

Town of St Agatha

Ordinance to Require the Issuance of Special Amusement Permits

Purpose.

The purpose of this article is to control the issuance of special amusement permits for music, dancing, or entertainment of any sort in facilities licensed by the State of Maine to sell liquor under 28-A M.R.S.A. §1054.

Definitions.

The following definitions shall apply unless the context indicates another meaning:

ENTERTAINMENT- Any amusement, performance, or 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.

LICENSEE- 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 acting as agent or employees of the holder of such a license

Permit Required; Admission Charges; Live Entertainment.

No licensee for the sale of liquor to be consumed on his or her licensed premises shall permit on such licensed premises located in the Town of Saint Agatha any music, except a radio or mechanical device, and dancing or entertainment of any sort unless the licensee shall have first obtained a special amusement permit approved by the Town of St Agatha Board of Selectmen.

- A. **Application Form.** Applications for special amusement permits and annual renewals thereof shall be made in writing on forms provided by the Town Clerk and signed by the licensee at least 20 days in advance of the next regularly scheduled Board of Selectmen meeting. Each application shall state the name and address of the applicant; the name, address, and nature of the proposed amusement; whether admission will be charged under Subsection B and if so, the area so designated and whether the applicant has ever had a state liquor license or special amusement permit denied or revoked and if so, an explanation thereof.
- B. **Admission Charges.** The licensee of a licensed hotel, Class A restaurant, Class A Tavern, or restaurant or malt liquor licensee, as defined in the M.R.S.A. Title 28-A, who has been issued a special amusement permit may charge admission in designated areas; provided however, that such area must be so designated in the application and approved by the Board of Selectmen.
- C. **Live Entertainment Regulated.**
 - (1) No licensee shall permit entertainment on the licensed premises, whether provided by professional entertainer(s), employees of the licensed premises, or any 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 on the 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.
 - (d) The permitting by any licensee of any person to remain in or on the licensed premises who exposes to any public view any portion of his or her genitals or anus.
- (2) For the purposes of this subsection, the term "displaying" or "expose" shall mean unclothed or costumed and not covered by a full opaque material.

Permit Fee.

The permit fee shall be the fee established set by the Board of Selectmen for special amusement permits plus the cost of adverting for a public hearing. If a permit request is made at the same time as the liquor license renewal/application only one public hearing will be needed and payable.

Public Hearing.

Prior to granting a new special amusement permit and after reasonable notice has been given to the applicant a public hearing will be held. The public hearing shall be advertised at the applicant's expense in a newspaper of general circulation in the town at least seven days in advance. At the public hearing, the testimony of any interested parties shall be heard.

Issuance of Permit.

- A. After the public hearing, the Board of Selectmen shall grant the special amusement permit requested unless the issuance of the permit would be detrimental to the public health, safety, or welfare, or would violate any applicable state law or town ordinance.
- B. No permit shall be issued under this ordinance, if the premise and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, appropriate fire codes, rules and regulations of the Town of St Agatha and State law.
- C. Restrictions: In approving such a permit, the Board of Selectmen may impose reasonable restrictions to protect property owners in the vicinity of the licensed premises from any nuisance aspects of the proposed amusement, including the location and size of the premises, the facilities that may be required for the permitted activities on those premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities will be amused.

Notice of Decision.

Any licensee requesting a special amusement permit shall be notified in writing of the Board of Selectmen's decision no later than 15 days from the date of its decision. In the event that a licensee is denied a permit or restrictions are imposed upon the permit, the licensee shall be provided in writing with the reasons for the denial or a list of the restrictions. A licensee may not reapply for the same permit within 30 days.

Duration of Permit.

A special amusement permit shall be valid only for the license year of the existing liquor license.

Suspension or Revocation of Permit.

The Board of Selectman may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit on the grounds that the music, dancing, or entertainment so permitted is detrimental to the public health, safety, or welfare, or violates any applicable state law or town ordinance. If the Board of Selectmen revoke or suspend a licensee's special amusement permit, he or she shall be notified in writing within 15 days of the reasons for such action.

Appeals.

A licensee whose request for a special amusement permit has been denied, approved with restrictions, or revoked or suspended may, within 30 days of such action, appeal the decision to the Board of Appeals. The Board of Appeals may grant or reinstate the permit only if it finds that the denial, imposition of restrictions or revocation, or suspension was arbitrary or capricious.

Enforcement, Violation and penalties.

This Ordinance and the terms of a Special Amusement Permit issued shall be enforced by any Town employee or Town official appointed by the Board of Selectmen to hold such authority. Whoever violates any provision of this article shall be fined not less than \$100 not more than \$500 to be recovered on complaint to the use of the Town of Saint Agatha. Each day that such violation continues shall constitute a separate offense.

Severability.

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

Effective Date.

The effective date of this ordinance shall be when enacted by the Town of St Agatha.