

Meeting Notice

Bar Harbor Town Council Workshop

Date: Tuesday, February 3, 2026

Time: Immediately following the Special Town Council Meeting at 6:30 PM

Location: Council Chambers, Town Hall, 93 Cottage Street, Bar Harbor

The public can monitor by watching Spectrum channel 7 or 1303 or by live streaming on the town's website, www.barharbormaine.gov.

Purpose

To discuss and deliberate on policies, ordinance amendments, and operational updates impacting the Town of Bar Harbor. The workshop will gather councilor input to shape proposals, build consensus, and ensure agenda items are well-prepared for future formal consideration, public engagement, and final decisions. The goal of workshop discussions is to consider working drafts of documents to get a sense of the will of the Council.

Agenda

1. Proposed Ordinance Revision: Chapter 14, Amusements

Discuss drafts of re-worked ordinance (provided both in clean copy and markup of existing ordinance), proposed new Council policy on disposition of permits, and Council review checklist.

2. FY27 Budget Review Timeline

- Set date for Council budget workshop.
- Consider moving Council budget public hearing date due to a scheduling conflict.

Anyone with a disability wishing to attend this meeting and who may have questions about how to do so should contact the Town Clerk's office at clerk@barharbormaine.gov or 288-4098.

Chapter 14, Amusements

§ 14-1. Purpose and intent

The purpose of this article is to regulate special amusement permits pursuant to 28-A MRS § 1054. These regulations ensure that music, dancing, and entertainment within establishments licensed for the sale of liquor or malt liquor occur in a manner consistent with public health, safety, and welfare, maintain compatibility with surrounding uses, and preserve the character of the Town of Bar Harbor.

§ 14-2. Definitions.

The following definitions apply to this article and do not affect the meanings of words or terms in any other article of this Code. As used in this article, the following terms shall have the meanings indicated:

COMPLAINT — A verbal or written notice received by the Police Department from a member of the public or from a police officer that, in the opinion of the complainant, the licensee violated this article.

DECIBEL — The practical unit of measurement for sound-pressure level. The number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals), abbreviated dB. The abbreviation dB(A) shall refer to readings taken on the A-weighted scale.

ENTERTAINMENT — 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 include activities with an entertainment value including trivia, games, karaoke or other music, pool tables, arcade games or video games.

LICENSEE — The holder of a license issued pursuant to the provisions of 28-A M.R.S.A., Liquors, as amended, or any person, individual, partnership, firm, association, corporation or other legal entity acting as agent or employee of any holder of said license.

LICENSEE'S MANAGER — Person in charge of the licensed premises, with contact information listed on the application, available to be on-site within 30 minutes.

§ 14-3. Permit required

No holder of a State of Maine on-premise license for the sale of liquor or malt liquor shall permit on said licensed premises music, dancing or entertainment of any sort unless the licensee shall have first obtained a special amusement permit from the Town Council.

§ 14-4. Classes of permit.

The Council may issue permits in one or more of the following classes:

Class A – Indoor non-amplified entertainment.

Class B – Indoor amplified entertainment or dancing.

Class C – Outdoor non-amplified entertainment.

Class D – Outdoor amplified entertainment

§ 14-5. Application and review cycle

A. Filing periods. All applications for new or renewed Special Amusement Permits shall be filed with the Office of the Town Clerk. The Town will conduct two regular filing periods each year. These cycles align with the seasonal nature of operations and provide two opportunities each year for new or existing establishments to obtain or amend a permit. This schedule ensures predictable review windows, reduces administrative burden, and provides equity among permit holders seeking review within the same timeframe.

1. Spring cycle. Applications due March 1 for Council review in April.
2. Fall cycle. Applications due September 1 for Council review in October.

B. Departmental review. Upon receipt of a complete application, the Town Clerk shall forward for review and comment to:

1. Police Department to determine compliance of proposed amusement with laws and ordinances.
2. Fire Department to verify compliance with life-safety requirements.
3. Code Enforcement to verify that no outstanding code violations exist at the licensed premises and that the proposed activity complies with applicable codes. Staff will also note the zoning district of the licensed premises and whether any abutting properties within 300 feet are within a different district.
4. Finance Department to confirm all Town accounts for the licensed premises are current.
5. Others as deemed necessary by the Town Manager.

All departmental comments shall be completed on a form provided for by the Town Clerk, and returned to the Town Clerk for inclusion in the application record to be submitted to the Town Council.

C. Public Hearing. The Town Council shall hold a public hearing on each new or modified permit during the regular licensing cycle. Notice of the hearing shall include:

1. Notice published in a newspaper of general circulation in the Town of Bar Harbor at least seven days prior to the hearing.
2. Written notice to owners of land within 300 feet of the applicant's premises sent by United States Mail, first class postage prepaid, mailed at least seven days prior to the hearing.

§ 14-6. Standards, issuance or denial of permit

A. Review and findings. The Town Council shall review each complete application at a duly noticed public hearing and shall make written findings on the standards listed below. Each standard shall be considered separately and voted upon by majority of the Council present. Failure to obtain a majority on any standard constitutes a finding that the criteria are not satisfied and is grounds for denial. To approve a Special Amusement Permit, the Council must find that the proposed activity:

1. Is compatible with the zoning district and surrounding uses.
2. Will not create unreasonable noise, vibration, light, or other disturbance to nearby properties.

3. Provides adequate noise-control or sound-mitigation measures.
 4. Hours of operation consistent with neighborhood character.
 5. Complies with applicable municipal ordinances and state law.
 6. Presents no outstanding fire, building, or life-safety violations.
 7. Does not injure the public health, safety, or welfare.
- B. Conditions. Where a standard cannot be satisfied by the proposed activity as detailed in the application, the Council may approve a permit with conditions, limitations, or operational requirements. These conditions may include, but are not limited to, limits on hours of operation, restrictions on outdoor entertainment, requirements for sound control, or other measures the Council deems appropriate to maintain neighborhood compatibility.
- C. Record of decision. The Council's votes for each standard shall be included in the official minutes. These recorded findings serve as the basis for approval, conditional approval, or denial.
- D. Issuance or denial of permit. Within fifteen (15) days of the hearing, written notice of approval, conditional approval, or denial shall be provided. Approved permits must specify which activities are prohibited on the licensed premises and may include a list of which activities are authorized. Denials shall state the reasons for the decision.
- E. Reapplication. After denial of an application for a permit, an applicant may not reapply until the following review cycle. There must be unanimous consent by all councilors present at the meeting in order to hear the order for reconsideration.
- F. Duration. A Special Amusement Permit is valid for the license year of the existing State of Maine liquor license, unless suspended or revoked under §14-9, the business is transferred or use of the property changes. Special Amusement Permits are not transferable.

§ 14-7. Continuation of previously approved permits

Pursuant to municipal home rule authority under 28-A M.R.S.A. Chapter 111, the Town Council authorizes the administrative continuation of any valid Special Amusement Permit issued by the Council.

- A. Request for continuation. A permit holder seeking continuation of an existing Special Amusement Permit shall submit a request to the Town Clerk at least thirty (30) days prior to the expiration of the existing permit, along with the established continuation fee.
- B. Administrative review. The Police Chief, or designee, shall conduct an administrative review to confirm the following.
 1. No outstanding violations exist related to entertainment, noise, licensing, or public safety at the licensed premises.
 2. No pattern of substantiated complaints, or unresolved issues exist that is significant enough to create reasonable concern regarding continued neighborhood compatibility under the current permit conditions.
 3. The nature, scale, or location of the entertainment has not materially changed from the originally approved permit.

Where these conditions are satisfied, continuation is a ministerial act and shall be granted without further Council action or public hearings.

- C. Referral to Town Council. The Police Chief, or designee, may refer any continuation request to the Town Council for good cause, including confirmed complaints, operational changes, zoning concerns, or evidence of neighborhood impact requiring policy-level review. Upon referral, the Council shall review the continuation during the next available public hearing cycle.
- D. Denial of a continuation. Continuation may be denied upon a determination that violations have occurred, that substantiated complaints demonstrate a negative impact on surrounding properties, or that changes to the premises or operation warrant new Council review. If continuation is denied, the permit holder may apply for a new permit. Any new permit application shall follow the procedures for original issuance, including public hearing and Council consideration.

§ 14-8. Regulation of noise.

All permit holders shall comply with the “loud and unreasonable noise” standard in Chapter 139 (Noise) and the following supplemental requirements:

- A. Mitigation. Sources of noise shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness, intensity or volume.
- B. Hours.
 - (1) The performance of nonamplified music out of doors by licensees is prohibited between the hours of 10:00 p.m. and 9:00 a.m.
 - (2) The performance of amplified music out of doors by licensees is prohibited between the hours of 9:00 p.m. and 11:00 a.m.
- C. Noise control. The maximum permissible sound-pressure level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any activity regulated by this article shall not exceed 71 dB(A) at any time measured outside the licensed premises at the nearest property line or other approved location as determined by the Police Chief, or designee.

§ 14-9. Enforcement

- A. Administration. Enforcement of this article shall be administered by the Town Manager, or designee.
- B. Violations. If, upon investigating a complaint, a police officer concludes that there are reasonable grounds to believe a violation of this article has occurred or is occurring, the complaint is considered substantiated.
 - 1. First violation. The officer shall immediately give a verbal warning to the licensee’s manager named on the application. Within five calendar days of this warning, the Police Department shall provide written notice of a substantiated first violation to the licensee and Town Clerk’s office.

2. Second violation in a license year. The officer shall immediately give a verbal warning to the licensee's manager. Within five calendar days of this warning, the Police Department shall provide written notice of a substantiated second violation to the licensee and Town Clerk's office.

C. Suspension or revocation. Upon a third or subsequent violation in a license year, the Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke for cause any permit which has been issued under this article, pursuant to 28-A MRS § 1054.

§ 14-10. Appeals.

Any aggrieved party may appeal a denial, suspension, or revocation to the Bar Harbor Board of Appeals within thirty (30) days of written notice. The scope of review shall be limited to the record developed before the Town Council and to determining whether the Council's decision was affected by error of law, was unsupported by evidence and/or testimony, or constituted an abuse of discretion.

§ 14-11. Severability.

If any section or provision of this article is found invalid, the remainder shall remain in effect.

Special Amusement Permits

§ 14-1. ~~Title and purpose.~~ Purpose and intent

- A. ~~Title.~~ This article shall be known and may be cited as the "Special Amusement Permit Ordinance of the Town of Bar Harbor."
- B. ~~Purpose.~~ The purpose of this article is to control, as required by 28-A M.R.S.A. § 1054, the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor or malt liquor in the Town of Bar Harbor.

The purpose of this article is to regulate special amusement permits pursuant to 28-A MRS § 1054. These regulations ensure that music, dancing, and entertainment within establishments licensed for the sale of liquor or malt liquor occur in a manner consistent with public health, safety, and welfare, maintain compatibility with surrounding uses, and preserve the character of the Town of Bar Harbor.

§ 14-2. Definitions.

The following definitions apply to this article and do not affect the meanings of words or terms in any other article of this Code. As used in this article, the following terms shall have the meanings indicated:

~~AMPLIFIED ACOUSTIC INSTRUMENT~~ — Any musical instrument designed to be played without mechanical amplification but that can also be connected to an amplifier; these may include, but are not limited to, acoustic guitars, violins/fiddles, upright/acoustic bass, mandolins, banjos, etc. Instruments designed to be played only with mechanical amplification are excluded. ~~[Added 5-18-2021 by Ord. No. 2021-04]~~

COMPLAINT — A verbal or written notice received by the Police Department from a member of the public or from a police officer that, in the opinion of the complainant, the licensee violated this article.

DECIBEL — The practical unit of measurement for sound-pressure level. The number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals), abbreviated dB. The abbreviation dB(A) shall refer to readings taken on the A-weighted scale.

ENTERTAINMENT — 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 include activities with an entertainment value including trivia, games, karaoke or other music, pool tables, arcade games or video games.

~~LICENSED PREMISS~~ — The physical location described in the special amusement permit application.

LICENSEE — The holder of a license issued pursuant to the provisions of 28-A M.R.S.A., Liquors, as amended, or any person, individual, partnership, firm, association, corporation or other legal entity acting as agent or employee of any holder of said license.

~~LICENSEE'S MANAGER~~ — Person in charge of the licensed premises, ~~including, by way of example and without limitation, manager, partner, agent, employee or person otherwise~~

~~authorized to oversee the operation of the licensed premises in the absence of the licensee. with contact information listed on the application, available to be on-site within 30 minutes.~~

~~LOUD AND UNREASONABLE NOISE — Any sound, the intensity of which exceeds the standards set forth in § 14-6 or § 14-7 of this article.~~

~~MUSICIAN — One who performs music, whether instrumental or vocal.~~

~~OWNER — The person or persons having the right of legal title to or the beneficial interest in a building or parcel of land, as their interest is recorded in the tax records of the Town of Bar Harbor.~~

~~VIOLATION, FIRST — A first violation is deemed to have occurred if a police officer concludes that there are reasonable grounds to believe that a violation of this article has occurred and within the immediately preceding 12 months a licensee has received no summonses and no written warnings for violation of this article. Special amusement warnings and summonses issued prior to January 1, 2003, shall not be considered as within said twelve-month period.~~

~~VIOLATION, SECOND — A second violation is deemed to have occurred if a police officer concludes that there are reasonable grounds to believe that another violation of this article has occurred, less than 12 months have elapsed since the first violation, and the licensee has received written warning of a first violation; provided, however, that if a second violation occurs within five calendar days after the first violation, the verbal warning previously issued to the licensee or licensee's manager shall be sufficient.~~

~~VIOLATION, SUBSEQUENT — A subsequent violation is deemed to have occurred if a police officer concludes that there are reasonable grounds to believe that another violation of this article has occurred, less than 12 months have elapsed since the first violation, and the licensee has received written warning of a third violation; provided, however, that if a subsequent violation occurs within five calendar days after the third violation, the verbal warning previously issued to the licensee or licensee's manager shall be sufficient.~~

~~VIOLATION, THIRD — A third violation is deemed to have occurred if a police officer concludes that there are reasonable grounds to believe that another violation of this article has occurred, less than 12 months have elapsed since the first violation, and the licensee has received written warning of a second violation; provided, however, that if a third violation occurs within five calendar days after the second violation, the verbal warning previously issued to the licensee or licensee's manager shall be sufficient.~~

§ 14-3. ~~Permit required; application procedure.~~

- ~~A. No licensee holder of a State of Maine on-premise license for the sale of liquor or malt liquor to be consumed on his/her licensed premises, situated in the Town of Bar Harbor, shall permit on said licensed premises any music, except a radio or other mechanical device, or any dancing or entertainment of any sort unless the licensee shall have first obtained from the Town Council of Bar Harbor a special amusement permit approved by at least a majority of the members of said Town Council. from the Town Council.~~
- ~~B. Applications for all special amusement permits shall be made in writing to the Town Clerk on forms provided by the Clerk for that purpose and shall state the name of the applicant; his/her residence address; the name of the business to be conducted; his/her business address; the nature of his/her 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; the type of music and entertainment intended by the applicant to be permitted on the licensed premises; whether dancing is permitted, and any additional information as may be needed by the Town Council in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.~~

~~C.—The Town Council may revoke or refuse to issue a special amusement permit if the premises or building to be used for the purposes do not fully comply with all ordinances, articles, rules and regulations of the Town of Bar Harbor.~~

~~D.—The Town Council shall set the fee for the special amusement permit from time to time.~~

~~E.—Within 15 days of the Town Clerk's receipt of a complete application for a special amusement permit, the Town Council shall hold a public hearing, at which time the testimony of the applicant and any interested member of the public shall be taken. Prior to the hearing, reasonable notice of the same shall be given to all owners of land within 300 feet of the applicant's premises as provided below.~~

~~(1)—For purposes of the issuance of a new permit for an applicant for a particular location, reasonable notice to owners of land within 300 feet of the applicant's premises shall include written notice sent by United States Mail, first class postage prepaid, which notice shall be mailed at least five days prior to the hearing.~~

~~(2)—For purposes of renewing a permit for an applicant against whom no complaint, warning or summons has been lodged in the preceding year, reasonable notice to all persons may be achieved by giving notice of the hearing in a newspaper of general circulation in the Town of Bar Harbor at least three days prior to the hearing.~~

~~(3)—For purposes of renewing a permit for an applicant against whom one or more complaints, warnings or summonses (in any combination) have been lodged in the preceding year, reasonable notice may be achieved by sending a written notice by United States Mail, first class postage prepaid, which notice shall be mailed at least five days prior to the hearing.~~

~~F.—The Town Council, after hearing and upon such terms and conditions as it reasonably deems necessary to protect the public interest and to fulfill the purposes of this article, shall grant or renew a permit unless it finds 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.~~

~~G.—A permit shall be valid only for the license year of the applicant's existing liquor license.~~

§ 14-4. Classes of permit; ~~reapplication.~~

~~A.—Special amusement permits granted by the Town Council shall be limited to the following classes:~~

~~(1)—Without mechanical amplification:~~

- ~~(a) Class 1: single musician.~~
- ~~(b) Class 2: two musicians.~~
- ~~(c) Class 3: three or more musicians.~~
- ~~(2) With mechanical amplification:~~
 - ~~(a) Class 1a: single musician.~~
 - ~~(b) Class 2a: two musicians.~~
 - ~~(c) Class 3a: three or more musicians.~~
- ~~(3) With mechanical amplification and dancing:~~
 - ~~(a) Class 1ad: single musician.~~
 - ~~(b) Class 2ad: two musicians.~~
 - ~~(c) Class 3ad: three or more musicians.~~
 - ~~(d) With outdoor mechanical amplification: [Added 5-18-2021 by Ord. No. 2021-04¹]~~
- ~~(4) Class 1ao: single musician.~~
 - ~~(a) Class 2 ao: two musicians.~~
 - ~~(b) Class 3ao: three or more musicians.~~
- ~~(5) Other entertainment or amusement:~~
 - ~~(a) Class 4: any other type of entertainment, as provided by 28 A.M.R.S.A. § 1054(1)(C).~~

~~B. Any permit granted shall be for one of the above noted classes. A licensee shall not permit on the licensed premises any music, dancing or entertainment which exceeds that permitted by the class of his/her permit, during the period for which his/her permit is valid as otherwise determined by this article.~~

~~C. During the period for which a license is valid, the licensee may reapply for a new special amusement permit, if he/she elects to permit dancing, music or entertainment which exceeds that permitted by the current permit. Said reapplication shall be governed by all the provisions of this article with respect to applications for a special amusement permit in general, including the payment of the usual permit fee.~~

~~D. A violation of this section by a licensee shall be grounds to revoke or suspend his/her permit and/or to refuse to grant a permit upon subsequent application by the same licensee.~~

The Council may issue permits in one or more of the following classes:

Class A – Indoor non-amplified entertainment.

Class B – Indoor amplified entertainment or dancing.

Class C – Outdoor non-amplified entertainment.

Class D – Outdoor amplified entertainment

§ 14-5. Application and review cycle

- A. Filing periods. All applications for new or renewed Special Amusement Permits shall be filed with the Office of the Town Clerk. The Town will conduct two regular filing periods each year. These cycles align with the seasonal nature of operations and provide two opportunities each year for new or existing establishments to obtain or amend a permit. This schedule ensures predictable review windows, reduces administrative burden, and provides equity among permit holders seeking review within the same timeframe.
- a. Spring cycle. Applications due March 1 for Council review in April.
 - b. Fall cycle. Applications due September 1 for Council review in October.
- B. Departmental review. Upon receipt of a complete application, the Town Clerk shall forward for review and comment to:
- a. Police Department to determine compliance of proposed amusement with laws and ordinances.
 - b. Fire Department to verify compliance with life-safety requirements.
 - c. Code Enforcement to verify that no outstanding code violations exist at the licensed premises and that the proposed activity complies with applicable codes. Staff will also note the zoning district of the licensed premises and whether any abutting properties within 300 feet are within a different district.
 - d. Finance Department to confirm all Town accounts for the licensed premises are current.
 - e. Others as deemed necessary by the Town Manager.
- All departmental comments shall be completed on a form provided for by the Town Clerk, and returned to the Town Clerk for inclusion in the application record to be submitted to the Town Council.
- C. Public Hearing. The Town Council shall hold a public hearing on each new or modified permit during the regular licensing cycle. Notice of the hearing shall include:
- a. Notice published in a newspaper of general circulation in the Town of Bar Harbor at least seven days prior to the hearing.
 - b. Written notice to owners of land within 300 feet of the applicant's premises sent by United States Mail, first class postage prepaid, mailed at least seven days prior to the hearing.

§ 14-6. Standards for issuance, issuance or denial of permit

- A. Review and findings. The Town Council shall review each complete application at a duly noticed public hearing and shall make written findings on the standards listed below. Each standard shall be considered separately and voted upon by majority of the Council present. Failure to obtain a majority on any standard constitutes a finding that the criteria are not satisfied and is grounds for denial. To approve a Special Amusement Permit, the Council must find that the proposed activity:
1. Is compatible with the zoning district and surrounding uses.
 2. Will not create unreasonable noise, vibration, light, or other disturbance to nearby properties.
 3. Provides adequate noise-control or sound-mitigation measures.

4. Hours of operation consistent with neighborhood character.
 5. Complies with applicable municipal ordinances and state law.
 6. Presents no outstanding fire, building, or life-safety violations.
 7. Does not injure the public health, safety, or welfare.
- B. Conditions. Where a standard cannot be satisfied by the proposed activity as detailed in the application, the Council may approve a permit with conditions, limitations, or operational requirements. These conditions may include, but are not limited to, limits on hours of operation, restrictions on outdoor entertainment, requirements for sound control, or other measures the Council deems appropriate to maintain neighborhood compatibility.
- C. Record of decision. The Council's votes for each standard shall be included in the official minutes. These recorded findings serve as the basis for approval, conditional approval, or denial.
- D. Issuance or denial of permit. Within fifteen (15) days of the hearing, written notice of approval, conditional approval, or denial shall be provided. Approved permits must specify which activities are prohibited on the licensed premises and may include a list of which activities are authorized. Denials shall state the reasons for the decision.
- E. Reapplication. After denial of an application for a permit, an applicant may not reapply until the following review cycle. There must be unanimous consent by all councilors present at the meeting in order to hear the order for reconsideration.
- F. Duration. A Special Amusement Permit is valid for the license year of the existing State of Maine liquor license, unless suspended or revoked under §14-9, the business is transferred or use of the property changes. Special Amusement Permits are not transferable.

§ 14-5. Enforcement; violations and penalties.

- A. ~~Enforcement authority. The provisions of this article shall be enforced by the Bar Harbor Police Department.~~
- B. ~~Violations. Each violation of this article following a warning or summons issued by a police officer shall constitute a separate violation.~~
- C. ~~Delivery of notices. Any notice mailed or delivered to any licensee as provided in this article shall be effective as to the licensee identified in the notice notwithstanding such licensee's refusal to accept delivery of the notice and notwithstanding any failure of any other licensee to actually receive notice. Any notice required under this article to be sent to the applicant or licensee shall be mailed or hand delivered to the applicant's address as shown on the application form filed with the Town Clerk, unless the licensee or applicant has provided written notice to the Town Clerk of a change of address.~~
- D. ~~Warning for first violation. Should a police officer conclude that a first violation of this article has occurred or is occurring, the officer shall immediately give a verbal warning to the licensee or the licensee's manager on the premises. Within not more than five calendar days of this warning, the Police Department shall deliver in hand to the licensee, or send by first class mail, a written narrative report of the incident, a copy of this article and a written notice advising the licensee that the Police Department has substantiated a violation on the~~

licensed premises.

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- E. ~~Warning for second violation. Should a police officer conclude that a second violation of this article has occurred or is occurring, the officer shall immediately give a verbal warning to the licensee or the licensee's manager on the premises. Within not more than five calendar days of the second violation, the Police Department shall deliver in hand to the licensee, or send by first class mail, a written narrative report of the incident, a copy of this article and a written notice advising the licensee that the Police Department has substantiated a violation on the licensed premises.~~
- F. ~~Summons for subsequent violations. Should a police officer conclude that a third violation or subsequent violation of this article has occurred or is occurring, the officer shall immediately give verbal notice to the licensee or the licensee's manager on the premises. Within not more than five calendar days of this violation, the Police Department shall deliver in hand to the licensee, or send by first class mail, a written narrative report of the incident, a copy of this article and a written notice advising the licensee that the Police Department has substantiated a violation on the licensed premises and requesting the licensee to present himself or herself at the Police Department to accept service of a summons. The police officer shall write a summons for the licensee to appear in the Maine District Court to answer therefor. The Police Department shall also provide a copy of all pertinent documentation to the Town Clerk, who shall place the matter on the next available Town Council agenda for action under § 14-5F(2) below. Court action under Subsection F(1) below and Town Council action under Subsection F(2) below are separate, independent remedies which the Town may pursue concurrently, and neither is a prerequisite to the other. Failure of the licensee to present herself or himself to accept the summons shall not be cause for postponement of the Town Council hearing nor negate possible suspension or revocation of the license.~~
- (1) ~~Court action. A third violation or subsequent violation shall constitute a civil offense. The penalty for the conviction of said third violation shall be a fine of no less than \$100 and no more than \$1,000. The penalty for the conviction of a subsequent violation shall be no less than \$100 more than the penalty assessed for the previous conviction but no more than \$1,000. Any penalties assessed hereunder shall inure to the benefit of the Town of Bar Harbor. Any violation of this article shall be deemed a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction, irrespective of whether a summons has been issued or a civil penalty has been sought.~~
- (2) ~~Town Council action.~~
- (a) ~~Upon being informed of a third or subsequent violation, the Town Clerk shall provide written notice to the licensee, either in hand or by certified mail, return receipt requested, and to all owners of land within 300 feet of the licensee's premises, by first class mail, that, in not less than seven days after the date of the notice, the Town Council shall conduct a public hearing to consider whether the licensee committed a violation. Neither the failure of any landowner actually to receive notice nor the licensee's refusal to accept certified mail shall necessitate another hearing or invalidate any action taken by the Council at such hearing.~~

~~(b) Following a hearing the Council, by a preponderance of the evidence, shall make a determination of whether the licensee committed a violation of this article.~~

~~[1] If the Council finds the licensee committed a third violation, Council shall suspend the licensee's special amusement permit for a period of 30 days from the date of the hearing.~~

~~[2] If the Council finds that the licensee committed a subsequent violation, it shall revoke the licensee's permit for a minimum of 30 days, but not more than one year, at the discretion of the Council, and the Council may refuse to approve future licensee applications for a special amusement permit.~~

§ 14-7. Continuation of previously approved permits

Pursuant to municipal home rule authority under 28-A M.R.S.A. Chapter 111, the Town Council authorizes the administrative continuation of any valid Special Amusement Permit issued by the Council.

- A. Request for continuation. A permit holder seeking continuation of an existing Special Amusement Permit shall submit a request to the Town Clerk at least thirty (30) days prior to the expiration of the existing permit, along with the established continuation fee.
- B. Administrative review. The Police Chief, or designee, shall conduct an administrative review to confirm the following.
 1. No outstanding violations exist related to entertainment, noise, licensing, or public safety at the licensed premises.
 2. No pattern of substantiated complaints, or unresolved issues exist that is significant enough to create reasonable concern regarding continued neighborhood compatibility under the current permit conditions.
 3. The nature, scale, or location of the entertainment has not materially changed from the originally approved permit.

Where these conditions are satisfied, continuation is a ministerial act and shall be granted without further Council action or public hearings.

- C. Referral to Town Council. The Police Chief, or designee, may refer any continuation request to the Town Council for good cause, including confirmed complaints, operational changes, zoning concerns, or evidence of neighborhood impact requiring policy-level review. Upon referral, the Council shall review the continuation during the next available public hearing cycle.
- D. Denial of a continuation. Continuation may be denied upon a determination that violations have occurred, that substantiated complaints demonstrate a negative impact on surrounding properties, or that changes to the premises or operation warrant new Council review. If continuation is denied, the permit holder may apply for a new permit. Any new permit application shall follow the procedures for original issuance, including public hearing and Council consideration.

§ 14-6 8. Regulation of noise.

All permit holders shall comply with the “loud and unreasonable noise” standard in Chapter 139 (Noise) and the following supplemental requirements:

- A. Mitigation. Sources of noise shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness, intensity or volume.
- B. Hours.
 - (1) The performance of nonamplified music out of doors by licensees is prohibited between the hours of 10:00 p.m. and 9:00 a.m.
 - (2) The performance of amplified music out of doors by licensees is prohibited between the hours of 9:00 p.m. and 11:00 a.m.
- C. Noise control. The maximum permissible sound-pressure level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any activity regulated by this article shall not exceed 71 dB(A) at any time measured outside the licensed premises at the nearest property line or other approved location as determined by the Police Chief, or designee.

~~An applicant for a special amusement permit hereunder shall, as part of his/her application, demonstrate his/her ability to prevent the emanation of excessive noise from the premises sought to be licensed brought about by music, dancing or entertainment, except for a radio or other mechanical device excluded under 28 A.M.R.S.A. §1054 or amendments thereto. Amplified outdoor music shall be limited to "amplified acoustic instruments" as defined in this chapter and one vocal microphone per performer; all outdoor amplification must adhere to this chapter. The performance of nonamplified music out of doors by licensees is prohibited between the hours of 10:00 p.m. and 9:00 a.m. The performance of amplified music out of doors by licensees is prohibited between the hours of 9:00 p.m. and 11:00 a.m.~~

- ~~D. Sources of noise. Sources of noise contemplated by this section shall include musical instruments, sound modification or amplification devices used in connection with musical instruments and/or other similar devices which produce, reproduce or amplify sound created by musical instruments. Sources of noise shall further include any noise or sound produced directly or indirectly by the applicant's music, dancing or entertainment except for those mechanical devices specifically excluded under 28 A.M.R.S.A. § 1054 or amendments thereto.~~
- ~~E. Noise. Sources of noise shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness, intensity or volume.~~
- ~~F. Noise control. The maximum permissible sound pressure level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any activity regulated by this article shall not exceed 71 dB(A) at any time at the measuring locations specified in § 14-6D(3)(e) below.~~
- ~~G. Measurement procedures. For the purpose of determining noise levels as set forth in this article, the following procedures shall be used:
 - (1) All personnel conducting sound measurements shall be trained in the current~~

~~techniques and principles of sound measuring equipment and instrumentation.~~

- ~~(2) Instruments used to determine sound level measurements shall conform to the standards of ASI Type I or Type II meters.~~
- ~~(3) The general steps listed below shall be followed when preparing to take sound level measurements:
 - ~~(a) The instrument manufacturer's specific instructions for the preparation and use of the instrument shall be followed.~~
 - ~~(b) The sound level meter shall be calibrated before and after each set of measurements. The calibrator itself shall be recalibrated at least once every year.~~
 - ~~(c) When measurements are taken out of doors, a wind screen shall be placed over the microphone of the sound level meter as per the manufacturer's instructions. No sound level measurement shall be taken at wind speeds greater than 12 miles per hour; neither shall measurements be taken during periods of precipitation.~~
 - ~~(d) The sound level meter shall be placed as specified by the manufacturer's instructions and at least four feet above the ground. It shall be placed so as not to be interfered with by individuals conducting the measurements.~~
 - ~~(e) Measurements shall be taken at points outside the licensed premises which are no less than five feet and no more than 10 feet from the lot lines of the licensed premises.~~
 - ~~(f) No less than two readings taken by the sound level meter within a fifteen minute period shall constitute a reasonable basis for averaging a set of measurements. A simple arithmetic average may be taken, summing all the measurements and dividing the sum by the number of measurements taken. This is known as "L50 descriptor," representing the mean sound pressure level which is exceeded 50% of the time.~~~~

~~§ 14-7. Loud and unreasonable noise.~~

~~Regardless of whether or not the mean sound pressure level limit as set forth in § 14-6C is exceeded, the licensee or his/her authorized representative shall not permit the use of the premises to result in any continued, excessive or loud and unreasonable noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety of individuals or which results in disturbing the peace and tranquility of the neighborhood.~~

~~§ 14-8. Decision on permit application.~~

~~Any applicant requesting a special amusement permit from the Town Council shall be notified in writing of its decision no later than 15 days from the date his/her request was received by the Town Council. In the event that an applicant is denied a permit, the applicant shall be provided with the reasons for denial in writing. The applicant may not reapply for a permit within 30 days after an application for a permit has been denied, except with the consent of the Town Council.~~

§ 14-9. Enforcement

- A. Administration. Enforcement of this article shall be administered by the Town Manager,

or designee.

- B. Violations. If, upon investigating a complaint, a police officer concludes that there are reasonable grounds to believe a violation of this article has occurred or is occurring, the complaint is considered substantiated.
1. First violation. The officer shall immediately give a verbal warning to the licensee's manager named on the application. Within five calendar days of this warning, the Police Department shall provide written notice of a substantiated first violation to the licensee and Town Clerk's office.
 2. Second violation in a license year. The officer shall immediately give a verbal warning to the licensee's manager. Within five calendar days of this warning, the Police Department shall provide written notice of a substantiated second violation to the licensee and Town Clerk's office.
- C. Suspension or revocation. Upon a third or subsequent violation in a license year, the Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke for cause any permit which has been issued under this article, pursuant to 28-A MRS § 1054.

§ 14-9 10. Appeals.

~~Any applicant who has requested a permit and has been denied or licensee whose permit has been revoked or suspended may, within 30 days of denial, suspension or revocation, appeal the decision as provided by Title 28 A MRSA § 1054. Any aggrieved party may appeal a denial, suspension, or revocation to the Bar Harbor Board of Appeals within thirty (30) days of written notice. The scope of review shall be limited to the record developed before the Town Council and to determining whether the Council's decision was affected by error of law, was unsupported by evidence and/or testimony, or constituted an abuse of discretion.~~

§ 14-10. Admission charge.

~~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.~~

§ 14-11. Severability.

~~The invalidity of any provision of this ordinance shall not invalidate any other part. If any section or provision of this article is found invalid, the remainder shall remain in effect.~~

Disposition of Special Amusement Permits

(Adopted by vote of the Town Council on [Date])

1. Purpose and Policy Statement

This policy establishes the Council’s process and expectations for the receipt, review, and disposition of Special Amusement Permits issued under Chapter 14 of the Town Code and 28-A M.R.S.A. §1054.

The goal of this policy is to ensure consistent, fair, and efficient handling of applications, to balance business vitality with neighborhood livability, and to maintain clear procedural boundaries between the Town Council’s policy-making and quasi-judicial roles, and the Town Manager’s administrative responsibilities.

2. Scope

This policy applies to all applications, renewals, and provisional permits for special amusement, as defined by Chapter 14. It governs the order of consideration, hearing procedures, and decision protocols used by the Council in exercising its permitting authority.

3. Administrative Roles and Responsibilities

- **Town Clerk** – Serves as the point of intake for all applications, coordinates departmental reviews, and prepares materials for Council packets.
- **Town Manager, or Designee** – Oversees administration of the permitting process, issues provisional permits when authorized, and ensures compliance with this policy and the Town Code.
- **Department Heads (Police, Fire, Code Enforcement, Finance)** – Conduct compliance reviews and submit findings or recommendations to the Clerk.
- **Town Council** – Acts as the permitting authority, holding public hearings, evaluating applications against the adopted criteria, and voting to approve, conditionally approve, or deny each application.

4. Review Schedule

The Council will conduct two regular review cycles each year:

1. **Spring cycle:** Applications due by March 1 for hearing in April.
2. **Fall cycle:** Applications due by September 1 for hearing in October.

The Police Chief, or designee, is authorized to issue administrative continuations consistent with §14-7, provided the conditions for continuation are met.

5. Consent Calendar Procedure

To promote efficiency while maintaining transparency, the Council shall use a consent calendar process for disposition of amusement permits.

Public Comment. Before action on the consent calendar, the Chair shall open the floor for public comment on any application listed.

Removal of Items. Any Councilor may remove an item from the consent calendar for individual consideration, without a second and without debate.

Action. After public comment and any removals, the remaining items may be approved collectively by a single motion and vote.

Record. Approval by consent constitutes a finding that all standards of §14-6 have been satisfied.

6. Individual Consideration Procedure

- If any application is removed from the consent calendar, the Council shall deliberate using the Special Amusement Permit Review Checklist (Appendix A).
- The Chair shall lead the Council through each criterion, allowing questions, discussion, and a recorded vote on whether the individual standard is *met* or *not met*.
- A majority vote that all criteria are *met* constitutes approval of the permit.
- Failure to meet any criterion shall not immediately result in denial; instead, the Council shall proceed to a secondary review process under Section 7 before issuing a final decision.

6-A Secondary Review – Motion to Modify or Condition Application

After all criteria have been voted upon, if one or more standards are found *Not Met*, the Chair shall invite a motion to impose reasonable conditions to cure identified deficiencies.

If such a motion passes by majority, the Council shall re-vote on the affected criteria to determine whether they are satisfied *as conditioned*.

- If a conditioned re-vote passes, the permit shall be approved with conditions; or
- If the conditioned re-vote fails, or no motion to modify is offered, the application shall be denied.

6-B Approved Categories of Conditions:

The following categories may be applied individually, or in combination as appropriate, to the specific circumstances of the application:

- **Temporal Conditions:** Limits on hours, duration, or frequency of events.
- **Sound and Physical Controls:** Use of sound baffles, directional speakers, or limits on amplified sound.

- **Spatial and Structural Controls:** Designation of entertainment areas, enclosure requirements, or barrier installations.
- **Administrative and Reporting Requirements:** Posting of entertainment schedules, complaint-response procedures, or departmental monitoring.

7. Public Hearing Protocol

All hearings shall be conducted consistent with Chapter 14 and the following order:

- Staff Review Summary Report by the Town Clerk;
- Accept Applicant statement;
- Open Public Hearing
- Accept Public Comments;
- Close Public Hearing

The Chair is authorized to maintain order, limit repetitive comments, and close public comments when all speakers have been heard.

8. Record of Decision

For each application, the Town Clerk shall record:

1. The Council's votes on each review criterion;
2. Any conditions imposed; and
3. The final vote of issuance or denial.

The completed checklist and minutes together form the official record of decision.

9. Amendments and Review

This policy may be amended by vote of the Town Council and reviewed periodically to ensure consistency with applicable law and ordinance.

Appendix A – Special Amusement Permit Review Checklist (Summary)

Initial Review

Review Standard	Met	Not Met
1. Compatible with zoning district and surrounding uses	<input type="checkbox"/>	<input type="checkbox"/>
2. Will not create unreasonable noise, vibration, light, or disturbance	<input type="checkbox"/>	<input type="checkbox"/>
3. Provides adequate noise-control or mitigation measures (Ch. 139)	<input type="checkbox"/>	<input type="checkbox"/>
4. Hours of operation consistent with neighborhood character	<input type="checkbox"/>	<input type="checkbox"/>
5. Complies with applicable municipal ordinances and state law	<input type="checkbox"/>	<input type="checkbox"/>
6. Presents no outstanding fire, building, or life-safety violations	<input type="checkbox"/>	<input type="checkbox"/>
7. Does not injure the public health, safety, or welfare	<input type="checkbox"/>	<input type="checkbox"/>

If all standards are marked Met → Vote to approve Permit.

If one or more standards are marked Not Met → Proceed to Secondary Review.

Secondary Review – Motion to Amend with Conditions.

If any standard is found *Not Met*, the Council may consider motions to amend the application with specific conditions intended to cure deficiencies before denial.

A. Identify Area(s) of Amendment - Check all that apply and specify the modification.

Area of Amendment	Select	Describe Condition / Revision
Hours of operation	<input type="checkbox"/>	To: _____
Frequency or number of events	<input type="checkbox"/>	To: _____
Outdoor or amplified entertainment	<input type="checkbox"/>	Condition: _____
Sound control or baffle system	<input type="checkbox"/>	Requirement: _____
Entertainment area / layout	<input type="checkbox"/>	Adjustment: _____
Administrative / reporting measures	<input type="checkbox"/>	Requirement: _____
Other (specify)	<input type="checkbox"/>	_____

B. Secondary Vote

Motion to Approve as Amended:

“I move to approve the application as amended with the listed conditions.”

Motion Passed Motion Failed

If the motion passes:

Final Action → Permit Approved with Conditions

If the motion fails:

Motion to Deny:

“I move to deny the application due to insufficient conditions to cure identified deficiencies.”

Motion Passed (permit denied)

Town Clerk Attest: _____

Date: _____