

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 October 18th, 2022 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, CHAPTER 78, Zoning, Article 1, Definitions; Article VI, Districts, Division 8—General Business District GB-1, Section 78-803, Conditional Uses; Division 11—Industrial District, Sections 78-903 and 904, Conditional uses; Division 16, Historic Overlay District, Section 78-1135, Prohibited Uses; Article VII, Conditional Uses, Division 2—Conditions, Section 78-1277, Medical Marijuana; CHAPTER 18, Businesses, Article XI, Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Sections 18-601 through 18-603; Schedule of License, Permit and Application Fees—License Ordinance Categories, by removing the strikethrough language and adding the underscored language as follows:

CHAPTER 78 AMENDMENTS

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

Section 78-1 shall be amended by deleting the ~~strikethrough~~ language and adding the underscored language as follows (Note: “Medical Marijuana” definition is not amended, added or deleted):

~~*Air Contaminant:* Any fume, odor, smoke, particulate matter, vapor, gas or any combination thereof but not including water vapor or steam condensation.~~

~~*Air Contaminant Source:* Any source whatsoever at, from or by reason of which there is emitted or discharged into the atmosphere any air contaminant.~~

~~*Emission:* To discharge, release or to permit or cause the discharge or release of one (1) or more air contaminants into the atmosphere.~~

~~*Individual Medical Marijuana Caregiver:* A person who is designated by a qualifying patient and authorized to assist the qualifying patient with the medical use of marijuana in accordance with state rules and law. 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.~~

~~*Marijuana:* The leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination. 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 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.~~

Nuisance: ~~The doing of or the failure to do something that allows or permits air contaminants to escape into the open air that are or tend to be detrimental to the health, comfort, safety or welfare of the public or that causes or tends to cause injury or substantial annoyance or inconvenience to persons exposed thereto or causes or tends to cause damage to property.~~

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 deleting the ~~strikethrough~~ language and adding the underscored language as follows:

- (6) ~~Medical Marijuana Production Facility~~ Reserved
- (7) ~~Medical Marijuana Registered Dispensary~~ Reserved

Amendment to Chapter 78 – ZONING, Article VI – DISTRICTS, Division 11 – INDUSTRIAL DISTRICT (ID), Section 78-903 – CONDITIONAL USES

Section 78-903 shall be amended by deleting the ~~strikethrough~~ language as follows:

- (7) ~~Medical Marijuana Production Facility~~

Amendment to Chapter 78 – ZONING, Article VI – DISTRICTS, Division 11 – INDUSTRIAL DISTRICT (ID), Section 78-904 – PROHIBITED USES

Section 78-904 shall be amended by deleting the ~~strikethrough~~ language as follows:

~~(11) — 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 deleting the ~~strikethrough~~ 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 deleting the ~~strikethrough~~ language and adding the underscoring language as follows:

Sec. 78-1277 – Medical Marijuana

~~The purpose of this Section and related provisions of Article VII is to control the~~ The cultivation, processing, storage, sale and distribution of medical marijuana through operation of medical marijuana dispensaries, caregiver retail stores, manufacturing facilities, and testing facilities is not allowed as a permissible, conditional or complimentary use within any zoning district excepting individual medical marijuana primary caregivers who operate in conformance with applicable Maine rules and laws. As an accessory use, individual medical marijuana primary caregivers shall be allowed in any medical marijuana caregiver’s primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting. ~~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 a) 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 500 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) Odorous Air Contaminants.~~ It shall be an unlawful nuisance for any person to cause or permit the emission of odorous air contaminants from any source so as to result in detectable odors that leave the premises upon which they originated and interfere with

the reasonable and comfortable use and enjoyment of property. Upon the following occurrence, any odor will be deemed to interfere with reasonable and comfortable use and enjoyment of property:

(i) ~~If odorous air contaminants are detected when one (1) volume of the odorous air has been diluted with seven (7) or more volumes of odor free air, as measured by any instrument, device, or method designed to be used in the determination of the intensity of an odor. Measurement shall be taken at property boundary lines.~~

(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 or more.~~

CHAPTER 18 AMENDMENTS

Amendment to Chapter 18 – BUSINESSES, Article XI – Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility, Sections 18-601 – 18-603

Article XI, Sections 18-601 - 18-603 shall be amended by deleting the ~~strikethrough~~ language and adding the underscored language as follows:

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

Secs. 18-601 - 18-603. - Reserved.

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.~~

~~*Nuisance:* The doing of or the failure to do something that allows or permits air contaminants to escape into the open air that are or tend to be detrimental to the health, comfort, safety or welfare of the public or that causes or tends to cause injury or substantial annoyance or inconvenience to persons exposed thereto or causes or tends to cause damage to property.~~

Sec. 18-602—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. 18-603—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, applicable Town of Old Orchard Beach licensing criteria and Code of Ordinances~~

APPENDIX A AMENDMENTS

Amendment to Appendix A – SCHEDULE OF LICENSE, PERMIT AND APPLICATION FEES – LICENSE ORDINANCE CATEGORIES

License Ordinance Categories shall be amended by deleting the ~~strikethrough~~ language as follows:

~~Medical Marijuana Production Facility ————— \$325.00 (per Caregiver)~~

~~Medical Marijuana Registered Dispensary ————— \$325.00 (per Registered Dispensary)~~

Per Order of the Municipal Officers this 4th day of October, 2022.

A True Copy

Attest:

s/Kim McLaughlin
Kim M. McLaughlin, Town Clerk