

**TOWN OF FRYEBURG  
SPECIAL AMUSEMENT ORDINANCE**

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

**Section 1. Title**

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

**Section 2. 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. This section is adopted pursuant to 28-A M.R.S.A. §1054 and 30-A M.R.S.A. §3001.

**Section 3. Definitions**

**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 a) by professional entertainers; b) by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value; or c) by patrons induced by prizes or otherwise to engage in activities with an entertainment value.

**Licensee:** For the purpose 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 1. Permit Required**

- A. 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 a special amusement permit signed by a majority of the Board of Selectmen.
- B. Applications for all special amusement permits shall be made in writing to the Board of Selectmen on the application obtained from the Town and shall state the name of the applicant; the name and address where the special amusement will occur; the name address and phone number of the property owner; the nature of the special amusement, including a specific description of any entertainment to be

offered; the location to be used; the times of operation; whether the applicant, including all partners or shareholders, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; any additional information to support the request for the permit; and any additional information as may be needed by the Board of Selectmen in the issuing of the permit, including but not limited to a copy of the applicant's (current) liquor license and a drawing of the premise to be licensed.

- C. A special amusement permit shall not be issued for a premises that will offer entertainment which includes;
1. Exposing to view the genitals, pubic hair, anus, vulva or any portion of the female breasts at or below areola area thereof. "Exposing to view" includes, without limitation, appearing without an opaque covering or appearing with only an opaque covering which adheres to the skin, such as body paint; or
  2. The actual or simulated touching, caressing or fondling of the breasts, buttocks or genitals.
- D. 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, bylaws, or rules and regulations of the municipality.
- E. The fee for a special amusement permit shall be \$100.00.
- F. The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the public and the applicant, hold a public hearing within 30 days of the date the request was received, at which the testimony of the applicant and that of any interested member of the public shall be taken.
- G. The Board of Selectmen 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.
- H. A permit shall be valid only for the license year of the applicant's existing liquor license.

## **Section 2 - Conduct Constituting Offenses by Licensees**

- A. **Tumultuous Conduct:** The licensee shall not 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.

- B. 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.
- C. Unnecessary Noise: The licensee shall not allow on any licensed premises the making, creation or maintenance of excessive or unnecessary or unnatural or unusually loud noises which disturbs, annoys, injures or prejudices or endangers the comfort, repose, health, peace or safety of individuals of ordinary sensibilities or 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 Fryeburg.
- D. Nuisances: The licensee shall not allow any licensed premises to be conducted or operated as to amount to a nuisance in fact under any ordinances, or any sections of any ordinances, articles, by-laws or rules and regulations of Fryeburg, or under any statutes of the State of Maine.
- E. Prostitution and Public Indecency: The licensee shall not allow on any licensed premises or aid in or offer or agree to 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, to persons of ordinary sensibilities, 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 any such acts.
- F. Solicitation of Drinks: The licensee shall not allow on any licensed premises any person to frequent or loiter with the purpose of soliciting any other person, customer, or patron to purchase any drink of any kind.
- G. Gambling: The licensee shall not allow on any licensed premise 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 Town of Fryeburg.

### **Section 3. Inspections**

- A. 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 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 the 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.

- B. In addition to any other penalty which may be provided, the Board of Selectmen 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 4. Suspension or Revocation of a Permit**

The Board of Selectmen may, after a public hearing preceded by notice to the permit holder and public, suspend or revoke any special amusement permit which has been issued under this Ordinance on grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, welfare, or violates the terms of the permit or this Ordinance or any other municipal ordinance, articles, bylaws, or rules and regulations.

#### **Section 5. Rules and Regulations**

The Board of Selectmen is 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 and 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 6. Permit and Appeal Procedures**

- A. Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of their decision no later than thirty (30) 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 thirty (30) days after an application for a permit is denied.

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

1. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate the Town's ordinances or regulations;  
or
2. The denial, revocation or suspension was arbitrary or capricious.

C. Appeals from decisions of the Board of Appeals shall be taken within thirty (30) days to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

### **Section 7. Admission**

A licensed motel, 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 1. Penalty**

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than \$500.00 for the first offense, and up to \$1000.00 for each subsequent offense, to be recovered on complaint, to the use of the Town of Fryeburg.

### **Section 2. Separability**

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

### **Section 3. Effective Date**

This ordinance shall become effective when adopted by a majority vote at Town Meeting

Enacted:

*June 9<sup>th</sup> 2010.*

ATTEST:

*Theresa A. Shew*  
TOWN CLERK