

The Town of Glenburn hereby ordains that the following Special Amusement Ordinance be hereby adopted.

TOWN OF GLENBURN
SPECIAL AMUSEMENT ORDINANCE

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 Glenburn, Maine.

Section 102. PURPOSE

The purpose of this Ordinance is to regulate, pursuant to 28-A M.R.S.A. § 1054 et seq., the issuance of special permits for music, dancing, or entertainment in facilities licensed by the State of Maine to sell liquor to be consumed on the licensed premises.

Section 103. DEFINITIONS

103.1 Entertainment. For the purposes of this Ordinance, "entertainment" shall mean 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 the purposes of this Ordinance, "licensee" shall mean 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.

103.3 Dancer. For the purposes of this Ordinance, "dancer" shall mean a person under a licensee's control and dancing on the licensee's premises to entertain patrons, including patrons performing in an event sponsored by the licensee.

ARTICLE II

General

Section 201. PERMIT REQUIRED

201.1 No licensee for the sale of liquor to be consumed on the licensee's premises in the Town of Glenburn shall permit, on said 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 Glenburn Town Council a special amusement permit signed by at least a majority of the Town Council.

201.2 Applications for all special amusement permits shall be made in writing to the Town Council and shall state the name of the applicant; applicant's residence address; the name of the business to be conducted; applicant's business address; the nature of applicant's 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 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.

201.3 The fee for a special amusement permit shall be \$150.00 or such other amount as may be specified in a Schedule of License, Permit and Application Fees established by the Town Council.

201.4 The Town Council shall, prior to granting a permit and after reasonable notice to the public 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.

201.5 Prior to the issuance of a permit by the Town Council, the applicant must demonstrate, and the Town Council must determine, that:

- A. The issuance of the requested permit will not be detrimental to the public health, safety, or welfare;
- B. The proposed activity will not create a traffic hazard;
- C. There is ample on-site parking to accommodate the proposed activity;
- D. The proposed activity will not, either by reason of its scope or noise, adversely affect property located within one thousand (1,000) feet of the proposed activity and that it will not unreasonably interfere with the use, enjoyment and value of property located within one thousand (1,000) feet of the proposed activity;

E. The proposed activity and the property on which it is to be conducted is in conformance with all applicable provisions of the ordinances, regulations and codes of the Town of Glenburn and all other applicable state and federal codes, ordinances, regulations and statutes; or

F. Neither the applicant, nor its officers, agents or principle employees has been convicted of a Class A, B or C crime within the past five (5) years.

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

Section 202. INSPECTIONS

202.1 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 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 Town of Glenburn authorized to make the inspection at any reasonable time that admission is requested.

202.2 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 Town of Glenburn requesting the same sufficient samples of the material or commodity for analysis.

202.3 In addition to any other penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee in the Town of Glenburn 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. 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 Town Council 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 ordinances, articles, by-laws, or rules and regulations.

Section 204. RULES AND REGULATIONS

The Town Council 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, 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 Town Council shall be notified in writing of its decision no later than fifteen (15) days from the date the permit application 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.

205.2 In approving a special amusement permit, the Town Council may impose reasonable restrictions to protect property owners and residents in the vicinity of the licensed premises from any nuisance aspects of the entertainment, including the location and size of the premises, the facilities that may be required for the permitted activities on the premises and the hours during which the permitted activities will be allowed.

205.3 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: (1) 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 Town of Glenburn or (2) the denial, revocation or suspension was arbitrary and capricious.

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

207.1 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.

207.2 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; or
- 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.

207.3 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.

Section 208. GENERAL REQUIREMENTS

208.1 All music, dancing and/or entertainment subject to regulation under this ordinance shall end no later than 12:00 midnight.

208.2 The maximum permissible sound pressure level produced by any music, dancing and/or entertainment on the licensed premises shall not exceed 50 dB, measured four (4) feet above ground at the property boundary of said premises. The sound level shall be measured by a meter set on the A-weighted response scale, slow response, and the meter shall meet the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters."

208.3 The following provisions shall apply to the performances of dancers in establishments holding a special amusement permit.

- A. No dancer shall dance in the establishment except on a platform raised at least two (2) feet from the floor.
- B. No dancer shall dance closer than ten (10) feet from any patron.

- C. There shall be no physical contact on the premises between any patron and any dancer.
- D. No patron shall directly pay or give any gratuity to any dancer, and no dancer shall solicit any pay or gratuity from any patron.
- E. The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.
- F. Any dancer on the premises who removes any garments shall not toss or throw those garments at or in the direction of any patron.
- G. The licensee shall, at licensee's own expense, post a security guard or an individual authorized to act as a law enforcement officer at each entrance and exit to the premises during each performance by a dancer or dancers on the premises and for one hour after each such performance.
- H. No patron under twenty-one (21) years of age shall be permitted on the premises or portions of the premises where a performance by dancers is conducted during any such performance.
- I. Any premises upon which entertainment including a dancer or dancers is proposed to be conducted shall be located at least one thousand (1,000) feet from any: (1) church, (2) school, (3) public park or playground, (4) other facility holding a special amusement license under this Ordinance and which provides dancers as defined in this Ordinance, or (5) any building or structure used for residential purposes. For the purpose of 1, 2, and 3, the measurement shall be along a straight line from property line to property line at the points of their nearest proximity. For the purposes of 4 and 5, the measurement shall be along a straight line from building to building at the points of their nearest proximity.

ARTICLE III

Penalty, Separability and Effective Date

Section 301. PENALTY

Whoever violates any of the provisions of this Ordinance shall be subject to a civil penalty of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00), to be recovered on complaint, to the use of the Town of Glenburn. Each act of violation and every day upon which any violation shall occur shall constitute a separate offense.

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 upon the automatic repeal of the Emergency Special Amusement Ordinance on July 14, 2003 at 12:00 midnight.