

SPECIAL AMUSEMENT ORDINANCE
FOR THE
MUNICIPAL TOWN OF OXFORD

Adopted
June 26, 1978

Amended
August 18, 2011

AN ORDINANCE AMENDING AND CODIFYING THE SPECIAL
AMUSEMENT ORDINANCE OF THE TOWN OF OXFORD TO GOVERN THE
PERMITTING AND OPERATION OF LIQUOR LICENSEES THAT PROVIDE
ACTIVITIES OR ENTERTAINMENT FOR WHICH A SPECIAL AMUSEMENT
PERMIT IS REQUIRED.

WHEREAS, 28-A Maine Revised Statutes Annotated § 1054 directs municipalities to administer and regulate special amusement permits so that licensees for sale of liquor to be consumed on the premises may lawfully provide live music, dancing, and entertainment on the premises;

WHEREAS, the Town desires to update its procedures and regulations concerning special amusement permits;

WHEREAS, certain businesses require special supervision from the public safety agencies of the Town in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the Town; and

WHEREAS, the Town finds that such establishments include those that provide entertainment and are licensed for sale of liquor to be consumed on the premises; and

WHEREAS, the Town finds that nudity, partial nudity, and/or sexual conduct coupled with liquor in public places begets undesirable behavior, and that sexual, lewd, lascivious, and salacious conduct among patrons and employees within liquor-licensed establishments results in violation of law and dangers to the health, safety and welfare of the public; it is the intent of this ordinance to prohibit such conduct in said establishments;

WHEREAS, there is convincing documented evidence that paid physical contact between scantily-clad performers and patrons of alcoholic beverage establishments leads to unlawful sexual activities, including masturbation, lewdness, prostitution, and other negative effects which the Town seeks to prevent; and

WHEREAS, the Town recognizes its constitutional duty to interpret, construe, and amend its laws and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, with the passage of any ordinance, the Town accepts as binding the applicability of general principles of criminal and civil law and procedure and the rights and obligations under the United States and Maine Constitutions, Maine Revised Statutes Annotated, and the Maine Rules of Civil and Criminal Procedure; and

WHEREAS, it is not the intent nor the effect of this ordinance to suppress any speech activities protected by the U.S. Constitution or the Maine Constitution, but to enact an ordinance to further the substantial governmental interests of the Town, including the controlling of secondary effects associated with paid physical contact in establishments that sell liquor to be consumed on the premises.

NOW, THEREFORE, be it hereby ordained by the Town of Oxford, Maine at Town Meeting that the following ordinance be enacted:

SPECIAL
AMUSEMENT ORDINANCE

ARTICLE A. SPECIAL AMUSEMENT PERMITS

- Sec. A-1. Purpose; Findings and Rationale.
- Sec. A-2. Definitions.
- Sec. A-3. Permit Required.
- Sec. A-4. Issuance of Permit.
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- Sec. A-10. Hearing; Permit Suspension, Revocation; Appeal.
- Sec. A-11. Hours of Permitted Activities.
- Sec. A-12. Admission.
- Sec. A-13. Loitering, Exterior Lighting and Monitoring, and Interior Lighting Requirements.
- Sec. A-14. Penalties and Enforcement; Nuisance.
- Sec. A-15. Applicability of Article to Pending Applications.
- Sec. A-16. Prohibited Conduct.
- Sec. A-17. Scierter Required to Prove Violation or Permittee Liability.
- Sec. A-18. Failure of Town to Meet Deadline Not to Risk Applicant/Permittee Rights.
- Sec. A-19. Severability.
- Sec. A-20. Conflicting Code Provisions Repealed.
- Sec. A-21. Effective Date.

Sec. A-1. Purpose; findings and rationale.

The purpose of this Article is to control the issuance of special amusement permits for providing activities or entertainment in facilities licensed by the State of Maine for sale of liquor to be consumed on the premises, as required by 28-A M.R.S.A. § 1054. It is the further purpose of this Article to regulate facilities that are licensed for the sale of liquor to be consumed on the premises in order to promote the health, safety, and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the potential deleterious secondary effects of such establishments. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials or performances, including sexually oriented materials or performances. Similarly, it is neither the purpose nor effect of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the purpose nor effect of this Article to condone or legitimize the distribution or presentation of obscene material or performances. Based on evidence of adverse secondary effects associated with certain conduct in alcoholic beverage establishments, which effects have been presented in hearings and in reports made available to the Town, and on findings, interpretations, and narrowing constructions incorporated in

numerous cases, including, but not limited to *California v. LaRue*, 409 U.S.109 (1972); *New York State Liquor Authority v. Bellanca*, 452 U.S. 714,718 (1981); *City of Bangor v. Diva's, Inc.*, 830 A.2d 898 (Me. 2003); *5634 East Hillsborough Ave., Inc. v. Hillsborough County*, 2008 WL 4276370 (11th Cir. 2008); *Peek-A-Boo Lounge, Inc. v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Flanigan's Enters. Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Hang-On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Artistic Entertainment, Inc. v. City of WarnerRobins*, 223 F.3d 1306 (11th Cir. 2000); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *BZAPs, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Sammy's of Mobile, Ltd v. City of Mobile*, 140 FJD 993 (11th Cir. 1998); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *Board of County Commissioners v. Dexter house*, 348 so. 2d 916 (Ct. App. Fla. 1977); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); and other cases; and on reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Jacksonville, Florida; Dallas, Texas 1997,2004; Phoenix, Arizona-1995-98; and also on findings of physical abuse from the papers entitled "Strip clubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; Expert Report of Richard McCleary, Ph.D., Dec. 18, 2004; Affidavit of J.R. Long; and "Sexually Oriented Businesses: An Insider's View," by David Shennan, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; the Town of Oxford finds that ~;

a. Nudity, partial nudity, and/or sexual conduct coupled with liquor in public places begets negative secondary effects, including sexual, lewd, lascivious, and salacious conduct among patrons and employees resulting in violation of laws and in dangers to the health, safety and welfare of the public;

b. Paid physical contact between scantily-clad employees of alcoholic beverage establishments, including "private" dances, "lap" dances, and "couch" dances, as they are commonly called, are associated with and can lead to illicit sexual activities, including masturbation, lewdness, and prostitution, as well as other negative effects, including sexual assault.

c. The Town finds that the foregoing conduct, even when said employees are not technically nude or semi-nude as defined in other portions of Town ordinances, is substantially similar to and presents similar concerns as conduct by nude and semi-nude employees in sexually oriented businesses.

d. Each of the negative effects targeted by this Article constitutes a harm which the Town has a substantial government interest in preventing and/or abating in the future. This substantial government interest in preventing such negative effects, which is the Town's rationale for this Article, exists independent of any comparative analysis between the regulated establishments and other, non-regulated establishments. The Town finds that the cases and secondary effects documentation relied on in this Article are reasonably believed to be relevant to the Town's interest in preventing illicit sexual behavior and other negative secondary effects.

The Town hereby adopts and incorporates herein its stated findings and legislative record related to adverse secondary effects, including the judicial opinions and reports related to such secondary effects.

Sec. A-2. Definitions.

For purposes of this Article, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

Bikini-clad means a state of dress in which opaque clothing covers (i) the human male or female genitals, pubic area, and buttocks, and (ii) the female breasts below the top of the areola, but no additional area contiguous to those portions of the body described in (i) and (ii). ***Employee*** means any person who performs a service on the premises of a facility licensed to sell liquor on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Influential Interest means any of the following: (1) the actual power to operate the establishment or control the operation, management or policies of the establishment or legal entity which operates the establishment, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the establishment.

Permittee means a person in whose name a special amusement permit has been issued, as well as the individual or individuals listed as an applicant on the application for a special amusement permit.

Nudity means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque, non-flesh-colored covering, or the showing of the female breast with less than a fully opaque, non-flesh-colored covering of any part of the nipple and areola.

Premises means the real property upon which the licensee for sale of liquor to be consumed on the premises operates, and all appurtenances thereto and buildings thereon, including, but not limited to, the business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a special amusement permit.

Regularly means the consistent and repeated doing of an act on an ongoing basis.

Semi-Nude or Semi-Nudity means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Specified Anatomical Areas means and includes:

(a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Criminal Activity means any of the following specified crimes for which less than five years has elapsed since the date of conviction or the date of release from confinement NOT the conviction, whichever is the later date: (a) sex crimes as defined in 17-A M.R.S.A. §§ 253 through 261 and §§ 282 through 284; (b) prostitution and public indecency crimes as defined in 17-A M.R.S.A. §§ 852 through 855; (c) assault, domestic violence assault, aggravated assault, or elevated aggravated assault as defined in 17-A M.R.S.A. §§ 207, 207-A, 208, or 208-B; (d) obscenity crimes

as defined in 17 M.R.S.A. §§ 2911 through 2913; (e) drug crimes as defined in 17-A M.R.S.A. §§ 1103 through 1118; (f) any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or (g) any offense in another jurisdiction that, had the predicate act(s) been committed in Maine, would have constituted any of the foregoing offenses.

Specified Sexual Activity means any of the following: (a) intercourse, oral copulation, masturbation or sodomy; or (b) excretory functions as a part of or in connection with any of the activities described in (a) above.

Sec. A-3. Permit required.

(a) *Permit Required.* It shall be unlawful for a licensee for sale of liquor to be consumed on the premises to provide activities or entertainment listed in 28-A M.R.S.A. § 1054(1) without a valid special amusement permit from the Town.

(b) *Application.* An applicant for a special amusement permit shall file in person at the office of the Town Manager a completed application made on a form provided by the Town Manager. The application shall be signed as required by subsection; *herein* and shall be notarized. An application shall be considered complete when it contains the information and/or items required in this subsection (b), accompanied by the appropriate permit application fee:

(i) The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.

(ii) Current business address or another mailing address for the applicant.

(iii) Written proof of age, in the form of a driver's license, a picture identification document containing the applicant's date of birth issued by a governmental agency, or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.

(iv) The business name, location, legal description, mailing address and phone number.

(v) The name and business address of the statutory agent or other agent authorized to receive service of process.

(vi) A copy of the applicant's current license for sale of liquor to be consumed on the premises.

(vii) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this Article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

(viii) A statement of whether any establishment in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest): (i) been declared by a court of law to be a nuisance; or (ii) been subject to a court order of closure.

(ix) An application for a special amusement permit shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business and a statement of floor area visible or accessible to patrons for any reason, excluding restrooms. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. The Town Manager may waive the requirements of this subsection (9) for a subsequent application if the applicant adopts a legal description and a sketch or diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared. The information provided pursuant to this subsection (b) shall be supplemented in writing by certified mail,

return receipt requested, to the Town Manager within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(c) *Signature.* If a person who seeks a special amusement permit under this section is an individual, he shall sign the application as applicant. If a person who seeks a special amusement permit is other than an individual, each person with an influential interest in the establishment or in a legal entity that controls the establishment shall sign the application for a permit as applicant. Each applicant must be qualified under this Article and each applicant shall be considered a permittee if a special amusement permit is granted.

(d) The information provided by an applicant in connection with an application for a special amusement permit under this Article shall be maintained by the office of the Town Manager on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by governing law or court order. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to such disclosure. Sec. 6-4. Issuance of permit.

(e) Upon the filing of a completed application for a special amusement permit, the Town Manager shall immediately schedule a public hearing on the application before the Oxford Board of Selectmen to occur within fourteen (14) days. The Town Manager shall provide written notice of the public hearing to the applicant and to the Board of Selectmen within five (5) days of the filing of a completed application.

(i) At the public hearing on the special amusement permit application, the Board of Selectmen shall take testimony of the applicant and any interested members of the public. The hearing shall focus upon the criteria for issuance of a permit as set forth in subpart (2), below.

(ii) Within fifteen (15) days of the filing of a completed special amusement permit application, the Board of Selectmen shall issue to the applicant written notice of its decision to grant or deny the licensee a permit. If the Board denies the permit, the written notice shall set forth the Board's reasons for the denial. The Board of Selectmen shall grant a special amusement permit unless it finds that the issuance of the permit would be detrimental to public health, safety or welfare, as demonstrated by the following criteria:

(1) An applicant is less than eighteen (18) years of age.

(2) An applicant has failed to provide information required by this Article for issuance of a permit or has falsely answered a question or request for information on the application form.

(3) The applicant does not possess a valid license for sale of liquor to be consumed on the premises.

(4) The establishment is in a location where sale of liquor to be consumed on the premises, or the activity for which the special amusement permit is sought, is prohibited by the Oxford Municipal Code.

(5) Any establishment in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest): 1. been declared by a court of law to be a nuisance; or 2. been subject to an order of closure.

(6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Article. (v) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the permit issued to the permittee(s), the expiration date, and the address of the business. The special amusement permit shall be posted in a conspicuous place at or near the entrance to the business so that it may be read at any time that the business is occupied by patrons or is open to the public.

Sec. A-5. Fees.

The application fee for a special amusement permit shall be fifty dollars (\$50).

Sec. A-6. Inspection.

Special amusement permit holders and their employees shall permit the Town Manager and Town Chief Law Enforcement Officer and/or their agents to inspect, from time to time on an occasional basis, the portions of the establishment where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Article, during those times when the establishment is occupied by patrons or is open to the public. This section shall be narrowly construed by the Town to authorize reasonable inspections of the licensed premises pursuant to this Article, but not to authorize a harassing or excessive pattern of inspections.

Sec. A-7. Expiration and renewal of permit.

Each special amusement permit shall remain valid for the license year of the existing license for sale of liquor to be consumed on the premises. Such permit may be renewed for a subsequent license year only by making application and payment of a fee as provided in this Article.

Sec. A-8. Suspension.

The Town Manager shall issue written notice of intent to recommend that the Board of Selectmen suspend a special amusement permit for a period not to exceed thirty (30) days if the permittee has knowingly or recklessly violated this Article or has knowingly or recklessly allowed an employee or any other person to violate this Article.

Sec. A-9. Revocation.

(a) The Town Manager shall issue a written notice of intent to recommend that the Board of Selectmen revoke a special amusement permit if the permittee knowingly or recklessly violates this Article or has knowingly or recklessly allowed an employee or any other person to violate this Article and a suspension of the permittee's permit has become effective within the previous twelve-month (12-mo.) period.

(b) The Town Manager shall issue a written notice of intent to recommend that the Board of Selectmen revoke a special amusement permit if:

- (i) The permittee has knowingly given false information in the application for the special amusement permit;
- (ii) The permittee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises of the establishment;
- (iii) The permittee has knowingly or recklessly engaged in or allowed prostitution on the premises of the establishment;
- (iv) The permittee knowingly or recklessly provided activities or entertainment listed in 28-A M.R.S.A. § 1054(1) during a period of time when the special amusement permit was finally suspended or revoked;
- (v) The permittee has knowingly or recklessly engaged in or allowed any specified sexual activity or specified criminal activity to occur in or on the premises of the establishment; or
- (vi) The permittee has knowingly or recklessly allowed a person under the age of eighteen (18) years to consume alcohol or appear in a state of semi-nudity or nudity on the premises of the establishment.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the permit, provided that, if any conviction which serves as a basis of a permit revocation is

overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the notice and hearing procedure described in Section 6-10 of this Article, the Town revokes a permit, the revocation shall continue for one (1) year and the licensee shall not be issued a special amusement permit for one (1) year from the date revocation becomes effective.

Sec. A-10. Hearing; permit suspension, revocation; appeal.

(a) When the Town Manager issues a written notice of intent to recommend that the Board of Selectmen suspend or revoke a special amusement permit, the Town Manager shall immediately send such notice, which shall include the specific grounds under this Article for such action, to the permittee (respondent) by personal delivery or certified mail. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which the Board of Selectmen shall conduct a public hearing on the Town Manager's written notice of intent to recommend that the Board of Selectmen suspend or revoke the permit. At the public hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Town Manager's witnesses. The Town Manager shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Board of Selectmen shall issue a written decision, including specific reasons for the decision pursuant to this Article, to the respondent within five (5) days after the public hearing. The decision, if adverse to the respondent, shall not become effective until the thirtieth (30th) day after it is rendered. If, within said thirty (30) days, the respondent files an appeal with the Oxford Board of Appeals, the decision shall be stayed pending the resolution of the appeal by the Oxford Board of Appeals.

(b) Any licensee for sale of liquor to be consumed on the premises 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 Oxford Board of Appeals within thirty (30) days of the denial, suspension or revocation. Upon notice to the Town Administrative Assistant that an appeal has been filed, the Town Manager shall provide the written decision and the administrative record on the denial, suspension or revocation to the Board of Appeals within ten (10) days. The Board of Appeals shall consider the written decision, the administrative record, and the appeal at the first monthly meeting after receiving the administrative record, or within thirty (30) days of the receipt of the administrative record, whichever is sooner. Within five (5) days after the meeting, the Board of Appeals shall issue to the applicant written notice of its decision on the appeal. The Board of Appeals shall grant or reinstate the special amusement permit if it finds that:

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

(ii) The denial, revocation or suspension was arbitrary and capricious. If the Board of Appeals upholds the decision to deny, suspend, or revoke the permit, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the thirtieth (30th) day after it is rendered. If the Board of Appeals' decision finds that no grounds exist for denial, suspension, or revocation of the permit, the Board of Appeals shall, contemporaneously with the issuance of its decision, direct the Board of Selectmen to immediately issue the permit to the applicant.

(c) If any court action challenging a permit decision is initiated, the Town shall prepare and transmit to the court a transcript of the hearing within thirty (30) days after receiving written notice of the filing of the court action. The Town shall consent to expedited briefing and/or disposition of the

action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any licensee for sale of liquor to be consumed on the premises that holds a valid special amusement permit on the date on which the completed application is filed with the Town Manager: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the Town's enforcement of any denial, suspension, or revocation of a special amusement permit, the Administrative Assistant shall immediately issue the respondent a Provisional Permit. The Provisional Permit shall allow the respondent to continue to provide activities and entertainment listed in 28-A M.R.S.A. § 1054(1) and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the Town's enforcement.

Sec. A-11. Hours of permitted activities.

No special amusement permittee shall provide permitted activities or entertainment between 12:00 midnight and 6:00 a.m. on any day.

Sec. A-12. Admission.

A licensee who has been issued a special amusement permit may charge admission.

Sec. A-13. loitering, exterior lighting and monitoring, and interior lighting requirements.

(a) It shall be the duty of the special amusement permittee to:

- (i) ensure that at least two conspicuous signs stating that no loitering is permitted on the premises are posted on the premises;
- (ii) designate One or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every ninety (90) minutes or inspecting the premises by use of video cameras and monitors; and
- (iii) Provide lighting to the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Said lighting shall be of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be the duty of the special amusement permittee to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. When entertainment is provided, the illumination maybe lowered to not less than one (1.0) foot candle as measured at the floor level

(c) It shall be unlawful for a person having a duty under this section to knowingly or recklessly fail to fulfill that duty.

Sec. A-14. Penalties and enforcement; nuisance.

(a) A person who violates any of the provisions of this Article shall be punished by a civil penalty of not less than one hundred dollars (\$100.00) and not more than two thousand five hundred dollars (\$2,500.00) for each violation, plus attorneys' fees and costs, to be recovered on complaint, to the use of the Town of Oxford. Each day a violation is committed, or permitted to continue, shall constitute a separate violation and shall be fined as such.

(b) The Town's municipal officers are hereby authorized to institute civil proceedings necessary for the enforcement of this Article to enjoin, prosecute, restrain, or correct violations hereof. Such proceedings shall be brought in the name of the Town, provided, however, that nothing in this section

and no action taken hereunder, shall be held to exclude such criminal, civil, or administrative proceedings as may be authorized by other provisions of this Article, or any of the laws in force in the Town or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

(c) In addition to any other penalty provided in ordinance or by state statute, the commission of acts prohibited by this Article shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violation of this Article.

Sec. A-15. Applicability of article to pending applications.

Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, or in § 1-20 of the Oxford Municipal Code, this Article applies to any applications pending or approved on the date of its passage, regardless of whether such applications would constitute a "pending proceeding" under 1 M.R.S.A. § 302. Nothing in this Article shall be interpreted to mean it is other than a police power regulation, effective in relation to its regulated activities once enacted.

Sec. A-16. Prohibited conduct.

(a) No patron, employee, or any other person shall knowingly or intentionally, in an establishment with a special amusement permit, appear in a state of nudity or semi-nudity or engage in a specified sexual activity.

(b) No bikini-clad employee of an establishment with a special amusement permit shall knowingly or intentionally touch or make physical contact with the clothed or unclothed buttocks, breast(s), lap, groin area, or pubic area of a patron on the premises of the establishment.

(c) No patron of an establishment with a special amusement permit shall knowingly or intentionally touch or make physical contact with the clothed or unclothed buttocks, breast(s), lap, groin area, or public area of a bikini-clad employee of an establishment with a special amusement permit on the premises of the establishment.

(d) No special amusement permittee shall knowingly violate the regulations in this section or knowingly allow an employee or any other person to violate the regulations in this section.

(e) A sign in a form to be prescribed by the Town Manager, and summarizing the provisions of subsections (a), (b), (c), and (d), shall be posted near the entrance of the establishment with a special amusement permit in such a manner as to be clearly visible to patrons upon entry. No person shall cover, obstruct, or obscure said sign.

(f) *Exception.* This section does not apply to persons operating or performing in theaters, concerts halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

Sec. A17. Scienter required to prove violation or permittee liability.

This Article does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Article. Notwithstanding anything to the contrary, for the purposes of this Article, an act by an employee shall be imputed to the special amusement permittee for purposes of finding a violation of this Article, or for purposes of permit denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Sec. A-18. Failure of Town to meet deadline not to risk applicant/permittee rights.

In the event that a Town official is required to act or to do a thing pursuant to this Article within a prescribed time, and fails to act or to do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or permittee. If the act required of the Town official under this Article, and not completed the time prescribed, includes approval of condition(s) necessary for approval by the Town of an application for a special amusement permit, the permit shall be deemed granted and the permittee allowed to provide activities or entertainment listed in 28-A M.R.S.A. § 1054(1) the day after the deadline for the Town's action has passed.

Sec. A-19. Severability.

This Article and each section and provision of said Article hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Article, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this Article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Article.

Sec. A-20. Conflicting code provisions repealed.

Any provision(s) in the Municipal Code of Ordinances, Town of Oxford, Maine specifically in conflict with any provision in this Article is hereby deemed inoperative and repealed. The Special Amusement Ordinance of the Town of Oxford of June 26, 1978 is hereby repealed.

Sec. A-21. Effective date.

This Article shall take effect and be in force from the time of its adoption by the voters of the Town of Oxford at Town Meeting.

This certifies to the municipal clerk of Oxford that the within ordinance is a true copy of an ordinance entitled Special Amusement Ordinance to be acted upon by the voters at a town meeting to be held on September 1, 2011.

Dated: August 18, 2011
Municipal Officers of Oxford

