

**TOWN OF MOUNT DESERT
SPECIAL AMUSEMENT PERMIT ORDINANCE
ENACTED MARCH 2, 2004
Amended March 8, 2005**

1. Title, Purpose and Definitions

A. Title

This Ordinance shall be known and may be cited as the "Special Amusement Permit Ordinance of the Town of Mount Desert."

B. Purpose

The purpose of this Ordinance is to control, as required by Title 28-A §1054 MRSA, the issuance of Special Permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor or malt liquor or wine for on-premises consumption in the Town of Mount Desert.

C. Definitions

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.
2. Licensee. For purposes of this Ordinance, the term "Licensee" means the holder of a license for on-premises consumption of liquor, malt liquor or wine issued pursuant to the provisions of Title 28-A, MRSA, Liquors, as amended; or any person, individual, partnership, firm, association, corporation or other legal entity acting as agent or employee of any holder of such license.

2. General Permit

A. Permit Required

1. No Licensee for the sale of liquor, malt liquor or wine to be consumed on a licensed premises situated in the Town of Mount Desert, shall permit on the licensed premises the following:

- a. Any music, except radio or other mechanical device,
- b. Any dancing, or
- c. Entertainment of any sort;

unless the Licensee shall have first obtained from the Board of Selectmen of Mount Desert, a Special Amusement Permit approved in accordance with this Ordinance and signed by at least a majority of the members of said Board.

2. Applications for all Special Amusement Permits shall be made in writing to the said Board of Selectmen and shall include the following:

- a. The name of the applicant, if an individual. If the applicant is a corporation, partnership, Limited Liability Company or other legal entity, the application shall include the names and addresses of the entity's principal officers, together with the names and state of residence of all principals. For this purpose, any person or entity owning or controlling a ten percent (10%) or greater ownership interest in the applicant, directly or indirectly, shall be deemed a principal of the applicant.
 - b. The applicant's residence address, if an individual; or principal office address if a corporation, partnership, limited liability corporation, or other legal entity;
 - c. The name of the business to be conducted;
 - d. The applicant's business address, if an individual;
 - e. The nature of the applicant's business;
 - f. The location of the licensed premises;
 - g. All places of residence of the applicant during the past 5 years, if an individual;
 - h. Whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, a description of those circumstances specifically;
 - i. Whether the applicant, including all partners or corporate officers, has ever been convicted of a felony or liquor law violation in any jurisdiction, and, if so, a description of those specific circumstances;
 - j. Copies of all alcohol licenses currently held by the applicant for the premises concerned or, if a liquor license application is pending, a copy of the application; and
 - k. 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.
3. No permit shall be issued under this Ordinance, unless the premises to be used for the purposes fully complies with all Ordinances, articles, bylaws, or rules and regulations of the Town of Mount Desert.
 4. The fee for a Special Amusement Permit shall be fifty dollars (\$50) to cover administrative costs.
 5. Within 30 days of the date the request for a Special Amusement Permit is received, the Board of Selectmen shall, prior to granting a permit and after reasonable notice to the Town and the applicant, hold a public hearing. The testimony of the applicant and that of any interested members of the public shall be taken. For a new permit, reasonable notice shall mean notification to the abutting landowners as well as notice in a newspaper of general circulation at least 7 days prior to the Hearing. For renewals, the newspaper notification is considered reasonable ~ unless there have been complaints.

6. The Board of Selectmen shall grant a Permit unless it finds that issuance of the Permit will be detrimental to the public health, safety or welfare, or would violate Town ordinances, or rules and regulations, articles, or bylaws.
 7. A Permit shall be valid only for the license year of the applicant's existing liquor license.
- B. The application for a Special Amusement Permit shall set forth the type of music and entertainment intended by the applicant to be permitted on the licensed premises and whether the entertainment will include dancing.
- C. Classes of Permits. Special Amusement Permits granted by the Board of Selectmen shall be limited to the following classes:
- Class A — Single Instrumentalist without mechanical amplification;
 - Class B — Single Instrumentalist and Vocalist without mechanical amplification;
 - Class C — One or more vocalists and/or instrumentalist without mechanical amplification;
 - Class D — Any one of the above with mechanical amplification;
 - Class E — Dancing with any of the above or accompanied by music produced by radio or other mechanical device;
- and any Permit granted shall be for one of the above noted classes. A Licensee shall not permit on the Licensee's premises, any music, dancing or entertainment which exceeds that permitted by the Class of his Permit, during the period for which his Permit is valid as otherwise determined by this Ordinance.
- D. During the period for which the license is valid, the Licensee may reapply for a new Special Amusement Permit, if he elects to permit dancing, music or entertainment that exceeds that permitted by the current permit. Said reapplication shall be governed by all the provisions of this Ordinance with respect to applications for a Special Amusement Permit in general including the payment of the permit fee of Fifty Dollars (\$50.00).
- E. Inspections
1. 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 and for the purpose of imposing conditions on any Permit issued.
 2. 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 Town of Mount Desert authorized to make the inspection at any reasonable time that admission is requested.

3. 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 Town 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.

G. Permit Procedures

1. Any Licensee requesting a Special Amusement Permit from the Board of Selectmen shall be notified in writing of its decision no later than fifteen (15) days from the date the application was heard.
2. In the event that a Licensee is denied a permit, the Licensee shall be provided with the reasons for the denial in writing.
3. The Licensee may not reapply for a permit within thirty (30) days after denial of an application, except with the consent of the Board of Selectmen. The reasons for denial must be corrected before reapplication.

H. Suspension or Revocation of a Permit

1. The Board of Selectmen 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 Town ordinances, articles, bylaws, or rules and regulations.

I. Rules and Regulations

1. The Board of Selectmen 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 placing 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.
2. Rules and regulations which may be adopted under this Ordinance include, but are not limited to, the following:
 - a. To require Licensee to have doors and windows closed at a particular time.
 - b. To require police officer attendance if necessary.
 - c. To require the Local Fire Inspector to inspect the premises prior to the issuance of a license.

J. Appeal Procedures

1. 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 Mount Desert Zoning Board of Appeals as defined in Title 30A Section 2691, MRSA, as amended.
2. The Zoning 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 arbitrary or capricious or was not based by a preponderance of the evidence, on a violation of any Ordinance, article, bylaw, or rule or regulation of the Town.

3. 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 Town.

4. Penalty, Separability

A. Penalty

1. Whoever violates any of the provisions of the Ordinance shall be deemed guilty of a civil violation and upon conviction thereof, shall be penalized by a fine of not more than \$500 for the first offense and \$1000 for subsequent offenses.
2. Any violation of this Ordinance or any provision thereof, shall be deemed a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

B. Separability

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

5. Period of Ordinance

This Ordinance shall remain in effect for a period of fifteen (15) years from the effective date.