

ARTICLE 11

REGULATION OF ENTERTAINMENT ACTIVITIES

Authority

In accordance with the provisions of New Hampshire Revised Statutes Annotated, Chapter 31, Section 39, I, (h), (k) and (n) authorizing the Town of Hampton to enact bylaws, the following Ordinance for the Regulation of Entertainment Activities is adopted by the Town of Hampton by the Annual Town Meeting assembled.

Purpose

The Annual Town Meeting of the Town of Hampton ordains that it is in the public interest to promote the general welfare of the residents and hereby establishes that it is public policy to regulate Entertainment Activities.

The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the Town of Hampton and its inhabitants.

Section 1. Definitions

- A. Building or premise. Shall mean a structure with a position on the ground and or lot of record or a vessel on the water.
- B. Dance Hall. Shall mean any establishment or place defined as "Dance Halls" that require an annual Dance Hall Permit from the Town under Chapter 4, Article 2 of the Hampton Town Ordinances and those defined as "Nightclub" by Chapter 7, Article I, Section 1.6 of the Town of Hampton Zoning and Building Ordinances.
- C. Entertainment Activity. Shall include, but not be limited to, any live band, musician, performer, entertainer, disc jockey, comedian, person, concert, dance hall, jukebox, karaoke equipment, record player, sound device, and/or any type of mechanical music device that is audible outside of the building or premises.
- D. Establishment or Place. Shall include, but not be limited to, bars, cafés, discotheques, nightclubs, performing arts centers, motion-picture theater, theaters, dance hall, music hall, lecture hall, halls, restaurants or any other establishment, or similar place of public assembly, which regularly provide entertainment for their patrons. For purposes of this definition, "establishment or place" shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or stories above or below, where entrance is common to the rooms, space or areas.
- E. Entertainment License. Shall mean a license issued by the Board of Selectmen to any person to conduct an entertainment activity in an establishment or place on a regular basis for a specific licensed period.

- F. Licensee. Shall mean any person who has been issued an entertainment license or a temporary entertainment license by the Board of Selectmen.
- G. Person. Shall mean any person, individual, employee, business, firm, or corporation, partnership, association, owner or operator, and/or any other legal entity.
- H. Temporary Entertainment License. Shall mean a license issued by the Board of Selectmen to any person to conduct an entertainment activity on a specific date, for a specific period of time, at a specific location.

Section 2. Regulation of Entertainment Licenses

The Board of Selectmen of the Town of Hampton shall regulate and issue Entertainment Licenses.

Section 3. License Required

It shall be unlawful for any person operating an establishment to conduct, operate, hold, and/or host any entertainment activity within any building or premise within the Town who does not possess an entertainment license as issued by the Board of Selectmen.

- A. A valid entertainment license shall be posted in public view within the establishment or place.
- B. No entertainment activity shall be held without a license specifying the time and object for which the license is issued.

Section 4. Issuance of License

No person shall engage in or provide an entertainment activity in any building or premise without first having obtained an entertainment license from the Board of Selectmen. Any person who complies with the requirements of this Ordinance shall be entitled to receive and retain such a license.

- A. The Board shall not issue a license to any person until it has received the following:
 - 1. A completed Entertainment License Application
 - 2. The written recommendation from the Chief of Police, or his designee, confirming that the person has passed the criminal and motor vehicle records examination, and has given the recommendation to approve the granting of the license.
 - 3. Written notification from the Fire Prevention Officer, or his designee, that the premises in which the entertainment activity shall be held, holds a valid Assembly Permit and a Dance Hall Permit.
 - 4. Written notification from the Building Inspector, or his designee, that the premises in which the entertainment activity shall be held, holds a valid occupancy permit.
 - 5. The license fee.
- B. A license shall not be authorized to any person who is shown to have any of the following disapprovals or disqualifications:

1. Written notification of disapproval from any of the following:
 - a. Chief of Police, or his designee;
 - b. Fire Prevention Officer, or his designee;
 - c. Building Inspector, or his designee.
 2. The person has been convicted of a felony, in this or any other state, in the seven full years prior to the date of the application.
 3. The person has been convicted of a felony involving a controlled substance or violence, in this or any other state, in the fifteen full years prior to the date of the application.
- C. Dances. This subsection shall apply to any establishment or place which permits, or permits to occur, dancing, except the following: a public or private school licensed by the State or the Town for the purpose of conducting dancing classes or dance courses of study as its primary, regular and recurrent business activity; dances sponsored by an accredited educational institution, civic or religious organization or group which limits admission to its own members and their guests.
1. Dances shall not be permitted between the hours of 1:00 a.m. and 12:00 p.m., on any day of the week.
 2. For the purposes of this section "teen dance" means any dance which permits the entry of persons under the age of 18 years of age.

Section 5. License Period

Any person requiring a license to conduct an entertainment activity in an establishment or place may be licensed for a period of 12 months from the first day of April, of each year.

- A. All licenses granted under this Ordinance shall continue and remain in full force and effect for a period from the first day of April each year until midnight on the 31st day of March of the following year.
- B. All licenses issued previous to the date of the adoption of this Ordinance shall expire as of March 31, 2010.

Section 6. Hours of Operation

The Board of Selectmen may vary the hours of the entertainment activity based upon the circumstance of the application (i.e., more restrictive hours or additional hours.)

Section 7. Hours Restricted

The using, operating, or permitting of an entertainment activity shall not be allowed between the hours of 1:00 a.m. and 12:00 p.m., on any day of the week.

Section 8. Fees

- A. Three hundred and sixty five dollars (\$365.00) for each licensed establishment or place, paid in advance of issuance of the license.

- B. In addition to the fee payable pursuant to this Ordinance, the person shall reimburse the Town for any expense occasioned by the issuance of the licensing for the entertainment activity.

Section 9. Application for Renewal of Permits or Licenses

All applications for renewals of licenses shall be in accordance with Sections 4. A. & B. and must be filed with the Board of Selectmen no later than the first day of March of any year in order to keep the renewal privilege.

Section 10. Transfer of License

- A. No license held by a person shall be transferred to another except in accordance with the following procedure:
 - 1. Notice of the proposed transfer shall be delivered to the Board of Selectmen at least 45 days prior to the date of the proposed transfer.
 - 2. All applications for such transfer shall be in accordance with Section 4.A.1. & 2. of this Ordinance.
 - 3. The application for the transfer shall contain the names and addresses of all persons involved in the transfer.
 - a. A change in principals shall be deemed a transfer of License.
 - 4. The Board shall, in accordance with the terms of this Ordinance, approve or disapprove the fitness of the person as a licensee within 30 days after receipt of notice of the proposed transfer unless prevented from doing so by conditions or circumstances not under the Board's control.
 - 5. The Board of Selectmen has received payment of three hundred and sixty five dollars (\$365.00) prior to the transfer.
- B. No license may be transferred from any licensed establishment or place except when the following actions have been performed in advance of the transfer:
 - 1. Notice of the proposed transfer shall be delivered to the Board of Selectmen at least 45 days prior to the date of the proposed transfer.
 - 2. All applications for transference shall be in accordance with Section 4.A.3. & 4. of this Ordinance.
 - 3. The Board shall, in accordance with the terms of this Ordinance, approve or disapprove the transference within 30 days after receipt of notice of the proposed transfer unless prevented from doing so by conditions or circumstances not under the Board's control.
 - 4. The Board of Selectmen has received payment of three hundred and sixty five dollars (\$365.00) prior to the transfer.
- C. Any license transferred other than in accordance with the foregoing procedures, or without the approval of the Board, shall be void and such license shall at once be surrendered to the Board.

Section 11. Application for Renewal of Licenses

All applications for renewals of licenses, in accordance with Section 4 must be filed with the Board of Selectmen no later than the first day of March of any year in order to keep the renewal privilege. The Board may issue renewal licenses at any time thereafter.

Section 12. Complaints

- A. Should the entertainment activity give rise to complaints from abutters, and from any of the following departments, the Health Department, the Building Department, the Police Department, or the Fire Department and/or their designees, as to noise, litter, and overcrowding, the Board may hold a hearing to determine whether or not it should make any orders limiting the entertainment activity in time or place or otherwise restricting such entertainment activity to accommodate the needs of public peace, order and safety.
 1. Complaints shall be brought by written form only and shall contain:
 - a. the location of the entertainment or place concern in the complaint;
 - b. the complaint shall be in detail and contain the date of, time of and the type or cause of the complaint and or incident.
 - c. the name(s), address(es) and phone number(s) of the person(s) filing said complaint.
- B. As a condition of the entertainment license, and at any time during the period the license is in effect, the person may be subject to additional restrictions or conditions ordered by the Board of Selectmen upon the recommendation from following departments: the Health Department, the Building Department, the Police Department, or the Fire Department and/or their designees as may be warranted by any circumstances pertaining to the entertainment activity and/or to prevent any nuisance related to or caused by the entertainment activity. A nuisance, in addition to its common law meaning, is anything that endangers life, health or safety, gives offense to senses, violates common standards of decency or obstructs the reasonable use, enjoyment, or habitation of any property.

Section 13. Nuisance, Pertaining to Licensed Activities

It shall be the responsibility of the person to whom a license hereunder is issued to prevent any nuisance related to or caused by the entertainment activity. Such nuisance does not necessarily have to emanate from the entertainment activity as it includes any nuisance related to or caused by patrons as well as employees. The operation of any establishment or place utilizing a license hereunder shall at all times be compliant with any applicable provisions of the State Fire Code and Life Safety Code.

Section 14. Noise Standards Applied

The using, operating, or permitting of an entertainment activity within an establishment or place in such a manner as to disturb the quiet, peace, or repose and or comfort of the neighboring inhabitants or the repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity or any time with louder volume than is necessary for

convenient hearing for the person or persons who are in the premises in which the entertainment activity is situated and who are voluntary listeners thereto.

- A. The operation of an entertainment activity within an establishment or place between the hours of 12:00 PM and 1:00 AM in such a manner as to be plainly audible at a distance of 50 feet from the building in which it is located shall be prima facie evidence of a violation of this section.
- B. Sound devices shall be controlled to keep sound emanating from the premises within normal and tolerable limits.
- C. The intensity and volume of noise will be regulated so as to cause as little disturbance outside the building as possible. Means of regulation will include, but not be limited to, location of the bandstand and orchestra within the building, insulation or soundproofing of the building, keeping of baffles such as doors and windows closed during hours permitted and the regulation of volume control on speakers. The Chief of Police or his designee and or the Building Inspector shall act as the enforcement authority of this provision.

Section 15. Police attendance

When it is determined by the Chief of Police or his designee to be necessary to preserve order, protect the health, safety, and welfare of the residents of the Town, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments and places licensed under this article may be required to hire an off-duty police officer or officers during those hours the Chief of Police or his designee deems appropriate. The Chief of Police or his designee may suspend this requirement as he deems appropriate, but the requirement may be reinstated at the discretion of the Chief of Police or his designee.

- A. Payment for services of these personnel shall be borne by the licensee at current wage rates, plus 30%.

Section 16. Power of Enforcement

The Chief of Police or his designee(s) shall have the following power

- 1. to enter upon any premises as licensed under this Ordinance, at reasonable times, to ascertain the manner in which the license is exercised under this Ordinance;
- 2. to demand the exhibition of the license for the current year or time period by a person engaged or employed in the establishment or place. If the person fails then and there to exhibit the license, the entertainment license shall be suspended or revoked and the person shall be punishable as provided for under this ordinance;
- 3. to revoke licenses of a temporary character at any time without notice in their discretion; and
- 4. to issue citations for the violation of any of the provisions of this Ordinance.

Section 17. Revocation of License

- A. At any time after a license has been issued under this Ordinance to any person, it may be suspended, revoked and cancelled by the Board of Selectmen if the entertainment activity violates any of the public statutes or ordinances of the Town, or is conducted in a building which does not conform to the fire statutes, ordinances or regulations of the Fire Department,

Building Code and/or an unreasonable amount of complaints have been filed and/or the establishment or place is used for criminal purposes.

1. Prior to the suspension or revocation and cancellation of any license the Board shall notify the affected licensee of the pending suspension or revocation and the reason therefore. The Board shall also provide the affected licensee with a reasonable opportunity to be heard by the Board prior to the suspension or revocation.
 2. A license shall be revoked for any violation of Federal or State or Local law.
- B. Licenses of a temporary character may be revoked and cancelled at any time by the Board of Selectmen without notice at their discretion.
- C. Licensed Revoked.
1. Upon the successful appeal of a license that has been revoked, the license shall be restored with new or revised conditions or restrictions on the license, and the fee for the restoration of the license shall be calculated at one dollar per day up until the annual expiration date of license.
 2. A license that has been revoked shall not be subject to the renewal or restoration except that an application for a new license may be submitted and acted upon after the expiration of a least one year from the date of revocation.

Section 18. Penalties

Any person or persons violating the provisions of this Ordinance shall be guilty of a violation and subject to fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for the third and any subsequent offenses to be issued in the form of a summons and notice of fine as provided in RSA 502-A:19-b. Such summons shall be issued by a Police Officer or any authorized employee or official of the State of New Hampshire. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder, and any fines collected hereunder shall inure to such uses as the Town may direct.

Section 19. Severability

If any provision, word, clause, section, paragraph, phrase or sentence of this Ordinance is found by a Court of competent jurisdiction to be unconstitutional, unlawful or unenforceable such unconstitutionality, unlawfulness or unenforceability shall not affect the other provisions of this Ordinance, provided that the purposes of this Ordinance can still be achieved in the absence of the invalid provisions.

Section 20. Effective

This Ordinance shall become effective when adopted by the Annual Town Meeting of the Town of Hampton and shall repeal all other Ordinances or portions of Ordinances relating to the Noise Regulation of Dance Halls.