



TOWN OF OLD ORCHARD BEACH
Office of the Town Manager

1 Portland Ave, Old Orchard Beach, Maine
Phone: 207.937.5626 Web: www.oobmaine.com or
www.oobmaine.com/town-council

Regular Town Council Meeting Minutes

Tuesday November 15th, 2022

I, Tim Fleury, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of 59 pages is a copy of the original minutes from the regular meeting of the Old Orchard Beach Town Council held on Tuesday November 15th, 2022.

Prepared by: Tim Fleury
Approved by: Old Orchard Beach Town Council
Approval Date: 12/6/2022

Respectfully
Submitted,

Tim Fleury
Town Council
Secretary



Town Council Meeting Minutes
Regular Meeting of the Town Council
Tuesday, November 15, 2022
Council Chambers - 1 Portland Avenue

www.oobmaine.com/town-council*

**Members of the public wishing to view the meeting from home may tune into Local Access TV (Channel 3 or 1301 - check with your provider) or by clicking the Meeting Videos link on oobmaine.com.)*

There was a regular Town Council Meeting held on Tuesday, November 15th, 2022. The meeting was called to order by the Chair at 6:30pm. After the pledge of allegiance, Chair O'Neill made a motion to appoint Tim Fleury as Council secretary. The motion was seconded by Councilor Reid and passed 5-

0. Roll call was taken and the following individuals were present:

Shawn O'Neill, Chair

Diana Asanza, Town Manager

Kenny Blow, Vice-Chair

Tim Fleury, Council Secretary

V. Louise Reid, Councilor

Larry Mead, Councilor

Mike Tousignant, Councilor



ACKNOWLEDGEMENTS -

Chair O'Neill recognized and congratulated the Old Orchard Beach High School football team and coaches for winning the 2022 State of Maine High School Football Championship.

Coach Dean Plante thanked the community for their involvement and support.

GOOD & WELFARE:

none

PRESENTATION:

Police Department - Introduce New Patrol Officers

Chief Chard introduced new officers and gave a brief bio on each: Officers Hayden Sprague, Chase Panza, Emelia Fredrick, Kyle Kelly,

Town Clerk Kim McLaughlin swore new officers in.

Councilor Reid - Acknowledged passing of Nancy Kelley and her commitment to the OOB veteran community. Chair O'Neill and Vice Chair Blow gave their condolences.

PUBLIC HEARING: Shall the Town Council consider the Citizen's Initiative Petition, per Town Charter Section 302, to amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, Section 78-1279 by adding the following language:

(r) Lot size. The proposed Adult use marijuana store total Land Units, as listed on the parcel's Vision Property Card under Land Line Valuation and maintained by the Town, is equal to or less than 21,780 sq. ft.

(s) Building Size. The proposed Adult use marijuana store total Eff. Area, as listed on the parcel's Vision Property Card under Building Sub-Area Summary Section and maintained by the Town, is equal to or less than 1,000 sq ft.

Chair Opened the Public Hearing @ 6:48

Motioned to approve by:

Seconded by:

Vote:

Chair Closed the Public Hearing @ 6:58

Eric Collins – attorney with Furman Gregory Deptula of Biddeford – commented on the logistical issues with a Dec 6th special election.

Tom Mourmouras – read a prepared statement.

Email from Hannah King - Chair O'Neill read an email from Ms. King (see attachment below)

Members of the Old Orchard Beach City Council:

I am writing to submit the following public comment on the citizen's petition to amend Old Orchard Beach's Code of Ordinances, Zoning, Section 78, Adult Use Marijuana Businesses, Sub-Section 1279 on behalf of Oxford Provisions. LLC. I am unable to attend the public hearing on November 15, due to a prior commitment out of state. I do ask, however, that my comment be taken into consideration and included in the record. If you have questions, I can be reached at hannah.king@dentons.com. Best, Hannah

This Town Council should NOT vote to adopt the citizen's petition adding two new performance standards for Marijuana Businesses to Old Orchard Beach's Code of Ordinances, Zoning, Section 78, Adult Use Marijuana Businesses, Sub-Section 1279. The Town of Old Orchard Beach began the process for adopting a Zoning and a Licensing Ordinance for adult use marijuana businesses in Spring of 2021. Following more than a year of meetings, which included extensive opportunities for input from stakeholders, the Town Council adopted Town Ordinance Section 78.1279, outlining the performance standards governing adult use marijuana businesses, and Section 18.604-622, providing a process for issuing licenses to adult use marijuana businesses.

Section 78.1279 set forth policy driven performance standards that aligned with standard imposed on other uses and reflected land use concerns raised by the public, stakeholders, and members of the Planning Board. The petition seeks to amend that ordinance by adding the following performance criteria for adult use marijuana retail stores:

- (r) Lot size. The proposed Adult use marijuana store total Land Units, as listed on the parcel's Vision Property Card under Land Line Valuation and maintained by the Town, is equal to or less than 21,780 sq. ft.**
- (s) Building Size. The proposed Adult use marijuana store total Eff. Area, as listed on the parcel's Vision Property Card under Building Sub-Area Summary Section and maintained by the Town, is equal to or less than 1,000 sq ft. Lot size.**

Based on the repeated public comment from the stakeholder who submitted the petition, it is clear that these criteria are not intended to address a legitimate policy concern that was not considered by the Planning Board, but instead to ensure that the performance criteria are so narrowly drafted that only the property leased by the Petitioners, 9b Ocean Park Road, would qualify for a marijuana retail store. Every other property within the City of Old Orchard Beach that would meet the zoning requirement for an adult use marijuana retail store would fail under the two additional performance criteria, either because the structure exceeds 1,000 square feet or the property exceeds 21,780 square feet. The intent and effect is to exclude all other applicants.

Given the intent, it is not surprising that standards are arbitrary and the proposed form of measurement is wholly inconsistent with the zoning ordinance. It unclear what land use purposes would be served by limiting the lot size for an adult use marijuana retail store to 21,780 square feet. In fact, a similar restriction was recently proposed by the petitioners to this Town Council for inclusion in the licensing ordinance and was flatly rejected as having no valid purpose. Further, the limitation on the size of the retail store in the ordinance amendment is unnecessarily small—again seemingly based solely on the size of the petitioner's building at 9b Ocean Park and the intent to preclude competitors and not a broader policy goal. Mandating

such a small store is likely to increase land use impacts. A store with a total square footage of 1,000 square feet or less, will have no space for inventory storage, requiring operators to increase the number of deliveries to keep the shelves stocked (rather than a single delivery per vender per week, the store would be forced to do daily deliveries per vender). It also encourages applicants to construct buildings that are too small for any other use, making it difficult to repurpose the buildings. Notably, an identical performance criteria—limiting the size of an adult use marijuana retail store to 1,000 square feet—was rejected by the Planning Board when it adopted the current performance criteria for adult use marijuana retail stores.

Finally, the measure for assessing building and lot size—Vision Property Cards—is novel, with the term Vision Property Card undefined and not appearing anywhere else in the zoning ordinance. Typically, if there is a performance criteria for a lot or building size, the Planning Board assesses whether the standard is met by reviewing a stamped survey or scaled architectural drawings of the actual property or structure (proposed structure). Because Vision Property Cards do not include new construction and are only updated annually, relying on these cards, rather than more accurate or typical means for assessing lot and building size, could result in the Planning Board wrongly denying a land use approval based on old or inaccurate information. It could also preclude adult use marijuana retail stores from siting in new construction, which is expressly permitted in the licensing ordinance.



Hannah E. King

Partner

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Sec. 78-1279. Adult use marijuana business.¹

- (1) *Purpose.* The purpose of this section is to implement the Marijuana Legalization Act, 28-B M.R.S. § 101 et seq. and to protect the public health, safety, and welfare of the residents of and visitors to the Town of Old Orchard Beach by prescribing the manner in which marijuana business can be conducted in the town.

In addition, this section provides for the protection of public health and safety through reasonable controls on marijuana sales, cultivation, manufacturing, testing, and distribution operations as they relate to air quality, neighborhood and customer safety, security for these operations and their personnel, and other health and safety concerns.

- (2) *Applicability.* The regulations in this sections shall apply to any persons or entities operating or interested in operating an adult use marijuana business in Old Orchard Beach.
- (3) *Definitions exclusive to adult use marijuana business.* As used in this section the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as in section 78-1 of this chapter.

Adult use marijuana: marijuana cultivated, manufactured, distributed or sold by an adult use marijuana business.

Adult use marijuana business: Adult use marijuana cultivation facility, adult use marijuana products manufacturing facility, adult use marijuana testing facility, or adult use marijuana store regulated under this section.

Adult use marijuana cultivation facility: A facility licensed to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to adult use products manufacturing facilities, to adult use marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to adult use marijuana stores.

Adult use marijuana nursery cultivation facility: A facility licensed to cultivate not more than 1,000 SF of plant canopy pursuant to 28-B M.R.S. § 501.

Adult use marijuana product: A marijuana product that is manufactured, distributed or sold by an adult use marijuana business.

Adult use marijuana store: A facility licensed to purchase adult use marijuana, immature marijuana plants and seedlings from an adult use cultivation facility, to purchase adult use marijuana and adult use marijuana products from an adult use products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Adult use marijuana products manufacturing facility: A facility licensed to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package

¹Cross reference(s)—Adult use marijuana business licensing, § 18-604 et seq.

adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Applicant: A person or business entity that has submitted an application for conditional use approval for an adult use marijuana business pursuant to this section.

Business entity: A partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.

Cultivation or cultivate: The planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.

Edible marijuana product: A marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate. "Edible marijuana product" does not include an edible product containing "hemp" as defined in Title 7 M.R.S.A, section 2231, subsection 1-A, paragraph D.

Harvested marijuana: The plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.

Immature marijuana plant: A marijuana plant that is not a mature marijuana plant or a seedling.

Licensed premises: The premises specified in an application for a state or local license that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use marijuana or adult use marijuana products, in accordance with the requirements of state law and regulations and Old Orchard Beach Code of Ordinances.

Local license: Any license required by and issued under the provisions of Chapter 18 of the Old Orchard Beach Code of Ordinances.

Manufacture or manufacturing: The production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Marijuana: The leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in Title 7 M.R.S.A, section 2231, subsection 1-A, paragraph D or a marijuana product.

Marijuana product: A product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate or a product containing hemp as defined in Title 7 M.R.S.A., section 2231, subsection 1-A, paragraph D.

Owner: A person whose beneficial interest in an adult use marijuana business is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of an adult use marijuana business and has a controlling interest in an adult use marijuana business.

Person: A natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

Plant canopy: The total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

State license: Any license, registration or certification issued by the State of Maine.

Testing or test: The research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

(4) *Permitting and licensing.*

- (a) An adult use marijuana business shall be operated in Old Orchard Beach in compliance with this ordinance and other applicable local, state and federal laws, regulations and codes.
- (b) A person or business entity seeking to operate an adult use marijuana business shall not submit a conditional use application until their adult use marijuana business license is selected in accordance with Old Orchard Beach Code of Ordinances, Chapter 18, Section 18-610(1).
- (c) Pursuant to 28-B M.R.S.A. § 402, a person or business entity seeking to operate an adult use marijuana business may not submit a conditional use application or business license application unless the person or business entity has been issued a conditional license by the State of Maine to operate the adult use marijuana business.

(5) *Performance standards for adult use marijuana business.* An adult use marijuana business requires approval from the planning board prior to the issuance of any business license, building permit or certificate of occupancy. The following performance standards are to be used by the planning board in reviewing conditional use applications and compliance with the same shall serve as requirements for approval of such conditional use applications.

- (a) Separation from sensitive uses.
 - 1. No adult use marijuana business shall be sited within 1,000 feet of the lot lines of a school, and
 - 2. No adult use marijuana business shall be sited within 1,000 feet of the lot lines of a child care facility, community center, higher educational facility, public outdoor recreational area, church, synagogue or other house of religious worship, public library, amusement parks, and drug and alcohol rehabilitation center.

The distance cited in this section shall be measured between the lot line of the proposed site for the adult use marijuana business and the lot line of the site of the use listed in (1) or (2) above at

their closest points. For purposes of this measurement, if an adult use marijuana business is to be located on a site that is leased from an unrelated third party, such Business lot line shall be determined as follows:

- (i) If the business leases an entire parcel of land, the lot line of such business shall be the lot line of the parcel;
- (ii) If the business leases a free-standing building or buildings which is or are part of a larger parcel containing other free-standing buildings, the lot line of such business shall be the outer wall of the building(s) being leased by the business; and

For purposes of this section, the term "school" means a "public school" as that term is defined in 20-A M.R.S. § 1(24), as may be amended; a "private school" as that term is defined in 20-A M.R.S. § 1(22), as may be amended; and/or a "public preschool program" as that term is defined in 20-A M.R.S. § 1(23-A), as may be amended.

For purposes of this section, the term "child care facility" means a "child care facility" as that term is defined in 22 M.R.S. § 8301-A(1-A) (B), as may be amended, and/or a "family child care provider" as that term is defined in 22 M.R.S. § 8301-A(1-A) (C), as may be amended.

For purposes of this section, the term "community center" means a place where people from the community can meet for social, educational, and recreational purposes that is owned and operated by a municipality or a non-profit corporation.

For purposes of this section, the term "higher education facility" means a community college, college or university authorized by the State of Maine to award associate, baccalaureate or higher degrees.

For purposes of this section, the term "public outdoor recreational area" means a place used for public recreation, regardless of its size, owned by a governmental agency.

For purposes of this section, the term "amusement parks" means the property located within the amusement overlay district as shown on the Town of Old Orchard Beach General Zoning Map.

Once all required licenses, permits and approvals are issued, the town will not preclude a sensitive use listed in (1) or (2) above from opening at a location within the applicable buffer zones. An adult use marijuana business may continue to operate in its present location as a pre-existing use if a sensitive use as listed in (1) or (2) above later locates within the applicable buffer zone; however, the adult use marijuana business does so at its own risk, and town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a adult use marijuana business near a sensitive use listed in (1) or (2) above.

- (b) Days and hours of operation. Adult use marijuana businesses are limited to the following days of the week and hours of operation: Monday—Sunday, 9:00 a.m.—9:00 p.m.
- (c) Proximity limit. No adult use marijuana business shall be sited within 1,000 feet of another adult use marijuana business, medical marijuana registered dispensary or medical marijuana production facility as measured from the main entrance of one to the main entrance of the other by the ordinary course of travel.

- (d) Multiple occupancy buildings. No adult use marijuana business may be located within or attached to a building that provides space for any other residential or nonresidential occupancies.
- (e) Area of activities.
 - (1) All activities of an adult use marijuana business, including, but not limited to cultivating, growing, manufacturing, processing, displaying, selling, and storage, shall be conducted indoors. An adult use marijuana business is not permitted to conduct outdoor sales or services of any kind.
 - (2) An adult use marijuana business must be operated from permanent locations, which may utilize telephone and internet orders as long as the buyer pays for and picks up such orders in the store on the day the order is made.
- (f) An adult use marijuana business shall have a minimum of one off-street parking space per 250 square feet of floor area and one off-street parking space for each on-shift employee. Applicant shall provide documentation representing the legal right to use each parking space throughout the life of the adult use marijuana business.
- (g) Submission of a waste management plan which shall include, but is not limited to compliance with Old Orchard Beach Code of Ordinances Chapter 46 (solid waste).
- (h) Drive-through and home delivery prohibited. Adult use marijuana stores are prohibited from having drive-through pick-up facilities and home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within an adult use marijuana store.
- (i) Signs. Notwithstanding the sign requirements of the zoning district where the adult use marijuana business is located and Chapter 78, Article VIII, Division 5 of Old Orchard Beach Code of Ordinances, and 28-B M.R.S. § 702, all signs used by and all marketing and advertising conducted by or on behalf of an adult use marijuana business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal to persons under 21 years of age. The signs, marketing, or advertising are prohibited from making any health or physical benefit claims.
- (j) Sale of edible products. No food products shall be sold, prepared, produced or assembled by an adult use marijuana business except in compliance with all operating and other requirements of the state and Old Orchard Beach laws and regulations. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (k) Odor management. For all adult use marijuana businesses, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the business. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the conditional use application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:
 - (1) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.

- (2) A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.
- (3) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.
 - (i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.
 - (ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

An adult use marijuana business must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein and to mitigate noxious gases or other fumes used or created as part of the production. While the town does not mandate any particular equipment specifications with regard to filtration, an adult use marijuana business is strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

- (l) Sufficient means of preventing smoke, debris, dust, fluids and other substances from exiting an adult use marijuana business must be provided at all times.
- (m) An adult use marijuana business shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and town laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.
- (n) Security. Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:
 - (1) Security surveillance cameras installed and operating 24 hours a day, seven days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
 - (2) Door and window intrusion robbery and burglary alarm systems with audible and police department notification components that are professionally monitored and maintained in good working order;

- (3) A locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises;
- (4) Exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Old Orchard Beach Code of Ordinances;
- (5) Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks; and
- (6) Methods to ensure that no person under the age of 21 shall enter an adult use marijuana business and have access to marijuana and marijuana products.
- (7) Methods to control loitering, which includes obstruction of free passage of pedestrians and vehicular traffic.

All security recordings shall be preserved for at least 72 hours. An adult use marijuana business shall provide the police chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the town may provide notice of any operating problems associated with the business.

- (o) Change of use/addition of use/expansion of use. If any type of adult use marijuana business wants to change to another type of establishment, add another type of adult use marijuana business to its existing operations, or to expand the existing use (including additional square footage), such change of use, additional use or expansion of use must be reviewed and approved by the planning board for compliance with this section.
- (p) Other laws remain applicable. An adult use marijuana business shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing adult use marijuana and/or adult use marijuana businesses, the stricter law or regulation shall control.
- (q) Conditional approval. All adult use marijuana business approvals shall include a condition that requires the person or business entity to secure applicable state and town licensing approvals before any on-site operations begin.
- (r) Lot size. The proposed Adult use marijuana store total Land Units, as listed on the parcel's Vision Property Card under Land Line Valuation and maintained by the Town, is equal to or less than 21,780 sq. ft.**
- (s) Building Size. The proposed Adult use marijuana store total Eff. Area, as listed on the parcel's Vision Property Card under Building Sub-Area Summary Section and maintained by the Town, is equal to or less than 1,000 sq ft.**

(Ord. of 11-16-2021(3))

PUBLIC HEARING – LIQUOR LICENSES & APPROVALS:

Jesus Ayala-Puentes: Taqueria 207, LLC d/b/a Taqueria 207, (210-2-51), 2 Ocean Park Road, m-s-v in a restaurant.

Chair Opened the Public Hearing @ 7:01

Motioned to approve by: Councilor Mead

Seconded by: Councilor Tousignant

Vote:5-0

Chair Closed the Public Hearing @ 7:01

PUBLIC HEARING – BUSINESS LICENSES & APPROVALS:

Patricia Callum & John Caron dba Beach Life, (304-7-1-13), 78 East Grand Ave., #201, one year round rental.

P2S Homes LLC, (304-7-1-17), 78 East Grand Ave., #205, one year round rental.

P2S Homes LLC, (304-7-1-18), 78 East Grand Ave., #206, one year round rental.

Jakob Chandler, (314-15-6), 88 Ocean Ave., three year round rentals.

Boka, (210-11-6), 5 Ocean Park Rd., victualers with prep, no alcohol.

Chair: Shawn O’Neill

Chair Opened the Public Hearing @ 7:02pm

Motioned to remove the P2S Homes LLC items without prejudice, amended to include Patricia Callum & John Caron dba Beach Life by: Councilor Mead

Seconded by: Vice chair Blow

Town Manager called roll for vote

Councilor Tousignant no, Councilor Mead yes, Chair O’Neill yes, Councilor Reid yes, Vice chair Blow yes.

Vote: 4-1 *discussion below*

Motioned to include Patricia Callum & John Caron dba Beach Life in previous motion by: Councilor Mead
Seconded by: Vice chair Blow
Town Manager called roll for vote
Councilor Tousignant no, Councilor Mead yes, Chair O'Neill yes, Councilor Reid yes, Vice Chair Blow yes.
Vote: 4-1 *discussion below*

Motioned to approve Jakob Chandler and Boka licenses by: Councilor Mead
Seconded by: Vice Chair Blow
Vote: 5-0

Chair Closed the Public Hearing @ 7:34pm

Tim Dinella – addressed concerns over short term rentals in Town.

Councilor Mead – contacted Mr. Chandler to ascertain future of rental property and shared his, Councilor Mead's, concerns on short term rentals.

Chair O'Neill – the board discussed removing the first 3 applicants without prejudice to gather more information. Town Planner Jeffrey Hinderliter spoke to the topic. Councilor Tousignant expressed his opinion that the applicants have met all requirements as currently needed and the council needs to keep that in mind when it comes time to approve the licenses. He stated that he is opposed to the conversions, but they meet the criteria that is currently in place.

Philip Vince – spoke to the topic

TOWN MANAGER REPORT – see attachment below

Town of Old Orchard Beach



Town Manager
OOB Town Hall
1 Portland Avenue
OOB, ME 04064

Diana H. Asanza
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November 15, 2022

Town Manager's Report

I would like to pass along my sincere condolences to the Kelley Family and the passing of Nancy Lee Kelley 74 passed away on November 4, 2022.

Nancy was involved in many organizations including the Rotary Club of Saco Bay, Gold Star Mothers of America, American Legion Post 57 Auxiliary, and the VFW #7997 of Old Orchard Beach. Nancy was instrumental in creating the Christopher Scott Cash Memorial Scholarship Fund in honor of her son who was killed in the line of duty during Operation Iraqi Freedom. All proceeds benefit graduating seniors who are going on to further their education. The “Run For Cash” Memorial 5K and Family Race Day takes place each summer with hundreds of runners, walkers and children participating. A Celebration of Life Service will be held at the Salvation Army Corp, 2 Sixth Street, Old Orchard Beach at 11am on Saturday, November 19, 2022 with Major Dan Brunelle presiding, reception to follow. Donations made be made in Nancy’s honor to The Christopher S. Cash Memorial Scholarship Fund, care of Saco and Biddeford Savings Institution, 2 Portland Avenue, Old Orchard Beach, ME 04064.

I would like to offer my appreciation and praise to our Town Clerk for a job well done to ensure the November 8th election went off without a hitch as is always the case under the direction of Kim McLaughlin Town Clerk. Kim continues to raise the bar to improve the integrity of the election process and is always prepared. She does this with the support of her Deputy Town Clerks, Charlene Lopresti and Jeff Thompson, as well as all the election workers that assist during absentee voting through election day. Hats off to Kim and her team. Thank you.

A few reminders:

The Inaugural Meeting is scheduled for next Monday November 21, 2022, at 6:30 here in the Council Chambers. Please join us as we swear in the re-elected Council Members, Councilor O'Neill, Councilor Blow and Councilor Tousignant, as well as the newly elected school board member Barbara Roberge.

Town Hall will be closed next Thursday November 24th and Friday November 25th for the Thanksgiving Holiday.

Speaking of Thanksgiving I would thank OOB365 for the Community Thanksgiving Dinner they sponsored this past Sunday at the American Legion Hall. They provided a complete Thanksgiving meal with all of the fixings. It was a heartwarming display of community and my husband, and I were happy to help out alongside Councilor Reid and Councilor Blow.

The Holiday Season is fast approaching, and we have started planning and preparing in partnership with the Chamber of Commerce for the annual Celebrations by the Sea, and Holiday Tree Lighting event. This year it will be Sunday December 4th from 3pm – 6pm in Veterans Memorial Park. There will be a scavenger hunt, music, hot chocolate, arts and crafts for kids and a visit from Santa and Mrs. Clause. There will be more information on the Town's website and the Chamber of Commerce website as the date approaches.

I would like to remind residents with the winter season approaching the Town will institute parking bans as needed during winter storms. During parking bans off street parking is available at the Milliken Parking Lot, Memorial Parking Lot and Ocean Park Square. The Town uses several outlets to keep residents notified of winter parking bans. Notices are publicized on local television and radio stations. You can also sign up to receive email notifications on winter parking bans by going to the Town's website and click on the "Subscribe to News" button to register for these alerts and there are also announcements on the Town's and Police Department's website.

Thank you,
Diana H. Asanza

NEW BUSINESS

AGENDA ITEM #7794

Discussion with Action: Confirm the appointment of John Gilboy as Interim Fire Chief and Interim Emergency Management Director effective November 15th, 2022, through May 15th, 2023.

Chair: Shawn O'Neill

Motioned to approve by: Councilor Blow

Seconded by: Councilor Reid

Vote: 5-0

Town Manager Diana Asanza - I am very pleased to announce the appointment of Deputy Chief John Gilboy as the Interim Fire Chief. As you know John was recently promoted to Deputy Chief and with over 26 years of service to Old Orchard Beach, I am thrilled that he will assist the Town during this transition. I can't thank him enough for his commitment and dedication to the department and to the Town. Deputy Chief Gilboy is familiar with the administrative operations of the department, working closely with Chief LaMontagne which has positioned him well for this interim post. Congratulations John and thank you for your service to the Town.

Town Clerk Kim McLaughlin swore Chief Gilboy in.

AGENDA ITEM #7795

Discussion with Action: Accept the quote from Fire Tech & Safety of New England, Inc., in the amount of \$29,826.00 from account # 52002-50927, Fire Safety Equipment Capital Expense Account with a balance of \$30,000.

Chair: Shawn O'Neill

Motioned to approve by: Vice Chair Blow
Seconded by: Councilor Reid

Vote:5-0

Chair O'Neill - Item to be purchased is a vehicle extrication device.

INTEROFFICE MEMORANDUM

TO: DIANA ASANZA, TOWN MANAGER
JORDAN MILES, FINANCE DIRECTOR

FROM: JOHN GILBOY III, DEPUTY FIRE CHIEF

SUBJECT: REPLACEMENT OF VEHICLE EXTRICATION TOOLS FROM CIP FUNDS

DATE: NOVEMBER 5, 2022

CC: ZACHARY APGAR, CAPTAIN

Background: This memo is to recommend the replacement of our vehicle extrication tools as budgeted by CIP funds. As approved in the FY23 CIP budget in the amount of \$30,000.00, we have undertaken a process to evaluate and recommend replacement of our current tool which was purchased in 1999. The current tool no longer meets the demands of today's modern vehicle construction. Our current tool is a gas powered hydraulic "combi" tool which is a combination of both a cutter and spreader device that is connected to a gasoline drive hydraulic pump which is connected to the tool via high pressure hydraulic hoses. These tools are designed to help us remove doors, windows, and roofs of vehicles in the event of an accident or incident which causes significant enough damage or entrapment that the occupants cannot be removed via normal means.

Process: Reputable vendors representing proven and respected extrication tools in our industry were solicited to provide a hands-on demonstration of the tools and accessories to our staff. Conversations with these vendors, as well as industry trends note a change from traditional gas-powered hydraulic units to a self-contained battery powered hydraulic system. A committee of 5 staff as well as each shift had an opportunity to participate. After each demonstration the tools were rated independently by each participant and then tallied by the committee. Upon the completion of the demonstrations the committee met and eliminated one vendor due to tool performance and overall rating. Quotes were solicited from three vendors for the following items: A 7inch battery powered cutter, a 28-32" battery powered spreader, 4 batteries with 120v charging unit, accessories as recommended by the vendor as well as an option for a medium duty vehicle stabilization strut package. We received 3 quotes back.

Results: The following 3 quotes were received:

1. Industrial Protection Services LLC (IPS): Holmatro Pentheon Package \$32,902.00 W/O Struts (+\$1,812.00 with struts)
2. Harrison Shrader Enterprises (HSE): Genesis E Force Package \$27,670 W/O Struts – No option
3. Fire Tech & Safety (FT&S): Amkus ION Package \$29,826.00 with Struts Package

Recommendation: The committee recommends moving forward with the FT&S package as it offers the most fiscally responsible platform for our future. The Amkus ION platform utilizes a standard DeWalt Flex Volt battery platform that is already in use by our department on several cordless tools. This Flex Volt platform allows one battery to run both 60v and 20v tools. This platform would also allow us to further expand and grow the platform as we upgrade additional cordless tools in the future. The Amkus brand is well respected as is the vendor. Our previous extrication tool from 1999 is also Amkus and was sold by FT&S and has been supported without question since that time with reliable service. This package also includes the following accessories which were not options from other vendors.

1. Extended Reach Tips for the spreader that increase the spread range by 8 inches
2. A windshield removal kit with cordless laminated glass cutting tool and removal accessories

Finally, this package price also includes a price option for the medium duty vehicle stabilization struts package which includes two self-contained struts that help to stabilize vehicles in the event they are overturned, on their side or otherwise in an unstable position. The quotes received from both IPS, and FT&S were for the same "Junkyard Dog" Medium duty struts with the FT&S price being \$262.00 less than the quoted price from IPS.

This is not only the most cost-effective option, but it affords us the ability to vastly upgrade our capabilities in vehicle extrication and expand a platform that can be expanded upon again. Having a specific cutting and spreading tool allows us to preform both tasks simultaneously with tools designed for each specific task, not a combination of both. This option also gives us the ability to provide initial stabilization to unstable vehicles, a capability we cannot currently provide without relying on our mutual aid partners and their equipment.

We look forward to your approval to proceed with this item as a discussion with action item on the next available Town Council agenda. Of note, the quote from FT&S is only valid for 15 days due to supply chain and market instability. We are working with FT&S to lock this price for the remainder of the process however feel confident even if changes are to occur past 15 days that the request will still fall within the budget.

FIRE TECH & SAFETY OF NEW ENGLAND, INC.
 100 Business Park Dr., Unit 6
 Tyngsborough, MA 01879
 1-800-256-8700 Fax (978) 649-6833



Name / Address
OLD ORCHARD BEACH FIRE DEPT.-ME FIRE DEPT. COMPLEX 136 SACO AVE OLD ORCHARD BEACH, ME 04064

Quote

Date	Quote #
11/8/2022	198737
Valid for 15 Days	



Project	Terms	Rep
	Net 30	JC

Qty	Description	Unit Price	Total
1	AMKUS ION CUTTER, LIGHTED HANDLE TOOL ONLY	11,576.00	11,576.00
1	AMKUS 320 ION SPREADER, LIGHTED HANDLE TOOL ONLY	12,965.00	12,965.00
1	AMKUS EXTENDED REACH TIPS (1 PAIR)	1,050.00	1,050.00
2	AMKUS 2 - 12AMP/60WATT DEWALT BATTERIES AND CHARGER	975.00	1,950.00
1	AMKUS DEWALT WINDSHIELD REMOVAL KIT INCLUDES 1 - WINDSHIELD CUTTER, 1 - FUBAR TOOL, 2 - WINDSHIELD SUCTION CUPS, 1 - 6 AH BATTERY, 1 - CHARGER, AND 1 - STORAGE BAG	735.00	735.00
1	JYD XRS M JUNK YARD DOG MEDIUM STRUTS XTEND Style Rescue Strut Set (x2 Struts) with Ratchet Strap, Axle Strap, Angle Head, Witches Hat Head and Accessory Bag	1,550.00	1,550.00
	SHIPPING & HANDLING TO BE INVOICED ADDITIONALLY AT TIME OF DELIVERY	0.00	0.00
Total			\$29,826.00

Notice: One or more of the products listed above may contain PFAS. For detailed product information please call 800-256-8700.

Fire Tech & Safety Terms and Conditions: <https://firetechusa.com/FTSTAC.pdf>

Unless otherwise noted, this quote is valid for 15 days from the date of issue. Payment & Add terms



Quotation

Harrison Shrader Enterprises

13 Westminster Street
 Lewiston, Me 04240
 207-241-0325 Fax: 207-553-2288
www.hsefiresafety.com

Date: 11/2/2022	Submitted By: Willie Burk
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Quotation For Old Orchard Beach Fire

Old Orchard Beach, Me

CONTACT:	EST. SHIP DATE	SHIP VIA	TERMS
Capt. Apgar		Best way	Net 30 days

QUANTITY	DESCRIPTION		EXT. PRICE
1	Genesis S54-SL3 32" EForce Spreader* p/n ART.109.173.5	\$13,275.00	\$ 13,275.00
1	Genesis C195-SL3 EForce Cutter* p/n ART.109.856.5	\$12,725.00	\$ 12,725.00
*	Each tool comes with 1- 28V 5AH Li-Ion Battery		
2	Genesis C195 NXTGEN Insert Only p/n ART.108.472.4	\$325.00	\$ 650.00
2	Milwaukee 28V 5AH Li-Ion Battery p/n 50-11-2855	\$285.00	\$ 570.00
1	Genesis 3 Bay Charger 120V p/n ART.105.410.9	\$450.00	\$ 450.00
		TOTAL	\$27,670.00

SIGNATURE: Willie Burk	ABOVE PRICING WILL BE HONORED FOR: 30 Days
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125 John Roberts Rd
South Portland, ME 04106
PH: 207-847-3313
Jon Usher-Maine Sales
jusher@ipp-ips.com

PRICE QUOTE FOR:
Old Orchard Beach Fire Department
Chief Fred LaMontagne
136 Saco Avenue
Old Orchard Beach, ME 04064

DATE:
10/31/2022

Product/Description	Price Ea.	Qty	Extension
Holmatro PSP50 Pentheon Spreader p/n 159.000.181	\$15,127.00	1	\$15,127.00
Holmatro PCU50 Pentheon Cutter p/n 159.000.063	\$13,202.00	1	\$13,202.00
Holmatro PBPA287 7Ah Battery p/n 151.000.583	\$785.00	4	\$3,140.00
Holmatro PBCH2 Charger p/n 151.000.742	\$603.00	2	\$1,206.00
Holmatro DCPC1 Daisy Chain Cord p/n 151.000.503	\$13.00	1	\$13.00
Holmatro POTC1 On-Tool Charging Cord p/n 151.000.499	\$107.00	2	\$214.00
		Total	\$32,902.00

AGENDA ITEM #7796

Discussion with Action: Appoint Timothy Fleury, to the Biddeford Saco Old Orchard Beach Transit Committee (BSOOB).

Chair: Shawn O'Neill

With the resignation of Jen Hayes, there was a vacancy for the Town's professional representative on the Biddeford Saco Old Orchard Beach Transit (BSOOB) Committee. I am recommending Timothy Fleury to fill this vacancy since he is the new Executive Assistant to the Town Manager. I think this will be a good opportunity for Tim and the future of Old Orchard Beach's representation on the BSOOB committee working alongside Councilor Blow who also serves on this committee.

Motioned to approve by: Councilor Reid

Seconded by: Vice Chair Blow

Vote:5-0

AGENDA ITEM #7797

Discussion with Action: Approve the two-year Blanket Letter of Approval for Games of Chance (sealed tickets) for Veterans of Foreign Wars (VFW), Post 7997, 76 Atlantic Avenue, from January 1st, 2023, to December 31st, 2024.

Chair: Shawn O’Neill

Motioned to approve by: Councilor Mead
Seconded by: Vice Chair Kenney

Vote: 5-0



**STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE STATE POLICE
SPECIAL INVESTIGATIONS UNIT**

164 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0164
(207) 624-7210

Application for a License to Operate Beano/Bingo or a Game of Chance

****The Special Investigations Unit must receive this application at least eight days before Beano or a Game of Chance may begin****

1. For what license are you applying (please check one): **BEANO** **OR** **GAME OF CHANCE**

IF YOU CHECKED GAMES OF CHANCE:

2. Organization Name: VFW Post 7997 Name of Game: Sealed Tickets

Organization Number: 7230 Number of Games: 1

Federal Tax ID # (EIN): 01-0344591 Open to Public? Yes No

Business Address: 76 Atlantic Ave, Old Orchard Beach ME 04064

Mailing Address: 76 Atlantic Ave O.O.B. ME 04064 Phone: 934-9910

3. Current Officers:

NAME & TITLE	ADDRESS	CITY/ZIP	PHONE	DATE TERM EXPIRES
<u>William Day</u> <small>Commander</small>	<u>6 Prospect St</u>	<u>O.O.B. ME</u>	<u>934-9910</u>	<u>6/23</u>
<u>Michael McInnis</u> <small>Quartermaster</small>	<u>15 Vines Rd</u>	<u>Saco ME</u>	<u>934-9910</u>	<u>6/23</u>
<u>Randy Eastman</u>	<u>Old Orchard Rd</u>	<u>O.O.B. ME</u>	<u>934-9910</u>	<u>6/23</u>

NAME & TITLE ADDRESS CITY/ZIP PHONE DATE TERM EXPIRES

4. Location where Beano/Bingo or Game of Chance is to be conducted:
76 Atlantic Ave Old Orchard Beach ME 04064
BUILDING ADDRESS CITY/ZIP

5. Person responsible for operation of Beano or Games of Chance:
William Day 934-9910
NAME DAYTIME PHONE & EVENING PHONE

Name & Address where Licenses will be sent: VFW Post 7997 76 Atlantic Ave O.O.B. ME 04064

E-Mail Address: vfw7997@gmail.com

6. Circle the days of the week you expect to operate: Mon Tue Wed Thu Fri Sat Sun
What are the hours of operation? _____

7. For Tournaments and Beano Only:
What time do the doors open? _____ What time does the game start? _____

8. Dates to be licensed – Please specify weeks (Monday through Sunday) or full months. You may apply in advance for up to **6 months of licenses for Beano** and **12 months for Games of Chance**. See back of this form for rates.

<u>January</u>	<u>May</u>	<u>September</u>
<u>February</u>	<u>June</u>	<u>October</u>
<u>March</u>	<u>July</u>	<u>November</u>
<u>April</u>	<u>August</u>	<u>December</u>

FOR OFFICE USE ONLY	
Check # _____	27
Amount \$ _____	

9. Does the organization own all the equipment used in operating this amusement? Yes No

If "NO", please explain the circumstances under which the equipment was acquired:

10. Has any current officer of this organization or association ever been convicted of or have any charges currently pending for violating the gambling or lottery laws of the United States or the State of Maine? Yes No

If "YES" give the person's name, address, and date and place of conviction or date and location of pending charge:

11. If the Applicant is a Fair Association, attach a list of the names and home addresses of the persons operating or assisting in the licensed activity. Please write your organization name and number on the list.

-----APPLICANT SIGNATURE-----

12. The applicant agrees to obey the laws of the State of Maine and the United States and the rules and regulations governing Beano or Game of Chance promulgated by the Chief of the State Police. The applicant warrants the truth of the foregoing statements on penalty of perjury.

Signed: William Day Age 18 or older: Yes No

Name: William Day Title: Commander Date: 10-28-22
(Please print - must be duly authorized officer of this organization - title is required)

-----BLANKET LETTER-----

13. The following consent must be completed by the municipal officers of the city or town where the Beano/Bingo or Game of Chance will take place unless a separate "Blanket Letter of Approval" is filed with the Chief of the State Police.

- Check here if you have previously filed a "Blanket Letter of Approval" with us, which is still valid
- Check here if you have attached a "Blanket Letter of Approval".

-----CONSENT-----

The undersigned being municipal officers of the City/Town of _____ hereby certify that we consent to this application for a license to operate Beano/Bingo or a Game of Chance in accordance with the provisions of 17 M.R.S.A. Chapter 13-A (Beano) or Chapter 62 (Games of Chance) and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operating of Beano/Bingo or Games of Chance.

Name: _____ Date: _____

Name: _____ Date: _____

Name: _____ Date: _____

Name: _____ Date: _____

-----FEES-----

Beano/Bingo: \$5.00/Special Per Game License; \$12/Week; \$36/Month; \$400/Year

Game of Chance: \$15/Week; \$60/Month; \$700/Year **Video Poker:** \$15/Week or \$60/Month **Card / Cribbage:** \$30 Per Calendar Year

Tournament Game (up to 100 players): \$75.00/Per Tournament; \$200.00/Month (Two Tournaments per Month); \$1,500/Year (Two Tournaments per Month)

Make check payable to Treasurer, State of Maine

**Return the signed and completed application to: Department of Public Safety
Maine State Police
Special Investigations Unit
164 State House Station
Augusta, ME 04333-0164**

AGENDA ITEM #7798

Discussion with Action: Approve the emergency ordinance establishing a moratorium on Hotel/Motel Condominium Conversions pursuant to Charter Section 410.1

Chair: Shawn O'Neill

Chair O'Neill read moratorium – please see attached

Ellen Chandler – commented on the Quebec Hotel

Charter on town website – for information

Blow – motel owner wants to lease out property to multiple owners -

Motioned to approve by: Vice Chair Blow

Seconded by: Councilor Tousignant

Roll called by Town Manager

Vote: 5-0

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager**
FROM: Planning Department
SUBJECT: Hotel/Motel Condominium Conversion Moratorium
DATE: 15 November 2022

Hotel and motel conversions to condominiums have been identified as a concern to town staff. It's a concern due to the recent substantial increase in formal proposals and inquiries and the minimal authority and standards available to staff to evaluate conversion proposals. In order to properly consider the town's options, we feel a moratorium is necessary to allow time to research and possibly develop appropriate mechanisms that provide more protection to occupants of the units, abutting property owners, and the town as a whole.

What is a hotel/motel to condominium conversion? Basically, it is a change of ownership and operations of a hotel or motel from seasonal short term, daytrip and weekly lodging use on a property under single ownership to the creation of a condominium style ownership with separate owners of each unit that may be occupied by the owners or transients both short and long term and available year-round.

When converting a hotel/motel into a condominium, if the condominium continues to operate in a manner like a hotel or motel the use (for zoning purposes) does not change. Only the type of ownership changes- from one person owning the entire property and building(s) to each unit owned separately with common facilities (e.g., parking lots, hallways) owned by all unit owners. This is why conversions are considered grandfathered- only the form of ownership changes and not the use.

If the conversion results in a change so units become dwelling units (a room or suite of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for sleeping, living, cooking and eating), then the use changes. Once the use changes grandfathered status is lost which means the proposal must meet applicable standards including parking, density, fire code, etc. The proposal would be considered a multifamily building and no longer a hotel or motel.

Why do we need a moratorium? As stated above, the town has recently experienced an increased number of conversion proposals. With minimal, if any, legal authority to properly review conversions we cannot evaluate potential issues which include:

- Lack of life safety compliance (access/egress, no fire separation between units).
- Non-compliance with electrical and plumbing codes.
- Hotel/motel units changing into dwelling units after conversion, which have different zoning, code, life safety, etc. requirements.
- Impact seasonal visits by decreasing the number of affordable rooms available for day trippers and week-long vacations.
- Impacts to abutting properties and property owners.
- Inadequate on-site parking.
- Potential increase sewer use without proper analysis.
- Very small rooms built for temporary visitor occupancy becoming long-term housing.
- Absentee landlords.
- Impacts to municipal services and schools.
- Decrease job opportunities.

There are potential benefits to conversions such as increase affordable housing, more year-round housing, and higher property values. Although, based on our initial thought, potential impacts outweigh potential benefits which is why these conversions concern staff.

How do we review conversions now? Because there is no mechanism that allows staff review, we have minimal authority to review conversions. In fact, I have created standards to apply some kind of regulation to conversion proposals. This is not a proper way to conduct business and easily challenged.

What will the moratorium do? Temporarily pause hotel/motel to condominium conversions to allow the town to develop adequate mechanisms to review conversions.

How will the moratorium impact hotel and motel operations? Typical operations of hotels and motels will not be impacted at all. Hotels and motels will only be impacted by the moratorium if they are proposing to change to a condominium.

How will this impact already approved conversions? Conversions approved by the town before enactment of the moratorium will likely be grandfathered. As with most land-use related matters, prior approvals are expected to run with the property and not require conformance with new ordinances if property ownership changes. Although, changes to the use or new construction/alterations that add square footage or volume or involve any structural member may require conformance with new ordinances.

What does staff see as the mechanisms to review conversions as well as standards applied to conversions? We expect the mechanisms will include ordinances that allow the Town to perform a much more thorough review of these proposals. We do not see a prohibition of these conversions. In fact, the Maine Condominium Act does not allow municipalities to prohibit the condominium form of ownership. Examples of what we expect to see:

1. Standards that ensure units continue to operate as hotel or motel units and not a dwelling unit.
2. Submission of annual rental history reports by each unit owner.
3. All conversions will require Planning Board review.
4. Enhanced code and fire safety standards.
5. Occupancy standards.
6. Allow nearby property owners the opportunity to review and comment on proposals before they are approved.
7. Parking standards.
8. Traffic and sewer analysis standards.
9. Use change standard.

What are the next steps? Research and likely develop mechanisms to review and apply standards for conversion proposals. If these mechanisms involve ordinance amendments, the amendments will require Planning Board and Council review.

**TOWN OF OLD ORCHARD BEACH
ORDINANCE ESTABLISHING MORATORIUM
ON HOTEL/MOTEL CONDOMINIUM CONVERSIONS**

WHEREAS, Town staff have recently received a number of inquiries and applications concerning the conversion of existing hotels or motels into condominiums; and

WHEREAS, such conversions raise a number of concerns related to the public health, safety and welfare, including, but not limited to adequacy of parking and compliance with zoning, building, electrical, plumbing, and life safety codes; and

WHEREAS, the Town's current ordinances do not provide an adequate mechanism to review conversions of existing hotels/motels to condominium hotel/motels for regulatory compliance prior to such conversions; and

WHEREAS, the Town's existing ordinances are inadequate to prevent the potential for serious public harm from the improper development or occupancy of condominium hotel/motels; and

WHEREAS, the Town Council concludes that, in order to have a reasonable opportunity to review and upgrade existing Town ordinances, a moratorium on the conversion of existing hotels or motels to condominium hotel/motels is necessary to protect the public health, safety and welfare; and

WHEREAS, during the period of this Moratorium, the Town will work on developing appropriate land use regulation concerning Condominium Hotels/Motels; and

NOW THEREFORE, pursuant to the authority granted to it by 30-A M.R.S. § 4356, be it hereby ordained by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, as follows:

1. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings:

“Condominium Hotel/Motel” means a hotel or a motel in which some or all of the guest rooms are owned as a condominium. “Condominium” means a condominium as defined in the Maine Condominium Act, at 33 M.R.S.A § 1601-103(7).

“Condominium Unit” means a unit as defined in the Maine Condominium Act, at Section 1601-103(26).

“Hotel” means a hotel as defined in the Old Orchard Beach Zoning Ordinance, at Section 78-1.

“Motel” means a motel as defined in the Old Orchard Beach Zoning Ordinance, at Section 78-1.

2. CONVERSION AND CREATION OF CONDOMINIUM HOTEL/MOTELS PROHIBITED.

During the time this Ordinance is in effect, no person shall establish, construct, develop, or convert any existing hotel or motel to a Condominium Hotel/Motel or create any new Condominium Hotel/Motel.

3. APPLICATIONS NOT TO BE ACCEPTED OR ACTED UPON.

During the time this Ordinance is in effect, no official, officer, board, body, agency, agent or employee of the Town of Old Orchard Beach shall accept, process or act upon any application for any approval, including but not limited to a building permit, certificate of occupancy, site plan review, conditional use, or any other approval, relating to the conversion of an existing hotel/motel to a Condominium Hotel/Motel or the creation of a new Condominium Hotel/Motel. No person shall establish, construct, or development a Condominium Hotel/Motel that was not approved by the Town prior to the effective date of this Ordinance.

4. ENFORCEMENT, VIOLATION AND PENALTIES.

This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Old Orchard Beach. Any person who violates this Ordinance shall be subject to civil penalties and

other remedies as provided in 30-A M.R.S.A. § 4452. If a condominium hotel/motel is created in violation of this Ordinance, each day such use continues to exist constitutes a separate violation.

5. EFFECTIVE DATE.

This Ordinance takes effect immediately upon adoption and shall expire on the 180th days thereafter, unless earlier extended, repealed or modified by the Old Orchard Beach Town Council.

6. APPLICABILITY.

Notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance shall apply to any proposal to convert an existing hotel or motel to a Condominium Hotel/Motel or to create a new Condominium Hotel/, whether or not an application or proceeding to establish or expand said use prior to the enactment of this Ordinance would be deemed a pending proceeding.

7. SEVERABILITY.

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

AGENDA ITEM #7799

Discussion with Action: Set the Public Hearing Date for December 6th, 2022 for the Town Council to consider amendments to the Adult Use Marijuana Business, Conditional Use Ordinance Ch. 78, Art. VII, Div. 2- Conditions, Sec. 78-1279 (5) b, (5) h, and re-letter (5), and Ch 18, Article XII, Sections 18-604 - 622 Amendments – Adult Use Marijuana Business Licensing.

Chair: Shawn O’Neill

These are the amendments that Council has been working on over the past 6 months through numerous workshops and public feedback regarding changes to the license process regarding the merit criteria application process. This is not to be confused with the Citizens Initiative Petition on ordinance amendments to Ch 78 for Adult Use Marijuana Business standards.

Motioned to approve by: Councilor Mead
Seconded by: Vice Chair Blow

Vote: 5-0

AMENDMENTS TO CHAPTER 78, ARTICLE VII, DIV. 2 – CONDITIONS, SEC. 78-1279 (5) b, (5) h
ADULT USE MARIJUANA BUSINESS, CONDITIONAL USE

Draft 1 (October 2022)

Amendments: deletions are ~~struck~~, additions are **bold underline**

Sec. 78-1279 – Adult Use Marijuana Business

(1) Purpose

The purpose of this section is to implement the Marijuana Legalization Act, 28-B M.R.S. §101 et seq. and to protect the public health, safety, and welfare of the residents of and visitors to the Town of Old Orchard Beach by prescribing the manner in which Marijuana Business can be conducted in the Town.

In addition, this section provides for the protection of public health and safety through reasonable controls on marijuana sales, cultivation, manufacturing, testing, and distribution operations as they relate to air quality, neighborhood and customer safety, security for these operations and their personnel, and other health and safety concerns.

(2) Applicability

The regulations in this Ordinance shall apply to any persons or entities operating or interested in operating an Adult Use Marijuana Business in Old Orchard Beach.

(3) Definitions exclusive to Adult Use Marijuana Business

As used in this section the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter. Terms not listed below have the same meanings as in section 78-1 of this chapter.

Adult Use Marijuana: marijuana cultivated, manufactured, distributed or sold by an adult use marijuana business.

Adult Use Marijuana Business: Adult Use Marijuana Cultivation Facility, Adult Use Marijuana Products Manufacturing Facility, Adult Use Marijuana Testing Facility, or Adult Use Marijuana Store regulated under this Ordinance.

Adult Use Marijuana Cultivation Facility: a facility licensed to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to Adult Use Products Manufacturing Facilities, to Adult Use Marijuana Stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to Adult Use Marijuana Stores.

Adult Use Marijuana Nursery Cultivation Facility: a facility licensed to cultivate not more than 1,000 SF of plant canopy pursuant to 28-B M.R.S. §501.

Adult Use Marijuana Product: a marijuana product that is manufactured, distributed or sold by an adult use marijuana business.

Adult Use Marijuana Store: a facility licensed to purchase adult use marijuana, immature marijuana plants and seedlings from an Adult Use Cultivation Facility, to purchase adult use marijuana and adult use marijuana products from an Adult Use Products Manufacturing Facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Adult Use Marijuana Products Manufacturing Facility: a facility licensed to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Applicant: a person or business entity that has submitted an application for conditional use approval for an Adult Use Marijuana Business pursuant to this Article.

Business Entity: a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.

Cultivation or Cultivate: the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.

Edible Marijuana Product: a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate. "Edible Marijuana Product" does not include an edible product containing "hemp" as defined in Title 7 M.R.S.A, section 2231, subsection 1-A, paragraph D.

Harvested Marijuana: the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.

Immature marijuana plant: a marijuana plant that is not a mature marijuana plant or a seedling.

Licensed premises: the premises specified in an application for a State or local license that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use marijuana or adult use marijuana products, in accordance with the requirements of State law and regulations and Old Orchard Beach Code of Ordinances.

Local License: any license required by and issued under the provisions of Chapter 18 of the Old Orchard Beach Code of Ordinances.

Manufacture or Manufacturing: the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Marijuana: the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in Title 7 M.R.S.A, section 2231, subsection 1-A, paragraph D or a marijuana product.

Marijuana Product: a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana Product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana Product" does not include marijuana concentrate or a product containing hemp as defined in Title 7 M.R.S.A., section 2231, subsection 1-A, paragraph D.

Owner: a person whose beneficial interest in an Adult Use Marijuana Business is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of an Adult Use Marijuana Business and has a controlling interest in an Adult Use Marijuana Business.

Person: a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

Plant Canopy: the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

State License: any license, registration or certification issued by the State of Maine.

Testing or test: the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

(4) Permitting and Licensing

- a) An Adult Use Marijuana Business shall be operated in Old Orchard Beach in compliance with this ordinance and other applicable local, state and federal laws, regulations and codes.
- b) A person or business entity seeking to operate an Adult Use Marijuana Business shall not submit a conditional use application until their Adult Use Marijuana Business License is selected in accordance with Old Orchard Beach Code of Ordinances, Ch. 18, Sec. 18-610 (1).
- c) Pursuant to 28-B M.R.S.A. § 402, a person or business entity seeking to operate an Adult Use Marijuana Business may not submit a conditional use application or business license application unless the person or business entity has been issued a conditional license by the State of Maine to operate the Adult Use Marijuana Business.

(5) Performance Standards for Adult Use Marijuana Business

An Adult Use Marijuana Business requires approval from the Planning Board prior to the issuance of any business license, building permit or certificate of occupancy. The following performance standards

are to be used by the Planning Board in reviewing conditional use applications and compliance with the same shall serve as requirements for approval of such conditional use applications.

a) Separation from sensitive uses.

(1) No Adult Use Marijuana Business shall be sited within one thousand (1,000) feet of the lot lines of a school, and

(2) No Adult Use Marijuana Business shall be sited within one thousand (1,000) feet of the lot lines of a child care facility, community center, higher educational facility, public outdoor recreational area, church, synagogue or other house of religious worship, public library, amusement parks, and drug and alcohol rehabilitation center.

The distance cited in this section shall be measured between the lot line of the proposed site for the Adult Use Marijuana Business and the lot line of the site of the use listed in (1) or (2) above at their closest points. For purposes of this measurement, if an Adult Use Marijuana Business is to be located on a site that is leased from an unrelated third party, such Business lot line shall be determined as follows:

- (i) If the Business leases an entire parcel of land, the lot line of such Business shall be the lot line of the parcel;
- (ii) If the Business leases a free-standing building or buildings which is or are part of a larger parcel containing other free-standing buildings, the lot line of such Business shall be the outer wall of the building(s) being leased by the Business; and

For purposes of this section, the term “school” means a “public school” as that term is defined in 20-A M.R.S. § 1(24), as may be amended; a “private school” as that term is defined in 20-A M.R.S. § 1(22), as may be amended; and/or a “public preschool program” as that term is defined in 20-A M.R.S. § 1(23-A), as may be amended.

For purposes of this section, the term “child care facility” means a “child care facility” as that term is defined in 22 M.R.S. § 8301-A(1-A) (B), as may be amended, and/or a “family child care provider” as that term is defined in 22 M.R.S. § 8301-A(1-A) (C), as may be amended.

For purposes of this section, the term “community center” means a place where people from the community can meet for social, educational, and recreational purposes that is owned and operated by a municipality or a non-profit corporation.

For purposes of this section, the term “higher education facility” means a community college, college or university authorized by the State of Maine to award associate, baccalaureate or higher degrees.

For purposes of this section, the term “public outdoor recreational area” means a place used for public recreation, regardless of its size, owned by a governmental agency.

For purposes of this section, the term “amusement parks” means the property located within the Amusement Overlay District as shown on the Town of Old Orchard Beach General Zoning Map.

Once all required licenses, permits and approvals are issued, the Town will not preclude a sensitive use listed in (1) or (2) above from opening at a location within the applicable buffer zones. An Adult Use Marijuana Business may continue to operate in its present location as a pre-existing use if a sensitive use as listed in (1) or (2) above later locates within the applicable buffer zone; however, the Adult Use Marijuana Business does so at its own risk, and Town-issued licenses, permits or approvals provide no protection or indemnification against enforcement of federal or other applicable laws that may prohibit operation of a Adult Use Marijuana Business near a sensitive use listed in (1) or (2) above.

b) Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the Adult Use Marijuana Business pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

b c) Days and hours of operation. Adult Use Marijuana Businesses are limited to the following days of the week and hours of operation: Monday – Sunday, 9:00 AM – 9:00 PM.

e d) Proximity limit. No Adult Use Marijuana Business shall be sited within one thousand (1,000) feet of another Adult Use Marijuana Business, medical marijuana registered dispensary or medical marijuana production facility as measured from the main entrance of one to the main entrance of the other by the ordinary course of travel.

d e) Multiple occupancy buildings. No Adult Use Marijuana Business may be located within or attached to a building that provides space for any other residential or nonresidential occupancies.

e f) Area of activities.

(1) All activities of an Adult Use Marijuana Business, including, but not limited to cultivating, growing, manufacturing, processing, displaying, selling, and storage, shall be conducted indoors. An Adult Use Marijuana Business is not permitted to conduct outdoor sales or services of any kind.

(2) An Adult Use Marijuana Business must be operated from permanent locations, which may utilize telephone and internet orders as long as the buyer pays for and picks up such orders in the store on the day the order is made.

f g) An Adult Use Marijuana Business shall have a minimum of one off-street parking space per 250 square feet of floor area and one off-street parking space for each on-shift employee. Applicant shall provide documentation representing the legal right to use each parking space throughout the life of the Adult Use Marijuana Business.

h) The proposed adult use marijuana business will not cause or negatively contribute to existing highway or public road congestion or unsafe conditions with respect to use of

highways or public roads existing or proposed. Applicant shall submit a traffic impact analysis and assessment prepared by a Maine Licensed Traffic Engineer.

g **i**) Submission of a waste management plan which shall include, but is not limited to compliance with Old Orchard Beach Code of Ordinances Chapter 46 (solid waste).

h **j**) Drive-through and home delivery prohibited. Adult Use Marijuana Stores are prohibited from having drive-through pick-up facilities and home delivery services. Adult use marijuana customers may only purchase and obtain adult use marijuana products from within an Adult Use Marijuana Store.

i **k**) Signs. Notwithstanding the sign requirements of the zoning district where the Adult Use Marijuana Business is located and Chapter 78, Article VIII, Division 5 of Old Orchard Beach Code of Ordinances, and 28-B M.R.S. §702, all signs used by and all marketing and advertising conducted by or on behalf of an Adult Use Marijuana Business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal to persons under 21 years of age. The signs, marketing, or advertising are prohibited from making any health or physical benefit claims.

j **l**) Sale of edible products. No food products shall be sold, prepared, produced or assembled by an Adult Use Marijuana Business except in compliance with all operating and other requirements of the State and Old Orchard Beach laws and regulations. Any goods containing marijuana for human consumption shall be stored in a secure area.

k **m**) Odor management. For all Adult Use Marijuana Businesses, the odor of marijuana must not be detected offsite, i.e., must not be detected at premises that are not under the custody or control of the Business. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the conditional use application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:

(1) A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.

(2) A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.

(3) For each odor-emitting activity or source, a description of the administrative procedures as well as the engineering processes, technologies, and equipment the facility will use.

(i) Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.

- (ii) Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor-emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana industry best practices for control technologies designed to effectively mitigate odors.

An Adult Use Marijuana Business must implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein and to mitigate noxious gases or other fumes used or created as part of the production. While the Town does not mandate any particular equipment specifications with regard to filtration, an Adult Use Marijuana Business is strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.

l n) Sufficient means of preventing smoke, debris, dust, fluids and other substances from exiting an Adult Use Marijuana Business must be provided at all times.

m o) An Adult Use Marijuana Business shall have in place an operational plan for proper disposal of marijuana and related byproducts in a safe, sanitary and secure manner and in accordance with all applicable federal, state and Town laws and regulations. Dumpsters and trash containers must not be overflowing, and the surrounding area must be kept free of litter and trash. All dumpsters and containers shall be screened from public view. All trash receptacles on the premises used to discard adult use marijuana products must have a metal cover or lid that is locked at all times when the receptacle is unattended and security cameras must be installed to record activities in the area of such trash receptacles.

n p) Security. Sufficient and appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana must be provided at all times. Security measures shall include, at a minimum, the following:

- (1) Security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with the interior and exterior of the premises, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
- (2) Door and window intrusion robbery and burglary alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working order;
- (3) A locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana product and cash stored overnight on the premises;
- (4) Exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Old Orchard Beach Code of Ordinances;
- (5) Deadbolt locks on all exterior doors and any other exterior access points, excepting windows which shall have locks; and

(6) Methods to ensure that no person under the age of twenty-one (21) shall enter an Adult Use Marijuana Business and have access to marijuana and marijuana products.

(7) Methods to control loitering, which includes obstruction of free passage of pedestrians and vehicular traffic.

All security recordings shall be preserved for at least seventy-two (72) hours. An Adult Use Marijuana Business shall provide the Police Chief or his designee with the name and functioning telephone number of a 24-hour on-call staff person to whom the Town may provide notice of any operating problems associated with the business.

o q) Change of use/addition of use/expansion of use. If any type of Adult Use Marijuana Business wants to change to another type of establishment, add another type of Adult Use Marijuana Business to its existing operations, or to expand the existing use (including additional square footage), such change of use, additional use or expansion of use must be reviewed and approved by the Planning Board for compliance with this Ordinance.

p r) Other laws remain applicable. An Adult Use Marijuana Business shall meet all operating and other requirements of State and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing Adult Use Marijuana and/or Adult Use Marijuana Businesses, the stricter law or regulation shall control.

q s) Conditional approval. All Adult Use Marijuana Business approvals shall include a condition that requires the person or business entity to secure applicable State and Town licensing approvals before any on-site operations begin.

**CHAPTER 18, Article XII, Sections 18-604 – 622 AMENDMENTS – ADULT USE
MARIJUANA BUSINESS LICENSING
Draft 2 (October 2022)**

Amendments: deletions are ~~struck~~, additions are **bold underline**

ARTICLE XII. – Adult Use Marijuana Business Licensing

Sec. 18-604 – Purpose

The purpose of this Article is to provide for and regulate the issuance of Local Licenses for Adult Use Marijuana Businesses as defined in this Article and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, as may be amended.

Sec. 18-605 – Authority

This article is adopted pursuant to the authority granted by 28-B M.R.S.A. § 401 et seq., as may be amended.

Sec. 18-606 – Definitions

As used in this article the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in this chapter.

Adult Use Marijuana: marijuana cultivated, manufactured, distributed or sold by an adult use marijuana business.

Adult Use Marijuana Business: Adult Use Marijuana Stores regulated under this Ordinance.

Adult Use Marijuana Cultivation Facility: a facility licensed under this ordinance to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to Adult Use Products Manufacturing Facilities, to Adult Use Marijuana Stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to Adult Use Marijuana Stores.

Adult Use Marijuana Nursery Cultivation Facility: a facility licensed under this ordinance to cultivate not more than 1,000 SF of plant canopy pursuant to 28-B M.R.S. §501.

Adult Use Marijuana Product: a marijuana product that is manufactured, distributed or sold by an adult use marijuana business.

Adult Use Marijuana Store: a facility licensed under this ordinance to purchase adult use marijuana, immature marijuana plants and seedlings from an Adult Use Cultivation Facility, to purchase adult use marijuana and adult use marijuana products from an Adult Use Products Manufacturing Facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Adult Use Marijuana Products Manufacturing Facility: a facility licensed under this ordinance to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to

manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Applicant: a person or business entity that has submitted an application for licensure as an Adult Use Marijuana Business pursuant to this Article.

Business Entity: a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.

Compliant/Compliance: the state of operating a business in accordance with municipal and state laws, ordinances and regulations.

Cultivation or Cultivate: the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale.

Dwelling: a building a portion thereof used exclusively for residential occupancy, including one-family, two-family, and multifamily dwellings, but not including hotels, motels, lodging houses or boardinghouses. The term "dwelling" includes the term "residence."

Edible Marijuana Product: a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate. "Edible Marijuana Product" does not include an edible product containing "hemp" as defined in Title 7 M.R.S.A, section 2231, subsection 1-A, paragraph D.

Harvested Marijuana: the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.

Immature marijuana plant: a marijuana plant that is not a mature marijuana plant or a seedling.

Licensed premises: the premises specified in an application for a State or local license pursuant to this chapter and article that are owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, sell, or test adult use marijuana or adult use marijuana products, in accordance with the provisions of this chapter and article and the requirements of State law and regulations.

Licensee: a person or business entity licensed pursuant to this chapter and article.

Local License: any license required by and issued under the provisions of this chapter and article.

Local Licensing Authority: the License Administrator, **the License Administrator's Designee** or the Town Council, as further specified in the provisions of this chapter and article.

Manufacture or Manufacturing: the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not.

Marijuana: the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in Title 7 M.R.S.A., section 2231, subsection 1-A, paragraph D or a marijuana product.

Marijuana Product: a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana Product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana Product" does not include marijuana concentrate or a product containing hemp as defined in Title 7 M.R.S.A., section 2231, subsection 1-A, paragraph D.

Owner: a person whose beneficial interest in an Adult Use Marijuana Business is such that the person bears risk of loss other than as an insurer, has an opportunity to gain profit from the operation or sale of a Adult Use Marijuana Business and has a controlling interest in an Adult Use Marijuana Business.

Person: a natural person, partnership, association, company, corporation, limited liability company or organization or a manager, agent, owner, director, servant, officer or employee thereof. "Person" does not include any governmental organization.

Plant Canopy: the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

Stakeholder: A stakeholder means, with respect to a trust, the trustee and beneficiaries; with respect to a limited liability company, all members and managers; with respect to a corporation, whether profit or non-profit, all stockholders, directors, corporate officers or persons with equivalent titles; and with respect to a partnership or limited liability partnership, all partners and investors.

State License: any license, registration or certification issued by the State of Maine.

Testing or test: the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency.

Sec. 18-607 – Adult Use Marijuana Business Allowed

Adult Use Marijuana Business shall be allowed, subject to the requirements of this Chapter and Article and Chapter 78 of the Old Orchard Beach Code of Ordinances.

Sec. 18-608 – Limitations in Licenses

No Adult Use Marijuana Business shall operate in the Town of Old Orchard Beach without obtaining a business license pursuant to this article. No more than the specified quantities of licenses shall be issued.

Adult Use Marijuana Store (General Business 1): 1 (one) Total

Sec. 18-609 – License Application Contents

All license applications for Adult Use Marijuana Business licenses under this article shall complete and file an application on the form provided by the license administrator **or their designee**. All applicants must be qualified according to the provisions of this article and shall provide sufficient information to demonstrate that they meet all qualifications and standards established in this article. Each applicant shall be considered a licensee if a license is granted.

The completed application for an Adult Use Marijuana Business license shall contain, at a minimum, the following information and shall be accompanied by the specified documentation:

(1) Name of Applicant.

- a) If the applicant is an individual: The individual shall state their legal name and any aliases and submit proof that they are at least twenty-one (21) years of age.
- b) If the applicant is a partnership: The partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, submit a copy of the partnership agreement, if any, and submit proof that all partners are at least twenty-one (21) years of age.
- c) If the applicant is a corporation: The corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under State law, the names and capacity of all officers, directors and principal stockholders, the name of the registered corporate agent, the address of the registered office for service of process, and submit proof that all officers, directors and principal stockholders are at least twenty-one (21) years of age.
- d) If the applicant is a limited liability company (LLC): The LLC shall state its complete name, the date of its establishment, evidence that the LLC is in good standing under State law, the names and capacity of all members, a copy of its operating agreement, if any, the address of its registered office for service of process, and submit proof that all members are at least twenty-one (21) years of age.
- e) If the applicant intends to operate the Adult Use Marijuana Business under a name other than that of the applicant, they must state the Adult Use Marijuana Business name and submit the required registration documents.

(2) The applicant's mailing address and residential address.

(3) Recent passport-style photograph(s) of the applicant(s).

(4) The applicant's driver's license.

(5) A sketch showing the configuration of the subject premises, including building footprint, plant canopy square footage calculations, interior layout with floor space to be occupied by the business, and parking plan. The sketch must be drawn to scale with marked dimensions.

- (6) Evidence of all State approvals or conditional approvals required to operate the Adult Use Marijuana Business, including, but not limited to a State License as defined in this article.
- (7) The location of the proposed Adult Use Marijuana Business, including a legal description of the property, street address, and telephone number. The applicant must also demonstrate that the property meets the zoning requirements for the proposed use.
- (8) If the applicant has had a previous license under this article or other similar Marijuana Business, as licensed under 28-B M.R.S.A. Chapter 1, in another municipality in Maine, in the Town of Old Orchard Beach, or in another state denied, suspended or revoked, they must list the name and location of the for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and they must list whether the applicant has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that is permitted/licensed under this article, whose license has previously been denied, suspended or revoked, listing the name and location of the Marijuana Establishment for which the permit was denied, suspended, or revoked as well as the date of denial, suspension or revocation.
- (9) If the applicant holds any other permits/licenses under this article or other similar Marijuana Business, as licensed under 28-B M.R.S.A. Chapter 1, from another municipality in Maine, the Town of Old Orchard Beach, or State the applicant shall provide the names and locations of such other permitted/licensed businesses, including the current status of the license or permit and whether the license or permit has been revoked.
- (10) Completion of applicable release forms, supplied by the Town, allowing the Town to perform background checks of each applicant.
- (11) The type of Adult Use Marijuana Business for which the applicant is seeking a license and a general description of the business including hours of operation.
- (12) ~~Sufficient documentation demonstrating possession or entitlement to possession of the proposed licensed premises of the Adult Use Marijuana Business pursuant to a lease, rental agreement, purchase and sale agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.~~
- (12) **Proof of ownership of the property on which the Adult Use Marijuana Business will be located or, in the event the applicant is not the owner, the license application must be accompanied by a notarized statement and consent from the owner of the property acknowledging that a Adult Use Marijuana Business may be located on the property. If the property is leased or rented, the license application must be accompanied by a copy of the signed lease or rental agreement pertaining to the property or structure in which the Adult Use Marijuana Business may be located. In addition to the above, the applicant shall provide the name and mailing address of the owner of record of the property or structure.**
- (13) A copy of a map depicting all property boundary lines and land uses on each property within one thousand (1,000) feet of the Adult Use Marijuana Business property boundary lines.
- (14) A business plan which shall include responses to the following:
- a) Owner qualifications.
 - b) A budget for construction, operations, and maintenance.

- c) Hours of operation and opening and closing procedures.
- d) Daily operations ~~per license category~~, including, but not limited to ~~the following~~: customer check in procedures; location for receiving deliveries; estimate of number of customers per day; products to be sold; parking availability and location.
 - ~~i) For Stores:~~
 - ~~ii) For Manufacturing: all products manufactured; quality control procedures; inventory control procedures; sanitation procedures.~~
 - ~~iii) For Testing: sampling standards operating procedures; procedures for transporting marijuana samples; quality control procedures; storage location~~

(15) A neighborhood compatibility plan which shall include responses to the following:

- a) How the Business will proactively address and respond to complaints.
- b) How the Business will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.

(16) A safety plan which shall include responses to the following:

- a) The safety plan shall consider all possible fire, medical, and hazardous situations.
- b) Accident and incident reporting procedures.
- c) Evacuation routes.
- d) The location of fire extinguishers and other fire suppression equipment.
- e) Procedures and training for all fire and medical emergencies.

(17) A community relations plan which shall describe public outreach and education programs such as youth drug addiction and other actions that directly benefit the community.

(18) Responses and supplemental documentation answering each of the merit criteria identified in Sec. 18-610 (1)

Sec. 18-610 – New License Application Procedure

All applicants submitting new Adult Use Marijuana Business license applications shall follow the following license application procedure.

(1) Part 1

- a) **All Adult Use Marijuana Business licenses applications will be evaluated by a determination of completeness and use of the merit criteria outlined below.** ~~shall be administered on a first come, first serve basis.~~ The completed license application package shall include **a completed license application**, all of the information required by Sec. 18-609 of this article, **documentation showing the business location conformity with Sec. 78-803 and Sec. 78-1279 (5) a, merit criteria responses and supplemental documentation was submitted, and** as well as the **Adult Use Marijuana Store License Application** required fee.
- b) **No applicant, person, business entity or stakeholder shall apply for more than one license in any location in Town.**

- c) Completed license applications ~~and the Adult Use Marijuana Store License Application Fee~~ and any additional fees the Town requires to conduct review of the application shall be submitted in person during regular business hours to the license administrator or their designee only during the posted application acceptance period as described in Sec. 18-612 of this article.
- d) Upon closing of the application acceptance period, the license administrator or their designee will review the license applications for the purpose of determination of completeness and assign points in accordance with the merit criteria identified in this section. The license administrator or their designee shall consult with Town Staff for the purpose of assisting with the determination of completeness. For the purposes of this article, a determination of completeness means a completed license application and all materials are provided in accordance with Sec. 18-609 of this article, the business location conforms with Sec. 78-803 and Sec. 78-1279 (5) a, merit criteria responses and supplemental documentation was submitted, and as well as the required fee was submitted. During the determination of completeness and merit criteria review, the Town Manager shall authorize background checks on all applicants. Applicants will not be allowed to submit new information or resubmit incomplete information during or after determination of completeness and merit criteria review. ~~A determination of completeness is not approval of a license application.~~
- e) Merit Criteria. All applicants must provide responses and supplemental documentation answering and supporting answers for each of the following merit criteria. The supplemental documentation shall provide the support which demonstrates how the applicant will comply with their response to the merit criteria.

<u>Merit Criteria</u>	<u>Possible Points</u>	<u>Applicant Score</u>
<u>e.1. The applicant or owners of an applicant that own 30% or more of a business applying for a business license are also owners of any business for 2 or more consecutive years that (select one and provide documentation):</u> <u>- Requires municipal and state approvals:</u> <u>- Requires municipal approvals:</u> <u>Total Points Possible: 2</u>	<u>1</u> <u>1</u>	
<u>e.2. The applicant or owners that own 30% or more of a business applying for a business license can document their ability to operate an adult use or medical marijuana store, caregiver retail store or its equivalent with no history of license suspensions or revocations (select all that apply).</u> <u>- Operated a compliant adult use marijuana store in Maine for 1 or more years:</u> <u>- Operated a compliant medical marijuana caregiver retail store in Maine for 2 or more years:</u> <u>- Operated a compliant adult use marijuana or medical marijuana store, caregiver retail store or its equivalent in another State for 2 or more years:</u> <u>Total Points Possible: 6</u>	<u>2</u> <u>2</u> <u>2</u>	

<p><u>e.3. The property where the proposed adult use marijuana business will be located can be defined as “Use, commercial” as defined in Old Orchard Beach Zoning Ordinance, Sec. 78-1, at the time the license application is submitted or any time within the previous 4 years:</u> <u>Total Points Possible: 2</u></p>	<u>2</u>	
<p><u>e.4. Retail sales floor area size (select one).</u> <u>- Proposed business sales floor area (area of licensed sales area open to the public) size of 1,500 sq. ft. of less:</u> <u>- Proposed business sales floor area size more than 1,501 sq. ft. but less than 2,500 sq. ft.:</u> <u>Total Points Possible: 3</u></p>	<u>2</u> <u>1</u>	
<p><u>e.5. Business incorporates energy efficient elements and green infrastructure (select all that apply).</u> <u>- Applicant will utilize energy efficient lighting indoors and outdoors certified by the U.S. Department of Energy:</u> <u>- Applicant will utilize permeable or pervious asphalt or concrete:</u> <u>- Applicant will utilize an on-site renewable energy source such as solar:</u> <u>Total Points Possible: 3</u></p>	<u>1</u> <u>1</u> <u>1</u>	
<p><u>e.6. Applicant provides Maine Registered Traffic Engineer analysis and assessment report demonstrating customer vehicle traffic will not negatively contribute to high crash locations identified by Maine Department of Transportation, 2019-2021 data:</u> <u>Total Points Possible: 2</u></p>	<u>2</u>	
<p><u>e.7. Proposal has legal access and use to on-site off-street parking that exceeds town parking requirements identified in Ch. 78, Sec. 1279 (5) by 20% or more:</u> <u>Total Points Possible: 1</u></p>	<u>1</u>	
<p><u>e.8. The lot where the adult use marijuana business is proposed to be located does not share a real property boundary line with a lot used for one or more dwelling purposes as of the date of the adoption of these merit criteria:</u> <u>Total Points Possible: 2</u></p>	<u>2</u>	
<p><u>e.9. Applicant proposes redevelopment of a building or property that has been vacant for at least twelve consecutive months preceding the date of the adoption of these merit criteria:</u> <u>Total Points Possible: 1</u></p>	<u>1</u>	
<p><u>Maximum Total Merit Criteria Points Available</u></p> <p><u>Total Merit Criteria Points Awarded</u></p>	<u>22</u>	

- f) **Merit Criteria Evaluation. Following the closing of the application acceptance period, the license administrator or their designee will evaluate the applicant's response to merit criteria and supplemental documentation. The license administrator or their designee may consult with town staff and town attorneys for the purpose of assisting with the evaluation. For each criterion met by the applicant, the applicant shall receive the entire assigned point value or associated sub scores. Submissions with no response to criteria will receive zero (0) points for the criteria or associated sub criteria that received no response from the applicant. Submissions with responses but without supplemental documentation will receive zero (0) points for each criteria or associated sub criteria without supplemental documentation. The scores awarded by the license administrator or their designee shall be totaled for each application. The application that scores the highest point total shall be the application selected for merit criteria purposes. Each application will be independently scored.**
- g) **In the event of a merit criteria scoring tie between two or more applications with the highest point total, license application selection shall be administered through a public random lottery. Applications that qualify for the lottery are only those tied for the highest point total. The Council will conduct a lottery drawing from among the selected license applications to determine which applicant is awarded the opportunity to proceed to conditional use permit review process. The Council will randomly select, via the lottery drawing, each license application. The order in which each license application is drawn shall determine the priority for each application for the purpose of proceeding to the conditional use permit review process. The first license application selected by the Council has the priority with subsequent priority following in numerical selected position. Selection in the lottery is not approval of the license application.**
- h) Within ~~thirty (30)~~ **forty-five (45)** calendar days after closing of the application acceptance period, the license administrator **or their designee** will conclude the determination of completeness review **and merit criteria evaluation process** and notify all applicants of the results. **The application selected by the license administrator or their designee shall: have been determined complete; confirmed the business location is in apparent conformity with Old Orchard Beach Code of Ordinances Chapter 78, Sec. 78-803 and Sec. 78-1279 (5) a; scored the highest total points for merit criteria; and submitted the required fee. In the event of a merit criteria scoring tie, the applicants who are tied shall proceed to the public random lottery before the selected license application can proceed to the conditional use process. In the event a single application scores the most points, that applicant** Selected applicants shall proceed with the conditional use permit process. Selection of a license application is not approval of a license application, it only provides the applicant the right to apply for a conditional use permit.
- i) **The** ~~S~~selected applicants shall submit a complete conditional use permit application to the Planning Board within ~~sixty (60)~~ **ninety (90)** days of the date of license application selection notification. Failure to submit a complete conditional use permit application within the time frame stated above shall disqualify an applicant from Parts 2 and 3 of this section.

(2) Part 2

Only those ~~the~~ applicants who are selected in Part 1; have secured conditional use permit approval from the Planning Board; and supply evidence of all State approvals required to operate a Adult Use

Marijuana Business have the Town's approval to continue with Part 2 of the license application procedure.

- a) The applicant shall submit the following to the Town Manager:
 - (i) Copy of the completed license application and license application contents identified in Sec. 18-609 of this article
 - (ii) Copy of Conditional Use Permit Findings of Fact;
 - (iii) Copy of Conditional Use Permit Application submission to the Planning Board;
 - (iv) Attested statement certifying the documentation in 18-610 (1) remains the unchanged;
 - (v) Proof and copy of all State license final approvals allowing the Adult Use Marijuana Business; and
 - (vi) Any other information the Town Manager feels is necessary to assist the Town Council with review and final decision.
 - (vii) Full Payment of the Adult Use Marijuana Store License Fee
- b) Upon receipt of the above, the Town Manager will place on the Town Council agenda with the request of scheduling a public hearing.
- c) The Town Manager shall authorize background checks on all applicants for Adult Use Marijuana Business licenses before any license application is placed on the Town Council agenda.
- d) The Council will conduct a public hearing for each Adult Use Marijuana Business license application. The applicant shall provide notice of the public hearing location, date, and time to all property owners within one thousand (1,000) feet of the premise's property boundary lines. Notice shall be mailed by the applicant at least ten (10) days before the public hearing is held. Proof of mailing shall be submitted to the Town Manager before the date of the public hearing.
- e) Upon completion of the public hearing, the Town Council will consider public comments, applicant submissions, staff evaluations, State records, and any other documentation the Council determines is necessary in order to conduct a final review.

(3) Part 3

At a regularly scheduled meeting of the Town Council following the public hearing, the Council will make a final decision on Adult Use Marijuana Business license applications. Only those applicants who successfully meet 18-610 (1) and (2) and other applicable State laws, this article and Old Orchard Beach ordinances and adopted codes will be eligible to receive an Adult Use Marijuana Business license. The Town Council shall apply the review criteria set forth in Section 18-35 of this Chapter in making its determination on the license application.

The Town Council shall have the authority to impose any conditions on a license that are reasonably necessary to ensure compliance with the requirements of this article or to address concerns about operations. Failure of any licensee to comply with such conditions shall be considered a violation of the chapter and article.

Marijuana Business Licenses issued under this section shall automatically expire if the licensee does not commence operation of the marijuana store within one hundred and eighty (180) days from the

date of license issuance. An application for the renewal of an expired license under this subsection shall be treated as a new license application.

Sec. 18-611 – Renewal License Application Procedure

- (1) Each license issued shall be effective for one year from the date of Council approval.
- (2) Renewal license applications shall be submitted to the license administrator **or their designee** a minimum of forty-five (45) days before the date of expiration of the annual local license. Any licensee who fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted.
- (3) Renewal license applicants shall be subject to the procedure **and shall submit documentation** identified in Sec. 18-610 (2) and (3) of this article. Applicants shall be subject to updated background checks and inspections of the premises.

(4) Applicants shall submit documentation, including identified actions, which demonstrates compliance with initial application merit criteria responses and supplemental documentation.

(4 ~~5~~) The Town Manager shall consult with Town Staff before any license application is placed on the Town Council agenda. The purpose of this consultation is to allow Town Staff an opportunity to provide feedback to the Town Council.

Sec. 18-612 – Application Acceptance Period

- (1) The license administrator **or their designee** shall provide notice within a local newspaper of general circulation and on the Town of Old Orchard Beach website announcing when the Town will accept new Adult Use Marijuana Business license applications. The notice shall include dates during which new license applications will be accepted and contact information for questions. The license administrator **or their designee** will accept new Adult Use Marijuana Business license applications up to ten (10) business days during the posted licenses application period.
- (2) If additional licenses become available, the license administrator **or their designee** will provide notice within a local newspaper of general circulation and post on the Town of Old Orchard Beach website. The notice shall include dates during which the applications will be accepted and contact information for questions.

Sec. 18-613 – Expired License

An application for the renewal of an expired license shall be treated as a new license application. Any licensee who fails to submit a renewal application by the applicable deadline shall not have authority to operate until a license is granted.

Sec. 18-614 – Background Checks

The Town Manager shall authorize background checks of each license applicant and renewal license applicant. If the applicant is a business entity, every officer, director, manager and general partner of the business entity is required to submit to a criminal history check. Failure to submit required release

for a background check is grounds for denial of a license. The applicant shall be billed for the cost of the background check.

Sec. 18-615 – Right of Access/Inspections

Every Adult Use Marijuana Business shall allow law enforcement officers, fire department officials ~~and~~ code enforcement officer, **and license administrator or their designee** entry onto the premises at reasonable times for the purpose of checking compliance with all applicable State laws, this article and other Old Orchard Beach ordinances and adopted codes.

Sec. 18-616 – Fees

Adult Use Marijuana Business License Application and Store License Fees. Adult Use Marijuana Business License Application and Store License Fees are set forth as specified in the schedule of license, permit and application fees established by the town council. All applicants are responsible for the Town's expenses associated with the review of an application, including the cost of any third-party review if necessary. The Store License Fee shall be paid by Applicants selected for Part 2 of the New License Application Procedure and for store license renewal.

Sec. 18-617 – Transfer of Ownership and Change of Location

Licenses issued under this article are not transferable to a new owner. Any change in ownership or change in the officers of an owner shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A licensee who seeks to operate in a new location shall acquire a new local license for that location.

Sec. 18-618 – Appeals

Any appeal of a decision of the Town Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

Sec. 18-619 – Violations and Penalties

The operation of any Adult Use Marijuana Business without the required local license or in violation of the requirements of this chapter and article **including, but not limited to the applicant's documented responses and submissions to the merit criteria** shall be a violation of this chapter and article. Violations shall be subject to fines as set forth in Sec. 18-28 of this chapter: **and may result in revocation of Adult Use Marijuana Business License.**

Sec. 18-620 – Severability

The provisions of this article are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Sec. 18-621 – Other Laws

Except as otherwise specifically provided herein, this article incorporates the requirements and procedures set forth in the Maine Marijuana Legalization Act, 28-B M.R.S.A. Chapter 1, as may be

amended. In the event of a conflict between the provisions of this article and the provisions of said Act or any other applicable state or local law or regulation, the more restrictive provision shall control.

Sec. 18-622 – Effective Date

The effective date of this article shall be the date of adoption by the Town Council.

AGENDA ITEM #7800

Discussion with Action: Authorize the Town Manager to sign a *Letter of Support* for York County to use federal funds to purchase certain dredge equipment and to further support the member communities to establish a regional Dredging Authority/District for the management and on-going operation of the dredge equipment. The dredging equipment will be under the direct control of the District not the Town of Old Orchard Beach and the extent the Town would need the use of the dredge it would work with regional District on a pay-to-use model subject to the conditions set by the District.

Chair: Shawn O'Neill

From the beginning of this project Old Orchard Beach has fully supported the request to York County Commissioners of utilizing the County ARPA funds for the purchase of dredge equipment, even though Old Orchard Beach would most likely not benefit from the use of a dredge like Saco or other surrounding communities in the Saco Bay area. The intent of Old Orchard Beach's participation from the beginning is to use the dredge on a pay-to-use model if the need ever arose, and not as a member of a Dredge Authority or District for the management and operation of dredge equipment. This Letter of Support memorializes Old Orchard Beach's intent.

Motioned to approve by: Councilor Tousignant
Seconded by: Councilor Mead

Vote: 5-0

ADJOURNMENT

Motioned to adjourn by: Councilor Tousignant
Seconded by: Councilor Mead

Vote: 5-0

Letter of Support
Town of Old Orchard Beach

Whereas, certain communities along the Maine coast are facing serious beach erosion, as well as continuing need for river dredging to combat silt that clogs channels, and as these two problems will require significant and periodic maintenance costs; and

Whereas, the State of Maine (the “State”) is willing to make certain funds available to local communities to address both beach erosion and river sedimentation; and

Whereas, a number of coastal communities have expressed an interest in the formation of a quasi-municipal Dredging Authority (the “District”) as a means to address both beach erosion and river sedimentation; and

Whereas, the establishment of a District would allow communities to partner with both the State and the County of York (the “County”), and with each other, to secure the purchase of necessary dredging equipment, as well as provide for the management and operation of such equipment among the member communities going forward; and

Whereas, Old Orchard Beach desires to memorialize its support of these efforts and encourages other communities to work together so that funding may be sought, and proper preparatory steps taken to form a quasi-municipal District can be undertaken although the Town of Old Orchard Beach does not intend to become a member of a quasi-municipal District; and

Now, therefore, the undersigned Town of Old Orchard Beach, by and through its Town Manager, and pursuant to decision of its Town Council on _____, states as follows:

1. The Town of Old Orchard Beach, Maine (the “Town”) fully supports the County’s purchase of certain dredging equipment, said equipment to become available for use by a regional Dredging Authority/District.
2. While the Town does not intend to become a member of a regional Dredging Authority/District, the Town fully supports the formation of a regional District by other York County municipalities to manage the use, maintenance and on-going operation of dredging equipment.

3. The Town may not benefit from the use of dredge equipment since there are no harbors or channels, however the project has regional benefits to Saco and neighboring communities.

4. The Town acknowledges that dredging equipment will be under the direct control of the District not the Town of Old Orchard Beach, and to the extent the Town would need the use of the dredge it would work with the Dredging Authority/District on a pay-to-use model subject to the conditions set by the District.

In Witness, whereof, the Town of Old Orchard Beach, Maine through it authorized representative, does hereby execute this Letter of Support on this ____ day of September, 2022.

Witness Signature

Print Name

By: Diana Asanza
It's Town Manager