

TOWN OF EVANS

PROPOSED LOCAL LAW NO. 5 OF CALENDAR YEAR 2018

Section 95: Entertainment, Public; Refreshment Businesses

1. Amend Section 95-3: License required; term; fees; number required; exemptions, paragraph A, to read as follows:

§ 95-3 License required; term; fees; number required; exemptions.

A. No person or party shall establish, maintain or conduct an amusement, public entertainment or refreshment business, as herein defined, without first having procured from the Town Board of the Town of Evans a license for that purpose. Applications for a license shall be filed with the Town Clerk's Office at least thirty (30) days prior to anticipated need of license.

2. Amend Section 95-4: Live band or orchestra license, paragraph B(1), to read as follows:

(1) Such performance and/or the amplification of the same shall be allowed only between the hours of 11:00 a.m. 3:00 p.m. and 11:00 p.m.

3. Amend Section 95-4: Live band or orchestra license, paragraph C(1), to read as follows:

(1) Any application for such license, in addition to the information required pursuant to § 95-5 of this chapter, shall specify the date and the time of the intended performance of such live band or orchestra or the production of such amplified sound out-of-doors, which time shall not exceed four consecutive hours specified in such application between the hours of 11:00 a.m. 3:00 p.m. and 11:00 p.m.

4. Amend Section 95-6: Investigation of applicant and premises, to read as follows:

§ 95-6 Investigation of applicant and premises.

Upon receipt of ~~any such~~ a complete application, including payment of applicable fees, the Town Clerk shall refer the same to the Erie County Health Department and to the Chief of Police for investigation regarding the character and reputation of the applicant, the cleanliness and sanitary condition of the premises and the arrangement of the rooms where such business is to be carried on with a view to the preservation of the public peace, morals, health and safety. It shall be the duty of the Health Officer and the Chief of Police to approve with their signatures or to disapprove and to report the results of the investigations promptly to the Town Clerk, who shall lay the same before the Town Board.

5. Amend Section 95-11: Department of Health Regulations to be followed, to read as follows:

§ 95-11 Department of Health Regulations to be followed.

The person or persons conducting business under the licenses in this chapter shall operate said business pursuant to the requirements of the Erie County Department of Health, New York State Worker's Compensation, and New York State Disability, and shall provide verification of such compliance.

6. Add Section 95-16: Enforcement, to read as follows:

§ 95-16 Enforcement.

This chapter shall be enforced by the Code Enforcement Office and the Police Department of the Town of Evans.

7. Add Section 95-17: Variances, to read as follows:

§ 95-17 Variances.

**TOWN OF EVANS**

**PROPOSED LOCAL LAW NO. 5 OF CALENDAR YEAR 2018**

The purpose of this section is to provide for variances from this chapter in cases where the strict application thereof would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and objectives of this chapter.

A. Any variance to a license required pursuant to § 95-4 of this chapter may be granted by the Town Board of the Town of Evans in accordance with the standards and procedures set forth herein. In granting a variance, the Board may impose conditions to protect the best interests of the inhabitants of the premises, surrounding property owners and occupants, the immediate neighborhood and the Town as a whole.

B. Variances may be instituted by filing an application with the Town Clerk using forms supplied by the Town Board, which shall include all information to be considered by the Town Board necessary to make its findings under Subsection D herein.

C. Any variance of the provisions of § 95-4 of this chapter may be granted only in the event that at least one of the following circumstances is specifically found to exist by the Town Board, and is so stated in the Board's findings:

(1) That the strict application of said provisions of § 95-4 of this chapter would result in a specified unnecessary hardship to the applicant which arises because of exceptional or extraordinary circumstances to which the applicant is subject, and which do not generally apply to other property owners or occupants in similar circumstances or other circumstances over which the applicant has no control.

(2) That the property in question cannot yield a reasonable financial return if used in a manner consistent with the provisions of this chapter.

(3) That the variance would not be materially detrimental to the purposes of § 95-4 chapter or to the owners or occupants of property in the district in which the property is located, and that the variance requested is the minimum variance which would alleviate the specific unnecessary found by the Board to affect the applicant.

D. Within 30 days of receipt by the Town Board of a completed application for a variance, the Board shall give notice by public advertisement in the official newspaper of a public hearing to be held on the application not less than 10 days nor more than 30 days after such notice. Within 30 days of the completion of the public hearing, the Board shall grant, grant with conditions or deny the variance for which application has been made. The decision of the Board shall be in writing and shall contain each of the findings specified in Subsection C and the factual basis for each finding from the record of the hearing which shall support the decision of the Board.

8. Add Section 95-18: Severability, to read as follows:

§ 95-18 Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision of this chapter.