

CHAPTER 207

SPECIAL AMUSEMENT ORDINANCE

TOWN OF GRAY, MAINE
Adopted January 4, 1979
Amended September 15, 1992

SECTION 207.1 - TITLE

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

SECTION 207.2 - PURPOSE

The purpose of this Ordinance is to control the issuance of special permits as required by 28-A M.R.S.A. section 1054 as amended from time to time, for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor.

SECTION 207.3 - DEFINITIONS

A. Dancer: For the purpose of this Ordinance, "dancer" means a person, other than a patron, under the licensee's control and dancing for entertainment in facilities licensed by the State of Maine to sell liquor.

B. Entertainment: For the purpose 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.

C. Exotic Dancing: For the purposes of this Ordinance, "exotic dancing" means the appearance of a person or persons, under the licensee's control, other than a patron, and on the licensee's premises, in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any female appears on a licensee's premises in such a manner or attire as to expose to view any portion of the breast referred to as the areola, nipple or simulation thereof. "Expose to view" shall be interpreted to prohibit, without limitation, clear, see-through or clothing which is otherwise non-opaque.

D. Licensee: For the purpose of this Ordinance, "licensee" shall include any person, individual, partnership, firm, association, corporation, or other legal entity to whom a license of any kind is issued by the Maine State Liquor Commission.

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E. Premises: For the purpose of this Ordinance, "premises" means all parts of the contiguous real estate occupied by a licensee over which the licensee has direct or indirect control or interest, which the licensee uses in the operation of the licensed business and which have been approved by the Maine State Liquor Commission and/or the Town of Gray as proper places for the exercise of the license privilege.

SECTION 207.4 - SPECIAL AMUSEMENT PERMIT

A. Application

(1) No licensee for the sale of liquor to be consumed on his premises shall permit on his 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 premises are situated a special amusement permit.

(2) Applications for all special amusement permits shall be made in writing to the Town Council and shall state the name of the applicant; his business address; the nature of his 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 applicant shall describe specifically those circumstances; and any additional information as may be required by the Town Council prior to the issuance of said permit, including but not limited to a copy of the applicant's current liquor license.

(3) No permit shall be issued for anything or act, or premises, if the premises and building to be used do not fully comply with all ordinances, codes and regulations of the said Town.

(4) The fee for a special amusement permit shall be paid when application is made for said permit. If an application is withdrawn or denied, the Town shall refund the then-unexpended balance of the application fee, if any.

(5) A licensee as defined in the Maine Revised Statutes who has been issued a special amusement permit may charge admission in designated areas approved in said permit.

B. Hearing

(1) The Town Council shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.

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(2) The Town Council shall grant a permit unless they find that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances, codes and/or regulations. The permit may be granted subject to such conditions and restrictions as the Council may deem necessary.

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

C. Decision

Within fifteen (15) days of receiving the permit application, the Town Council shall give the applicant written notice of its decision.

(1) If the Town Council denies a licensee a permit, it shall provide the licensee with the reasons for the denial in writing.

(2) The licensee may not reapply for a permit within thirty (30) days after denial of an application for a permit.

D. Inspections

(1) 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 municipal ordinance, code or 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 officer, official, or employee of the said Town authorized to make the inspection at any reasonable time admission is requested.

(2) In addition to any other penalty which may be provided, the Town Council may revoke the special amusement permit of any licensee in the municipality who refuses to permit any 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 is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

E. Suspension or Revocation

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has 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 municipal ordinances or regulations.

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F. Appeals

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 Superior Court.

SECTION 207.5 - RULES AND REGULATIONS

A. Exotic Dancing

(1) No special amusement permit shall be issued to conduct the activity of exotic dancing on the applicant's premises.

(2) It shall be unlawful and a violation of this Ordinance for a licensee holding a special amusement permit thereunder to permit exotic dancing on the premises.

B. Regulations for Permitted Dancing. The following regulations apply to any and all entertainment for which a special amusement permit is sought or issued where such entertainment includes a "dancer" or "dancers" as defined in this Ordinance.

(1) No dancer shall dance in the premises except on a raised platform intended for that purpose which is raised at least two (2) feet from the floor.

(2) No dancer shall dance closer than ten (10) feet to any patron.

(3) There shall be no fondling, mingling or caressing on the premises between any patron and any dancer with the intent to sexually arouse or excite a patron's sexual desire.

(4) No patron shall directly pay or give any gratuity to any dancer and no dancer shall solicit any pay or gratuity from any patron.

(5) The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.

(6) Dancers on the premises who remove any outer garments shall not toss or throw those outer garments at or in the direction of patrons.

(7) The licensee shall, at his own expense, post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty) at each entrance and exit to the premises during each performance by dancers on the premises and for one hour after each such performance.

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(8) No one under twenty-one (21) years of age shall be permitted on the premises or portion of the premises where a performance by dancers is conducted during any such performance.

(9) Any premises upon which entertainment including a dancer or dancers is proposed to be conducted shall be located at least five hundred (500) feet from any church; school; park; other facility holding a special amusement license under this Ordinance and which provides "dancers" as defined in this Ordinance; or any area for which residential uses are either a permitted use or a conditional use under the Zoning Ordinance of the Town of Gray, Maine (in each of the above instances, the distance shall be measured from property line to property line).

(10) An applicant for a special amusement permit for entertainment including a dancer or dancers must demonstrate that at the time of permit application and during the duration of the permit, the applicant will have available during the hours that such entertainment is provided one (1) parking space for each three (3) persons the premises is capable of accommodating plus two (2) parking spaces for each three (3) employees, including the dancer or dancers who are on the premises to provide such entertainment.

(11) An applicant for a special amusement permit for entertainment including a dancer or dancers shall pay an application fee of one thousand five hundred dollars (\$1500.) to defray the administrative costs of such a permit.

(12) There shall be no graphic evidence on the exterior of any facility licensed under this Ordinance of the dancers, either live or simulated, requiring the licensee, if necessary, to black out windows or install curtains to prevent viewing of the dancers from the outside; provided, nothing in this paragraph shall prohibit the establishment from advertising by words the nature of the entertainment.

C. Regulations Generally Applicable. The following regulations apply to any and all music, dancing and entertainment for which a special amusement permit is sought or issued.

(1) All music, dancing and/or entertainment subject to regulation under this Ordinance, on the premises, shall end no later than 12:00 midnight.

(2) The maximum permissible sound pressure level produced by any music, dancing and/or entertainment on the premises shall not exceed 50 dB, measured four (4) feet above ground at the property boundary; this measurement shall be made by a meter set on the A-weighted response scale, slow response and the meter shall meet the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters."

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(3) The music, dancing and/or entertainment on the premises shall comply with all applicable law.

(4) Except for where a special amusement permit is sought for entertainment including a dancer or dancers, the application for a special amusement permit shall be five hundred dollars (\$500.)

(5) Must demonstrate that at the time of permit application and during the duration of the permit, the applicant will have available during the hours that such entertainment is provided one (1) parking space for each three (3) persons the premises is capable of accommodating plus two (2) parking spaces for each three (3) employees.

D. The Town Council is hereby authorized, after public notice and hearing, to establish additional written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, 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 during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

SECTION 207.6 - PENALTY

Anyone found guilty of violating any provision of this Ordinance shall be subject to a fine of not less than Five Hundred Dollars (\$500.) nor more than twenty five hundred dollars (\$2500.) in addition to such equitable relief as is necessary to insure compliance with the terms of this Ordinance. Each day such violation continues shall be deemed to be a new offense.

SECTION 207.7 - SEVERABILITY

If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such ruling shall not affect the remaining provisions which shall remain in full force and effect.