

SPECIAL AMUSEMENT ORDINANCE  
ARTICLE 1

Title, Purpose & Definitions

SECTION 101.        TITLE

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Oakland.

SECTION 102.        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 MRSA 702.

SECTION 103.        DEFINITIONS

103.1 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.

103.2 Licensee. For purposes of this Section, “licensee” shall include the holder 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.

ARTICLE II.

SECTION 201.        PERMIT REQUIRED

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his 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 a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; his 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 applicant shall describe specifically those 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.

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.

The fee for a special amusement permit shall be \$10.00.

The municipal officers shall, prior to granting a permit, and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date of the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find that 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 bylaws.

A permit shall be valid only for the license year of the applicant's existing license.

## SECTION 202.        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 or 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 at any reasonable time that admission is requested.

Whenever an 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 any authorized officer, official, or employ of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be proved, 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 or take sufficient samples for analysis, or who interferes which such officer, official, or employee which in the performance of his duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

## Section 203        REGULATION OF NOISE

203.1 An applicant for a special amusement permit hereunder shall, as part of his/her application, demonstrate his/her ability to prevent the emanation of excessive noise from the premises sought to be licensed brought about by music, dancing or entertainment, except for a radio or other mechanical device excluded under 28-A M.R.S.A. § 1054 or amendments thereto. The performance of amplified music out of doors by licensees is categorically declared to be in violation of this article.

The licensee or his/her authorized representative shall not permit the use of the premises to result in any continued, excessive or loud and unreasonable noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety of individuals or which results in disturbing the peace and tranquility of the neighborhood.

203.2 In areas where the density of residential housing is no more than five (5) within a 500-foot radius of the licensee, upon application, the Council may waive the prohibition of outdoor amplification of music, and issue an amendment to the licensee's Special Amusement Permit for a special event. No more than two amendment applications from a licensee will be considered in any calendar year. Each application for an amendment will be considered on a case-by-case basis and will provide the following information:

- The name/address of the property owner where the special event will be held
- The applicant's (licensee's) name and address
- The date of the planned special event
- The starting time and ending time of the special event
- The method of accommodating the parking needs of the special event
- A list of property owners within a 500 foot radius of the location of the special event
- The expected number of attendees
- The number of police officers needed for the special event
- The planned method of mitigation of emanation of noise
- The plan for additional solid waste disposal
- The number of additional sanitary facilities (toilets and lavatories) to be provided for the special event
- The method of notifying property owners within the 500 foot radius of the location of the special event
- Other factors in support of the application.

The Council may hold a public hearing on an application. A public hearing will be considered notification of property owners within the 500-foot radius of the location of the special event. The cost of the public hearing including certified mailing to property owners within a 500-foot radius of the location of the special event would be borne by the applicant.

After deliberation of the application, the Council will approve, approve with conditions, or deny the application for the special event amendment to the applicant's Special Amusement Permit. An application will be denied if the Council finds that a special event amendment to the applicant's Special Amusement Permit will be detrimental to the public health, safety or welfare or would violate municipal ordinances, or rules and regulations, articles, or bylaws.

SECTION 204. SUSPENSION OF 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 so permitted constitutes a detriment to the public health, safety or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

SECTION 205. 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 special amusement permits, the classed of permits, the music, the dancing, or entertainment permitted under each class, and other limitations of 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.

SECTION 206. PERMIT AND APPEAL PROCEDURE

206.1 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 his request was received. 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, which has been denied.

206.2 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 municipal Board of Appeals as defined in 30 MRSA SS 2411. The municipal 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 based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the municipality.

SECTION 207. ADMISSION

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

Penalty, Separability & Effective Date

SECTION 301. PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than Fifty Dollars (\$50.00) for the first offense, and up to One Hundred Dollars (\$100.00) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Oakland.

SECTION 302. SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other part.

SECTION 303. EFFECTIVE DATE

The effective date of this Ordinance shall be July 1, 1978.  
Amended November 12, 2003  
Amended April 13, 2005

data/ord/SpecialAmusement2005