

TOWN OF SKOWHEGAN
SPECIAL AMUSEMENT ORDINANCE
Adopted Annual Town Meeting March 8, 1999
Amended Special Town Meeting August 10, 2004

TITLE, PURPOSE AND DEFINITIONS

Section 1. Title

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Skowhegan, Maine.

Section 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 Title 28-A M.R.S.A.1054.

Section 3. Repeal

All ordinances or parts thereof, inconsistent with the terms and provisions of this Ordinance are hereby replaced.

Section 4. Severability

In the event that any section or any portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such declaration shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

Section 5. Authority

This Ordinance is enacted pursuant to Title 28-A, M.R.S.A., Section 1054 and Title 30-A, M.R.S.A., Section 3001.

Section 6. Definitions

The following words, terms or phrases, when used in this Ordinance, shall have the same meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Entertainment shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional or amateur entertainers, by patrons, or by full-time or part-time employees of the licensed premises, whose incidental duties may include activities with an entertainment value.

Exotic Dancing shall mean the appearance of a person or persons, on the licensed premises, in such a manner or attire as to expose to view any portion of the pubic area, anus, buttocks, vulva or genitals or any simulation thereof, or when any female appears on a licensee's premises in such a manner or attire as to expose to view any portion of the breast referred to as the aureole, nipple, or simulation thereof. "Expose to view" shall be interpreted to mean, without limitation, clear, see-through or clothing which is otherwise non-opaque.

Obscene shall mean to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this Section above, and the manner or act or performance considered as a whole lacks serious literary, artistic, political or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine.

Material means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statute or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines.

Disseminate means to transfer possession of, with or without consideration.

Performance means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience.

Performer means an entertainer who performs a dramatic or musical work for an audience.

Available to the public means that the matter or performance or act may be purchased or attended on a subscription basis, on a membership fee arrangement, or for a separate fee for each item or performance or act, or available merely by being a patron of or present in an establishment that is licensed to sell liquor.

Service to patron means the provision of services to customers, patrons, or any other persons present in establishments providing food and beverages, including but not limited to hostessing, hat-checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing, and entertainment.

Promote shall mean to cause, permit, procure, counsel or assist.

Licensee shall include any person, individual, partnership, firm, association, corporation or other legal entity which is the holder of a license for sale of liquor to be consumed on premises owned by said licensee, or any agent or employee of any such license.

Section 7. Penalty

Except as otherwise provided by state law, anyone found guilty of violating any provision of this ordinance shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) to be recovered for the use of the Town of Skowhegan and shall be subject to such other legal and equitable remedies as may be available to the Town. Each day such violation occurs shall constitute a new and separate offense.

Section 8. Application

- a) No licensee for the sale of liquor to be consumed on the applicant/applicants licensed premises shall permit on the licensed premise any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the Board of Selectmen a special amusement permit.
- b) Applications for special amusement permits shall be obtained from the Town Clerk and shall state:
 - 1) The name of the applicant;
 - 2) The applicant/applicants resident address;
 - 3) The name of the business to be conducted;
 - 4) The applicant/applicants business address;
 - 5) The nature of the applicant/applicants business;
 - 6) The location to be used;
 - 7) 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; and
 - 8) Whether the applicant, including all partners, corporate officers, managers or principal employees has ever been convicted of a felony or a Class A, B, or C crime within the past five years and, if so, the applicant shall specifically describe those circumstances; and
 - 9) Any additional information as may be required by the Board of Selectmen prior to the issuance of the permit including, but not limited to, a copy of the applicant's current liquor license.

Section 9. General Requirements

- a) No special amusement permit shall be issued for any event, act, or premises, if the premises and buildings to be used do not fully comply with all ordinances, codes, and regulations of the Town.

b) The application fee for a special amusement permit shall be set by order of the Board of Selectmen and on file in the Town Clerk's office. The application fee is nonrefundable and must be paid when application is made for the permit.

c) A licensed hotel, Class A restaurant, Class A tavern, or restaurant malt liquor licensee, as defined in the Maine Revised Statutes, who has been issued a special amusement permit, may charge admission in designated areas approved in the permit.

d) With the exception of New Year's eve festivities, all music, dancing and/or entertainment subject to regulation under this ordinance, shall end no later than 12:30 A.M. Music, entertainment and dancing on January 1 shall end no later than 1:30 A.M.

e) For any outdoor events, the Licensee of the premises shall contact the Chief of Police to determine what arrangements, if any, are needed for hiring a law enforcement officer or officers for the purpose of maintaining order and insuring the safety of the general public. The cost of hiring an officer or officers shall be incurred by the Licensee.

Section 10. Conduct Constituting Offenses by Licensee

a) The Licensee shall not allow to remain on the premises any person or persons who are visibly intoxicated, or any person or persons exhibiting confrontational behavior; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement or show so as to create a dangerous condition because of fire or other risks in derogation of the public health, safety or welfare.

b) The Licensee shall not allow on any licensed premise the making, creation, or maintenance of excessive, unusually loud noise, which disturbs or endangers the peace, health or safety of an individual or individuals.

c) The Licensee shall not knowingly allow any licensed premises to be so conducted or operated so as to be in violation of any ordinances, rules or regulations of the municipality, or any statutes of the State of Maine.

d) The Licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chances as prohibited by the statutes of the State of Maine.

e) The Licensee, on any licensed premises, shall not:

- 1) Knowingly disseminate, distribute or make available to the public any obscene material; or
- 2) Knowingly make available to the public any obscene performance; or
- 3) Knowingly engage in commerce and/or for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars,

advertisements, or any public sales efforts that promote such commerce primarily on the basis of the prurient appeal; or

- 4) Provide service to patrons in such a manner as to expose to public view:
 - i) The Licensee's or any of his agent's or employee's genitals, pubic hair, buttocks, perineum, anal region, or pubic hair region; or
 - ii) Any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - iii) Any portion of the female breast at or below the aureole thereof.
- 5) Knowingly promotes the commission of any of the above listed acts of this Section.

Section 11. Regulations for Entertainment.

The following regulations apply to the activities of performers hired by the Licensee to provide entertainment in establishments holding a special amusement permit:

- a) No dancer shall dance in the establishment except on a platform raised at least two (2) feet from the floor.
- b) No dancer shall dance closer than ten (10) feet from any patron.
- c) There shall be no fondling, mingling, or caressing in the establishment between any patron and any dancer with the intent to sexually arouse or excite a person's sexual desire.
- d) No patron shall directly pay or give any gratuity to any dancer, and no dancer shall solicit any pay or gratuity from a patron.
- e) The Licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.
- f) Dancers on the floor who remove any garments shall not discard or throw those outer garments at or in the direction of the patrons.
- g) Any licensed premises allowing entertainment shall be located at least three hundred (300) feet from any school, library, church, park or playground.
- h) There shall be no graphic evidence on the exterior of any facility licensed under this Ordinance of the dancers, either live or simulated, requiring the licensee, if necessary, to black out windows or install curtains to prevent viewing of the dancers from the outside; provided, nothing in this paragraph shall prohibit the establishment from advertising, by words, the nature of the entertainment.

Section 12. Hearing

- a) The Board of Selectmen shall, prior to granting a special amusement permit and after reasonable notice to the town residents and the applicant, hold a public hearing within thirty (30) days of receipt of a completed application, at which hearing the testimony of the applicant and that of any interested members of the public shall be taken.
- b) Prior to obtaining a permit, the applicant must show at the public hearing required in this section that:
- 1) The issuance of the requested permit will not be detrimental to the public health, safety or welfare;
 - 2) The proposed activity to be licensed will not create a traffic hazard;
 - 3) The applicant has ample parking available to accommodate the proposed activity;
 - 4) The proposed activity will not, either by reason of its scope or noise, adversely affect surrounding or abutting property and that it will not unreasonably interfere with the use and enjoyment of surrounding and/or abutting property;
 - 5) The applicant is in conformance with all applicable health, fire and building codes, and other municipal, state and federal codes, ordinances, regulations and statutes;
 - 6) In the case of a facility located in a residential area, that the activities will not adversely affect the residential character of the neighborhood;
 - 7) Neither applicant nor its officers, agents, or principle employees have been convicted of a felony or Class A, B, or C crime within the past five years.
- c) In making the determination of whether the applicant has satisfied the criteria set forth in (b) above, the Board of Selectmen shall consider, but not bound by, neighborhood opinion and sentiment.

Section 13. Term of Permit

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

Section 14. Inspections of Businesses Issued a Special Amusement Permit

a) Whenever inspections of the licensed premises is required by ordinance, state law or is reasonably necessary to secure compliance with any town ordinance, code, regulation 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 law enforcement officer, official or employee of the town authorized to make the inspection at any reasonable time that admission is requested.

b) In addition to any penalty which may be provided, the Board of Selectmen may revoke the special amusement permit of any licensee who refuses to, permit any such law enforcement officer, official or employee to make an inspection or who interferes with such law enforcement officer, official or employee while in the performance of his/her duty, provided that no special amusement permit or license shall be revoked unless written demand for the inspection is made upon the licensee or person in charge of the premises at the time it is sought to make the inspection.

Section 15. Suspension or Revocation

The Board of Selectmen may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit which has been issued under this ordinance on the grounds that the music, dancing, or entertainment permitted constitutes a detriment to the public health, safety or welfare or violates any town ordinance, regulations, or rules or determines that the application was false or misleading in a fashion material to the approval.

Section 16. Appeals

a) Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of their decision no later than fifteen (15) days from the date his/her application was received. In the event the 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 thirty (30) days after an application for a permit has been denied.

b) Any licensee who has requested a permit and has been denied or whose permit has been revoked or suspended may, within thirty (30) days from the date of the denial, suspension or revocation, appeal the decision to the Board of Appeals.