

SPECIAL AMUSEMENT PERMITS

1. TITLE

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

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 pursuant to Title 28A MRSA 1054.

3. DEFINITIONS

For the purpose of this Ordinance the words and phrases as used in this Ordinance are defined as follows:

- A) Ambient Noise: Ambient noise is the all-encompassing noise associated with a given environment being a composite of sounds from many sources near and far. For the purposes of this Ordinance, ambient noise level is the level obtained when the noise level is averaged over a period of 15 minutes without inclusion of noise from isolated identifiable sources, at the location and time of day, near that at which a comparison is to be made.
- B) Compliance Report: The source document prepared by the inspection officer after receiving a complaint from a detailing an incident. The report when duly signed by the officer shall become a matter of record. The report shall remain on file until its use requires destruction or retirement. Each complaint shall be investigated by the responding officer and attested to as to the validity of said complaint.
- C) Decibel: Decibel shall mean a unit of level when the base of logarithm is the tenth root of ten and the quantities concerned are proportional to power.
- D) 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 coincident to any music, dancing or live acts.
- E) Inspection Officer: The Law or Code Enforcement Officer acting in behalf of the Municipality to ensure proper enforcement of the provisions of this Ordinance.
- F) Licensee: For the purposes 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 acting on behalf of such licensee.

- G) Sound Level: Sound level (noise level), in decibels db(A), is the sound measured with the "All weighting and slow response by a sound meter level.
- H) Sound Level Meter: Sound level meter shall mean an instrument including a microphone, amplifier, an output meter and frequency weighting networks for measurement of sound levels which satisfies the standards of the American National Standards Institute.

4. PERMIT REQUIRED

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 from the municipality in which the licensed premises are situated a Special Amusement Permit signed by at least a majority of the Board of Selectmen.

Application(s) for all Special Amusement Permits shall be obtained from the Town Clerk. Applications for all Special Amusement Permits shall be made in writing to the Municipal Officers and shall state:

- The name of the applicant
- Applicant's resident address
- Name of the business to be conducted Business address
- Nature of the business
- Location address to be used
- All places of residence of the applicant during the past five years
- Hours during which the business shall be in operation Whether the applicant has ever had a license to conduct 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 issuing the permit including, but not limited to, a copy of the applicant's liquor license and expiration date.

No permit shall be issued for any thing, or act, or premises, if the premises or buildings) to be used for such purposes do not fully comply with this Ordinance, or any other applicable ordinances, articles, by-laws or rules and regulations of the Municipality and the laws of the State of Maine.

The fee for a Special Amusement Permit shall be \$50.00 (plus advertising costs).

The Board of Selectmen 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 when

the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

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

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 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 until thirty (30) days after an application for a permit has been denied. Any licensee who has requested a permit and has been denied may, within thirty (30) days of the denial, appeal the decision to the Superior Court.

5. INSPECTIONS

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 of 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 inspection at any reasonable time that admission is required.

The Board of Selectmen shall require an initial inspection of the premises and licensee for overall ability to comply with the provisions of this Ordinance. Thereafter, at least one inspection annually shall take place. The Inspection Officer shall record the findings by completing a Compliance Report.

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 of the Municipality to make an inspection, or who interferes with such officer, official or employee while in the performance of his duties; provided, that no license or Special Amusement Permit shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

6. SUSPENSION OR REVOCATION OF A PERMIT

The Municipal Officers may, after a public hearing preceded by public 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 this Ordinance and any Municipal ordinances, articles, by-laws or rules and regulations.

Any licensee whose permit has been revoked or suspended, may, within thirty (30) days of the suspension or revocation, appeal the decision to the Superior Court.

7. RULES AND REGULATIONS

Noise Regulated: An applicant for a Special Amusement Permit hereunder shall, as part of his application, demonstrate his ability to prevent the emanation of excessive noise from the premises sought to be licensed brought about by music, dancing, or entertainment except for radio or other mechanical device excluded under title 28A MRSA 1054.

- A) Sources of Noise: Sources of noise contemplated by this Section shall include musical instruments, sound modification or amplification devices used in connection with musical instruments and/or other similar devices which produce, reproduce or amplify sound created by musical instruments. Sources of noise shall further include any noise or sound produced directly or indirectly by applicant's music, dancing or entertainment except for those musical devices specifically excluded under Title a MRSA 1054.
- B) Noise: Sources of noise shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness or intensity of volume.
- C) Noise Control: The maximum permissible sound pressure level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any activity regulated by this Ordinance shall be established in the Arundel Land Use Ordinance. Sound pressure levels shall be measured at all major lot lines, at a height of at least four (4) feet above the surface of the ground, with noise level averaged over a fifteen (15) minute period, exclusive of ambient noise level.
- D) Nuisance: For the purpose of this Section the licensee or his authorized representative, shall not permit the use of his m premises to result in any continued, excessive, or unreasonable loud noise, or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety of individuals; or which results in disturbing the peace and tranquility of the neighborhood.

Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

8. 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.

9. PENALTY AND SEPARABILITY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than \$100 for the first offense, and up to \$500 together with costs for use of the Municipality.

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