

AN ORDINANCE PERTAINING TO SPECIAL AMUSEMENT PERMITS

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 10 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 10

AMUSEMENT

ARTICLE III. SPECIAL AMUSEMENT PERMIT

DIVISION 1. GENERALLY

Sec. 10-61. Purpose.

The purpose of this article is to regulate, pursuant to 28-A M.R.S.A. § 1054 et seq., the issuance of special amusement permits for music, dancing or entertainment in facilities licensed by the state to sell alcoholic beverages; and to regulate, pursuant to the City of Lewiston's home rule authority, the issuance of special amusement permits for dance halls or nightclubs that admit patrons under the age of 21.

Sec. 10-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different 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 licensee whose incidental duties include activities with an entertainment value.

Dance hall or nightclub includes any commercial premises a primary function of which is to offer patrons an opportunity to engage in social activities such as dancing, the enjoyment of live or prerecorded music, or the enjoyment of entertainment provided by dancers or other performers, provided that it shall not include (1) events sponsored by accredited educational institutions and held under the direct supervision of school authorities, or (2) events sponsored by bona fide nonprofit organizations which limit admissions to members and guests and which use revenue accruing from admissions exclusively for the benevolent purposes of the organization.

Secs. 10-63--10-75. Reserved.

DIVISION 2. PERMIT

Sec. 10-76. Required.

(a) A licensee for the sale of alcoholic beverages to be consumed on the licensed premises shall not permit any live music, dancing, or entertainment of any kind on the premises until he has first obtained a special amusement permit approved by the city council. A business shall not operate as a dance hall or nightclub that admits persons under the age of 21 until the business has first obtained a special amusement permit Class E or Class F approved by the city council. The categories of a special amusement permit are as follows:

Special amusement permit--Class A. Any licensee of a food service establishment Class A, B, or C, or holder of an innkeeper license, with entertainment, which does not include dancing.

Special amusement permit--Class B. Any licensee of a Class A lounge, or holder of an innkeeper license, with entertainment, which does not include dancing.

Special amusement permit--Class C. Any licensee of a Class A lounge, a food service establishment Class A, B or C license, or holder of an innkeeper license, with entertainment, including dancing.

Special amusement permit--Class D. Any business that operates primarily as a function hall for the rental of space for events and holds a Class A lounge, a food service establishment Class A, B or C license, or holder of an innkeeper license, with entertainment, including dancing.

Special amusement permit – Class E. Any business operating as a dance hall or nightclub that admits persons under the age of 21.

Special amusement permit – Class F. Any business operating as a “chem-free” dance hall or nightclub that admits persons age 18 years and older, with no liquor service.

Applications for all special amusement permits shall be made in writing to the city clerk

(b) and shall state the name and address of the applicant; the name, address and nature of the business; and any additional information required by the city council necessary to the processing of the application, including but not limited to a copy of the applicant's liquor license.

Sec. 10-77. Public hearing.

Before granting a permit, the city council shall hold a public hearing to determine whether issuance of the permit would be detrimental to the public health, safety or welfare or would violate any law, ordinance or regulation. Such determination may include, but is not limited to:

- (a) The violation of any law, ordinance or regulation, either in the past or caused by the issuance of the same; or
- (b) Conditions of record such as waste disposal violations, health, or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed

- premises and caused by persons patronizing or employed by the ~~licensed~~ premises or such conditions caused by persons patronizing or employed by the ~~licensed~~ premises which unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the ~~licensed~~ premises to use their property in a reasonable manner; or
- (c) Repeated incidents of record of breaches of peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the ~~licensed~~ premises and caused by persons patronizing or employed by the ~~licensed~~ premises.
 - (d) Any other incident, behavior or occurrence on or about the location that the city council deems to be detrimental to the public health, safety or welfare.

The city council may impose conditions for protecting the public health, safety and welfare on any special amusement permit it issues.

Sec. 10-78. Denial.

If the application for a special amusement permit is denied, the city council shall give the applicant a written statement of the reasons for the denial.

Sec. 10-79. Term.

A special amusement permit Class A, B, C or D is valid only for the license year of the applicant's existing license. A special amusement permit Class E or F is valid for one year from the date of issuance of the permit.

Sec. 10-80. Inspection.

Applicants shall be subject to the inspection provisions of section 22-34.

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 ordinance provision or state law, it shall be the duty of the ~~licensee~~ permittee, 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.

In addition to any other penalty which may be provided, the city clerk may suspend for a period of up to 30 days and the city council, after notice and public hearing, may revoke the special amusement permit of any ~~licensee~~ permittee 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 his duty, provided that no license or special amusement permit shall be suspended or revoked unless written demand for the inspection is made upon the ~~licensee~~ permittee or person in charge of the premises, at the time it is sought to make the inspection.

Sec. 10-81. Suspension or revocation.

The city clerk may suspend any special amusement permit for a period up to 21 days where there is an immediate risk to the public health, safety or welfare. The city council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permits which have been issued under this article on the grounds that the music, dancing, ~~or~~ entertainment or activities so permitted constitutes a detriment to the public health, safety or welfare; violates any law, ordinance or regulation; or if any duly authorized city official has been refused admission to make an inspection of the premises after written request.

Sec. 10-82. Adult-oriented live entertainment prohibited.

No entertainment regulated as adult-oriented live entertainment by the provisions of article IV shall be provided by or on behalf of, or at the licensed premises of the holder of a special amusement permit or of an FSE-Class E license.

Sec. 10-83. Regulations.

The city council is further authorized, after public notice and hearing, to establish further written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, ~~or~~ entertainment or activities permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare whenever the need arises. 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.

Such rules and regulations shall be additional to and consistent with all sections of this article.

All ~~licensees~~ permittees shall comply with section V(B) of the City Policy Manual enacted by the city council pertaining to holders of special amusement permits and FSE-Class E licenses and the city council may enact such other or further regulations it deems necessary or appropriate to carry out the purpose of this article.

Sec. 10-84. Previous ownership.

If the applicant has previously owned, operated or managed or been the primary ownership interest in any company, corporation or other legal entity that has previously held a special amusement permit or liquor license from this municipality, then such information may be used as a basis for determination of the issuance of the permit, consistent with section 10-77.

Sec. 10-85. Penalties.

In addition to suspending or revoking a license or permit, the city may prosecute violations in court. A violation of this division shall be punished by a fine, in accordance with the city's

policy manual as approved by the city council, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the city may enjoin or abate any violation of this division by appropriate action. In addition to such penalty, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorneys' fees and investigative costs.

Sec. 10-86. Additional Criteria - Special amusement permit – Class E.

- (a) No one who is under the age of 14 or over the age of 20 shall be admitted as a patron of the business while the business is operating under this permit classification.
- (b) The business owner shall be responsible for posting a notice in plain view at the establishment regarding the city's curfew for minors, as outlined in Chapter 50 of this Code and shall also be responsible for the enforcement of such curfew, as outlined in Chapter 50 of this Code.

Secs. 10-86 87 -10-100. Reserved.