

**TOWN OF WINTHROP**

**ORDINANCE #62**

**SPECIAL AMUSEMENT ORDINANCE**

**ARTICLE 1**

**TITLE, PURPOSE & DEFINITIONS**

***Section 1.1 TITLE***

This Ordinance shall be known and may be cited as Town of Winthrop Special Amusement Ordinance.

***Section 1.2 PURPOSE AND AUTHORITY***

The purpose of this Ordinance is to control the issuance of Special Amusement Permits pertaining to music, dancing, or entertainment in all public facilities within the boundaries of the Town of Winthrop, including those facilities licensed by the State of Maine to sell liquor. This section is adopted pursuant to Title 28-A M.R.S.A. §1054 and Title 30-A M.R.S.A. §3001.

***Section 1.3 DEFINITIONS***

A. Entertainment. For the purposes of this Ordinance, entertainment shall include any amusement, performance, exhibition or diversion, whether live, taped or otherwise, for the patrons or customers of the licensed premises whether provided by professional entertainers, by full-time or part-time employees of the licensed premises

whose incidental duties include activities with an entertainment value, by patrons induced by prizes or otherwise to act as entertainers, or by any other.

B. Licensee. For the purposes of this Ordinance, licensee shall include any person, individual, partnership, firm, association, corporation or other legal entity and shall include the holder of a license issued under Title 28-A of the Statutes of the State of Maine or any agent or employee of any such licensee.

C. Licensed Premises. Licensed Premises includes all parts of the contiguous real estate occupied or controlled by a licensee and used by the licensee in the operation of a business which includes activities covered by this Ordinance.

## **ARTICLE II**

### **GENERAL**

#### ***Section 2.1 PERMIT REQUIRED***

No licensee shall permit, on the licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort, unless the licensee shall have first obtained a special amusement permit signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; applicant's residence; applicant's address; the name of the business to be conducted; the business address; the nature of the 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, 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 needed by the municipal officers in the issuing of the permit, including but not limited to, a copy of the applicant's current liquor license and Bureau of Public Safety occupancy permit showing the facility's seating capacity.

No permit shall be issued under this Ordinance if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, rules and regulations, of the municipality, and state law.

The fee for a special amusement permit shall be Twenty Five (\$25.00) Dollars.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within fifteen (15) days or such other number of days as the legislature may specify, from the date the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, articles, bylaws, rules and regulations, or state law.

A permit shall be valid only for the license year of the applicant's existing liquor license, if any, and otherwise for a period of one (1) year.

## ***Section 2.2 INSPECTIONS***

Whenever inspections of the premises used for or in connection with the operation of the licensed business which has obtained a special amusement permit are provided for or required by municipal ordinance, articles, bylaws, rules and regulations, or state law, or are

reasonably necessary to secure compliance with any of the above, 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 municipality authorized to make the inspection at any reasonable time that admission is requested.

The inspection shall be preceded by a written demand for inspection, which shall specify the date and time inspection is sought. The written demand shall be delivered to the licensee or the person in charge of the premises to be inspected. The request that the inspection be preceded by a written demand shall not apply to law enforcement searches which are based on warrants or probable cause.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance, rule and regulation or state law provision, it shall be the duty of the licensee or the person in charge of the premises, to give to any authorized officer, official or employee of the Town of Winthrop sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke, after notice and hearing, the special amusement permit of any licensee in the municipality 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 their duty.

### ***Section 2.3 SUSPENSION OR REVOCATION OF PERMIT***

The municipal officers may, after notice and hearing, 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, or activities related thereto, constitute a detriment to the public health, safety or welfare, or violates any municipal ordinances, articles, bylaws, rules and regulations or state laws.

***Section 2.4 OFFICER ON DUTY***

Whenever the licensee shall have on the premises patrons numbering more than two hundred (200) and when entertainment is in progress, the licensee shall provide a uniformed police officer at the licensee's expense, approved by the municipal officers at a regular meeting, on the premises at all such times. Duties of the police officer shall include, but are not limited to, enforcement of the general laws of the State of Maine and ordinances of the Town of Winthrop, including the provisions of this Ordinance and any rules and regulations adopted by the municipal officers hereunder.

***Section 2.5 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, 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. 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.

***Section 2.6 PERMIT AND APPEAL PROCEDURES***

A. Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days, or such other number of days as the legislature may specify, from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within thirty (30) days, or such other number of days as the legislature may specify, after an application for a permit which has been denied.

B. 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 Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

***Section 2.7 ADMISSION***

A. Licensee who has been issued a special amusement permit may charge admission in designated areas approved by the municipal special amusement permit.

***Section 2.8 LIVE ENTERTAINMENT REGULATIONS***

The purpose of this Section is to regulate nudity as a form of live entertainment in those establishments at which alcoholic beverages are served or consumed, and which are licensees under this Ordinance.

No licensee shall permit entertainment on the licensed premises whether provided by professional entertainer(s), employees of the licensed premises or any other 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 or exposing to view 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 upon the licensed premises who exposes to any public view any portion of his or her genitals or anus or any portion of the female breasts at or below the areola area thereof.

For the purposes of this section, display or displaying and expose or exposing shall mean unclothed or uncostumed or not covered by a fully opaque material and shall include, without limitation, appearing with only an opaque covering or appearing with only an opaque covering which adheres to the skin, such as body paint.

***Section 2.9 ADDITIONAL CONDUCT CONSTITUTING OFFENSES BY LICENSEES***

A. The licensee shall not knowingly, intentionally or recklessly allow on his premises, conduct which is in violation of the laws of the State of Maine.

B. Disorderly Conduct. The licensee shall not knowingly, intentionally or recklessly allow in his licensed premises any person or persons to engage in disorderly conduct, to wit: conduct which intentionally or recklessly causes annoyance to others by making loud and unreasonably noises or knowingly accosting, insulting, taunting or challenging any person with offensive, derisive or annoying words or by gestures or other

physical conduct which would in fact have a direct tendency to cause a violent response by an ordinary person in the situation of the person so accosted, insulted, taunted or challenged.

C. Solicitation of Drinks. The licensee shall not allow on any licensed premises any person not a licensee or an employee who is then and there working, to frequent or loiter with the purpose of soliciting any other person, customer or patron to purchase any drink of any kind.

D. Gambling. The licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the Statute of the State of Maine or ordinances, articles, bylaws or rules and regulations of the municipality; nor shall any licensee have or keep for gambling purposes on or about such licensed premises any dice, cards, bowls, quoits or other implements used in gambling, or allow any person resorting thereto to use or exercise for gambling purposes any of said games or any other unlawful game or sport therein.

### **ARTICLE III**

#### **PENALTY, SEPARABILITY AND EFFECTIVE DATE**

##### ***Section 3.1 PENALTY***

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than Five Hundred (\$500.00) Dollars for each offense. Each day that a violation occurred shall be considered a separate offense.

***Section 3.2 SEPARABILITY***

The invalidity of any provision of this Ordinance shall not invalidate any other provision.

***Section 3.3 EFFECTIVE DATE***

The effective date of this Ordinance shall be when enacted.