

## CHAPTER 111: SPECIAL AMUSEMENTS

### Section

#### *General Provisions*

- 111.01 Title
- 111.02 Purpose and authority
- 111.03 Definitions
- 111.04 Dancing permitted
- 111.05 Effective date

#### *Permit Requirements*

- 111.20 Permit required
- 111.21 Permit application
- 111.22 Code compliance a prerequisite for issuance
- 111.23 Permit fee
- 111.24 Admission fee authorized
- 111.25 Additional information required
- 111.26 Hearing required prior to granting of permit
- 111.27 Action after hearing
- 111.28 Restrictions; imposition of reasonable restrictions
- 111.29 Expiration of license; term
- 111.30 Suspension or revocation of license
- 111.31 Appeal procedure
- 111.32 Inspections authorized
- 111.33 Revocation for non-cooperation authorized

#### *Offensive Conduct*

- 111.45 Tumultuous conduct
- 111.46 Riots prohibited
- 111.47 Unnecessary noise
- 111.48 Nuisances prohibited
- 111.49 Prostitution prohibited
- 111.50 Solicitation of drinks prohibited

- 111.51 Gambling prohibited
- 111.52 Exotic dancing prohibited
  
- 111.99 Penalty

### **GENERAL PROVISIONS**

#### **§ 111.01 TITLE.**

This chapter shall be known and may be cited as the "Special Amusement Ordinance of the Town of Hermon, Maine".  
(Ord. passed - -)

#### **§ 111.02 PURPOSE AND AUTHORITY.**

The purpose of this chapter is to control the issuance of special amusement permits for music, dancing or entertainment in facilities licensed by the state to sell liquor within the municipality. Statutory authority for enactment of this chapter is 28-A M.R.S.A. § 1054.  
(Ord. passed - -)

#### **§ 111.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DANCER.** A person, male or female, other than a patron, under the licensee's control and dancing on the licensee's premises to entertain patrons.

**ENTERTAINMENT.** 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.

**EXOTIC DANCING.** The appearance of a person or persons, under the licensee's direct control, other than a patron, and on the licensee's premises, in 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 dancer appears on a licensee's premises in a manner or attire as to expose to view any portion of the female breast referred to as the areola, nipple or simulation thereof.

**EXPOSE TO VIEW.** Without limitation, clear, see-through, transparent and all other clothing which is otherwise non-opaque.

**LICENSEE.** The holder of a license issued under the alcoholic beverages statutes of the state by the State Liquor Commission, or to whom a bottle club license has been issued by the town, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent, or employee of any licensee or acting on behalf of any licensee or left in charge of or in control of the licensee's premises.

**PREMISES.** All parts of the contiguous real estate occupied by the licensee over which the licensee has direct or indirect control or interest, which the licensee uses in the operation of the licensed business and which have been approved by the State Liquor Commission and/or the town as a proper place for the exercise of the license privilege.

(Ord. passed - -)

**§ 111.04 DANCING PERMITTED.**

(A) Entertainment which consists of dancing, or an exhibition by a dancer or dancers, is permitted on a licensed premises holding a special amusement permit, subject to the following requirements.

(B) No dancer shall dance closer than ten feet to any patron.

(C) No dancer shall dance in the premises, except on a raised platform intended for that purpose which platform is raised at least two feet from the floor.

(D) There shall be no fondling, mingling or caressing on the premises between any patron and any dancer with the intent to sexually arouse, excite or stimulate a patron's sexual desire.

(E) No patron shall directly pay or give any gratuity to any dancer and no dancer shall solicit any pay or gratuity from any patron.

(F) The licensee shall provide on the premises a separate dressing room and toilet facilities for use by dancers only.

(G) Dancers on the premises who remove any outer garments shall not toss or throw those outer garments at or in the direction of patrons.

(H) The licensee shall post a licensed security guard or an individual authorized to act as a law enforcement officer (whether full-time or part-time and whether on-duty or off-duty), at the licensee's expense, at each entrance and exit to the premises during each performance by dancers on the premises and for one hour after each performance.

**Hermon - Business Regulations**

(I) No one under 21 years of age shall be permitted on the premises or the portion of the premises where a performance by dancers is conducted during any performance.

(J) (1) Any premises upon which entertainment, including a dancer or dancers, is proposed to be conducted shall be located at least 500 feet from any church; school; park; other facility holding a special amusement permit under this chapter and which provides "dancers", as defined in this chapter; or any area for which residential uses are a permitted use under Ch. 154 of this code of ordinances.

(2) In each of the above instances, the distance shall be measured in a straight line from the nearest point of egress from one premises to the nearest point of egress of the adjacent premises.

(K) An applicant for a special amusement permit for entertainment, including a dancer or dancers, must demonstrate that at the time of permit application and during the duration of the permit, the applicant will have available, during the hours that the entertainment is provided, one parking space for each three (persons) the premises is capable of accommodating plus two parking spaces for each three employees, including the dancer or dancers who are on the premises to provide the entertainment.

(L) (1) There shall be no graphic evidence of the dancers on the exterior of any premises licensed under this chapter, either live or simulated, requiring the licensee, if necessary, to block out windows or install curtains to prevent viewing of the dancers from the outside.

(2) Nothing in this division (L) shall prohibit the licensee from advertising by words the nature of the entertainment.

(Ord. passed - -) Penalty, see § 111.99

**§ 111.05 EFFECTIVE DATE.**

The effective date of this chapter shall be 6-29-1996.

(Ord. passed - -)

***PERMIT REQUIREMENTS*****§ 111.20 PERMIT REQUIRED.**

No licensee for the sale of liquor to be consumed on the premises, nor a bottle club licensee, shall permit on the 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 town a special amusement permit.

(Ord. passed - -)

**§ 111.21 PERMIT APPLICATION.**

Applications for all special amusement permits shall be made in writing to the Town Council and shall state the name of the applicant, the applicant's business address, the nature of the business, the location to be used, whether the applicant has ever had a license to conduct business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically. The applicant shall indicate 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 required by the Town Council prior to the permit being issued, including, but not limited to, a copy of the applicant's current liquor license.

(Ord. passed - -)

**§ 111.22 CODE COMPLIANCE A PREREQUISITE FOR ISSUANCE.**

No permit shall be issued for any thing, act or premises, if the premises and the building to be used do not fully comply with all ordinances, codes and regulations of the town.

(Ord. passed - -)

**§ 111.23 PERMIT FEE.**

(A) The application fee for a special amusement permit shall be paid when application is made for the permit.

(B) If an application is withdrawn or denied, there shall be no refund, except due to extraordinary circumstances on approval of the Town Manager.

(C) All applications for a special amusement permit shall be accompanied by a non-refundable fee of \$150.

(D) The cost of legal advertising of a hearing on the application shall be included in the application fee.

(E) If an application for a special amusement permit is approved or approved with conditions, the permit shall be issued to the licensee upon payment of a \$25 permit fee.

(Ord. passed - -)

**§ 111.24 ADMISSION FEE AUTHORIZED.**

A licensee who has been issued a special amusement permit may charge admission to the designated areas approved in the permit.

(Ord. passed - -)

**§ 111.25 ADDITIONAL INFORMATION REQUIRED.**

The application for a special amusement permit shall contain a detailed description of the type(s) of amusement or entertainment proposed, the day or days the amusement or entertainment will be presented and the hours during which the proposed activities will take place. All special amusement permits approved shall be limited as to the type of amusements, the day or days of operation and the hours of operation set forth in the application, unless the Town Council direct otherwise.

(Ord. passed - -)

**§ 111.26 HEARING REQUIRED PRIOR TO GRANTING OF PERMIT.**

The Town Council shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing at which the testimony of the applicant and that of any interested members of the public shall be taken.

(Ord. passed - -)

**§ 111.27 ACTION AFTER HEARING.**

(A) (1) The Town Council shall approve, approve with conditions or deny an application for a special amusement permit within 15 days after receipt of a complete application.

(2) The Town Council shall approve a request for a special amusement permit unless it finds that issuance of the permit would be detrimental to the public health, safety or welfare, or would violate municipal ordinances, rules, regulations, articles or bylaws.

(B) If the Town Council denies a licensee a permit, it shall provide the licensee with the reasons for the denial in writing.

(C) The licensee may not reapply for a special amusement permit within 30 days after denial of an application for a permit.

(Ord. passed - -)

**§ 111.28 RESTRICTIONS; IMPOSITION OF REASONABLE RESTRICTIONS.**

In approving a special amusement permit, the Town Council may impose reasonable restrictions or conditions to protect property owners in the vicinity of the licensed premises from any nuisance aspects of the proposed amusement, including the location and size of the premises, the facilities that may be required for the permitted activities on those premises, the hours during which the permitted activities will be allowed and the lighting levels required, which may be lowered when entertainment is provided.

(Ord. passed - -)

**§ 111.29 EXPIRATION OF LICENSE; TERM.**

A special amusement permit shall be valid only for the license year of the applicant's existing license, unless revoked or suspended prior to the expiration of the existing license.

(Ord. passed - -)

**§ 111.30 SUSPENSION OR REVOCATION OF LICENSE.**

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit on the grounds that the music, dancing or entertainment so permitted is detrimental to the public health, safety or welfare, or violates any applicable state law or town ordinance. If the Town Council revokes or suspends a licensee's special amusement permit, the licensee shall be notified in writing within 15 days of the reasons for the action.

(Ord. passed - -)

**§ 111.31 APPEAL PROCEDURE.**

(A) Any licensee who has applied for a special amusement permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the Town Board of Appeals. The appeal must be taken within 30 days of the denial, suspension or revocation. The burden of proof is upon the appellant.

(B) The Board of Appeals may grant or reinstate the permit only if it finds:

(1) The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate municipal ordinances or regulations; or

(2) The denial, revocation or suspension was arbitrary or capricious.

(Ord. passed - -)

**§ 111.32 INSPECTIONS AUTHORIZED.**

(A) The licensee shall permit access to the licensed premises at any reasonable time by all law enforcement officers, agents of the State Liquor Commission, municipal inspectors of the Code Enforcement Office and other authorized employees of the municipality for the purpose of enforcing the standards and terms of the ordinances, articles, bylaws or rules and regulations of the municipality and any conditions set by the Town Council as a part of its approval of a special amusement permit.

(B) Whenever any analysis of any commodity or material is reasonably necessary to secure performance with any ordinance provision or detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official or municipal employee requesting the same sufficient samples of the material or commodity for the analysis or investigation upon request.

(Ord. passed - -)

### § 111.33 REVOCATION FOR NON-COOPERATION AUTHORIZED.

In addition to any other penalty which may be provided, the municipal officers may revoke the liquor license and/or special amusement permit of any licensee in the municipality who refuses to permit any officer, official or employee of the municipality, while in the performance of official duties, to make the inspection or take an adequate sample of the commodity, or who interferes with the officer, official or employee while in the performance their duty in making the inspection; provided, however, that, no special amusement permit shall be revoked for the cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the municipality, stating that the inspection or sample is desired at the time it is sought to make the inspection or take the sample.

(Ord. passed - -)

### *OFFENSIVE CONDUCT*

### § 111.45 TUMULTUOUS CONDUCT.

The licensee shall not knowingly allow, on any licensed premises, any person or persons to disturb, tend to disturb, aid in disturbing the peace of others of ordinary sensibilities or to be disorderly by violent, tumultuous, offensive or obstreperous conduct. The licensee shall not knowingly permit or allow gathering a crowd, audience or patrons to witness any entertainment, amusement or show in a manner so as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety or welfare.

(Ord. passed - -) Penalty, see § 111.99

### § 111.46 RIOTS PROHIBITED.

The licensee shall not allow, on any licensed premises, any public entertainment or amusement or show of any kind which tends to or is calculated to cause any riot, disturbance or civil disobedience.

(Ord. passed - -) Penalty, see § 111.99



**§ 111.47 UNNECESSARY NOISE.**

The licensee shall not allow, on any licensed premises, the making, creation or maintenance of excessive, unnecessary, unnatural or unusually loud noise which disturbs, annoys, injures or prejudices or endangers the comfort, repose, health, peace or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others, and which noises affect and are a detriment to public health, comfort, convenience, safety, welfare or the prosperity of the residents of the municipality.

(Ord. passed - -) Penalty, see § 111.99

**§ 111.48 NUISANCES PROHIBITED.**

The licensee shall not allow any licensed premises to be operated or conducted so as to amount to a nuisance in fact under any ordinance or sections of any ordinances, articles, bylaws or rules and regulations of the municipality, or under any statutes of the state.

(Ord. passed - -) Penalty, see § 111.99

**§ 111.49 PROSTITUTION PROHIBITED.**

The licensee shall not allow, on any licensed premises, or aid in, offer, agree to or allow in or near to the licensed premises, any prostitution, prostitutes or any public indecency in derogation of the statutes of the state. The licensee shall not knowingly receive, or agree to receive, any person on the licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain on the licensed premises for any purpose, or to aid, abet, allow, permit or participate in the commission of any such acts.

(Ord. passed - -) Penalty, see § 111.99

**§ 111.50 SOLICITATION OF DRINKS PROHIBITED.**

The licensee shall not allow, on any licensed premises, any person to frequent or loiter with the purpose of soliciting any other person, customer or patron to purchase any drink of any kind.

(Ord. passed - -) Penalty, see § 111.99

**§ 111.51 GAMBLING PROHIBITED.**

The licensee shall not allow, on any licensed premises, the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the state or ordinances, articles, bylaws or rules and regulations of the municipality.

(Ord. passed - -) Penalty, see § 111.99

**§ 111.52 EXOTIC DANCING PROHIBITED.**

(A) No special amusement permit shall be issued to conduct the activity of exotic dancing on the applicant's premises.

(B) It shall be unlawful and a violation of this chapter for a licensee holding a special amusement permit hereunder to permit exotic dancing on the premises.

(Ord. passed - -) Penalty, see § 111.99

**§ 111.99 PENALTY.**

(A) Anyone found liable of violating any provision of this chapter shall be subject to a penalty of not less than \$500, nor more than \$2,500, in addition to equitable relief as is necessary to ensure compliance with the terms of this chapter. Each day a violation continues shall be deemed a new offense.

(B) All fines shall inure to the town.

(C) Recovery of all attorneys' fees and expenses of prosecution is specifically authorized and shall be requested of the court in all actions brought for violations of this chapter.

(Ord. passed - -)