

**TOWN OF HAMPDEN, MAINE
SPECIAL AMUSEMENT ORDINANCE**

ADOPTED: Hampden Town Council October 6, 1997
Effective: November 11, 1997

AMENDED: Hampden Town Council November 17, 2003
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CERTIFIED BY: Denise Hodsdon
Name

Town Clerk
Title Affix Seal

**SPECIAL AMUSEMENT ORDINANCE
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**TOWN OF HAMPDEN, MAINE
SPECIAL AMUSEMENT ORDINANCE**

The Town of Hampden hereby ordains:

**ARTICLE I
GENERAL ADMINISTRATION**

1.1. Title. This ordinance shall be known and may be cited at the Special Amusement Ordinance of the Town of Hampden, Maine

1.2. 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 as required by 28-A MRSA § 1054.

1.3. Definitions.

Entertainment: For the purposes of this ordinance, “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.

Licensee: For purposes of this Section, “Licensee” shall include the holder of a license issued under the Alcoholic Beverages Statutes 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.

1.4. Separability. The invalidity of any provisions of this Ordinance shall not invalidate any other part.

**ARTICLE II
STANDARDS OF ISSUANCE**

2.1. Permit Required. No licensee for the sale of liquor to be consumed on the licensed premises shall permit, on the 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 municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

2.1.1. Information Included on Application. Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; the applicant’s residence address; the business address; the nature of the 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 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.

2.1.2. 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 or by electronic depiction, video or movie screen, 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, or 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 un-costumed and not covered by a fully opaque material.

2.1.3. Compliance with Other Municipal Regulations. No permit shall be issued for any thing, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the municipality.

2.1.4. Fee Required. The fee for a special amusement permit shall be paid in accordance with the Town of Hampden Fees Ordinance. *(Amended: 11-17-03)*

2.1.5. Public Hearing. The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 30 days of the date of the application was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

2.1.6. Issuance of Permit. The municipal officers shall grant a permit unless they find 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.

2.1.7. Validity of Permit. A permit shall be valid only for the license year of the applicant’s existing liquor license.

2.2. Inspections. 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 of the State law, or are reasonably necessary to secure compliance with any ordinance provision of 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 municipality authorized to make the inspection any reasonable time that the admission is requested.

2.2.1. Analysis of Commodities or Materials. Whenever any analysis of any commodity or material is reasonably necessary to secure conformance 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 municipality requesting the same sufficient samples of the material or commodity for analysis.

2.2.2. Revocation of Permit. In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection of take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the

performance of their duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the charge of the premises, at the time it is sought to make the inspection.

2.3. Suspension or Revocation of a Permit. The municipal officers may, after a public hearing preceded by notice to 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 conducted on the licensed premises constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinance, articles, by-laws, or rules and regulations.

2.4. Rules and Regulations. The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of the 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.

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

2.5. Permit Procedures. *Amended 06-19-2006*

2.5.1. Notification of Applicant. 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 of their decision. 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 has been denied.

2.5.2. Deleted. *(Amended: 06-19-2006)*

2.6. Admission Charge. 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 in designated areas approved by the municipal special amusement permit

ARTICLE III ENFORCEMENT

3.1. Penalty. Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than One Hundred Dollars (\$100.00) for the first offense, and up to Five Hundred Dollars (\$500.00) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Hampden. Each day of violation shall constitute a separate offense. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town shall be awarded reasonable attorney's fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

ARTICLE IV APPEALS *(Amended: 06-19-2006)*

4.1. Compliance With Board of Appeals Ordinance. All appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. 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 Appeals as defined in 30-A MRSA § 2691. *(Amended: 06-19-2006)*

4.2 Appellate Review. The Board of Appeals may conduct an appellate review of the denial of permit request and may also conduct an appellate review of the revocation or suspension of a permit. *(Amended: 06-19-2006)*

4.3 Basis of the Appeal. The Board of Appeals may consider if the permitted activities constitutes a detriment to the public health, safety, or welfare, or if the denial, revocation, or suspension was arbitrary or capricious, or if the denial, revocation, or suspension was not supported by a preponderance of the evidence demonstrating violation of any ordinance, article, by-law, or rule or regulation of the municipality. *(Amended: 06-19-2006)*

4.4 Granting or Reinstating a Permit. The Board of 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 supported by a preponderance of the evidence demonstrating violation of any ordinance, article, by-law, or rule or regulation of the municipality. *(Amended: 06-19-2006)*