shall be required to furnish such additional information to the Licensing Board as the Licensing Board in its sole discretion deems necessary for the proper supervision of such activity.

- e. All premises granted permits and appurtenant or adjoining premises used by the licensee in the operation of the business shall be kept in a clean, tidy and sanitary condition at all times. All premises licensed shall have both hot and cold running water available at all times, and shall have suitable toilet facilities for both sexes.
- f. No licensee shall show effects of, nor allow any of his/her employees, agents or entertainers to consume or to show any effect of liquor while on duty or performing on licensed premises.
- g. No money deposited on application for an amusement permit will be refunded after one year from the date of such application.
- h. No licensee, his/her agent or employee shall allow in or upon his/her licensed premises any improper conduct, disorder, illegality, disturbances, lewdness, immoral activities, or language, songs, entertainment, literature, pictures, raffle tickets, or advertising material of indecent, profane or obscene nature, or cause to have printed or distributed any lewd, immoral, indecent, or obscene literature, pictures or advertising material of indecent, profane or obscene nature, except that premises properly licensed may permit raffle tickets.
- i. No person under 18 years of age shall be allowed to entertain with or without compensation in licensed premises while liquor is being served or consumed, except that Class A restaurants, clubs, or hotel dining rooms persons 17 years of age who are members of a musical group may entertain. Any person under 17 years of age will be permitted to entertain provided his/her parent is present.
- j. Licensees holding special amusement permits may charge admission in designated areas.
- k. All licensed golf clubs, indoor tennis clubs and indoor skating clubs shall conform to all laws, rules and regulations pertaining to on-premise licenses, including the requirement of having suitable toilet facilities for both sexes.
- l. The purpose of this section is to regulate nudity as a form of live entertainment in those establishments at which alcoholic beverages are served or consumed.
 - (1) No license shall permit entertainment on the licensee's premises whether provided by the professional entertainer(s), employees of the licensee's premises, or any other person, when the entertainment involves:

- (a.) The performance of acts, or simulated act, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
- (b.) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals;
- (c.) The actual or simulated displaying of the genitals, pubic hair, buttocks, anus, or any portion of the female breasts at or below the areola area thereof;
- (d.) The permitting by any license of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or female breasts below the areola thereof.
- (e.) For purposes of this section, the words, “displaying” and “exposes” shall mean being unclothed or uncostumed or not covered by fully opaque cloth or textile material, or employing and devise or covering which is intended to give the appearance of or to simulate the genitals, pubic hair, buttocks, anus or the portions of the female breasts at or below the areola areas hereof.

D. PERMIT AND APPEAL PROCEDURES

1. Any licensee requesting an amusement permit from the Municipal Officers shall be notified in writing of their decision no later that (15) fifteen days from the date the request was received. In the event that a license is denied a permit, the licensee shall be provided with the reasons for the denial in writing.
2. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may within 30 days of the denial, suspension or revocation, appeal the decision to the General Board of Appeals. The Board may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety or welfare, or that the denial, revocation or suspension was arbitrary and capricious. All appeals shall be pursuant to the provisions in this Ordinance and the procedures outlined in Chapter 203, General Board of Appeals Ordinance.

E. ADMISSION

A licensed hotel, Class A restaurant, Class A tavern or restaurant malt liquor license who has been issued an amusement permit may charge admission in designated areas approved by the Municipal permit.

ARTICLE III

A. PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than Twenty-Five Dollars (\$25.00) for the first offense, and up to One Hundred (\$100.00) for subsequent offenses, to be recovered, on complaint, to the use of the Town of Yarmouth.