ARTICLE I TITLE, PURPOSE & DEFINITIONS

SECTION 101 TITLE

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

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 Sub-Section 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 of a license 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 GENERAL

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 at least 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 his 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 $35.00.

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 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 liquor license.

SECTION 202 CONDUCT CONSTITUTING OFFENSES BY LICENSEES

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

202.2 Riots. The licensee shall not allow on any licensed premise any public entertainments or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

202.3 Unnecessary noise. The licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, or unnecessary, or unnatural, or unusually loud noises 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.

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

202.5 Prostitution and Public Indecency. The licensee shall not allow on any licensed premises or aid in or offer or agree to or allow in or near such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or, to persons of ordinary sensibilities, any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or public indecency, or to knowingly permit any person to remain on such licensed premises for any such purpose, or to aid, abet, allow, permit, or participate in the commission of any such acts.

202.6 Solicitation of Drinks. 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.

202.7 Gambling. 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 of Maine or ordinances, articles, bylaws or rules and regulations of the municipality; nor shall any licensee have or keep for gambling purposes on or about such licensed premises any dice, cards, bowls, quoits or other implements used in gambling, or allow any person resorting thereto to use or exercise for gambling purposes any of said games or any other unlawful game or sport therein.

202.8 Obscenity. 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 other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or

4. Provide service to patrons in such a manner as to expose to public view:

   a. The licensee’s or any of his agents’ or employees’ genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
b. 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

c. Any portion of the female breast at or below the areola thereof; or

5. Knowingly promotes the commission of any of the above-listed acts of this Ordinance section.

6. For the purposes of this Section and any other Section of this Ordinance, unless specified otherwise, the following terms are defined as follows:

a. “obscene” means that 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 Ordinance above, and the matter 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.

b. “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 statue or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment, or machines.

c. “disseminate” means to transfer possession of, with or without consideration.

d. “knowingly” means being aware of the character and the content of the material.

e. “performance” means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience.

f. “available to the public” means that the matter or performance or act may be purchased or attended on a subscription basis, or 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.

g. “service to patrons” 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 entertaining.

h. “expose to public view” means that view, glimpse, sight or reconnoiter by the use of one’s ordinary visual means, which is revealed, open to plain view, exposed, discovered, distinguished, recognized, observed, demonstrated, exhibited, perceived, discerned, displayed, or capable of any or all of such, from any vantage point where the public or any patron of any licensee is allowed, authorized, invited, or normally and commonly frequents.

**SECTION 203 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, or are reasonably necessary to secure compliance with any ordinance provision 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 to any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, 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 with such officer, official, or employee while 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 204 SUSPENSION OR 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 classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on 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 PROCEDURES

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 NRSA Sub—Section 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) for the first offense, and up to Twenty-five Dollars ($25) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Fairfield.

**SECTION 302 SEPARABILITY**

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

**SECTION 303 EFFECTIVE DATE**

This ordinance shall become effective when enacted.

Public Hearing: May 20, 1981

Effective Date: May 20, 1981

Town Council