

**TITLE IX
BUSINESS ORDINANCE**

Chapter 3 Amusement Ordinance

301 Title Purpose and Definition

301.1 Title

This subchapter shall be known and may be cited as the "1989 Amusement Ordinance."

301.2 Findings and Purpose

Facilities offering entertainment tend to attract large numbers of people. Congregations of large numbers of people at such facilities, particularly at facilities licensed to sell liquor, can create problems involving noise, crowding, sanitation, traffic control, law enforcement and other issues relating to the public's health, safety, and welfare and the right of citizens of and visitors to the Town to the quiet enjoyment of their lives and property. This Ordinance is required and intended to provide for the regulation of such facilities in all areas affecting the public's health, safety, and welfare which are not otherwise adequately provided for in other ordinances.

301.3 Authority

This Ordinance is enacted pursuant to the powers granted to the Town by 30-A M.R.S.A. 3001 and 28-A M.R.S.A. 1054. **(8/20/91 STM)**

301.4 Definitions

As used in this Ordinance:

301.4.1 Bottle Club: Bottle Club means bottle clubs as defined in Title 28-A M.R.S.A. Section 2.

301.4.2 Municipal Officers: Municipal Officers means the Town of Ogunquit Board of Selectmen.

301.4.3 Commercial Facility: Commercial Facility means any place of for-profit business offering or providing or permitting entertainment to its patrons and includes bottle clubs.

301.4.4 Entertainment: Entertainment shall include dancing by or for patrons, any music, video games, devices, machines and any other amusement, performance, exhibition, diversion or other activity with an entertainment value, whether provided or used by patrons, independent contractors, employees or proprietors.

Entertainment shall not include televisions or radios nor shall it include "background music" meaning music not involving live performers and not used for dancing and which music is only incidental to the primary activity offered.

301.4.5 Licensee: Licensee shall include the person to whom a license of any kind hereunder is issued, that person's agents, employees and servants.

301.4.6 Patron: Patron means any patron or customer of a commercial facility licensed or required to be licensed hereunder and any member of a bottle club.

301.4.7 Person: Person means any individual, partnership, corporation or other legal entity and their agents, employees and servants.

301.4.8 Video Games: Video games means those electrical or mechanical devices that the public may operate as a game, entertainment, or amusement, whether or not registering a score, whether or not there is a fee for use and includes pinball machines, and other devices known as such or similar in function.

302 **Licensing**

No person owning or operating a commercial facility shall permit or offer any entertainment in such facility unless the owner or operator thereof has first obtained an Amusement License for such facility from the Municipal Officers.

302.1 Special Amusement License: Special Amusement License is required for all outdoor entertainment events and for any commercial facilities which offer one (1) time entertainment events and which do not have a regular Amusement License. Each event shall require a separate license. The Municipal Officers or their designated agent shall issue each Special Amusement License.

302.1.1

Applications for Special Amusement License:

Applications for a Special Amusement License shall be made on forms prescribed by the Municipal Officers and filed with the Town Clerk. Application shall be made at least fifteen days prior to the scheduled event. The application shall include the name and address of the sponsor of the event; the name and address of the facility at which the event will be held; the number of guests expected to attend; the type of entertainment to be provided; the starting time of the event; and the duration of the event.
STM 11/04/14

302.1.2

Issuance of Special Amusement License: Upon receipt of a completed Special Amusement License application, the Municipal Officers or their designated agent shall issue a Special Amusement License. A Special Amusement License shall be valid only for the date and time specified therein. The Municipal Officers or their designated agent shall not issue any Special Amusement License more than thirty (30) days in advance of the event.

The Municipal Officers or their designated agent may issue any number of Special Amusement Licenses. The Municipal Officers and their designated agent shall, however, have the right to refuse to issue more than three (3) Special Amusement Licenses to any single facility and may instead require a regular Amusement License. Recipients of a Special Amusement License shall comply with all other applicable provisions of this and other municipal ordinances; nothing in the Special Amusement License shall be construed to exempt the Licensee from complying with those ordinances.

303

Restrictions and Conditions

303.1

License Required

No commercial facility offering entertainment shall operate unless the owner or operator thereof holds a valid Amusement License for such facility issued by the Municipal Officers.

303.2

Noise

No licensee shall violate the provisions of any ordinance regulating noise. No licensee shall cause or permit his employees, agents, servants or performers providing entertainment to violate the

provisions of any such ordinance, while they are on the licensed premises or upon the real estate of which the premises are a part. No licensee shall cause or permit his patrons or customers to violate the provisions of any such ordinance while they are in the licensed premises. No licensee shall cause or permit his patrons or customers to violate the provisions of any such ordinance while they are upon the real estate of which the premises are a part, to the extent that he is able to prevent or interrupt such violation by the use of sound screening materials or by the use of supervisors or by other appropriate means.

303.3 Hours

No licensee shall offer entertainment except during the following hours:

303.3.1 Licensees not permitting or offering alcoholic beverages for consumption on the premises - 8:00 a.m. to 1:00 a.m., except to 2:00 a.m. on "New Years".

303.3.2 Licensees permitting or offering alcoholic beverages for consumption on the premises - 12:00 p.m. to 1:00 a.m., except to 2:00 a.m. on "New Years".

303.4 Number of Patrons

No licensee shall cause or permit the number of patrons at the licensed premises, at any time, to exceed the capacity or occupant load as determined by the Ogunquit Fire Chief pursuant to the National Fire Prevention Association Life/Safety Code, which capacity shall be set forth on the license itself. The occupant load for licensed premises wherein alcoholic beverages are served, including bottle clubs, shall be the occupant load permitted by the Code for dining.

303.5 Term of License

An Amusement License shall expire on May 31 of the year following its issuance.

303.6 Supervisors of Video Games

Operators of commercial facilities and/or Amusement Centers as defined in the Ogunquit Zoning Ordinance shall provide one (1) supervisor for between four (4) and ten (10) devices and two (2) supervisors for between eleven (11) and twenty (20) devices with a

maximum of twenty (20). The operator shall provide an exclusive floor area of sixty (60) square feet for each device. Operators of Amusement Centers shall not sell or vend or permit the sale, vending or consumption of food or drink on the licensed premises. A supervisor shall be an employee whose only duties shall be to provide direct supervision in accordance with the provisions of this Section.

303.7 Compliance with Other Municipal Ordinances or- Regulations and State Law

No license shall be issued if the licensed premises are in violation of any other municipal ordinance or regulation or state law regulations.

303.8 Additional Conditions

In granting any Amusement License, the Municipal Officers shall impose such further reasonable restrictions and conditions as are deemed appropriate in any particular case to best safeguard the public's health, safety, and welfare and the right of the citizens to quiet enjoyment of their life and property including but not limited to requiring bonds; requiring licensees to pay for the costs of noise level monitoring; and to require licensees to provide for and/or pay for an appropriate number of Town policemen or special employees to be present inside or outside the licensee's premises at designated times to ensure compliance with state law and Town ordinances and regulations.

304 Application and Costs

304.1 Application

Applications for Amusement Licenses shall be on forms prescribed by the Municipal Officers and filed with the Town Clerk. Applications shall state the name of the applicant; all aliases; the applicant's residence address; the name of the business to be conducted; the business address; the precise location of the business; the nature of the business; the precise nature and form of the entertainment; whether the applicant has ever had a license to conduct that business either denied or revoked and, if so, the circumstances of such denial or revocation; whether the applicant, including all partners, directors, corporate officers and stockholders of a closely held corporation, has ever been convicted of a felony and, if so, the circumstances of such conviction; and the occupant load as established by the Ogunquit Fire Chief. If the

applicant is other than an individual, the applicant shall describe its legal structure and, in the case of a partnership, shall state, for each partner, all of the information required for individuals. If the applicant is a corporation, the applicant shall state the name, all aliases, and the residential and business addresses of all directors and officers. All closely held corporations must also include a list of all the stockholders in the corporation. All applications shall be accompanied by two (2) scale drawings at a scale of one inch (1") to ten feet (10') depicting the floors of the building in which the entertainment is to be located, all entrances and exits and all areas open to patrons, indicating in each area the use made by patrons and indicating the floors and areas for which the applicant seeks a license. Applicants for entertainment by video games shall present scale floor plans depicting the location and floor area of these devices and the location of supervisors. The applicant shall also list the machines by function and serial number. Applicants for entertainment, which includes patron dancing, shall present scale floor plans depicting the location and size of the dance floor.

304.1.1

Completed Application

Upon filing the application with the Town Clerk, together with the appropriate costs, the Clerk shall forward a Notice of Inspection to the Code Enforcement Officer/Fire Chief. The application shall be considered complete when the Town Clerk receives all information required above, all costs have been paid and the Municipal Officers have received written reports from the Code Enforcement Officer, Police Chief and Fire Chief stating that the premises are in compliance with all applicable codes and ordinances of the Town of Ogunquit. The applicant shall also provide any additional information as may be determined to be necessary by the Municipal Officers in processing and considering the application. All applications shall be signed by the principal proprietor of the business and by the property owner if the premises are not owned by the proprietor.

304.2

Costs

The applicant shall pay for all costs associated with the public hearing and advertisement thereof, which costs shall be determined by the Board of Selectmen. **(ATM 4/5/03)**

305 **Public Hearing, Decision and Reapplication**

305.1 Public Hearing

The Municipal Officers shall, prior to granting a license and after giving notice to the public and the applicant, hold a public hearing within fifteen (15) days of receipt of a completed application, at which the testimony of the applicant and that of any interested members of the public shall be taken. The Municipal Officers shall render a decision within fifteen (15) days of the closing of the hearing.

305.2 Decision

The applicant shall be notified, in writing, of the Municipal Officers' decision should the application be denied, no later than fifteen (15) days from the date of the decision. A denial shall contain the reasons for disapproving an application. The Municipal Officers shall deny a license if they find that issuance of the license shall be detrimental to the public health, safety, or welfare, or that the licensing or operation of the premises would or would be likely to violate a state law or Town ordinance or regulation or that the premises to be licensed are in violation of a state law or Town ordinance or regulation.

305.3 Reapplication

The applicant may not reapply for a license within thirty (30) days after the application has been denied.

306 **Inspections**

By applying for or accepting a license hereunder, the applicant and licensee thereby authorize any Town official to inspect the premises licensed or to be licensed for entertainment.

Inspection shall be for the purpose of determining the compliance with state laws and all Town ordinances and regulations. Inspection may occur at any reasonable time.

It shall be a violation of this Ordinance if a licensee refuses or interferes with an inspection.

307 **License Suspension or Revocation**

After notice to interested parties and a public hearing, the Municipal Officers may suspend or revoke any Amusement License issued by authority of this ordinance. Grounds for such action shall include prior license suspension or revocation, misleading or falsification of information on applications or violations of state law or this or any other Town ordinance or regulation, so that the public health, safety, and welfare has been adversely affected by entertainment offered or permitted by a licensee. In revoking any permit the Municipal Officers may prohibit a licensee or its operators or its principals from reapplying for a new license for such term as they deem appropriate and is reasonable under the circumstances.

308 **Appeal**

Any applicant who has been denied a license or any licensee whose license has been suspended or revoked, may, within thirty (30) days of that denial, suspension, or revocation, appeal that decision. Appeals from the decision of the Code Enforcement Officer shall be to the Municipal Officers and appeals from the decision of the Municipal Officers shall be to the Zoning Board of Appeals in accordance with the provisions of 28A M.R.S.A. 1054 (8) and 30-A M.R.S.A. 2691 (4). **(8/20/91 STM)**

309 **Other Regulations**

The Municipal Officers are authorized, after public notice and hearing, to establish regulations governing the issuance of Amusement Licenses, classes of licenses, the entertainment permitted under each class and other limitations on these activities required to protect the public's health, safety and welfare. These regulations may specifically determine the location and size of licensed premises, the facilities that may be required for the permitted activities on these premises, the maximum number of people who may occupy those premises at one time, and the hours during which the activities are permitted.

The regulations shall be in addition to and no less stringent than this Ordinance.

310 **Enforcement**

The Town's regular and special police officers and Code Enforcement Officer are authorized to enforce the provisions of this Ordinance and regulations there under. Violators of this Ordinance shall be subject to civil penalties. Violators of the noise provisions of this Ordinance may also be subject to criminal penalties under Title II, Chapter 4.

311 **Penalties**

Whoever violates any of the provisions of this Ordinance shall be punished by a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each such violation. Each day of violation and each occurrence shall constitute a separate and distinct offense. Civil penalties shall inure to the benefit of the Town. Prosecutions for violation of this Ordinance shall not prevent prosecutions for violations of other ordinances.

312 **Severability**

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

313 **Effective Date**

This Ordinance shall become effective May 31, 1989.

314 **Effect on Other Ordinances**

This Ordinance shall repeal and replace the provisions of "Chapter 3A Amusement" and "Subchapter 3B 1982 Special Amusement Ordinance".

315 **Applicability to Existing Licenses**

The provisions of the Sections of this Ordinance shall apply to all persons currently licensed under Title IX, Subchapter 3B, 1982 Special Amusement Ordinance.