

Town of Gouldsboro

Box 68
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(207) 963-5589

SPECIAL AMUSEMENT PERMIT ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to control, as required by Title 28A MRSA, Section 1054, as amended, the issuance of Special Permits for music, dancing or entertainment in facilities licensed by the State to sell liquor in the Town of Gouldsboro and to control the issuance of special Permits for music, dancing or entertainment in facilities in the Town of Gouldsboro.

Section 2. Definitions

Dancing - Includes all types of dancing, whether accompanied by music produced at the premises or recorded music, which is encouraged or allowed at the premises of the licensee.

Entertainment - Includes any amusement, performance, exhibitions or diversion for patrons or customers of the licensed premises.

Licensee - Includes the holder of a license issued by the Maine State Liquor Commission or any person, individual, partnership, firm, association, corporation or other legal entity or any agent or employee of any such license.

Municipal Officers - The Board of Selectmen

Music - Includes all types of music produced at the premises, including but not limited to vocal and instrumental. Radio, television, jukeboxes and other types of recorded music are specifically excluded from the requirements of this chapter except when played at the premises to encourage dancing.

Section 3. Permit Required

No licensee for the sale of liquor to be consumed on the licensed premises, situated in the Town of Gouldsboro, shall permit on said 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 Board of Selectmen a Special Amusement Permit signed by at least a majority of the members of said Board of Selectmen.

Applications for all Special Amusement Permits shall be made in writing to the Gouldsboro Board of Selectmen and shall state the name of the applicant; location and nature of business; the location to be used; the specific type of Special Amusements to be offered; and any other information the Board of Selectmen may require in order to ascertain the impact of such activities on the public health, safety, or welfare, and to insure conformance with all State and local regulations.

Section 4. Fee

The fee for a Special Amusement Permit shall be five dollars (\$5.00) and any incidental costs to the Town of Gouldsboro, including advertising, for the posting of a public hearing prior to issuance of a Permit.

Section 5. Provisions

A- The Board of Selectmen shall, prior to the granting of a permit and after reasonable notice to the public and the applicant, hold a public hearing and render a written decision within fifteen (15) days of the date the request was received at which time the testimony of the applicant and that of any interested members of the public shall be taken.

B- The Board of Selectmen shall grant a permit unless it finds that the issuance of the permit will be detrimental to the public health, welfare, or safety or would violate any local code, ordinance, or regulation. No permit shall be granted for any thing, or act, or premises if the premises do not fully comply with all ordinances, codes and regulations of the Town of Gouldsboro, Maine unless the Code Enforcement Officer of the Town of Gouldsboro shall certify in writing that such use or premises constitute a lawful non-conforming use under state or local law.

In determining conditions that a breach of the peace or disorderly conduct has occurred or will continue if the licensed activity is permitted.

1. There is a clear danger that a breach of the peace or disorderly conduct will occur or continue if the licensed activity is permitted.

2. The licensed activity of persons patronizing the licensed premises will have, or have had a substantial adverse effect on the peace and quiet of the neighborhood, or any portion thereof, whether or not residential.

3. The licensed activity, or persons on the premises for the purpose of participating in the licensed activity or persons patronizing the licensed premises have caused one or more breaches of the peace.

4. The licensed activity causes, or is likely to cause a constriction of fire escape routes; an electrical fire hazard; or other clear hazards as certified by the Chief of the Gouldsboro Fire Department or his authorized agent.

5. The licensed activity causes or contributes to, or is likely to cause or contribute to Nuisance as provided in Title 17 MRSA, Chapter 91.

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

D- There shall be four (4) classes of permits and only those activities specified in each class shall be permissible under the Special Amusement Permit.

Class 1 - Live music without mechanical amplification

Class 2 - Live music with mechanical amplification

Class 3 - Dancing

Class 4 - Talent and performance of activities such as comedy dramatics, narration, juggling, magic acts and similar amusements.

Section 6. Suspension or Revocation

The municipal officers may, after a public hearing preceded by written notice, sent by certified mail, to the permittee and such interested parties as those who have filed written complaints, of no less than thirty (30) days, revoke a permit or suspend it for a period of time to be decided by the municipal officers. Said notice of public hearing shall be posted in the usual accepted manner for authorized public hearings. Such action is warranted if the municipal officers find that the music, dancing or entertainment so permitted constitutes a detriment to the public health, safety or welfare or violates municipal ordinances, articles, bylaws, rules and regulations, including the provisions of this chapter.

Section 7. Inspections

Any licensee or licensed premises for which a Special Amusement Permit has been granted shall allow any authorized inspection agent of the Town of Gouldsboro to enter at reasonable times to inspect said premises to insure conformance with this Ordinance and other ordinances of the Town of Gouldsboro.

Section 8. 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, and other limitations on these activities required to protect the public health, safety and welfare. The 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 which the permitted activities are permitted.

Section 9. 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 ten (10) days from the date of decision. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for denial in writing.

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 as defined in Title 30A MRSA, Section 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, bylaw, or rule or regulation of the municipality and/or was issued in an argumentative and capricious manner.

Section 10. 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 the designated areas approved by the municipal special amusement permit.

Section 11. Penalty

Any violator of this ordinance shall pay to the town, upon its complaint, a civil penalty assessed by the District Court in the minimum amount of one hundred (100) dollars and the maximum amount of twenty-five hundred (2500) dollars. In addition, the town may request from the court an order that the violator correct or abate the violations, and that the violator pay its reasonable attorney fees, expert witness fees, and costs.

The municipal officers are hereby authorized, in lieu of formal court action, to enter into a consent agreement with any violator which provides for the correction or abatement of the violation and may provide for the payments specified above.

Section 12. Separability

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

Section 13. Effective Date

The Special Amusement Permit Ordinance shall become effective immediately upon the adoption by a majority vote of the Town legislative body; any amendments shall become effective thirty (30) days after a majority vote of the Board of Selectmen as provided in Section 12 of this Ordinance.

Yvonne P. Wilkinson
Attested
Yvonne P. Wilkinson
Clerk, Town of Gouldsboro

June 1996
Date