

TOWN OF BROOKSVILLE
SPECIAL AMUSEMENT PERMIT REGULATIONS

These regulations shall be known and may be cited as the
"Special Amusement Permit Regulations of the Town of Brooksville."

1. Purpose

The purpose of these Regulations is to control, as required by Title 28-A M.R.S.A. §1054, the issuance of Special Amusement Permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor or malt liquor in the Town of Brooksville.

2. Definitions

(a) Entertainment: 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.

(b) Licensee: The holder of a license issued pursuant to the provisions of Title 28-A M.R.S.A., Liquors, as amended, or any person, individual, partnership, firm, association, corporation or other legal entity acting as agent or employee of any holder of said license.

3. Permit Required

(a) No licensee for the sale of liquor or malt liquor to be consumed on his or her licensed premises, situated in the Town of Brooksville, shall permit on said licensed premises any music, except radio or similar mechanical device, or any dancing or entertainment of any sort unless the licensee shall have first obtained from the Selectmen of Brooksville a Special Amusement Permit signed by at least a majority of the members of the Board of Selectmen.

(b) Applications for all Special Amusement Permits shall be made in writing to the said Board of Selectmen and shall state the name of the applicant; his or her residence address; the name of the business to be conducted; his or her business address; the nature of his or her 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 application shall describe specifically those circumstances; and any additional information as may be needed by the Selectmen in the issuing of the permit including, but not limited to, a copy of the applicant's current liquor license.

(c) No permit shall be issue for any thing or act on premises if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the Town of Brooksville.

(d) The fee for a Special Amusement Permit shall be \$65.00 plus any related costs.

(e) Within fifteen (15) days of receiving a request for a Special Amusement Permit the Selectmen shall hold a public hearing, at which time the testimony of the applicant and any interested member of the public shall be taken. Prior to the hearing reasonable notice of same shall be given to all owners of land within three hundred feet (300') of the applicant's premises.

(f) For purposes of the issuance of a new permit for an applicant for a particular location, reasonable notice to owners of land within three hundred feet (300') of the applicant's premises shall include written notice sent by first class United States mail, postage prepaid. For purposes of renewing a permit for an applicant against whom no complaint has been lodged in the preceding year, reasonable notice to all persons may be achieved by giving notice of hearing in a newspaper of general circulation in the Town of Brooksville at least seven (7) days prior to the hearing. Otherwise, written notice shall be sent to the owners of land within three hundred feet (300') of the applicant's premises.

(g) The Selectmen, after hearing and upon such terms and conditions as they reasonably deem necessary to protect the public interest and to fulfill the purposes of these regulations, shall grant or renew a permit unless it finds that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, rules, regulations, articles or bylaws.

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

4. Classes of Permit

(a) Special Amusement Permits granted by the 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 instrumentalists without mechanical amplification.

Class D - Any of the above with mechanical amplification.

Class E - Dancing with any of the above.

(b) Any permit granted shall be for one of the above noted classes. A licensee shall not permit on the licensed premises any music, dancing or entertainment which exceeds that permitted by the class of his or her permit, during the period for which the permit is valid as otherwise determined by these regulations.

(c) During the period for which a license is valid, the licensee may reapply for a new Special Amusement Permit if he or she desires to permit dancing or musical entertainment which exceeds that permitted by the current permit. Said reapplication shall be governed by all the provisions of these regulations with respect to applications for a Special Amusement Permit in general, including the payment of the permit fee of 65.00 Dollars (\$65.00).

(d) A violation of this section by a licensee shall be grounds to revoke or suspend his or her permit and/or refuse to grant a permit upon subsequent application by the same licensee.

5. Applications

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 dancing is permitted.

6. Inspections

(a) Whenever inspections of the premises used for or in connection with the operation of a licensed business which obtained a Special Amusement Permit are provided for or required by ordinance, regulation, or State Law, or are reasonably necessary to secure compliance with an ordinance, regulation, 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 authorized officer, official or employee of the Town of Brooksville at any reasonable time that admission is requested.

(b) The Selectmen shall require an initial inspection of the premises and licensee for overall ability to comply with the provisions of these regulations, and for the purpose of imposing conditions on any permit issued.

(c) In addition to any other penalty which may be provided, the Selectmen may revoke the Special Amusement Permit of any Licensee in the Town of Brooksville who refuses to permit any such officer, official or employee to make an inspection, or who interferes with such officer, official or employee while in the performance of his or her duties.

7. Enforcement Authority

The provisions of these regulations shall be enforced by the Selectmen and their duly authorized agents, and may also be enforced by the Code Enforcement Officer.

8. Violations

Each violation of these regulations following a warning or a citation issued by a police officer or the Code Enforcement Officer shall constitute a separate violation.

9. Warning for First Violation

If a licensee has not had a warning or a citation for violation of these regulations or any previous version of these regulations within the immediately preceding twelve (12) months, a police officer or the Code Enforcement Officer, upon concluding that there are reasonable grounds to believe that a violation of these regulations has occurred or is occurring, shall, orally or in writing, warn the licensee or the licensee's agent on the premises of the violation and shall inform the licensee or the licensee's agent of the steps necessary to correct the violation. The official issuing the warning shall endeavor to create a written record of the warning and to notify the licensee and the owner of the premises in writing of the warning and the corrective actions requested, provided, however, that a failure to do so shall not prevent subsequent enforcement actions consistent with these regulations.

10. Citations for Subsequent Violations

If a licensee has had a warning or a citation for violation of these regulations or any previous version of these regulations within the immediately preceding twelve (12) months, a police officer or the Code Enforcement Officer, upon concluding that there are reasonable grounds to believe that a violation of these regulations has occurred or is occurring, shall issue the licensee a citation to appear in the Maine District Court to answer therefor. The official issuing the citation shall also provide a copy of the citation to the Selectmen for action consistent with these regulations.

11. Court Action

A violation of these regulations within twelve (12) months after a licensee or the licensee's agent has been warned about any other violation of these regulations, or within twelve (12) months after a previous conviction for violation of these regulations, shall constitute a civil offense. The penalty for the conviction of a first violation in any twelve (12) month period shall be a fine of no less than one hundred dollars (\$100.00) and no more than one thousand dollars (\$1000.00). The penalty for the conviction of a second or subsequent violation in any twelve (12) month period shall be no less than one hundred dollars (\$100.00) more than the penalty assessed for the previous conviction, but no more than one thousand dollars (\$1000.00). Any penalties assessed hereunder shall inure to the benefit of the Town of Brooksville. Any violation of these regulations 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, irrespective of whether a citation has been issued or a civil penalty has been sought.

12. Action by Selectmen

(a) Upon being informed that a licensee has been issued a citation for violation of these regulations, the Selectmen shall provide written notice to the licensee, either in hand or by certified mail, return receipt requested, and to all owners of land within three hundred feet (300') of the licensee's premises, by first class mail, that , in not less than

seven (7) days after the date of the notice, the Selectmen shall conduct a public hearing to consider whether the licensee's special amusement permit shall be suspended or revoked. Neither the failure of any landowner to actually receive notice or the licensee's refusal to accept certified mail shall necessitate another hearing or invalidate any action taken by the Selectmen at such hearing.

(b) Following a hearing the Selectmen, by a preponderance of the evidence, shall make a determination of whether the licensee has committed a violation of these regulations. If the Selectmen find that the licensee has committed a violation within twelve (12) months after the licensee or the licensee's agent has been warned about any other violation of these regulations, but that within twelve (12) months no other violation of these regulations has been found by a court or the Selectmen to have occurred, they shall suspend the licensee's special amusement permit for a period of thirty (30) days from the date of the hearing. If the Selectmen find that licensee has committed a violation within twelve (12) months after any other violation of these regulations has been found by a court or the Selectmen to have occurred, they shall revoke the licensee's permit for a period of one (1) year from the date of the hearing.

(c) The Selectmen shall have authority to enter into a consent agreement with any licensee concerning payment of any fine or other civil penalty.

13. Regulation of Noise

An applicant for a Special Amusement Permit hereunder shall, as part of his or her application, demonstrate the ability to prevent the emanation of excessive noise from the premises sought to be licensed, whether such noise is brought about by music, dancing or entertainment, except for radio or other mechanical devices excluded under Title 28-A M.R.S.A. § 1054, or amendments thereto.

14. 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 mechanical devices specifically excluded under Title 28-A M.R.S.A. § 1054 or amendments thereto.

15. Noise

Sources of noise shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness or intensity or volume.

16. Nuisance

The licensee or his or her authorized representative shall not permit the use of the premises to result in any continued, excessive or loud

or endangers the comfort, repose, health or safety of individuals, or which results in disturbing the peace and tranquility of the neighborhood.

17. Permit Decision Procedures

Any licensee requesting a Special Amusement Permit from the Selectmen shall be notified in writing of the decision no later than thirty (30) days from the date the request was received. In the event that a license applicant is denied a permit, the applicant shall be provided with the reasons for denial in writing. The applicant may not reapply for a permit within thirty (30) days after an application for a permit has been denied, except with the consent of the Selectmen.

18. Appeal Procedure

Any applicant who has requested a permit and has been denied or any licensee whose permit has been revoked or suspended, may, within thirty (30) days of denial, suspension or revocation, appeal the decision to Brooksville Board of Appeals.

19. 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.

20. Separability

The invalidity of any provision of these regulations shall not invalidate any other part.

Pursuant to authorization granted in Article 70 of the Brooksville Town Meeting held on March 4, 1997, the Board of Selectment have adopted and established the foregoing Special Amusement Permit Regulation, which shall take effect on the date indicated below.

Date: September 10, 1997

Clifford A. Leach
Clifford A. Leach

Richard M. Bakeman
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Earle R. Condon
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