

Town of Wayne

Special Amusement Ordinance

The Town of Wayne hereby ordains that the current "Special Amusement Permit Ordinance" be repealed and that an ordinance entitled " Special Amusement Ordinance" be hereby adopted to replace it as follows:

ARTICLE I. TITLE, PURPOSE, AND DEFINITIONS

Section 1.1 Title

This ordinance shall be known and may be cited as the Special Amusement Permit Ordinance of the Town of Wayne (the "Ordinance").

Section 1.2 Purpose

The purpose of this Ordinance is to control, as authorized by Title 28-A M.R.S. Section 1054, as amended, the issuance of Special Amusement Permits for music, dancing or entertainment in facilities licensed by the State of Maine, to sell liquor to be consumed on the Licensed Premises in the Town of Wayne.

Section 1.3 Definitions for the purposes of this Ordinance

1.3.1 "Conducted indoors" shall mean the performance occurs entirely within a fully enclosed building or structure; otherwise, the performance is considered to be "conducted outdoors."

1.3.2 Entertainment. The term "entertainment" shall include any amusement, performance, exhibition or diversion, whether live, prerecorded, or otherwise, for patrons or customers of the Licensed Premises, whether provided by entertainers or full-time or part-time employees of the Licensed Premises whose incidental duties include activities with an entertainment value.

1.3.3 Licensee. The term "Licensee" shall include the holder of a license issued under Title 28-A of the Maine Revised Statutes, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent or employee of any such Licensee.

1.3.4 Licensed Premises. The term "Licensed Premises" means all parts of the contiguous real estate occupied or controlled by a Licensee and used by the Licensee in the operation of a business which includes activities that are the subject of this Ordinance.

1.3.5 Municipality. The term "Municipality" means the Town of Wayne, Maine.

1.3.6 Performance. The term "Performance" means any preview, play, show, skit, film, dance, concert or other exhibition or entertainment performed before an audience.

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ARTICLE II. GENERAL

Section 2.1 Permit Required

2.1.1 No Licensee for the sale of liquor (malt liquor, wine and spirits) to be consumed on the Licensed Premises, situated in the Town of Wayne, shall allow on said Licensed Premises any

dancing or entertainment and any music, except radio or other mechanical device, of any sort unless the Licensee shall have first obtained from the Selectboard, a special amusement permit signed by at least a majority of the members of said Selectboard or by their designee on their behalf.

2.1.2 Applications for all special amusement permits shall be made in writing to the said Selectboard and fully provide information requested on the application form attached, as such form may be amended from time to time at the reasonable discretion of the Selectboard (See attached application form).

2.1.3 No special amusement permit shall be issued for anything, or act, or premises, if the Licensed Premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the Town of Wayne. A letter of compliance must be obtained from the Code Enforcement Officer and submitted with permit application.

2.1.4 The application fee for a special amusement permit shall be as set by order of the Selectboard and on file in the Town Clerk's office and is non-refundable and must be paid when application is made for the permit.

2.1.5 The Selectboard or its designee shall issue special amusement permits upon request of completed application. Prior to granting a Special Amusement Permit and after reasonable notice to the municipality and the applicant, the Selectboard shall hold a public hearing within 15 days of the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

2.1.5.1 Classes of permits. The Classes of special amusement permits granted by the Selectboard shall be:

Class A

Conducted Indoors: Entertainment without amplification. (Between 8AM and 10PM)
Conducted Indoors: Entertainment with amplification. (Between 8AM and 10PM).

Class B

Conducted Outdoors: Entertainment without amplification. (Between 8AM and 9PM).
Conducted Outdoors: Entertainment with amplification. (Between 8AM and 9PM).

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The same Licensed Premises may have one or both classes of permit.

2.1.5.2. Sound Levels.

The maximum permissible sound pressure level of music or other entertainment on Licensed Premises under a special amusement permit issued under this Ordinance is 70dBA, measured at the lot line of the Licensed Premises with sound level meters placed at a point at least four feet above the ground and operated so as to not be interfered with by persons conducting the measurements.

2.1.5.3. Limits on Frequency.

Class A entertainment conducted indoors with amplification is limited to no more than two days per week (Monday through Sunday)

Class B entertainment conducted outdoors with amplification is limited to no more than one day per week (Monday through Sunday).

2.1.6 The Selectboard 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.

2.1.7 A special amusement permit shall be valid only for the license year of the applicant's existing liquor license, and a special amusement permit shall not be issued until evidence that a valid Maine State Liquor License has been issued to the applicant is presented.

Any special amusement permit granted shall be for one of the above noted classes. A Licensee shall not allow on the Licensed Premises, any music, dancing, or entertainment which exceeds that permitted by the class of their special amusement permit, during the period for which their permit is valid as otherwise determined by this ordinance.

2.1.8 During the period for which their license is valid, the Licensee may reapply for a new special amusement permit, if they elect to permit dancing, music or entertainment which exceeds that permitted by the current permit. Such reapplication shall be governed by all the provisions of this Ordinance including the payment of the permit fee. A violation of this section by a Licensee shall be grounds to revoke or suspend their permit and/or to refuse to grant a permit upon subsequent application by the same Licensee.

2.1.9 Applications. The application for a special amusement permit shall set forth the type of music and entertainment intended by the applicant to be permitted on the Licensed Premises and whether dancing is permitted.

Section 2.2. Inspections.

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Whenever inspections of the Licensed 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 secure compliance with any ordinance provision, including this Ordinance, 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 to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or State law, it shall be the duty of the Licensee, or person in charge of the Licensed 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 Selectboard 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 who interferes with such officer, official or employee while in the performance of their duty; provided, however, 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.

Section 2.3. Suspension or Revocation of a Permit.

The Selectboard may, after a public hearing preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this Ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety or welfare, or violates any municipal ordinances, articles, bylaws, or rules or regulations. Upon complaint or complaints of any person or persons that there are grounds to revoke said permit, and such complaint or complaints having been found by the Selectboard to be valid, after hearing as herein before provided, the Selectboard may warn the Licensee that unless the cause or causes of said complaints are removed forthwith, that permit will be revoked or suspended after a subsequent hearing covering same.

Section 2.4. Permit and Appeal Procedure.

2.4.1 Within 15 days of receiving an application for a special amusement permit, the Selectboard shall give the applicant written notice of their decision. If 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 30 days after an application for a permit has been denied, except with the consent of the Selectboard.

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2.4.2 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 Board of Appeals. The Board of Appeals 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 violate Municipal ordinances or regulations, or that the denial, revocation or suspension was arbitrary or capricious.

Section 2.5 Admission.

2.5.1 A licensed Restaurant, Class A Restaurant/ Lounge, Class A Lounge, Hotel, Hotel – Food Optional, Bed & Breakfast, Golf Course, Tavern, Qualified Caterer malt liquor (beer), wine and spirits Licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

Section 2.6 Conduct Constituting Offenses by Licensees.

2.6.1 Nuisances. The Licensee shall not allow any Licensed Premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any ordinances, articles, by-laws or rules and regulations of the Municipality or under any statutes of the State of Maine.

2.6.2 Indecency. The Licensee shall not allow on any Licensed Premises or aid in, offer, agree to, or allow in or near such Licensed Premises any public indecency in derogation of any statutes of the

State of Maine or performing a lewd act or knowingly permit any person to remain on such Licensed Premises for any such purpose to aid, abet, allow, permit, or participate in the commission of any such acts.

2.6.3 Gambling. The Licensee shall not allow any Licensed Premises to be used or occupied for gambling or games of chance as prohibited by the statutes of the of the State of Maine or ordinances, articles, by-laws or rules and regulations of the Municipality.

Section 2.7 Security and Safety for Events.

For performances in Licensed Premises holding a special amusement permit under this Ordinance, whenever the Licensee reasonably anticipates having on the Licensed Premises more than 500 persons in attendance when entertainment will be provided (an "Event"), the Licensee shall so inform the Selectboard of the same at least two weeks in advance of the date of that Event. At its own expense, the Licensee shall post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty) on the Licensed Premises during each performance on the Licensed Premises and for one hour after each such performance at that Event. Depending on of the size the Event, the

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Selectboard may require the Licensee to hire law enforcement for traffic control (and the fire department if a Commercial Fireworks Display is part of the Event) to ensure safety of Event goes at the expense of Licensee.

The Municipality has a Consumer Fireworks Ban; For a Commercial Fireworks Display licensee must contact the Fire Marshal's Office for a permit. If you plan to have fireworks at your event, you must attach fireworks permit or supply the Municipality with permit 60-days before event.

Section 2.8 Server Training.

Server training must be completed by all individuals who serve alcoholic beverages on the Licensed Premises in a program certified by the Bureau of Alcoholic Beverages & Lottery Operations.

ARTICLE III. PENALTY, SEPARABILITY & EFFECTIVE DATE

Section 3.1 Penalty.

It shall be the duty of the Code Enforcement Officer (the "CEO") to enforce the provisions of this Ordinance. If the CEO determines, in the CEO's sole discretion, that any provision of this Ordinance is being violated, the CEO shall notify in writing the person or persons responsible for such violation, indicate the nature of the violation, order the cessation of such violation, and instruct that the violator(s) have 30 days within which to appeal such violation to the Board of Appeals. The Selectboard are hereby authorized and directed to institute any and all legal actions and proceedings necessary to enforce the provisions of this Ordinance.

Whoever violates any provision of this Ordinance shall be punished by a fine of not more than \$500 for each offense to be recovered, on complaint, to the use of the Municipality. Each day such violation continues shall constitute a separate offense.

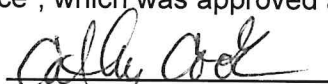
Section 3.2 Severability.

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

Section 3.3 Effective Date.

This Ordinance shall become effective 30 days after the date of adoption by Town Meeting.

ATTEST: I hereby certify that this is a true copy of an Ordinance entitled "Town of Wayne Special Amusement Ordinance", which was approved at an Annual Town Meeting on the 14th day of June, 2023.


Town Clerk