

**TOWN OF CAPE ELIZABETH**

**CHAPTER 5**

**COMMERCIAL LICENSES AND PERMITS**

**ARTICLE 1. SPECIAL AMUSEMENT ORDINANCE. [Adopted eff. 6/21/78, pursuant to M.R.S.A. 1964, T. 28, Sec. 702.] [Revised effective 2/9/1994]**

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**Sec. 5-1-1. Purpose and Definitions.**

The purpose of this ordinance is to regulate the provision of music, dancing, or other entertainment in premises within the Town licensed by the State for liquor to be consumed on the premises, as required by M.R.S.A. Sec. 702 as used in this Ordinance.

a. "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.

b. "Licensee" shall mean the holder of an effective license issued by the State for the sale of liquor to be consumed on the premises within the Town.  
Permit Required

No licensee shall permit, on his licensed 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 Town a special amusement permit signed by at least a majority of the municipal officers. The fee for a special amusement permit shall be \$10. A permit shall be valid only for the license year of the applicant's existing liquor license.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; 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 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.

The municipal officers shall, prior to action upon a new permit application, hold a public hearing at the next meeting of the Town Council to be held after receipt of the application and due notice of the hearing, which notice shall be given to the applicant and shall be published in a newspaper having general circulation within the Town at least 7

days prior to such hearing. At the hearing, the testimony of the applicant, its municipal officials and of any interested members of the public shall be taken. The municipal officers shall, prior to action upon a renewal application, provide a comment period at the next meeting of the Town Council to be held after receipt of the application to applicants, municipal officials and interested citizens, but no formal public hearing or newspaper advertising is required. [Amended Eff. 2/9/94]

The municipal officers shall grant a permit unless they find that the premises to be used for such music, dancing or other entertainment do not fully comply with all applicable ordinances and regulations of the Town or that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles, or by-laws.

### **Sec. 5-1-3. Inspections.**

Whenever inspections of the premises used in connection with the operation of a business which has obtained a special amusement permit are provided for or required by ordinance or State law, or are reasonably necessary to determine 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 authorized to make the inspection at any reasonable time that admission be requested.

Whenever an analysis of any commodity or material is reasonably necessary to determine 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 give to any authorized officer, official, or employee of the Town requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the Town who refuses to permit any such officer, official, analysis, provided that written demand for such inspection or sample is sought, or who interferes with such officer, official, or employee while in the performance of his duty.

### **Sec. 5-1-4. Suspension of Revocation of Permit.**

The municipal officers may, after a public hearing preceded by notice to the licensee and any other 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 municipal ordinances, articles, by-laws, or rules and regulations.

### **SEC. 5-1-5. Rules and Regulations.**

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations consistent with this ordinance 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.

## **Sec. 5-1-6 Permit and Appeal Procedures**

a. Decision. 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 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 30 days after an application for a permit which has been denied.

(b) Appeal. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the Board of Zoning appeals established under Sec. 19-4-7 of the Code of Ordinances, the jurisdiction of which is expended for said purposes. The Board of Zoning 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 that the denial, revocation or suspension was not based by a preponderance of the evidence upon a violation of any ordinance, article, by-law, or rule or regulation of the municipality.

## **Sec. 5-1-7. 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 to designated areas approved by the municipal special amusement permit.

## **Sec. 5-1-8. Penalty**

Any licensee, or person in charge of his licensed premises, who is found to have violated any provision of ordinance upon complaint to the District Court shall be punished by a fine of not more than Seventy-five Dollars (\$75.00) for the first such offense, and of not more than One Hundred Dollars (\$100.00) for any subsequent offense, to be recovered for the use of the Town.