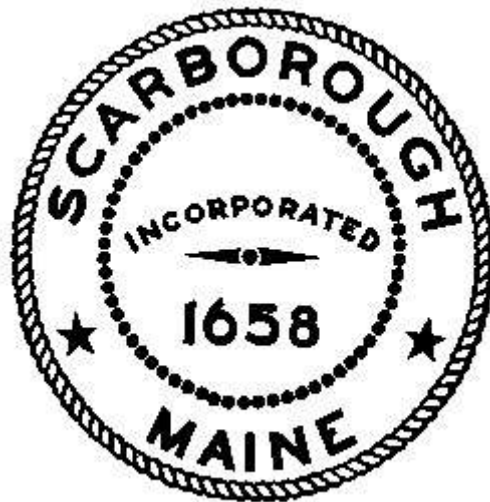


CHAPTER 1008

TOWN OF SCARBOROUGH

SPECIAL AMUSEMENT ORDINANCE



Adopted 6/21/78
Amended 04/05/95
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Amended 11/01/17

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**CHAPTER 1008
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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 Scarborough, 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-A M.R.S.A. 1054.

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 purposes of this Section, "licensee" shall include the holder of a 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.

ARTICLE II - General

Section 201. PERMIT REQUIRED

No licensee for the sale of liquor to be consumed on her/his premises shall permit, on her/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. [amended 11/01/17]

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; her/his residence address; the name of the business to be conducted; her/his business address; the nature of her/his business; the location 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 described 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. [amended 11/01/17]

No permit shall be issued for any thing, 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, or rules and regulations of the municipality.

The fee for a special amusement permit shall be as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council.

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 that 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 by-laws.

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

Section 202. 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 provision 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 municipality 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 duty. Provided, 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 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 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.

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, 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 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 her/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 has been denied. [amended 11/01/17]

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-A M.R.S.A. 2691. 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 a preponderance of the evidence on a violation of any ordinance, article, by-law, or rule or regulation of the municipality.

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.

Section 207. LIVE ENTERTAINMENT REGULATION

The purpose of this section is to regulate nudity as a form of live entertainment in those establishments at which alcoholic beverages are served or consumed.

No licensee shall permit entertainment on the licensed premises whether provided by professional entertainer(s), employees of the licensed premises, or any other person, when the entertainment involves:

- A. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
- B. The actual or simulated touching, caressing, or fondling of breasts, buttocks, anus, or genitals;
- C. The actual or simulated displaying of the genitals, pubic hair, buttocks, anus, or any portion of the female breasts at or below the areola area thereof;
- D. The permitting by any licensee of any person to remain in or upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or female breasts below the areola area thereof.

For purposes of this section, the words "displaying" and "exposes" shall mean being unclothed or uncostumed or not covered by fully opaque cloth or textile material, or employing any device or covering which is intended to give the appearance or to simulate the genitals, pubic hair, buttocks, anus or the portions of the female breasts at or below the areola area thereof.

ARTICLE III - Penalty, Separability and Effective Date

Section 301. PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than one hundred dollars (\$100.00), to be recovered on complaint, to the use of the Town of Scarborough.

Section 302. SEPARABILITY

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

Section 303. EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its official adoption by the Town of Scarborough. Adopted 6/21/78.