

SPECIAL AMUSEMENT PERMITS FOR BUSINESSES
SERVING ALCOHOLIC BEVERAGES

A new addition to the liquor licenses laws, 28 MRSA §702, now requires that if establishments licensed for the sale of alcoholic beverages are to be permitted to have live music, dancing or entertainment, they must first obtain a special amusement permit from the municipality.

Until June 30, 1978, the State Liquor Commission may continue to issue such permits.

As of June 30, 1978, the effective date of the law, such activities will not be allowed unless the establishment first obtains a special amusement permit issued by the municipal officers. The municipality must adopt an ordinance or authorize the municipal officers to establish written rules and regulations governing the issuance of these permits by that date. (Special amusement permits issued by the State Liquor Commission prior to June 20, 1978, will be valid for one year from their date of issue).

The following is a model ordinance that was drafted to provide municipalities with a basis for preparing a local ordinance, and which contains those aspects required by the new law.

MODEL SPECIAL AMUSEMENT ORDINANCE

ARTICLE I

Title, Purpose & Definitions

Section 101. Title

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Machias, Maine.

Section 102. 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 as required by 28 MRSA §702.

Section 103. DEFINITIONS

103.1 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 by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

103.2 Licensee. For the purposes 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

Section 201. 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, 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.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business 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 municipal officers in the issuing of the permit, including but not limited to a copy of the applicant current liquor license.

No permit shall be issued or maintained for any purposes authorized by this Ordinance if the premises and building to be used for said purposes do not full comply with all ordinances, articles, bylaws, or rules and regulations of the municipality or laws of the State of Maine.

The fee for a special amusement permit shall be \$10.00.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, 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.

The municipal officers 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 of the Town of Machias of law of the State of Maine.

A permit shall be valid only for the license year of the applicant's existing liquor license and shall automatically expire with the expiration of said liquor license.

Section 202. 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 secure compliance with any ordinance provision or State law, it shall be the duty of the licensee, or owner of the premises to be inspected at any reasonable time that admissions is requested.

Section 203. SUSPENSION OR REVOCATION OF A PERMIT

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under the 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 and regulations of the Town of Machias or law of the State of Maine.

Section 204. RULES AND REGULATIONS

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension and revocation of special amusement permits.

Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

Section 205. PERMIT AND APPEAL PROCEDURES

205.1 Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date his request 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 30 days after an application for a permit which has been denied.

205.2 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 municipal board of appeals as defined in 30 MRS.A §2411. The municipal 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 that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based on a preponderance of the evidence or a violation of any ordinance, article, bylaw or rule or regulation of the municipality or law of the State of Maine.

Section 206. ADMISSION

A licensed hotel, Class A restaurant, Class A 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

Section 301. PENALTY

Whoever violated any of the provisions of this Ordinance shall be punished by fine of not more than fifty dollare (\$50.00) for the first offense, and up to five hundred dollars (500.00) for the subsequesnt offenses, to be recovered, on complaint, to the use of the Town of Machias.

Section 302. SEPARABILITY

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

Section 303. EFFECTIVE DATE

The effective date of this Ordinance shall be

Copied from Town Records
October, 1981

Martha A. Bagley
Town Clerk