

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on March 3rd, 2015, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, Chapter 78 – ZONING, Article I – IN GENERAL, Section 78-1 – DEFINITIONS; Chapter 78 – ZONING, Article VI – DISTRICTS, Division 8 – GENERAL BUSINESS DISTRICT 1 (GB-1), Section 78-803 – CONDITIONAL USES; Chapter 78 – ZONING, Article VI –DISTRICTS, Division 16 – HISTORIC OVERLAY DISTRICT (HO), Section 78-1135 – PROHIBITED USES; Chapter 78 – ZONING, Article VII – CONDITIONAL USES, Division 2 – CONDITIONS, Section 78-1277 – MEDICAL MARIJUANA; Chapter 18 – BUSINESSES, Article XI – RESERVED, Sections 18-601 – 18-606 – Reserved; Appendix A – SCHEDULE OF LICENSE, PERMIT AND APPLICATION FEES – LICENSE ORDINANCE CATEGORIES, of the Town of Old Orchard Beach Code of Ordinances is amended by adding the underscored language and deleting the strikethrough language:

Medical Marijuana Ordinances

Amendment to Chapter 78 – ZONING, Article I – IN GENERAL, Section 78-1 – DEFINITIONS

Section 78-1 shall be amended by adding the underscore language as follows:

Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana.”

Medical Marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

Medical Marijuana Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical Marijuana Land Uses: Any of 3 types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

Medical Marijuana Home Production (Land Use): Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

Medical Marijuana Production Facility (Land Use): A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the

medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence. This shall be considered a commercial use.

Medical Marijuana Registered Dispensary (Land Use): A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use.

Amendment to Chapter 78 – ZONING, Article VI – DISTRICTS, Division 8 – GENERAL BUSINESS DISTRICT 1 (GB-1), Section 78-803 – CONDITIONAL USES

Section 78-803 shall be amended by adding the underscore language as follows:

- (5) Medical Marijuana Production Facility
- (6) Medical Marijuana Registered Dispensary

Amendment to Chapter 78 – ZONING, Article VI – DISTRICTS, Division 16 – HISTORIC OVERLAY DISTRICT (HO), Section 78-1135 – PROHIBITED USES

Section 78-1135 shall be amended by adding the underscore language as follows:

- (8) Medical Marijuana Production Facility
- (9) Medical Marijuana Registered Dispensary

Amendment to Chapter 78 – ZONING, Article VII – CONDITIONAL USES, Division 2 – CONDITIONS, Section 78-1277 – MEDICAL MARIJUANA

Division 2, Section 78-1277 shall be amended by adding the underscore language as follows:

Sec. 78-1277 – Medical Marijuana

The purpose of this Section and related provisions of Article VII is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

(a) Approval Process: Any proposal to establish a new or alter an existing Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall require approval of the Planning Board as a Conditional Use. The Planning Board and applicant shall follow the Application and Review Process (Sec. 78-1238), Standards (Sec. 78-1240), Authority (Sec. 78-1266), and this Section (Sec. 78-1277) within Article VII. Notification of site walks and public hearings shall include all property owners within 1,000 linear feet, measured in a straight line from the property boundary of the proposed Dispensary or Facility. Notification or property owners shall be mailed at least 10 days before the scheduled site walk and public hearing. Applicants shall be responsible for mailing notifications to property owners to the addresses identified on a mailing list provided by the Town. In addition to other public notification

requirements, the Town shall notify the Old Orchard Beach Police Department and the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services prior to the public hearing on any application.

(b) State Authorization: Before submission of a Conditional Use Application, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.

(c) Exemptions: As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient’s residence or any medical marijuana caregiver’s primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting.

(d) Performance Standards: In addition to other requirements of this Section and related provisions of Article VII and other Chapters within the Town of Old Orchard Beach Code of Ordinances, the following shall apply to any application for a new or altered medical marijuana registered dispensary or a medical marijuana production facility:

(1) Medical Marijuana Registered Dispensary Limit. There shall be no more than one Medical Marijuana Registered Dispensary in the Town of Old Orchard Beach.

(2) Medical Marijuana Production Facility Limit. There shall be no more than four Medical Marijuana Caregivers allowed to operate within a single Medical Marijuana Production Facility.

(3) Proximity Limit. Only one Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted per lot. Additionally, no Medical Marijuana Production Facility shall be located on a lot that is within 250 feet of another lot on which a Medical Marijuana Production Facility or Medical Marijuana Registered Dispensary is located. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.

(4) Proximity Location to other Uses. No Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be closer than 250 linear feet, measured in a straight line from the Dispensary or Facility building entrance, to the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, Town park, Town playground or church.

(5) Security. Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Old Orchard Beach Police Department and the Police Department finds the security measures are consistent with State requirements.

(6) Outside Appearance No signs containing the word “marijuana,” or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility. Interior advertisements, displays of merchandise or signs depicting the activities of a Medical

Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall be screened to prevent public viewing from outside such facility.

(7) Odors. No use shall emit offensive, harmful, or noxious odors beyond the property line.

(8) Business License. As a condition of use, the operator of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall obtain and retain all required business licenses pursuant to Chapter 18 - Businesses. The land use approval shall be considered abandoned if no license- holder occupies the Facility for a period of 2 years of more.

Amendment to Chapter 18 – BUSINESSES, Article XI – RESERVED, Sections 18-601 – 18-606 – Reserved

Article XI, Sections 18-601 - 18-606 shall be amended by deleting the ~~strikethrough~~ language as follows:

ARTICLE XI. – RESERVED

~~Secs. 18-601 – 18-606. – Reserved.~~

Article XI, Section 18-601 – 18-603 shall be amended by adding the underscore language as follows:

ARTICLE XI. – MEDICAL MARIJUANA REGISTERED DISPENSARY or MEDICAL MARIJUANA PRODUCTION FACILITY

DIVISION 1 – GENERALLY

Sec. 18-601 – Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana.”

Medical Marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

Medical Marijuana Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical Marijuana Land Uses: Any of 3 types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

Medical Marijuana Home Production (Land Use): Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

Medical Marijuana Production Facility (Land Use): A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence. This shall be considered a commercial use.

Medical Marijuana Registered Dispensary (Land Use): A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use.

Sec. 78-602 – Purpose

The purpose of this Article is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

Sec. 78-603 – Medical Marijuana License

This license shall be required for a Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility. The following shall apply:

- (1) Town Approvals. Before issuance, renewal or amendment of a License, the applicant shall secure applicable Town of Old Orchard Beach approvals including, but not limited to, Conditional Use.
- (2) State Authorization. Before issuance, renewal or amendment of a License, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program. Loss of such State authorization shall automatically invalidate the Town-issued License.
- (3) Inspections Required. At initial and subsequent licensing, the Old Orchard Beach Police Department, Fire Department and Code Enforcement Officer shall inspect the premises to ensure security meets State requirements and applicable Town of Old Orchard Beach licensing criteria.

Article XII, Sections 18-601 - 18-606 shall be amended by adding the underscore language as follows:

ARTICLE XII. – RESERVED

Secs. 18-604 - 18-620. - Reserved.

