

PUBLIC INDECENCY ORDINANCE
OF THE
TOWN OF ETNA

Accepted
6/17/97

ARTICLE 100: TITLE

This ordinance shall be known and may be cited as the "Public Indecency Ordinance" of the Town of Etna.

ARTICLE 200: PURPOSE

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

ARTICLE 300: DEFINITIONS

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

ENTERTAINMENT - Includes 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.

LICENSEE - Includes the holder of a license issued under the alcoholic beverages of the State of Maine, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent or employee of any such licensee, acting on behalf of any such licensee or left in charge of or in control of such licensee's premises.

ARTICLE 400: SPECIAL AMUSEMENT PERMIT REQUIRED

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

- A. Application Form. Application for special amusement permits and annual renewals thereof shall be in writing on forms provided by the Town Clerk and signed by the licensee. Each application shall state the name and address of the applicant; the name, address, and nature of the proposed amusement; 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. Live Entertainment Regulated. 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:
1. The performance of acts, or simulated acts, of sexual intercourse, or any sexual acts which are prohibited by law;
 2. the actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus, or genitals, by the entertainer, employee, or patron;
 3. the actual or simulated displaying of the breast, the genitals, pubic hair, buttocks, or anus;
 4. 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, anus, or breasts.
 5. For the purposes of this subsection, the terms "displaying" or "expose" shall mean unclothed or unclothed and not covered by a fully opaque material.

ARTICLE 500: PERMIT FEE

The permit fee for a special amusement permit shall be \$300.00 plus the cost of advertising for a public hearing under Article 600.

ARTICLE 600: PUBLIC HEARING

Prior to granting a special amusement permit, the Etna Board of Selectmen shall hold a public hearing after reasonable notice of the same has been given to the applicant and has been advertised, at the applicant's expense, in a newspaper or general circulation in the Town of Etna at least seven (7) days in advance. At the public hearing the testimony of any interested parties shall be heard.

ARTICLE 700: ISSUANCE OF PERMIT

After 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 Etna Ordinance.

- A. In approving such a permit, the Etna 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.
- B. Any licensee requesting a special amusement permit shall be notified in writing of the Board of Selectmen's decisions no later than fifteen (15) days from the date of their 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.
- C. A special amusement permit shall be valid only for the license year of the existing license.
- D. The Etna Board of Selectmen may, after a public hearing, preceded by notice to interested parties, suspend or revoke any special amusement permit on the ground that the music, dancing or entertainment so permitted is detrimental to the public health, safety or welfare, or violates any applicable State Law or Etna Ordinance. If the Etna Board of Selectmen revoke or suspend a licensee's special amusement permit, he/she shall be notified in writing within fifteen (15) days of the reasons for such action.

ARTICLE 800: PENALTY

- A. Whoever violates any provision of this Ordinance shall be fined not less than \$10.00 not more than \$100.00 to be recovered, on complaint, to the use of the Town of Etna. Each day's violation shall constitute a separate offense.
- B. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorneys' fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

ARTICLE 900: SEVERABILITY

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Certified: The Etna Board of Selectmen being the municipal officers hereby certify to the municipal clerk that this is a true copy of the Public Indecency Ordinance of the Town of Etna.

Signed on _____

Selectman: _____

Selectman: _____

Selectman: _____

ATTEST: A true copy of an ordinance entitled "Public Indecency Ordinance of the Town of Etna" as certified to me by the municipal officers on the _____ day of _____ 1997.

Signed, _____, 1997 _____