

Town of Lebanon, Maine
Special Amusement Ordinance



I. 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 and/or malt liquor as required by 28-A M.R.S.A. 1054

II. Definitions

Disseminate - means to transfer possession of with or without consideration.

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

Knowingly - means to be aware of the character and the content or any material or act described in the ordinance.

Licensee - Licensee shall include the holder of the license issued under 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.

Material - means any book, magazine, newspaper, or other printed or written material, any picture, drawing, photograph, motion picture, video, slide show, or any statue or other figure or any recording, transcription or mechanical or electrical reproduction or any other articles, equipment or machines.

Obscene - means that to the average person applying contemporary community standards, the predominant appeal of the matter or act taken as a whole, it to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this ordinance and the matter or act or performance, when considered as a whole lacks serious literary, artistic, political or scientific value; or any matter, acts or performances which are prohibited by the statutes of the State.

Performance - means any preview, play, show, skit, film, dance, or other exhibition or entertainment performed before an audience.

Promote - means to cause, permit, procure counsel or assist.

Service to Patrons - means the provisions of services to customers, patrons or any other persons present in establishments providing food and beverages including, but not limited to, hostess work, hat checking, cooking, bartending, serving, table setting, table waiting and clearing and entertainment.

III. Permit Required

No licensee for the sale of liquor to be consumed on the licensed premises shall permit, on the licensed premises, any music (with the exception of radio or other mechanical device), any dancing or entertainment of any kind unless the licensee shall have first obtained from the Town of Lebanon, a special amusement permit issued and 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:

- Name of the applicant
- His/her residence address
- Name of the business to be conducted
- Business address
- Nature of the business
- 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
- 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 applicants current liquor license.

No permit shall be issued for anything or act or premises if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, by-laws, codes, or rules and regulations of the municipality.

The fee for the special amusement permit is \$75. The municipal officers shall have the authority to adjust this fee as they may deem necessary.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which 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 the 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 by-laws, or any State laws.

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

IV. Inspections

Wherever 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 or required by ordinance or State law, or are reasonably necessary to secure compliance with any 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 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 municipal officers may revoke the special amusement permit of any licensee in the Town of Lebanon 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/her duty.

V. Conduct Constituting Offenses by Licensee

- Tumultuous Conduct - The licensee shall not knowingly allow on any licensed premises any person to disturb, aid in disturbing or disrupt the peace of others of ordinary sensibilities or to be disorderly by violent, tumultuous conduct, or to permit or gather a crowd, audience or patrons to witness any entertainment, amusement or show as to create a dangerous condition due to fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.
- Riots- The licensee shall not allow on any licensed premises any public entertainment or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.
- Unnecessary Noise- The licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, unusually loud noise.
- 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, sections of ordinances, rules and regulations of the Town of Lebanon or State statutes.
- Prostitution and Public Indecency - The licensee shall not allow on any licensed premises or aid in or offer or agree to or allow in or near licensed premises any prostitution, or any public indecency under any or in derogation of any State statutes, or any meretricious display, lewd act or act of moral perversion; or knowingly receive or offer to receive any person on such licensed premises for the purpose of performing a lewd act, an act of prostitution or moral perversion, or public indecency; or to knowingly permit any person to remain on such licensed premises for any such purpose; or to aid, abet, allow, permit

or participate in the commission of any such acts.

- Gambling - The licensee shall not allow on any licensed premises the use or occupancy of the premises for gambling or for games of chance as prohibited by State statutes.
- Obscenity/Prohibited Acts - The licensee on any licensed premises shall not:
 1. Material. Knowingly disseminate, distribute or make available to the public any obscene material as defined in this ordinance.
 2. Performance. Knowingly make available to the public any obscene performance.
 3. Commercial Activity. Knowingly engage in commerce and/or for commercial gain with materials depicting explicit sexual conduct, nudity or excretion, utilizing displays, circulars, advertisements or any other public sales efforts that promote such commerce primarily on the basis of their prurient appeal.
 4. Exposure. Provide service to patrons in such a manner as to expose public view:
 - a. The licensee's or any agents or employees of the licensee's, genitals, pubic hair, buttocks, perineum, or anal region.
 - b. Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum or anal region; or
 - c. Any portion of the female breast at or below its areola.
 5. Promotion. Knowingly promote the commission of any act listed in this subsection.

VI. 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 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, by-laws, or rules and regulations.

VII. 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, 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. 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 permitted activities are permitted.

VIII. Enforcement

Officers of the Maine State Police and Deputies of the York County Sheriff's Department are authorized enforcement agents of the Town of Lebanon under this ordinance. The Lebanon Fire Department is authorized to enforce State Life Safety Codes in any licensed premises. The Lebanon Building Code Enforcement Officer is authorized to enforce any building codes as adopted by the Town of Lebanon and/or the State of Maine.

IX. Penalties

Whoever violates any of the provisions of this ordinance shall be punished by a fine of not more than \$500 for the first offense and up to \$1,000 for the second and subsequent offenses to be recovered, on complaint, for the use of the Town of Lebanon. Each day shall be considered a separate violation or offense. The Town of Lebanon shall be entitled to be reimbursed for any expenses incurred as a result of any enforcement actions, including legal fees.

X. Appeals Procedure

Any appeal from the decision of the Municipal Officers may be made to Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

XI. Effective Date

This ordinance shall be in effect following its approval by the voters in the Town of Lebanon.

Adopted June 11, 2013 Vote of Yes 495 No 483