

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 June 7, 2011, 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, that Chapter 50, Article II, Sidewalks, Sections 50-52, 50-53, 50-58, 50-148, 50-172, 50-241 and 50-243 are amended, and Sections 50-150 and 50-249 are added to the Town of Old Orchard Beach Code of Ordinances by adding the underscored language and deleting the strikethrough language:

Chapter 50 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***Cross references:** Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the town saved from repeal, § 1-9(a)(5); any ordinance establishing and prescribing the street grades of any street in the town saved from repeal, § 1-9(a)(10); any ordinance providing for local improvements and assessing taxes for such improvements saved from repeal, § 1-9(a)(11); department of planning and development, § 2-472; dogs on beach, public streets and sidewalks, § 14-6; environment, ch. 26; urination in public or outdoors, § 38-56; outdoor vending machines, § 38-271 et seq.; parks and recreation, ch. 42; traffic and vehicles, ch. 54; play streets, § 54-103; narrow streets, § 54-150; parades and processions, § 54-246 et seq.; obstructions on public streets, § 54-276; utilities, ch. 58; vehicles for hire, ch. 62; buildings and building regulations, ch. 66; subdivisions, ch. 74; street design and construction standards, § 74-306 et seq.; zoning, ch. 78; street trees, § 78-1771 et seq.; manufactured housing, § 78-2056 et seq.

State law references: Nuisances, 17 M.R.S.A. § 2802; obstructing public ways, 17-A M.R.S.A. § 505; removal of obstructions, 23 M.R.S.A. § 3452.

Article I. In General
Secs. 50-1--50-25. Reserved.
Article II. Sidewalks
Division 1. Generally

Secs. 50-26--50-50. Reserved.

Division 2. Construction and Maintenance

Sec. 50-51. Sidewalks and curbing required.

[Sec. 50-52. Construction by town or abutting landowners.](#)

Sec. 50-53. Reconstruction; appointment of cost.

Sec. 50-54. Waiver or amendment of requirements.

Sec. 50-55. Substitution of materials.

Sec. 50-56. Service ways and curb cuts; removal of sidewalks and curbing.

Sec. 50-57. Work done by town; lien.

[Sec. 50-58. Lien procedure.](#)

Sec. 50-59. Repair and maintenance.

Secs. 50-60--50-85. Reserved.

Article III. Streets

Division 1. Generally

Secs. 50-86--50-110. Reserved.

Division 2. Naming and Numbering

Sec. 50-111. Definitions.

Sec. 50-112. Purpose.

Sec. 50-113. Enforcement and penalty.

Sec. 50-114. Designation of street names.

Sec. 50-115. Designation of street numbers.

Sec. 50-116. Display of numbers.

Sec. 50-117. New or renovated property.

Secs. 50-118--50-145. Reserved.

Division 3. Excavations

Subdivision I. In General

Sec. 50-146. Effect of noncompliance.

Sec. 50-147. Temporary resurfacing of trench.

[Sec. 50-148. Permanent resurfacing of pavement.](#)

Sec. 50-149. Traffic control.

[Sec. 50-150. Excavator license.](#)

[50-151-50-170.](#) Reserved.

Subdivision II. Permit

Sec. 50-171. Required.

[Sec. 50-172. Application.](#)

Sec. 50-173. Fees.

Sec. 50-174. Dates limited.

Sec. 50-175. Starting date.

Sec. 50-176. Moratorium after reconstruction.

Secs. 50-177--50-205. Reserved.

Division 4. Improvements

Sec. 50-206. Applicability.

Sec. 50-207. Definitions.

Sec. 50-208. Authority.

Sec. 50-209. Power of council.

Sec. 50-210. No obligations created.

Sec. 50-211. Conditions.
Sec. 50-212. Procedure for acceptance or taking.
Sec. 50-213. Apportionment and assessment of costs.
Secs. 50-214--50-240. Reserved.

Article IV. Obstruction of Public Places

[Sec. 50-241. Definitions.](#)

Sec. 50-242. Purpose.
Sec. 50-243. Enforcement.
Sec. 50-244. Exemptions.
Sec. 50-245. Outside displays.
Sec. 50-246. Outside solicitation of sales.
Sec. 50-247. Obstruction of public passage.
Sec. 50-248. Placement of posters.

[Sec. 50-249. Sidewalk Cafés](#)

[50-250--50-270.](#) Reserved.

Article V. Operation of Noise-Creating Devices on Public Rights-of-way

Sec. 50-271. Definitions.
Sec. 50-272. Purpose and policy.
Sec. 50-273. Certain noises prohibited.
Sec. 50-274. Exceptions.
Sec. 50-275. Violation and penalty.
Sec. 50-276. Controlling provisions.

ARTICLE I. IN GENERAL

Secs. 50-1--50-25. Reserved.

ARTICLE II. SIDEWALKS

DIVISION 1. GENERALLY

Secs. 50-26--50-50. Reserved.

DIVISION 2. CONSTRUCTION AND MAINTENANCE

Sec. 50-51. Sidewalks and curbing required.

Where a nonresidential development or a multifamily residential development, as defined by chapter 78, abuts any accepted street and a sidewalk satisfactory to the public works department has not already been provided, a sidewalk and curbing shall be provided along the entire street frontage of the lot. If either a sidewalk or curbing, but not both, shall exist at such location which is satisfactory to the public works department, only a sidewalk or curbing, as the case may be, shall be provided. In either case, such sidewalk and curbing shall be constructed in accordance with the specifications of chapter 74 and to the satisfaction of the public works department at no cost to the town prior to issuance of any certificate of occupancy for such development.

(Ord. of 3-17-1987, § 1)

Sec. 50-52. Construction by town or abutting landowners.

(a) Notwithstanding section 50-51, the town council may at any time direct the construction of a sidewalk or curbing or both along any accepted street in the town. Such sidewalk or curbing shall be constructed by the town, and the cost thereof shall be borne by the town.

(b) Sidewalks or curbing or both may be ordered by the council upon petition of an abutting landowner, and one-half of the cost thereof shall be assessed to such abutting landowner and shall be collected by the town in the manner provided in sections 50-57 and 50-58. The landowner is required to submit three competitive bids. The Town Council, based on the recommendation of the Public Works Director, has the option of selecting to pay half of the lowest bid, but the homeowner has the right to choose any contractor. The Town Council also has the right to reject any and all bids.

Sec. 50-53. Reconstruction; assessment of cost.

(a) The town council may at any time direct the reconstruction of any sidewalk or curbing which has been constructed along any accepted street by other than the town and which has not been accepted as the responsibility of the town. Such sidewalk or curbing shall be reconstructed by the town, and the cost thereof shall be borne by the town.

(b) Such improvements may be ordered by the council upon the petition of an abutting landowner, and one-half of the cost thereof shall be assessed to such abutting landowner and shall be collected by the town in the manner provided in sections 50-57 and 50-58. The landowner is required to submit three competitive bids. The Town Council, based on the recommendation of the Public Works Director, has the option of selecting to pay half of the lowest bid, but the homeowner has the right to choose any contractor. The Town Council also has the right to reject any and all bids.

(Ord. of 3-17-1987, § 2)

(Ord. of 3-17-1987, § 3)

Sec. 50-54. Waiver or amendment of requirements.

(a) Except as otherwise provided in this division or in chapter 74, the town council may, upon application to it in writing, waive or amend by order the requirement of sidewalks or curbing when it finds that the circumstances in the specific case warrant such waiver or amendment; however, no such order shall be construed as waiving the requirement of cost apportionment, assessment and collection unless expressly stated therein.

(b) When any multifamily residential development is reviewed by the planning board as a conditional use pursuant to chapter 78, the planning board shall have the authority to waive or amend the requirements of this division in the same manner as the town council is authorized to do by this section. Any waiver or modification by the town council or by the planning board shall be upon a like finding and upon the same terms and conditions as are set forth in section 74-34 pertaining to variances and waivers.

(Ord. of 3-17-1987, § 4)

Sec. 50-55. Substitution of materials.

The public works director may permit the substitution of other types of materials for sidewalks or curbing when, in the sole and exclusive judgment of the public works director, he finds such substituted materials to be equal to or better than the materials required in this division.

(Ord. of 3-17-1987, § 5)

Sec. 50-56. Service ways and curb cuts; removal of sidewalks and curbing.

The design and location of service ways and curb cuts and sidewalks and curbing shall be as approved by the public works department. No additional service ways or curb cuts and no alterations in the existing service ways or curb cuts shall be made without the prior consent of the public works department, and no such sidewalk or curbing shall be removed except by the town through its duly authorized agents or as authorized by a permit issued by the public works department.

(Ord. of 3-17-1987, § 6)

Sec. 50-57. Work done by town; lien.

The public works department is authorized in accordance with this division to construct or reconstruct sidewalks or curbing along any accepted street in the town, provided that appropriation has been made for such purpose, and the town shall have a lien on the abutting property to which one-half of the expense thereof is properly assessable pursuant to this division.

(Ord. of 3-17-1987, § 7)

Sec. 50-58. Lien procedure.

(a) The public works department shall keep an accurate account of the expense of work under this division and shall, as soon as practicable after the completion thereof, make a return showing the following:

- (1) The location of such sidewalk or curbing;
- (2) Its length and width;
- (3) The material of which it is constructed;
- (4) The cost of construction; and
- (5) The names of the owners of the abutting property with the amounts properly chargeable against each.

(b) Within one year after the completion of such work, the town council shall assess upon the abutting properties their just proportion of the cost thereof, and all assessments so made shall constitute a lien on the property in the manner provided for the collection of sewer assessments in the town, except that no owner shall be assessed for more than 200 feet in length of sidewalk or ~~curbing~~ curbing on any one street in front of any unimproved lots or parcels of land.

(Ord. of 3-17-1987, § 8)

Sec. 50-59. Repair and maintenance.

The public works department is authorized as it deems expedient or necessary to repair and maintain, at the sole expense of the town, sidewalks or curbing previously constructed by the town or constructed under this division, provided that any sum expended for such work has been previously appropriated by the town council for such purpose. The public works department is further authorized, whenever it deems such work expedient or necessary because of a dangerous or hazardous condition, to make spot repairs at the sole expense of the town on any type of sidewalk, however constructed, provided sums have been appropriated for such purpose.

(Ord. of 3-17-1987, § 9)

Secs. 50-60--50-85. Reserved.

ARTICLE III. STREETS

DIVISION 1. GENERALLY

Secs. 50-86--50-110. Reserved.

DIVISION 2. NAMING AND NUMBERING

Sec. 50-111. Definitions.

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

Driveway means any access road to private property that is wholly contained within the boundaries of that property.

Property means any land parcel on which a more or less permanent structure has been erected or could be placed.

Street means a public or private way which affords the principal means of access to abutting properties.

(Ord. of 4-1-1997, § 4)

Cross references: Definitions generally, § 1-2.

Sec. 50-112. Purpose.

The efficient and effective public safety operations are inhibited by the inconsistent street numbering process and the similarity of names of many streets within the town. It is the desire of the town to fully protect the lives and property of the town's residents. The purpose of this division is to facilitate the rapid location of properties by law enforcement, fire, rescue and emergency medical services.

(Ord. of 4-1-1997, § 2)

Sec. 50-113. Enforcement and penalty.

This division shall be enforced by the public safety director, who shall give written notice to any owner or person in charge of a dwelling, place of business or building, advising that person of a date by which the person or owner must comply with this division. If the person to whom the notice is addressed does not correct the violation by the compliance date, such person shall commit a civil violation.

(Ord. of 4-1-1997, § 9)

Sec. 50-114. Designation of street names.

(a) The town council shall assign names to all existing and proposed streets within the town. A street name assigned by the town shall not constitute or imply acceptance of the street as a public way.

(b) No two streets shall be given the same name or similar names (e.g., Pine Lane, Pine Road). If duplication is found in existing street names, precedence shall be accorded the street which has held the name the longest or the one which has the greater number of abutting developed properties. No two streets shall have similar-sounding names (e.g., Beech Street and Peach Street).

(c) Current names of streets shall not be changed unless they are classified as prohibited as specified in subsections (a) and (b) of this section. Whenever practical, names for streets will be selected by the residents and property owners associated with the street when the road does not currently have an acceptable name.

(d) Prior to changing the name of any existing street, the town council shall hold a public hearing, which notice shall be posted and published at least ten days prior to the hearing. The notice shall include the date, time and place of the hearing. All property owners of record relative to the street name change shall be mailed a notice of hearing at least ten days prior to the hearing.

(e) Names shall not contain hyphens, apostrophes or nonalphabetic characters and shall not have more than a total of 30 characters and spaces.

(f) The design and style of street name signs and letters of accepted streets within the town shall be provided by the public works department.

(g) The entrance road to a mobile home park will be assigned a name, which it will bear for the entire distance throughout the park. The operator of the mobile park shall not name any street within the park that is not in compliance with this division.

(h) If there are three or more developed parcels that abut a private lane or way, the owners of those lots may petition the town council to name the private way. The assessor shall issue street numbers for that street. It will be the sole responsibility of the owners to maintain a street sign at the entrance to the private way in accordance with the public works department's standards for public road signs. The name of the private way shall not conflict or sound similar to any existing street name.

(Ord. of 4-1-1997, § 5)

Sec. 50-115. Designation of street numbers.

(a) The assessor, after consulting with the police chief, shall assign a street number for each dwelling, place of business or building of any type capable of use or occupancy on any street.

(b) The assessor shall keep a record of all numbers assigned under this division.

(c) Upon assigning a number to any new dwelling, place of business or building, the assessor shall send written notice of the assigned number to the owner, occupant or person in charge of the dwelling, place of business or building. Any owner, occupant or person in charge of a dwelling, place of business or building which is numbered and not

in compliance with this division shall also be notified to change the existing number by the procedure set forth in subsection (a) of this section.

(d) Where a building contains more than one dwelling or place of business, the assessor shall determine whether each dwelling, place of business or building shall be assigned its own street number or whether, because of the quantity or configuration of the dwellings or places of businesses, only one street number should be assigned to the building.

(Ord. of 4-1-1997, § 6; Ord. of 1-6-1998)

Sec. 50-116. Display of numbers.

(a) The number of the dwelling, place of business or building shall be displayed upon the front of the building on the side facing the street. The number shall be plainly visible from the street. Houses or buildings that are set back out of view from the road shall have a post or sign at the driveway entrance upon which shall be affixed the specified number.

(b) Numbers shall be in Arabic figures, no less than three inches in height and a one-half inch stroke, and shall contrast in color with the color of the building or background to which they are affixed.

(c) No person shall affix or allow to be affixed a different street number from the one designated by the assessor.

(Ord. of 4-1-1997, § 7)

Sec. 50-117. New or renovated property.

(a) The code enforcement officer shall not grant a building permit for any dwelling, place of business or building until the assessor has assigned a street number to the dwelling, place of business or building.

(b) Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, the requirements of subsection (a) of this section shall apply to applications for subdivision approval, building permits and certificates of occupancy pending on the effective date of the ordinance from which this section derives, except that no such approval, building permit or certificate of occupancy shall be withheld if the assessor has not yet assigned a street number to the property at the time when the application is otherwise in order for approval.

(c) Developers of subdivisions shall be required to erect signs naming streets within each approved subdivision at the onset of the construction phase. Signs shall be approved by the public works director.

(Ord. of 4-1-1997, § 8)

Secs. 50-118--50-145. Reserved.

DIVISION 3. EXCAVATIONS

Subdivision I. In General

Sec. 50-146. Effect of noncompliance.

If for any reason there is noncompliance with this division, by the applicant, of the specifications established by the town, the foreman of public works shall direct that the repair work be done at the expense of the applicant.

(Ord. of 9-18-1984, § IV)

Sec. 50-147. Temporary resurfacing of trench.

Temporary resurfacing of a trench excavation shall be completed within 48 hours of the initial excavation. A 12-inch aggregate subbase to be compacted in six-inch loose depths shall be installed. Existing surfaces of the pavement shall be cleaned, which will be bonded to the temporary pavement. Material shall consist of three-inch grade B hot bituminous concrete or bituminous cold mix during winter months. Temporary pavement shall be maintained smooth and free from potholes to a required grade for a period of 30 days. Temporary pavement areas shall be periodically inspected and repaired as necessary, especially during winter months when temporary pavement remains in place for an extended period. The public works director shall have the authority to order repairs done by the contractor to areas which, in his opinion, are in unsatisfactory condition.

(Ord. of 9-18-1984, § I(d); Ord. of 3-4-1986)

Sec. 50-148. Permanent resurfacing of pavement.

Permanent resurfacing of a pavement excavation shall be completed within 30 days of the initial excavation. Existing paving shall have edges sawed to provide a vertical bonding face. The contractor will also saw to the depth of 1" the surface pavement course to a minimum of 12" in all directions from the excavation and grind/mill this area to the 1" depth. Existing paving and surface material so cut shall be removed and replaced with a 12-inch aggregate subbase in six-inch loose depth lifts. A tack coat shall be applied to the cut edges, and a two-inch binder course shall be placed over the entire excavated surface and roller compacted. A one-inch state mix shall be applied over the entire excavated surface and the 1' wide minimum surface course beyond the excavation in all directions and roller compacted. All aggregates shall conform to section 704 of state department of transportation specifications. All bituminous hot or cold concrete shall conform to section 702 of state department of transportation specifications.

(Ord. of 9-18-1984, § I(e); Ord. of 12-18-1984; Ord. of 3-4-1986)

Sec. 50-149. Traffic control.

If, in the judgment of the foreman of public works, traffic control is necessary for an excavation, the applicant for the permit required in subdivision II of this division shall, at his cost, provide such control as may be required.

(Ord. of 9-18-1984, § I(g); Ord. of 12-18-1984)

Secs. 50-150--50-170. Reserved.

Sec. 50-150. Excavator license.

No person or utility shall excavate in a public place without holding a valid excavator's license and obtaining a street opening permit as provided in division 2 of this article, for such work from the Town. The public works department shall issue the excavator's license upon receipt of an application therefore and the annual license fee of \$25.00. The following standards apply:

- a) The Applicant must provide evidence of the competency and ability of the applicant to carry on the business of excavating. Persons or utilities without a previous work history with the Town may be required at the discretion of the director to submit references from responsible municipal officials from other municipalities.

- b) Applicant must provide a certificate of insurance (\$400,000.00 minimum) naming the Town of Old Orchard Beach as additionally insured.
- c) The applicant must establish that they have access to the proper excavating and compaction equipment to comply with all of the standards found in Division 3 of this Chapter.
- d) The Applicant must provide a list of equipment Including, but not limited to, excavators, dump trucks, trailers, compactors and rollers.

No person or utility possessing such license shall allow his or her name to be used by any person or utility, directly or indirectly, either to obtain a permit or to do any work under this license; provided, however, that nothing herein shall be construed to prohibit a licensed excavator from doing such work through an authorized agent or employee who is directly and continuously supervised by him while in the performance thereof. A license issued to an excavator may be revoked after notice and hearing, as specified in Chapter 18 Section 39 Suspensions and revocations, if it is determined by the Town Council that the licensed excavator has willfully disobeyed any portion of this article or the rules and regulations.

Subdivision II. Permit

Sec. 50-171. Required.

It shall be unlawful for any person to dig up, excavate, tunnel, undermine, or in any manner break up any street or to make or cause to be made any excavation in or under the surface of the street for any purpose or to place, deposit, or leave upon any street any earth or other material obstructing or tending to interfere with the free use of the street, unless such person shall have first obtained an excavation permit from the public works department.

(Ord. of 9-18-1984, § I(a))

Sec. 50-172. Application.

(a) No excavation permit shall be issued unless a written application for the issuance of the permit is submitted to the director of public works for review and approval.

(b) The application shall state the following:

- (1) The name and address of the applicant;
- (2) The nature, location and purpose of the excavation;
- (3) The date of commencement of the excavation; and
- (4) The date of completion of the excavation.

(c) The application shall be accompanied by a plan showing the extent of the proposed excavation work, including its location and the dimensions and elevations of the proposed excavated surfaces and such other information as may be reasonably required by the director of public works.

(d) The application shall be accompanied by proof of notice to the utilities as provided in 23 M.R.S.A. § 3360-A(3).

(Ord. of 9-18-1984, § II; Ord. of 12-18-1984)

Sec. 50-173. Fees.

(a) A deposit shall accompany each written application for an excavation permit and shall be posted and held by the town treasurer until the applicant has complied with all specifications of this division. The deposit shall be in the form of a certified check made payable to the town according to the rates specified in the schedule of license, permit and application fees in appendix A of this Code. The deposit shall be forfeited to the town if the foreman of public works determines that the repair work is not properly accomplished within the specified time period.

(b) An application fee as specified in the schedule of license, permit and application fees in appendix A of this Code shall be paid for each issuance and renewal of the excavation permit.

(c) Public utilities or districts may be exempt from posting a deposit only at the discretion of the public works foreman.

(Ord. of 9-18-1984, § III; Ord. of 12-18-1984; Ord. of 3-4-1986; Ord. of 9-19-1995; Ord. of 4-1-2003, § 2)

Sec. 50-174. Dates limited.

Excavation permits shall only be issued from April 1 to October 31 unless an emergency or special situation exists. A written explanation shall be submitted to the foreman of public works notifying him of the special situation or emergency prior to the issuing of a permit during the months of November 1 through March 31.

(Ord. of 9-18-1984, § I(b); Ord. of 12-18-1984)

Sec. 50-175. Starting date.

Excavation work must be started no later than 30 days from the date of issuance of the excavation permit. After the expiration of the 30-day period, such excavation permit shall become null and void and shall be renewed.

(Ord. of 9-18-1984, § I(c))

Sec. 50-176. Moratorium after reconstruction.

A three-year moratorium, except for emergency or special situations, on the issuance of any excavation permit is in effect after the completion of a newly reconstructed roadway.

(Ord. of 9-18-1984, § I(f))

Secs. 50-177--50-205. Reserved.

DIVISION 4. IMPROVEMENTS

Sec. 50-206. Applicability.

This division shall apply to proposed streets, as defined in section 50-207, shown on a plan or a plat recorded in the county registry of deeds prior to two years before the effective date of the ordinance from which this division derives.

(Ord. of 8-15-1989, § B)

Sec. 50-207. Definitions.

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

Abutting lot means any lot which is adjacent to and bounded by a proposed street, including lots located at the end of a dead-end street or cul-de-sac.

Accepted means accepted as a town way by the town council.

Construct means to build a roadway in compliance with the requirements of chapter 74 pertaining to subdivision review standards or, when the right-of-way width of the proposed street makes such compliance impossible or impracticable, in compliance with reasonable design and construction specifications approved by the town council.

Current value means the value of land and buildings as determined by the municipal assessor on the most recent assessment date.

Frontage means the horizontal distance between the intersections of the sidelines of a lot with the sideline of the proposed street.

Majority of the abutting lots means any combination of abutting lots which meets both of the following criteria:

- (1) The combined frontage of the lots exceeds 50 percent of the total frontage of all the abutting lots; and
- (2) The total current value of the lots exceeds 50 percent of the total current value of all the abutting lots.

Owner means any person having any right or interest in a proposed street or abutting lot, which right or interest is recorded in the county registry of deeds.

Proposed street means any street, road or right-of-way which appears on a plat or plan recorded in the county registry of deeds prior to two years before effective date of the ordinance from which this division derives which has not been accepted or taken by the town and which has not been constructed, or any portion thereof, which will be accepted or taken subject to apportionment and assessment of costs to construct pursuant to this division.

Taken means laid out and taken as a town way by the town council pursuant to 23 M.R.S.A. §§ 3022 and 3023.

Value means just value of land and buildings as defined in 36 M.R.S.A. § 701-A.

(Ord. of 8-15-1989, § C)

Cross references: Definitions generally, § 1-2.

Sec. 50-208. Authority.

This division is enacted pursuant to the authority of article 8, part 2, section 1 of the state constitution, 30-A M.R.S.A. § 3001 and 23 M.R.S.A. § 3606.

(Ord. of 8-15-1989, § A)

Sec. 50-209. Power of council.

Nothing in this division shall limit the authority of the town council to create a public way by any method provided by law when the cost to construct such way will not be apportioned and assessed pursuant to this division.

(Ord. of 8-15-1989, § G)

Sec. 50-210. No obligations created.

Nothing in this division shall require the town to accept, take or improve a public way unless the town council determines that the public convenience or necessity requires that such public way be accepted, taken or improved.

(Ord. of 8-15-1989, § H)

Sec. 50-211. Conditions.

A proposed street may be accepted or taken as a public way by the town council upon the following conditions:

(1) If the proposed street is to be accepted upon dedication, owners of a majority of the abutting lots shall convey their interest in the proposed street to the town without claim for damages. Owners of fee interests shall convey their interests by warranty deed. Owners of less than fee interests shall convey their interests by quitclaim deed with covenant.

(2) If the proposed street is to be taken, owners of a majority of the abutting lots shall petition the town council in writing to lay out and take the proposed street and in such petition shall waive any damages otherwise payable to them as a result of the taking.

(3) The owners or petitioners shall submit to the town council plans of the proposed street as it will be constructed after it has been accepted or taken, which plans shall include the following:

a. A plot plan drawn when practical to a scale of 40 feet to one inch and to be on one or more sheets of paper not exceeding 24 inches by 36 inches in size. The plot plan shall show the following:

1. The north point;
2. The area of all lots;
3. The length of all lot lines;
4. The location and ownership of all adjoining subdivisions and adjacent acreages;
5. Passageways;
6. Streetlight lines;
7. Buildings;
8. Boundary monuments;
9. Waterways;
10. Topography (USGS vertical datum) and natural drainage courses with the contour at not greater than five-foot intervals;
11. All angles and bearings necessary for the plotting of the proposed street;
12. The distance to the nearest established street line; and
13. Any buildings abutting on the proposed street together with the stations of their sidelines.

b. A profile of the proposed street drawn to a horizontal scale not larger than 50 feet to one inch with a corresponding ten to one ratio vertical scale. The profile shall show the profile of the centerlines of the proposed street and the proposed grades thereof. Any buildings abutting on the proposed street shall be shown on the profile.

c. A cross section of the proposed street drawn to a horizontal scale no larger than five feet to one inch and a vertical scale of one foot to one inch.

d. The location and size of all existing and proposed water mains, storm drains, sanitary sewers, gas mains, culverts, underdrains and underground utilities shall be shown along with the individual building service connections to each.

(4) The owners of a majority of the abutting lots shall petition the town council in writing to construct the proposed street after it has been accepted or taken and in such petition shall agree to pay their just portion of the cost to construct the proposed street. The petition shall be accompanied by an estimate, which has been reviewed and approved by the public works director, of the cost to construct the proposed street.

(Ord. of 8-15-1989, § D)

Sec. 50-212. Procedure for acceptance or taking.

The procedure for acceptance or taking of a proposed street shall be as prescribed in 23 M.R.S.A. ch. 304.
(Ord. of 8-15-1989, § E)

Sec. 50-213. Apportionment and assessment of costs.

After the proposed street has been accepted or taken and has been constructed, the town council shall apportion no more than two-thirds of the cost to construct among the abutting lots in such proportions as, in the opinion of the town council, the values of the lots have been increased by the acceptance or taking and construction and shall assess such apportioned cost upon such lots, all in the manner, and with the same right of appeal provided in 23 M.R.S.A. §§ 3601--3605. The portion of the cost to be assessed upon the abutting lots may be reduced to less than two-thirds by written agreement between the town, the owners of a majority of the abutting lots and any other person who agrees to contribute to the cost.

(Ord. of 8-15-1989, § F)

Secs. 50-214--50-240. Reserved.

ARTICLE IV. OBSTRUCTION OF PUBLIC PLACES

Sec. 50-241. 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:

Building entrance means any exterior door, doorway, entryway, portal, portico, threshold, vestibule, foyer or lobby and includes any recessed area adjacent to the doorway.

Enclosed means inside the walls, including windows of the building, and on the interior side of any exterior doors which open inward.

Front means the side of a building or lot in which the building entrance is located. Where a building has entrances facing more than one street, each side on which a building entrance is located shall be considered a front.

Sidewalk Cafe means the establishment of tables and chairs on the public or privately owned sidewalk directly in front of, and accessory to a licensed victualer. Outdoor dining on private property, other than a sidewalk is not regulated by this article, but is regulated by Chapter 78. For the purposes of this article, a sidewalk cafe is not considered an outside display.

Outside display means any deposit, pile, placement, storage or display, outside the enclosed portions of a building, of any goods, wares or merchandise that are offered or available for sale, rental or distribution either inside or outside the building. For the purposes of this article, materials placed in the building entrance as defined in this section, shall be included as an outside display.

Violator means and includes any person who commits, causes or creates a violation of this article; any owner of a business which employs a person who commits, causes or creates a violation of this article on the premises of that business; and any owner of property who permits or allows a violation to occur on that property.

(Ord. of 2-5-1991, § 2; Ord. of 8-16-1994; Ord. Of 4-6-2004)

Cross references: Definitions generally, § 1-2.

Sec. 50-242. Purpose.

This article is intended to facilitate pedestrian traffic across the public sidewalks and in areas adjacent to the sidewalks and streets in order to promote the safety of pedestrians in the town and to improve the appearance of the town, particularly in the downtown area.

(Ord. of 2-5-1991, § 1)

Sec. 50-243. Enforcement.

~~The license inspector or a~~Any officer of the police department shall investigate any alleged violation of this article. Upon verification of the alleged violation, any officer of the police department may issue a citation for a civil violation. Service of the citation may be made upon any violator, as defined in section 50-241 and service on an employee or agent of a violator shall constitute service upon the violator.

(Ord. of 2-5-1991, § 8; Ord. of 2-5-1991; Ord. of 4-6-2004)

Sec. 50-244. Exemptions.

(a) Sections 50-245 and 50-246 do not apply to the following:

- (1) The otherwise lawful outside storage, display or sale of new or used motor vehicles, boats or other machinery or equipment customarily stored in a yard or display lot;
- (2) The otherwise lawful storage, display or sale of supplies incidental to the rendering of a service at the point of sale, such as motor oil to be dispensed at the gasoline pump island of an automobile service station;
- (3) The otherwise lawful nonalcoholic beverage machines and/or ice machines; or
- (4) The otherwise lawful, temporary, noncommercial yard sales, garage sales or charitable fundraising events.

(b) Also exempt is a retail sidewalk sale as authorized by the town council. Mobile ice cream trucks shall also be exempt from this article and shall be governed by article VII of chapter 18 pertaining to ice cream trucks.

(Ord. of 2-5-1991, § 10; Ord. of 8-3-1993; Ord. of 8-16-1994; Ord. of 6-15-1999)

Sec. 50-245. Outside displays.

(a) No person shall cause or permit any outside display to exist, except as authorized by subsection (b) of this section.

(b) If a building is set back 35 feet or more from the edge of the blacktopped portion of the street adjacent to the front property line of the lot where located and upon issuance of a license by the town council pursuant to article II of chapter 18 and upon compliance with other applicable laws and ordinances, including chapter 78 pertaining to zoning, outside displays may be located within five feet, measured at right angles, of the front wall of the building, but no closer than five feet, measured parallel to the building, from either side of the building entrance. No parking of vehicles shall be permitted within five feet of any outside display permitted by this subsection.

(Ord. of 2-5-1991, §§ 3, 4; Ord. of 5-4-1993)

Sec. 50-246. Outside solicitation of sales.

No person shall engage in the solicitation, sale or rental of any goods, wares or merchandise outside the enclosed portion of a building.

(Ord. of 2-5-1991, § 5)

Sec. 50-247. Obstruction of public passage.

No person shall hinder or impede the free and uninterrupted passage of pedestrians on, upon, across, or over any sidewalk, walkway, pathway or any other area, public or private, which is customarily used by the public for access to or passage by any business, public place or public building.
(Ord. of 2-5-1991, § 6; Ord. of 4-6-2004)

Sec. 50-248. Placement of posters.

No person shall place or cause to be placed any advertising poster or notice on any utility pole or other pole or on any tree located on town property or on any public way, unless such poster or notice is expressly permitted by statute or ordinance.
(Ord. of 2-5-1991, § 7)
Secs. 50-249--50-270. Reserved.

Sec.50-249. Sidewalk Cafés

No person shall expand a food service establishment to the outside on any sidewalk in the Town except under a duly authorized outdoor dining permit issued provisions of this division.

a) Regulations and Restrictions

1. Sidewalk cafés are only allowed for restaurants and food-serving establishments.
2. Sidewalk cafés shall be contiguous with the establishment with which they are associated.
3. Sidewalk cafés can project no more than 7' onto town property provided a minimum width of six (6) feet of sidewalk is left unoccupied and unobstructed in order to allow adequate pedestrian movement. The width of the sidewalk is measured from the property line to curbside obstacles, including but not limited to trees, parking meters, light poles, flag poles, utility poles, and fire hydrants.
4. Sidewalk Café Permits are valid from April 1st to October 31st of each year. Chairs, tables and appurtenances may only be located on the sidewalk area during the time period.
5. No permanent structure or device shall be erected or placed in, on, or about any public sidewalk; however, temporary poles, railings, or similar supports or dividers may be anchored to the building but not in the sidewalk.
6. Any damage done to the public right-of-way by the applicant or by its patrons shall be repaired promptly by the applicant.
7. Refuse receptacles shall be covered at all times.
8. Litter emanating from the sidewalk café area, and from whatever area to which it may flow, shall be collected by the permittee as often as may be required to keep the sidewalk clear of litter and debris.
9. Sidewalks shall be swept and cleaned at the close of business each day.
10. There shall be no outdoor music associated with any eating establishment that is wholly or partially on municipal property.
11. There shall be no additional signage for the outdoor dining.

11. Aside from individual table lighting, such as candles, there shall be no additional exterior lighting installed.

Failure to adhere to these standards may result in the revocation of the permit until such time that the violation has been corrected.

b) Permit Procedures

1. The applicant shall apply for a Café Permit from the Code Enforcement Officer on an annual basis.

2. The applicant shall provide a plan showing the area intended for outdoor dining, the proposed seating, the barrier fencing and the ingress and egress. In addition, the plan shall also include the dimensions of the seating area, the projection onto the town sidewalk or walkway and the distance from the barrier fencing to any curbside obstacles.

3. The applicant shall also provide a Certificate of Liability Insurance covering the effective dates of the permit in the amount of \$500,000. In addition, the Town of Old Orchard Beach shall be named as an additional insured.

4. In the event alcoholic beverages are to be sold, a copy of a valid and current liquor permit from the State Liquor Commission shall be presented.

5. Café Permits effective as of May 1st 2010 are subject to an annual application fee as set forth in appendix A of this Code.

Per Order of the Municipal Officers this 17th day of May, 2011.

A True Copy

Attest:

s/Kim M. McLaughlin

Kim M. McLaughlin, Town Clerk