

1 **SPECIAL AMUSEMENT ORDINANCE OF THE TOWN OF NORTHPORT**

2 **ARTICLE I. TITLE, PURPOSE AND DEFINITION**

3 1.1 **Title**

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

6 1.2 **Purpose**

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

12 1.3 **Definitions**

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

23 **ARTICLE II. GENERAL**

24 ~~2-4~~ 1. **Permit Required**

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

29 Applications for all special amusement permits shall be made in writing to the Board of
30 Selectmen and shall state the name of the applicant; ~~his~~ **their** residence address; the name of the
31 business, ~~to be conducted;~~ **his** business address; **if a corporation, the names and addresses of the**
32 **principal officers and State of residence;** the nature of ~~his~~ **the** business, including a specific
33 description of any entertainment to be offered; the location to be used; whether the applicant has
34 ever had a license to conduct the business therein described either denied or revoked and, if so,

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

40 2. Classes of Permits. Special Amusement Permits granted by the Board of Selectmen shall
41 be limited to the following classes:

42 Class A: Single instrumentalist without mechanical amplification;

43 Class B: Single instrumentalist and vocalist without mechanical amplification;

44 Class C: One or more vocalists and/or instrumentalist without mechanical
45 amplification;

46 Class D: Any one of the above with mechanical amplification;

47 Class E: Dancing with any of the above or accompanied by music produced by
48 radio or other mechanical device;

49 A4. And any permit granted shall be for one of the above noted classes. A Licensee shall not
50 permit on the Licensee's premises, any music, dancing or entertainment which exceeds
51 that permitted by the Class of their permit, during the period for which their permit is
52 valid as otherwise determined by this Ordinance.

53 B.2. During the period for which the license is valid, the Licensee may reapply for a new
54 Special Amusement Permit, if he elects to permit dancing, music or entertainment that
55 exceeds that permitted by the current permit. Said reapplication shall be governed by
56 all the provisions of this Ordinance with respect to applications for a Special
57 Amusement Permit in general, including the payment of the permit fee of \$25.00
58 twenty five dollars.

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60 3. Permit Procedures

61 1. Any Licensee requesting a Special Amusement Permit from the Board of
62 Selectmen shall be notified in writing of its decision no later than fifteen (15) days
63 from the date the application was received.

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

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

68 4. Suspension or Revocation of a Permit

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

74 2.2 Grounds and procedure for denial, suspension or revocation

75 ~~(1) Generally. The Board of Selectmen may, after a public hearing preceded by~~
76 ~~notice to the licensee, deny suspend or revoke any special amusement permits~~
77 ~~which are sought or have been issued under this division on the grounds that the~~
78 ~~music, dancing, live sporting exhibitions or entertainment so permitted constitute~~
79 ~~a detriment to the public health, safety, or welfare, or violate any municipal~~
80 ~~ordinances, articles, bylaws, rules or regulations, or the provisions of this chapter.~~

81 (1) *Additional grounds.* In addition to the general standards for denial, suspension or
82 revocation identified in subsection 1 of this section, a permit may be denied,
83 suspended or revoked upon a determination of the existence of one or more of the
84 following grounds:

- 85 a. The applicant has offered or will offer entertainment, which includes;
- 86 (i) Exposing to view the male or female genitals, pubic hair or anus,
87 or the vulva or any portion of the female breasts at or below areola
88 area thereof. "Exposing to view" includes, without limitation,
89 appearing without an opaque covering or appearing with only an
90 opaque covering which adheres to the skin, such as body paint; or
- 91 (ii) The actual or simulated touching, caressing or fondling of the
92 breasts, buttocks or genitals;
- 93 b. The permitted activity, or persons on the premises for purposes of
94 participating in a permitted activity, or persons patronizing licensed
95 premises, has caused one or more breaches of the peace;
- 96 c. There is a clear and immediate danger that a breach of the peace will occur
97 if the activity is permitted;
- 98 d. The permitted activity of persons patronizing the permitted premises will
99 substantially adversely affect the peace and quiet of the neighborhood or a
100 substantial portion thereof;

- 101 e. The permit licensee has violated any provision of this chapter in the
 102 conduct of the activity for which the permit has been applied or has been
 103 issued;
- 104 f. There has been an occurrence of any event subsequent to issuance of the
 105 permit which would have been a basis for denial of the permit; this shall
 106 be grounds for revocation of the permit; or
- 107 g. There has been an occurrence of entertainment as described in subsection
 108 2(a) of this section.
- 109 h. The applicant has failed to fully complete the application forms,
 110 knowingly made an incorrect statement of a material nature on such a
 111 form, failed to supply any additional documentation required or
 112 reasonably necessary to determine whether such permit is issuable, or
 113 failed to pay any fee required under this chapter; Ordinance
- 114 i. There has been an occurrence of conviction of illegal or controlled
 115 substances.
- 116 (3) No permit holder shall allow on the permitted premises any activity described in
 117 paragraphs (2)(a) through (d) of this section, without regard to whether such
 118 activity is carried on by professional entertainers, employees or any other person
 119 and without regard to whether any compensation is paid by the permit holder.
- 120 (4) The fee for a special amusement permit shall be \$25.00 ~~also~~ and the applicant
 121 shall pay the cost of publication of the hearing notice at the time of application.
- 122 (5) The Board of Selectmen shall, prior to granting a permit and after reasonable
 123 notice to the public and the applicant, hold a public hearing within ~~30~~ 15 days of
 124 the date the request was received, at which the testimony of the applicant and that
 125 of any interested member of the public shall be taken.
- 126 (6) The Board of Selectmen shall grant a permit unless they find that issuance of the
 127 permit will be detrimental to the public health, safety or welfare, or would violate
 128 municipal ordinances, or rules and regulations, articles or bylaws.
- 129 (7) A permit shall be valid only for the license year of the applicant's existing liquor
 130 license.

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132 2.3 Inspections

133 Whenever inspections of the premises used for or in connection with the operation of a licensed
 134 business which has obtained a special amusement permit are provided for or required by

135 ordinance or state law, or are reasonably necessary to ensure or secure compliance with any
136 ordinance provision or state law it shall be the duty of the licensee, or the person in charge of the
137 premises to be inspected, to admit any officer, official, or employee of the municipality
138 authorized and appointed by the Board of Selectmen to make the inspection, at any reasonable
139 time that admission is requested. ~~Whenever an analysis of any commodity or material is~~
140 ~~reasonably necessary to ensure or secure conformance with any ordinance provision or state law,~~
141 ~~it shall be the duty of the licensee, or the person in charge of the premises, to give to any~~
142 ~~authorized officer, official or employee of the municipality requesting the same sufficient~~
143 ~~samples of the material or commodity for analysis.~~

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

151 2.4 Rules and Regulations

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

160 2.5 Permit and Appeal Procedures

161 (1) The Board of Selectmen shall, prior to granting a permit, hold a public hearing
162 within ~~1530~~ days of the date a completed application is filed with the Town,
163 during which testimony will e received from the applicant or his or her designated
164 agent and/or any interested member of the public. Notice of the public hearing
165 shall be placed in a local weekly paper a minimum of seven (7) calendar days
166 before the hearing.

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167 (2) Any licensee requesting a special amusement permit from the Board of Selectmen
168 shall be notified in writing of their decision no later than ~~fifteenthirty (1530)~~ days
169 from the date his application was received. In the event that a licensee is denied a
170 permit, the licensee shall be provided with the reasons for the denial in writing.
171 The licensee may not reapply for a permit within Thirty (30) days after an
172 application for a permit is denied.

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173 (3) Any licensee who has requested a permit and has been denied, or whose permit
174 has been revoked or suspended, may appeal the decision to the Northport Board
175 of Appeals within thirty (30) days of the denial, suspension, or revocation. The
176 Board of Appeals may grant or reinstate the permit if it finds that:

177 a. The permitted activities would not constitute a detriment to the public
178 health, safety or welfare, or violate the Town's ordinances or regulations;
179 or

180 b. The denial, revocation or suspension was arbitrary or capricious.

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

183 2.6 Admission

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

187 ARTICLE III PENALTY, SEPARABILITY & EFFECTIVE DATE

188 3.1 Penalty

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

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

198 3.2 Separability

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

200 3.3 Effective Date

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

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APPLICATION FOR SPECIAL AMUSEMENT PERMIT

205 ~~AS DEFINED IN SECTION 2.1.2 A OF THE TOWN OF NORTHPORT SPECIAL~~
206 ~~AMUSEMENT ORDINANCE, NO LICENSEE FOR THE SALE OF LIQUOR TO BE~~
207 ~~CONSUMED ON HIS/HER LICENSED PREMISES SHALL PERMIT, ON HIS/HER~~
208 ~~LICENSED PREMISES, ANY MUSIC, EXCEPT RADIO OR OTHER MECHANICAL~~
209 ~~DEVICE, ANY DANCING OR ENTERTAINMENT OF ANY SORT UNLESS THE~~
210 ~~LICENSEE SHALL HAVE FIRST OBTAINED FROM THE MUNICIPALITY IN WHICH~~
211 ~~THE LICENSED PREMISES ARE SITUATED A SPECIAL AMUSEMENT PERMIT~~
212 ~~SIGNED BY AT LEAST A MAJORITY OF THE MUNICIPAL OFFICERS, BOARD OF~~
213 ~~SELECTMEN. A COPY OF THE SPECIAL AMUSEMENT PERMIT ORDINANCE IS~~
214 ~~AVAILABLE UPON REQUEST FROM THE NORTHPORT TOWN CLERK OR THE~~
215 ~~TOWN'S WEBSITE.~~

216 As defined in Section 2 A of the Town of Northport Special Amusement Ordinance, no licensee
217 for the sale of liquor to be consumed on his/her licensed premises shall permit on his/her licensed
218 premises any music, except radio or other mechanical device, any dancing or entertainment of
219 any sort, unless the licensee shall have first obtained from the municipality in which the licensed
220 premises are situated, a Special Amusement Permit signed by at least a majority of the Board of
221 Selectmen. A copy of the Special Amusement Permit Ordinance is available upon request from
222 the Northport Town Clerk or from the Town's website: www.northportmaine.org

223 ~~YOUR APPLICATION FOR A SPECIAL AMUSEMENT PERMIT SHOULD WILL BE~~
224 ~~FILED ON THIS FORM WITH THE BOARD OF SELECTMEN OR ITS DESIGNATED~~
225 ~~AGENT.~~

226 Your application for a Special Amusement Permit will be completed on this form and submitted
227 to the Board of Selectmen, or its designated agent. Payment of a non-refundable twenty-five
228 (\$25.00) fee, plus payment of the cost of publication of the hearing notice, is required at the time
229 the application is filed. You must also submit a copy of your current liquor license ~~must be~~
230 ~~submitted with your application.~~

231

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

238 The Board of Selectmen, prior to granting a permit, shall hold a public hearing within ~~thirty (30)~~
239 fifteen (15) days of the date a completed application is submitted to the Selectmen. Testimony
240 will be received from the applicant, or its designated agent, and/or any interested member of the
241 public. Failure to attend the public hearing may result in a delay in issuing the permit.

242

243 Name of Applicant for Permit: _____

244 Address of Applicant: _____

245 Telephone # of Applicant: _____

246 Name of Business: _____

247 Address of Business: _____

248 Location where entertainment will be provided (if different):

249 _____

250 Telephone # of Business: _____

251 Nature of Business: _____

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

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

256 _____

257 _____

258 _____

259 _____

260 Type of Entertainment that may be planned: _____

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

262 Have you ever had any license suspended or revoked? _____

263 If so, please describe circumstances:

264

265

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

268 If so describe in detail
269 _____
270 _____
271 _____

272 Current Liquor License #: _____

273 You must attach a proportionately accurate diagram of the premises which depicts where the
274 entertainment will take place. You must also depict whether the entertainment will be conducted
275 inside or outside of the building.

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

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281 Dated: _____

282 Signed: _____

283 Print Name: _____

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

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TOWN OF NORTHPORT
SPECIAL AMUSEMENT PERMIT

304
305

306 Maine, Waldo County Date: _____

307

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

311 Approve: / / Deny: / /

312

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

315

316 The following activities shall be prohibited on the licensee's premises:

317

318

319 All Classes not approved for by this permit;

320 All entertainment noted in Section 2.2 (2) a (i-ii)

321

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324 _____

325 Chairman

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327

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329 _____

330 Selectman

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332 _____

333 Selectman