

Special Amusement Ordinance of the Town of Porter (Adopted 3/15/1997)

Proposed Amendment 2024

Section 1.1 Title – This Article shall be known and may be cited as the Special Amusement Ordinance of the town of Porter, Maine.

Section 1.2 Purpose – The purpose of this Article is to control the issuance of special amusement permits for music, dancing or entertainment in facilities where alcoholic beverages are consumed.

Section 1.3 Definitions

1. **Entertainment.** For the purpose of this Article, “entertainment” shall include any amusement, performance; exhibition or diversion for patrons or customers of the licensed premises whether provided by professional compensated entertainers or by full-time or part-time employees of a licensed premises whose incidental duties include activities with an entertainment value.
2. **Licensee.** For the purposes of this Article, “Licensee” shall include the property owner allowing a holder of a license issued under the Alcoholic Beverages Statutes of the State of Maine, or ~~by~~ any person, individual, partnership, firm, association, corporation, or other legal entity, or any agent, or employee of any such Licensee ~~or acting to utilize, act~~ on behalf of any such Licensee or left in charge of, or in control of or rent such Licensee’s premises.
3. **Mass Gathering.** An event counts as a “mass gathering” if the number of people exceeds occupancy capacity, septage capacity, and/or has the potential to strain the planning and response resources of the local community where it takes place (e.g. traffic, parking, glare, refuse, noise, etc.).

Section 1.4 Permit Required

1. **Permit.** No Licensee for the sale of liquor to be consumed on ~~his the~~ licensed premises shall permit, on ~~his the~~ licensed premises, any music except radio or other mechanical device, or 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.
2. **Application Form.** Applications for all Special Amusement Permits shall be made in writing to the Municipal Officers utilizing an approved permit application form provided by the Town. and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address, the nature of his business; the location to be used; all places of residence of the applicant during the past five (5) years; whether the applicant has ever had a license to conduct the business therein described and 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’s current liquor license.
3. **Compliance with Law.** No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purpose(s) do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.
4. **Fee.** The application fee for a Special Amusement Permit ~~shall be ten dollars (\$10). is to be set annually by the Select Board.~~

5. **Public Hearing.** The Municipal Officers shall, prior to granting a permit and after reasonable notice to the municipality and applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken.
6. **Basis for Denial.** 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. The Municipal Officers may also add restrictions as they deem necessary.
7. **Duration.** A permit shall be valid only for one year, being the license year of the applicants existing liquor license or an agent's liquor license used for an event on the property, as applicable.

Section 1.5 Conduct Constituting Offenses by Licensees

1. **Tumultuous Conduct.** The Licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb, or aid in disturbing the peace of others of ordinary sensibilities or to be disorderly by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement, or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.
2. **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.
3. **Unnecessary Noise.** The Licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, unusually loud noise which disturbs, annoys, injures, or prejudices, or endangers the comfort, repose, health, peace, or safety of individuals of ordinary sensibilities of the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare, or the prosperity of the residents of the municipality. Reference Article IV "Noise" in the Town of Porter Land Use Ordinance.
4. **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, bylaws or rules and regulations of the municipality, or under any statutes of the State of Maine.
5. **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 such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such licensed premises for the purpose of performing a lewd act, or 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 such acts.
6. **Solicitation of Drinks.** The Licensee shall not allow on any licensed premises any person to frequent or loiter with purpose of soliciting any other person, customer, or patron to purchase any drink of any kind.
7. **Gambling.** The Licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the State of Maine ~~or ordinances, articles, bylaws or rules and regulations of the municipality.~~

- 8. ~~Obscenity.~~** The Licensee, on any licensed premises, shall not:
- A. ~~Material.~~** Knowingly disseminate, distribute or make available to the public any obscene material; or
 - B. ~~Performance.~~** Knowingly make available to the public any obscene performance; or
 - C. ~~Commercial Activity.~~** Knowingly engage in commerce and/or for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, or any other public sale efforts that promote such commerce primarily on the basis of their prurient appeal; or
 - D. ~~Exposure.~~** Provide service to patrons in such a manner as to expose to public view:
 - (1) The Licensees' or any of his agent's or employee's genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - (2) Any device, costume or covering which gives the appearance of or stimulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (3) Any portion of the female breast at or below the areola thereof; or
 - E. ~~Promotion.~~** Knowingly promotes the commission of any of the above listed acts in this Section.
 - F. ~~Definitions. For the purposes of this Section,~~**

~~"Obscene"~~ means that to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is 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 Article above, and the matter or act of performance considered as a whole lacks serious literary, artistic, political, or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine.

~~"Material"~~ means any book, magazine, newspaper or other printed or written material or any picture, drawing photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical, electrical reproduction of any other articles, equipment or machines.

~~"Disseminate"~~ means to transfer possession of, with or without consideration.

~~"Knowingly"~~ means being aware of the character and content of the material.

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

~~"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 hostessing, hat checking, cooking, bartending, serving, table setting and clearing, water and waitressing, and entertainment.

Section 1.6 Suspension or Revocation of a Permit – The Municipal Officers or designated agent may send notification of suspension or revocation of a Special Amusement Permit which was issued under this Article if the permit holder is in violation of any provision of this Article or has knowingly made an incorrect statement of a material nature on the application for a permit. Determination of the severity

of the violation and whether a suspension or revocation is warranted shall be made by the Municipal Officers after a public hearing preceded by notice to interested parties.

Section 1.7 Rules and Regulations – The Municipal Officers are hereby authorized to establish written rules and regulations governing the issuing, 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 the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections in this Article.

Property owners who do not reside on a property or a contiguous parcel under the same ownership, while renting or leasing the property may be required to apply for a Special Amusement Permit in accordance with this Article and the Town of Porter Land Use Ordinance Article V Sections 5.5, 5.6, 5.12, and 5.21

Section 1.8 Permit and Appeal Procedures – 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~~the 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 thirty (30) days after an application for a permit which has been denied.

~~Any Licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within thirty (30) days of the denial, suspension or revocation, appeal the decision to the municipal Board of Appeals. 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 not based by the preponderance of the evidence on a violation of or an infraction of any ordinance, article, bylaw, or rule or regulation of the municipality.~~

Section 1.9 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 a~~ municipality special amusement permit.

Section 1.10 Penalty – Whoever violates any of the provisions of this Article shall be punished by a fine of not more than ~~one hundred dollars (\$100)~~ two hundred dollars (\$200) for the first offense, and up to ~~two hundred dollars (\$200)~~ four hundred dollars (\$400) for the subsequent offense(s), to be recovered, on complaint, to the use of the Town of Porter.

Section 1.11 Separability – The invalidity of any provision of this Article shall not invalidate any other part.



PERMIT TO BE DISPLAYED ON THE PREMISES

Town of Porter Oxford County State of Maine

SPECIAL AMUSEMENT PERMIT

Subject to existing rules, regulations and any amendments that may be made thereto, under the provisions of the "Special Amusement Ordinance of the Town of Porter"

Public Hearing held on:

This permit is hereby granted upon condition that the Special Amusement Permit does not violate any of the above Sections of the Special Amusement Ordinance of the Town of Porter or the Town of Porter Land Use Ordinance.

Owner's Name:

Business Name:

Street or Highway Name:

P.O. Box or Address:

Tax Map and Lot:

This permit is valid only for one year, being the license year of the applicants existing liquor license or an agent's liquor license used for an event on the property, as applicable.

Dated at Porter, Maine this _____th day of _____, _____

Municipal Officer (Town of Porter):

Municipal Officer (Town of Porter):

Municipal Officer (Town of Porter):

Certified True Copy

Town Clerk, Town of Porter:

Restrictions and/or Conditions:

Date Application Received _____

Fee Paid _____

For Office Use Only



Town of Porter

Special Amusement Permit Application

Name of Applicant:

Residence Address:

Name of Business:

Business/Rental Address:

Nature of Business*:

Location Used requiring the Special Amusement Permit:

Have you ever had a license to conduct business denied or revoked? Yes No

If yes, please describe:

Have renters/lessors of the property been made aware of the Special Amusement Ordinance? Yes No

Have renters/lessors of the property acknowledged to the property owner, in writing, that they will comply with the Special Amusement Ordinance? Yes No

What is the frequency of events or use requiring a Special Amusement Permit at this location?

Comments:

Signature of Applicant (required):

Date:

**Include a copy of current liquor license, if applicable*