



**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

December 6th, 2022

I, Tim Fleury, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of 71 pages is a copy of the original minutes from the regular meeting of the Old Orchard Beach Town Council held on December 6th, 2022.

Prepared By:	Tim Fleury
Approved By:	Old Orchard Beach Town Council
Approval Date:	12/20/2022

Respectfully
Submitted,

Tim Fleury
Town Council
Secretary



Town Council Meeting Minutes

Tuesday, December 6th, 2022, @ 6:30pm

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.*

PLEDGE OF ALLEGIANCE

Led by Little Cadet program

ROLL CALL

Tim Fleury called roll Chair O'Neill, Councilor Read, Council Mead and Councilor Tousignant present. Vice Chair Blow was absent and excused for the evening.

Councilor Reid thanked the OOB Chamber for the holiday event every year. Councilor Mead extended the gratitude to town staff heavily involved with the Chamber, Fire, Rec, DPW, PD. Chair O'Neill thanked Jason Weber for MC'ing the event.

ACKNOWLEDGEMENTS

GOOD & WELFARE

Nikki Duplisea, assistant rec director, gave a quick rundown of the program and thanked the police department for their involvement.

Chair O'Neill, It is a great program and loves to see the interest. Diana Asanza, The first session was very well attended – Chair O'Neill and Town Manager Asanza both thanked the Rec department for hosting the program.

ACCEPTANCE OF MINUTES:

Acceptance of Town Council Meeting minutes from 11/1/2022, 11/15/2022, Special Meeting on 11/17/2022, Inaugural Meeting on 11/21/2022, and the Special Meeting on 11/21/2022.

Motioned to accept by: Councilor Tousignant

Seconded by: Councilor Reid

Vote: 4-0

PUBLIC HEARING – Shall the Town Council 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 Opened the Public Hearing @ 6:54

Chair O’Neill - During the winter of 2022, Council decided to reconsider the adopted language in adult use marijuana ordinances Chapters 18 (Licensing) and 78 (Conditional Use). Reconsideration began with development of a new lottery system for license selection. This path soon switched to a merit-based criteria selection process. Since June, Council, staff, and members of the public worked on merit criteria and other Ch. 18 and Ch. 78 amendments. After several workshops, all of which allowed public comment, Council is now moving forward with formal review on draft amendments to the adult use marijuana ordinances Ch. 18 and Ch. 78.

Jeffrey Hinderliter, town planner, summarized the individual merit criteria in Ch. 18 briefly. Ch. 78 minimal changes, traffic study and ownership information added. NOTED corrections in merit criteria – e.1 and e.4 – total points should have been 1 and 2 respectively and the total available points move from 22 to 20. Staff will prepare for licensing process immediately if Council moves forward

Roxanne Frenette – 110 First St – The citizens voted on the issue in 2020 – the council has been dragging its feet and micromanaging the process for one store. Also commented on the Citizens Petition commented that it was circulated by a person supporting a company that is looking to be the one store. She signed the petition on the premise that it was to have a marijuana store, which his already in the ordinance.

Catherine Adams – came to request appointment with town manager – off topic – had to be escorted out of building by PD present at meeting.

Councilor Mead – risk of live meeting – apologized to public – Chair O’Neill – apologies as well.

Eric Collins – attorney with Furman, Gregory, Deptula – Attorney Collins gave his opinion of the issues surrounding the proposed amendments and the timing with the citizen’s petition. Wanted to address two subjects tonight on ordinance Council’s ordinance amendments and timing and logistics to the Citizens Petition. Confirmed his comments were strictly to the ordinance amendments. Asked Council to consider the timing of adopting Council’s amendments could create logistical issues for applicants. Another comment was relative to using the Vision Property card which was part of the Citizens Petition. Reason for this was objectivity.

Kelly Mourmouras – 30 Saco Ave – Commented on the Planning Boards meeting last week, where Jeffrey Hinderliter Town Planner commented on citizen’s petition, stating the petition restricted competition. Commented that Council restricted license to 1 license and 3 potential properties – 1) a 2 story residential, 2) son’s property, and 3) leaves one property controlled by Oxford Provision LLC – Mrs. Mourmouras and Chair O’Neill had an energetic discussion on the topic being discussed.

Councilor Mead – motion to suspend public hearing

Councilor Reid – seconded – until next public meeting

Roll called – Councilor Reid Y, Councilor Mead Y, Councilor Tousignant Y, Chair O’Neill Y, 4-0

Suspended Public Hearing at 7:18 pm until next meeting

Councilor Mead – does not feel it is appropriate to make accusations on potential applicants. The public response to the hearing and the actions presented tonight are not what a public hearing is for. Not civil dialog. Apologized to the public and other citizens wishing to speak.

Chair O’Neill – supporter of ordinance since initially voted on. Progress on the ordinance from Council and from public input. Based on actions at meeting tonight, starting to question ordinance in town. Public hearings are Council’s domain and they are not here to shut people down. Apologized to

town and tried to control meeting.

Councilor Tousignant – grasped what citizen was after, indicated that information submitted from an applicant on the merit-based application process regarding the investigation piece may not be public information and asked if it's public knowledge or not.

Jeffrey Hinderliter - replied that the Planning Department developed ordinances without individuals in mind by making standards fair to all applicants for the best possible project for the town. All ordinances and applications are available to public. Background checks are not public information. It has been an open process with public and Council input.

Chair O'Neill – thank you for patience and understanding.

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**

FROM: Planning Department

SUBJECT: Adult Use Marijuana Ordinance Amendments, Ch. 18 and Ch. 78

DATE: 6 December 2022

During the winter of 2022, Council decided to reconsider the adopted language in adult use marijuana ordinances Chapters 18 (Licensing) and 78 (Conditional Use). Reconsideration began with development of a new lottery system for license selection. This path soon switched to a merit-based criteria selection process. Since June, Council, staff, and members of the public worked on merit criteria and other Ch. 18 and Ch. 78 amendments. After several workshops, all of which allowed public comment, Council is now moving forward with formal review on draft amendments to the adult use marijuana ordinances Ch. 18 and Ch. 78.

Below is a summary of the Ch. 18 and Ch. 78 amendments, including comments merit criteria summary and merit criteria point system. Also, an example of what the licensing process will look like under the proposed ordinance amendments. Finally, the next steps in the ordinance development process are identified.

Ch. 18 Licensing Ordinance Amendments

The following is a summary of the merit criteria, merit criteria points, and other ordinance amendments in the most recent draft of Ch. 18 (Licensing) ordinance amendments.

Merit Criteria Summary

- e.1. Awards points to applicants or owners of the applicant (e.g., 30% or more of an LLC) who operate any business (marijuana and non-marijuana businesses) for 2 or more consecutive years that require municipal and state approvals.
- e.2. Awards points to applicants or owners of the applicant (e.g., 30% or more of an LLC) who operate adult use or medical marijuana stores with no history or license suspension or revocations within a certain number of years.
- e.3. Awards points to applicants or owners of the applicant marijuana business located on property defined as “Use, Commercial” at the time license application submitted or any time within the previous 4 years.
- e.4. Awards points based on square footage of floor area- more points for less floor area.
- e.5. Awards points to applicants who use energy efficient lighting, permeable pavement, and renewable energy sources.
- e.6. Awards points to applicants who provide a traffic analysis that show traffic generated by business will not negatively contribute to high crash locations.
- e.7. Awards points to applicants who provide on-site, off-street parking that exceeds minimum required by the adult use store standard in the conditional use ordinance by at least 20%.
- e.8. Awards points to applicants who propose to locate the business on land that does not share a property boundary line with a property used for residential purposes.
- e.9. Awards points to applicants who propose to redevelop a building or property that has been vacant for at least 12 consecutive months.

Merit Criteria Points

The merit criteria review process awards points based on an applicant’s response and supporting documentation to the criteria identified in the business license ordinance. For each criteria met the applicant is awarded the entire point value. Applications with a response but with no supplemental documentation receive zero points. Applications with no response and no supplemental documentation receive zero points. Points have been revised for all criteria with some (except new criteria from others) weighted to benefit those with:

1. Experience in the industry.
2. Experience with state and local permitting and licensing.

3. A history of compliance with marijuana rules and laws.
4. A project location that minimizes impacts to residential uses.

Other Ch. 18 Amendments

- Add “or their designee” after license administrator throughout ordinance.
- Add three definitions- compliance, dwelling, and stakeholder.
- Removed proof of possession or ownership from the initial license application submission requirements and moved to the conditional use submission requirements. Applicants now must provide consent from property owner during initial license application submission.
- Removed testing and manufacturing language because the town only allows stores.
- Add standard that requires applicants to provide responses to merit criteria.
- For license application selection, remove 1st come, 1st serve process and replace with a determination of completeness and merit criteria process.
- Add merit criteria and point system- summarized above.
- Add lottery process in case 2 or more applicants score a tie in merit criteria points.
- Add standard that describes how merit criteria points are awarded- summarized above.
- Add standard limiting the number of applications the same applicant can submit.
- Increase the number of days the license administrator must review applications from 30 to 45.
- Increase the number of days the selected license applicant must submit a conditional use permit from 60 to 90.
- Add standard that requires the marijuana store license holder to provide proof they continue to comply with their merit criteria responses each time they renew their license.
- Add standard that makes noncompliance with merit criteria a violation of the ordinance.

Ch. 78 Conditional Use Ordinance Amendments

Ch. 78, Conditional Use ordinance amendments, include new language that requires the applicant to provide proof of possession or ownership of property or building when they submit a conditional use application and requires submission of traffic impact analysis. The Planning Board must review, host a public hearing, and provide a recommendation to Council before Council issues a final decision. The Board’s review will conclude on 8 Dec.

Example of Licensing Process

1. Town advertises when adult use marijuana applications will be accepted (i.e., application acceptance period)
2. Applicants can submit applications anytime during application acceptance period. With the new system there’s no advantage submitting first and all applications submitted will be reviewed.
3. When the application acceptance period closes, the license administrator has 45 days to evaluate all applications.
4. If one applicant meets all license submission requirements and scores the highest merit criteria point total, that applicant can move to the next step, which is conditional use review by the planning board. If 2 or more applicants meet all requirements but score a tie on merit criteria, those applicants will proceed to a lottery which will be conducted by the Council who will choose the applicant through a random drawing.
5. The chosen applicant has 90 days to submit a conditional use application.
6. Planning Board reviews the proposal.
7. If Planning Board approves, applicant proceeds to Council review.
8. Council reviews the business license and complete package, holds a public hearing, and issues a final decision.
9. After Council approves license, the applicant has 180 days to begin operations.

Next Steps

After the public hearing, Council’s next step is a final vote. Regarding the amendments to Ch. 78, the Planning Board must provide a recommendation to Council before Council issues a final decision. I expect the Board will provide this recommendation to Council on 8 Dec.

If the amendments are adopted, staff will begin preparing for the license application selection process. Preparation will require creation of a new license application and other materials as well as ensuring staff is ready to administer the new ordinances.

**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.

PUBLIC HEARING – SPECIAL AMUSEMENT PERMITS & APPROVALS:

HFY Enterprises, Inc: Oceanside Grille @ The Brunswick, 39 West Grand Avenue, (310-6-1), Live Entertainment inside & outside: 1:00pm to 12:30am.

Chair Opened the Public Hearing @ 7:22

Motioned to approve by: Councilor Mead

Seconded by: Councilor Reid

Vote: 4-0

Chair Closed the Public Hearing @ 7:22

TOWN MANAGER REPORT



Town of Old Orchard Beach

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

Diana H. Asanza
Telephone: (207) 937-5628
Fax: (207) 937-5728
Email: dasanza@oobmaine.com

Dec 6, 2022

Town Manager's Report

Flood Insurance Maps: The Town received notice from FEMA regarding the revised Flood Insurance Rate Map changes which can now be viewed along with other useful information on the Town's GIS website by going to www.oobmaine.com/fema-flood-maps. There is a tutorial on the website link for those needing assistance on how to use the online GIS map site, or you may stop by Town Hall Code and Planning Office to view paper maps.

Postcard notices were also mailed to all property owners that may be affected by the proposed changes with this same information. If you do not agree with the proposed changes you will have an opportunity to appeal to FEMA during the 90 day appeal process which began November 23rd. There is more information on the appeal process on the Town's website at the same link mentioned earlier www.oobmaine.com/fema-flood-maps, and you can always contact the Code and Planning Office at 934-5714, X 1533 or X 1545 where they will be happy to help.

Stormwater Infrastructure Project: Next week staff and I will meet with Wright Pierce to review the final design for the stormwater infrastructure project on Balsam Lane, Bower Lane, and Goldenrod St. We will be sending information to residents regarding project expectations, and timelines. We would also like to schedule a site walk with resident's weather permitting. More information will follow, after our meeting next week with the engineers.

Town Hall Closure: Reminder to the public that Town Hall will be closed for the annual Employee Holiday events on December 13th 11:30 am – 2:30 pm, and December 15th 8:00 am – 10:00am.

Blood Drive: American Red Cross is in need of blood donors so the Town will be hosting a blood drive on Wednesday, December 21st, from 10 am – 2:30 in the Council Chamber. You can register to participate by going to redcrossblood.org. There will be more information on the Town’s website by the end of this week or you can reach out to the Town Manager’s office at 937-5626.

Parking Bans: I would like to remind residents with the winter season upon us 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 like local television and radio stations to keep residents notified of winter parking bans. You can also sign up to receive email notifications on winter parking bans by going to the Town’s website and click on “Subscribe to News”. Also new signage is going up to help residents locate the available off street parking areas.

Thank you,
Diana H. Asanza

TABLED ITEMS:

**PUBLIC HEARING – BUSINESS LICENSES & APPROVALS: Tabled
11/15/2022**

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.

Chair Opened the Public Hearing @ 7:27

Motioned to approve by: Councilor Tousignant

Seconded by: Councilor Mead

Vote: 4-0

Chair Closed the Public Hearing @ 7:27

AGENDA ITEM #3

Discussion with Action: Repeal the emergency ordinance establishing a moratorium on Hotel/Motel Condominium Conversions adopted on November 15, 2022, and approve the emergency ordinance establishing a moratorium on Hotel/Motel Condominium Conversions pursuant to Charter Section 410.1. Tabled 11/21/2022.

Chair: Shawn O'Neill

Chair O'Neill - 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. To properly consider the town's options, we determined the best approach was enactment of a moratorium which will allow time to research and develop appropriate mechanisms that provide more protection to occupants of the units, abutting property owners, and the town as a whole.

On 15 November, Council enacted a Condo Hotel/Motel conversion moratorium. After enactment, it was determined the moratorium language needed revisions changing language so it's clear this moratorium is an emergency ordinance. Additionally, it added Business Licenses to "APPLICATIONS NOT TO BE ACCEPTED OR ACTED UPON" section of the moratorium and added language that exempts any Condo Hotel/Motel unit that received a certificate of occupancy before the date of enactment of the revised moratorium.

Motion made by Councilor Mead: To repeal the existing emergency ordinance adopted November 15, 2022 on the Hotel/Motel Condominium Conversion moratorium and approve the emergency ordinance on the Hotel/Motel Condominium Conversion moratorium pursuant to Charter Section 410.1.

Seconded by: Councilor Tousignant

Vote: 4-0

Motion to amend document to fix word on page 3, section 3 – development to develop: Councilor Mead
Seconded by: Councilor Reid
Vote: 4-0

Chair O'Neill – folks from 78 East Grand Ave, that single address is exempt from moratorium. Diana Asanza, all units received certificates of occupancy and are exempt.

Councilor Mead – any other properties that have received CO's? Diana Asanza, no.

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**
FROM: Planning Department
SUBJECT: Revised Moratorium- Hotel/Motel Condominium Conversions
DATE: 6 December 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. To properly consider the town's options, we determined the best approach was enactment of a moratorium which will allow time to research and develop appropriate mechanisms that provide more protection to occupants of the units, abutting property owners, and the town as a whole.

On 15 November, Council enacted a Condo Hotel/Motel conversion moratorium. After enactment, it was determined the moratorium language needed revisions. Staff worked with the town attorney and developed a revised moratorium which includes three primary amendments:

- Changing language so it's clear this moratorium is an emergency ordinance. This includes reducing the number of days the moratorium is in-effect from 180 to 60 days. Note that the moratorium can be renewed.
- Adding Business Licenses to "APPLICATIONS NOT TO BE ACCEPTED OR ACTED UPON" section of the moratorium. This prevents the Town from accepting or acting upon business license applications from owners/applicants of Condo Hotel/Motel units while the moratorium is in-effect. Note: there is an exception for units that have occupancy permits- see APPLICABILITY section and below.
- Under the "APPLICABILITY" section, adding language that exempts any Condo Hotel/Motel unit that received a certificate of occupancy before the date of enactment of the revised moratorium. This standard will allow Condo Hotel/Motel units that have occupancy permits as of the date of the revised moratorium to be exempt from the standards in the moratorium. For example, units with occupancy permits can apply for and receive business licenses during the time the moratorium is in-effect.

The revised moratorium is scheduled for Council enactment on 6 December.

BACKGROUND

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.

What will the moratorium do? Temporarily pause Condo Hotel/Motel 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 Condo Hotel/Motel conversions? Regarding how the moratorium would impact existing conversions, if the units secured occupancy permits before enactment of the revised moratorium they will be exempt from the moratorium. Regarding how a future review mechanism (e.g., ordinance) will treat conversions, conversions approved by the town before enactment of a Condo Hotel/Motel ordinance 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
EMERGENCY 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

WHEREAS, the Town Council concludes that these circumstances constitute a public emergency within the meaning of Section 410.1 of the Old Orchard Beach Town Charter;

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, business license, 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 61st day 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/Motel, 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, except this Ordinance does not apply to any proposed Condominium Hotel/Motel that has received any certificates of occupancy for a condominium hotel unit for any of the units within the proposed Condominium Hotel/Motel prior to the date of enactment of this Ordinance.

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.

NEW BUSINESS

AGENDA ITEM #7801

Discussion with Action: Appoint Terrence Gallagher as a regular member of the Finance Committee, term to expire 12/31/2023.

Chair: Shawn O'Neill

Town Council policy 22-01, approved April 5th, 2023, outlines the process for board, commission and committee appointments. The Finance Director, Jordan Miles, has interviewed Mr. Gallagher and Town Council has also reviewed his application and resume.

Thank you, Mr. Gallagher, for volunteering your time and talents to the Town of Old Orchard Beach.

Motioned to approve by: Councilor Reid
Seconded by: Councilor Tousignant
Vote: 4-0



TOWN OF OLD ORCHARD BEACH
1 PORTLAND AVENUE
OLD ORCHARD BEACH, MAINE 04064

Return: Town Clerk's Office
1 Portland Ave
Old Orchard Bch, ME

****For first time applicants, please provide a resume.**

The Town Council members are inviting residents interested in serving on various boards/committees to make an application.

NAME TERRENCE (TERRY) GALLAGHER DATE 31 OCTOBER 2023
ADDRESS 41 MASSACHUSETTS AVENUE HOME PHONE (908) 797-1607
OLD ORCHARD BEACH, ME. CELL
MAILING ADDRESS (if different from above) P.O. Box 7079 OCEAN PARK, ME 04063
E-MAIL ADDRESS: terrygallagher41@gmail.com FAX NUMBER: N/A
EMPLOYER NAME: Huber + Suhner Astrolab - retiring 12/22 WORK PHONE N/A
~ 1/2 year resident
HOW LONG A RESIDENT Owner ~ 14 years ARE YOU A U.S. CITIZEN? YES

Are you a registered voter in Old Orchard Beach? YES NO

Do you own property in Old Orchard Beach? YES NO

Do you have conflicts with meeting times or group assignments? YES NO, unlikely

If you have previously served on any Boards/Committees in the Town of Old Orchard Beach, please describe your experience:

No specific experience on Township Boards or Committees

Are there other background experiences or skills that you feel would contribute to this appointment?

Fair-minded financial executive who is eager to share knowledge - Resume attached

Why are you interested in this appointment, and what are your goals for this Board/Committee?

Eager to support civic organizations as I enter retirement. Goal is to help Old Orchard Beach execute its civic/operational mission via efficient financial oversight.

T. A. Gallagher
Signature

PLEASE CHECK AREA OF INTEREST

- #1 Finance Committee
- Conservation Commission
- Planning Board
- Zoning Board of Appeals
- Design Review Committee
- Registration Appeals Board
- Community Animal Watch
- Comprehensive Plan Committee
- N/A Sea Level Adaptation Working Group
- Recycling Committee
- Board of Assessment Review
- Recreation Committee
- N/A Community Development Block Grant Committee
- Business License Administrative Board
- Ballpark Commission

TERRENCE G. GALLAGHER

41 Massachusetts Avenue
Old Orchard Beach, ME 04064

Mailing address: PO Box 7079 Ocean Park, ME 04063

Cell: (908) 797-1607
terrygallagher41@gmail.com

SUMMARY

Civic-minded financial professional who desires to support and serve organizations plan and execute their missions while maintaining appropriate financial balance and control. Eager to share and serve using a career's learning from inactive-listening through consolidating viewpoints and executing to the organization's mission.

Seasoned financial executive with background in operations and finance in public and private hi-tech manufacturing and service organizations. Broad and deep background in all aspects of finance combined with "hands on" experience in operations and customer service; resultant business decisions are well rounded and practical. Collaborative mindset and approach to analyzing and conquering business challenges by agreeing critical element and formulating and implementing solutions. Financial responsibilities have included all range of strategy, budgeting, planning, analysis, accounting and reporting, internal control, treasury, combinations and tax analysis.

Committed leader & supporter of non-profit organizations serving in varied capacities for Church and community organizations, as Trustee, Treasurer and on Administration & Finance committees. Always mindful of maintaining focus on the organization(s)' missions while providing prudent fiscal council.

PROFESSIONAL EXPERIENCE

HUBER & SUHNER-ASTROLAB, Warren, New Jersey **2016 – retiring Dec. 2022**

Finance transformation agent for this "Bold-Move" Aerospace & Defense niche-manufacturer of precision electronic components. Reconfigured cost structure and product-cost accounting to align financial reporting with operational business metrics. Mentored and upgraded staff while leading SAP implementation.

Finance Director – full financial, change-management and IT oversight responsibility for this strategic-growth acquired-company

ANADIGICS Inc, Warren, New Jersey **2000 to June 2016**

Full financial management responsibility for this \$150 million NASDAQ-listed communications chip developer and manufacturer. Areas include finance and cost management, planning and analysis, investor management, accounting and tax reporting, compliance, treasury, insurance and Board-level leadership. Partnered with CEO and drove financial dialogue within the Management Team to evaluate business growth, opportunities, results and metrics to improve operational efficiency. Managed and mentored fifteen-person department covering multi-location finance, accounting and analysis, credit and collections, insurance, manufacturing cost accounting and investor management in addition to compliance, reporting and environmental, health, safety and security.

VP/Chief Financial Officer – full financial, treasury and investor coordination responsibility in addition to Controller duties.

VP Finance and Controller – coordinated all aspects of financial, management and cost accounting, reporting and analysis.

Assistant Controller - responsibility for accounting and reporting.

FOSTER WHEELER, Clinton, New Jersey **1997 to 2000**

Business unit and financial reporting and analysis responsibilities for this \$3-4 billion NYSE engineering and construction company

Corporate Reporting - Managed preparation of consolidated financials plus Quarterly and annual SEC reporting and filings

Energy Business Unit – Oversaw budget development and actual comparisons to evaluate overall division performance

FIRMENICH INCORPORATED, Princeton, New Jersey **1988 to 1996**

Advanced rapidly within the largest operating unit of this leading flavor and fragrance company. This \$300 million U.S. company supplies major food, beverage, consumer product and fragrance companies with unique value-added ingredients.

Operations Responsibilities - Vice President, Minnesota Operations - Responsible for site management of a flavor production facility, including raw material coordination, production, customer service, shipment, exports, sampling, quality and safety.

Finance Responsibilities - Vice President – Treasurer; Director of Cost and Treasury - Reported to the Regional President and global CFO. Responsible for overall financial oversight and profits monitoring of the U.S. companies. Responsible for finance, cost accounting, taxation and capital expenditures.

PRICE WATERHOUSE (PWC) **1981 to 1988, 1997**

International "Big Four" professional services firm responsibilities in US audit and consulting practices and international rotation

Responsibilities – Consulting projects encompassed financial analysis, process improvement and project management from planning through conclusion. International and domestic auditing experience involved a number of businesses with major clients in the manufacturing, service, health care and non-profit arenas.

CHARITABLE ORGANIZATIONS

OCEAN PARK ASSOCIATION – Administration & Finance Committee member - Financial oversight and council to non-profit civic organization offering varied programs to this local community

ST PAUL LUTHERAN CHURCH – Church Treasurer and Church Trustee – Guiding and executing Budget-constrained religious organization thru varied phases of growth and contraction, assisting with leadership transitions while maintaining a healthy financial backdrop in support of our religious mission and outreach.

EDUCATION & CERTIFICATIONS

Boston College -B.A. in Accounting, Magna Cum Laude

Licensed CPA in the State of New Jersey since 1983

Personal

Married with two children. Enjoys active recreation, particularly hiking and biking.

AGENDA ITEM #7802

Discussion with Action: Renew the liquor license of HFY Enterprises, Inc: Oceanside Grille @ The Brunswick, 39 West Grand Avenue, (310-6-1), m-s-v in a Restaurant/Lounge.

Chair: Shawn O'Neill

Motioned to approve by: Councilor Mead

Seconded by: Councilor Tousignant

Vote: 4-0

AGENDA ITEM #7803

Discussion with Action: Consider the Citizen's initiative Petition to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, Section 78-1279, and either enact the proposed amendments or call a special Town election on June 13, 2023 for the purpose of submitting to a referendum vote the question of adoption of the ordinance, pursuant to Section 302 of the Town Charter.

Chair: Shawn O'Neill

Chair O'Neill: This amendment was brought forward to Council through a Citizen's Petition. The petition proposes to amend Section 78-1279, Adult Use Marijuana Business, by adding new language that regulates the size of the lot and building size. The amendments are proposing to change language in the adopted adult use marijuana ordinance, and not the ordinances that are under development. At this meeting per Town Charter under section 302, Council will enact the Citizen Petition Ordinance amendments OR send the Citizen's Petition Ordinance amendments to a referendum vote.

Motioned made by Councilor Mead: Motion to order a special Town election to be held on June 13, 2023 for the purpose of submitting to a referendum vote the question of adoption of the Citizen's initiative Petition to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, Section 78-1279, pursuant to Section 302 of the Town Charter, and Order and Direct the Town Clerk to place the question on the ballot and NOT to enact the Citizen's Petition to Amend the Town of Old Orchard Beach Code of Ordinances, Chapter 78, Section 78-1279 by adding new language that regulates the size of the lot and building size.

Seconded by: Councilor Reid

Vote: 4-0

Councilor Reid – would like information provided to public on issue to make decision

Chair O'Neill – witnessed family sending around citizen's petition with vested interest – does not support.

Councilor Mead – does not support – limits it to single property in town – agreed that citizens that signed petition did not understand that fact – legal review and questions on enforcement on vagueness of language – Council should continue working on ordinance and allow public to vote in June.

**TO: Old Orchard Beach Town Council
Diana Asanza, Town Manager
Tim Fleury, Executive Assistant**

FROM: Planning Department

SUBJECT: Citizen's Petition Comments

DATE: 28 November 2022

This proposal is brought to Council through a Citizen's Petition. The petition proposes to amend Sec. 78-1279, Adult Use Marijuana Business, by adding new language that regulates lot size and building size. The amendments are proposing to change language in the already adopted adult use marijuana ordinance, and not the ordinances that are under development. The amendments in the petition and planning staff concerns are discussed below.

As I understand, Council has the choice to enact the amendments in the citizen petition through the regular Council ordinance amendment process or send to a referendum vote. According to the Town Charter, Sec. 302, Petition for Enactment of Ordinances, "The Council shall call a public hearing to be held within thirty (30) days from the date of the filing of the petition with the Town Clerk. Within thirty (30) days after the public hearing, the Council shall call a special Town election for the purpose of submitting to a referendum vote the question of adopting the ordinance, unless the ordinance shall be enacted by the Council prior to the call for the special town election." In other words, Council must schedule (i.e., "call") a public hearing within 30 days from the date the petition is submitted to the Town Clerk. After the public hearing is held, Council has 30 days to adopt the amendments or schedule a date for the referendum vote. On 15 Nov., Council held a public hearing. On 6 Dec., Council will vote to adopt the amendments as proposed or schedule a referendum where the voters will have an opportunity to vote.

In addition to Council action on the amendments in the petition, the Planning Board must hold a public hearing and provide Council with a recommendation. The Planning Board will hold the hearing and make a recommendation on 1 Dec.

Important to note the amendments in the petition are developed and proposed by the petitioner, not the Town. The petition amendments and the Town's amendments are two separate proposals which require separate votes. Amendments from the petition are scheduled for Council decision 6 Dec. Amendments developed by the Town are schedule for a public hearing on 6 Dec. and a decision likely on 20 Dec.

Petition Amendments

The petition proposes to add the following standards to the adopted Adult Use Marijuana Business Ordinance (Sec. 78-1279) in the Conditional Use Ordinance:

- (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.

Regarding (r), Lot Size, adult use marijuana stores can only be located on lots that are equal to or less than 21,780 sq. ft. (1/2 acre). In order to determine if the lot meets this standard, the Town must use the lot's Vision Property Card. A Vision Property Card is a card that includes property land and building data which is prepared by the Town Assessing Department.

Regarding (s), Building Size, the language is confusing to me. I do not know: If this requires future adult use marijuana stores to be equal to or less than 1,000 sq. ft.; If it requires the Town to use the total Eff. Area on the Vision Card as currently shown to determine if the area of the proposed marijuana store meets the standard; If the proposed store must use the total Eff. Area formula when figuring out the proposed store's Eff. Area. Because adult use marijuana stores are not identified on any Vision Card in Town, how can we determine what the Eff.

Area of a proposed adult use marijuana store is, as listed on the Card, when proposed adult use marijuana stores do not exist?

Concerns

Because planning is in part responsible for administering the adult use marijuana ordinance, we are required to interpret the proposed amendments (if adopted). When standards as important as these are not clear and can be interpreted several different ways, it's difficult for staff and the Planning Board to apply in a fair manner. Concerns include the following:

In addition to the concerns stated above regarding (s), Building Size, we have concerns about the use of "Vision Property Cards" as the sole source to make the lot size and building size determinations. These concerns include:

- Which Vision Card do we use? Current Card? Card as the date of the adoption of the ordinance? Card at the time of license application submission? Original Card?
- Some properties have multiple Vision Cards, each with different lot size and building size number. Which Card do we use?
- Accuracy of Total Land Units. Is it survey quality? How do we know how the Land Unit numbers were determined and where they came from. Also, in the case of multiple Cards for one property, which Card do we use to determine the Land Units? This is important because one Card may meet a standard, another Card may not. What about cards that show 0.00 Land Units yet we know land exists? Do the most recent cards show old information- land area may have increase or decreased after the data was entered on the Card.
- Accuracy of Total Eff. Area numbers. In addition to concerns stated above for (s), Building Size, we have additional concerns which are similar to those in Total Land Units. This includes how do we know where the numbers came from and how they were determined? Do the numbers show out-of-date data? Property with multiple Cards- which Card do we use? What about cards that show 0 (zero) Total Eff Area, yet we know a building exists?

Another concern is the use of a lot area related standard that is not located in the section of ordinances that include lot area standards. Space and Bulk in each zoning district is where lot area standards are located and the petition amendments include the lot area standard in the conditional use ordinance. Specific to the petition amendments, the zoning district (GB1) where the adult use marijuana store will be located has a different lot area standard than the amendment language. Will this create a conflict? Will the proposed lot area standard apply or the lot area in the current GB1 Space and Bulk standards apply?

Finally, and one of our primary concerns is the standards could eliminate all competition and leave the petitioner as the only one who qualifies for an adult use marijuana store license. If one interpretation of the petition amendments is correct, one building on one lot is the only location a store could be place (building with red roof, located adjacent to the former Dave's Sub Shop). This is the only location that has a lot that is less than or equal to 21,780 sq. ft., a building with a total Eff. Area of 1,000 sq. ft. or less, and appears to meet the 1,000 ft. separation from sensitive uses ordinance standard. It's my understanding those who represent the petition have an interest (e.g., lease) in this building. This removes competition and does not seem fair.



Recommendation

If these amendments were not part of a petition, I'd ask the applicant to consider our concerns, make corrections and come back to the Planning Board before the Board decides and moves the proposal forward to Council review. But because these amendments are part of a certified petition and the Board (and Council) must act on the amendments as submitted, I did not have an opportunity to work with the applicant to resolve concerns.

I recommend the Council not approve the amendments in the petition for the following reasons:

1. The language is not clear and will be difficult to administer in a fair manner.
2. Use of Vision Property Cards will create problems due to the reason stated in this memo which include, but are not limited to questionable accuracy of the Land Units and Eff. Area numbers, unknown which Vision Card must be used, unknown which Vision Card to use in case of multiple cards for a single property. Because Vision Cards are critical to determining if a adult use marijuana store is or is not allowed on a property and in a building, it is extremely important that this language is clear and not subjective.
3. If one of my interpretations of the standards is correct and these amendments are adopted, the ordinances will allow a single building on a single lot as the only allowed location for the adult use marijuana store.
4. Other stakeholders who participated throughout the multi-month ordinance development process of the Town ordinances have not had ample opportunity to participate in review and analyze the petition amendments.
5. Petition amendment language may conflict with other current ordinance language.

Motions

Motion to not approve the petition amendments. *I make a motion to not approve the Citizen's Petition Ordinance Amendments to Ch. 78, Art. VII, Div. 2, Sec. 78-1279 (5) (r) and (s) for the following reasons:*

1. *The language is not clear and will be difficult to administer in a fair manner.*
2. *Use of Vision Property Cards will create problems due to the reasons stated in this memo which include but are not limited to questionable accuracy of the Land Units and Eff. Area numbers, unknown which Vision Card must be used, unknown which Vision Card to use in case of multiple cards for a single property. Because Vision Cards are critical to determining if an adult use marijuana store is or is not allowed on a property and in a building, it is extremely important that this language is clear and not subjective.*
3. *If these amendments are adopted, the ordinances may allow a single building on a single lot as the only allowed location for the adult use marijuana store.*
4. *Other stakeholders who participated throughout the multi-month ordinance development process of the Town ordinances have not had ample opportunity to participate in review and analyze the petition amendments.*
5. *Language that may conflict with other current ordinance language.*

Motion to approve the petition amendments. *I make a motion to approve the Citizen's Petition Ordinance Amendments to Ch. 78, Art. VII, Div. 2, Sec. 78-1279 (5) (r) and (s).*

If Council choose to not approve, a referendum vote must be scheduled. If this is Council's direction, I believe a second motion is required to schedule the referendum vote on a specific date.

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))

AGENDA ITEM #7804

Discussion with Action: Approve the Special Event Permit application for Special Olympics to hold their annual Lobster Dip on Sunday, January 1st, 2023 from 9am to when the “Dip” takes place at noon; clean up by 2pm. Parking allowed on one side of West Grand Avenue; two police officers required. Applicant must confirm and coordinate with the OOB Fire Department the following: that the Major Medical Emergency Response Team will be available; Maine State Police Dive Team available; and availability of on duty crews transport-incident dependent. Insurance, listing the Town of Old Orchard Beach as additionally insured, to be provided one month prior to the event.

Chair: Shawn O’Neill

Motioned to approve by: Councilor Mead

Seconded by: Councilors Reid

Vote: 4-0

ADJOURNMENT @ 7:42 pm

Motioned to approve by: Councilor Mead

Seconded by: Chair O’Neill

Vote: 4-0

APPLICATION INFORMATION

PLEASE SUBMIT A **COMPLETE** APPLICATION A MINIMUM OF **30 CALENDAR DAYS** PRIOR TO THE EVENT.

1. Name of applicant Special Olympics Maine / Phil Zeelhoeve, Pres & CEO

Address of applicant 525 Main Street; Suite D; So. Portland, ME 04106
City State Zip

Phone number of applicant (207) 879-0489 Fax (1-888) 490-0672

Cell phone (207) 577-2463 E-mail philz@somaine.org

On whose behalf is this event being conducted? (Organization, Firm, Corporation, if applicable)

Special Olympics Maine

Website address (if an Organization, Firm or Corporation) somaine.org

Type of Event:

- Festival/Fair
- Race/Walk/Bike Ride
- Concert
- Parade/March
- Other – Please specify

Charitable Fundraiser

2. Event Description (name all vendors who will provide entertainment and the type of entertainment provided)

Annual Lobster Dip - held (on the beach) in front of The Brunswick. Participants raise funds and "Dip" in the ocean

Will you be using tents? _____ YES X NO

If yes, list size of tent and supplier, as well as what portion of the event will be taking place under the tent (i.e. cooking, sales, picnic tables, chairs, etc), and how the tent will be secured.

Will you be using staging? YES NO

4' x 8' stage on Beach.
(Currently stored @

If yes, the following items will be used at the event (Please mark all that apply):

OOB (Pub. Works)

- Amplified Music Bleacher(s) Dance Floor(s) Live Entertainment
- Loud Speaker(s) Microphone(s) Stadium(s) Stage(s)

Other: Own portable PA on beach to play music & announce event. Approx 10am - 1pm

Note: If any of the above items will be used, please indicate their location on your attached Site Plan/Map. Use of the above items may require the Event Organizer to meet ADA regulations.

3. Chairperson and/or responsible party for the event, if other than above:
(Include information how this person may be contacted at any time during the event).

Name _____ Work Phone (____) _____

Address _____
City State Zip

Cell phone (____) _____ Fax (____) _____

E-mail _____

4. SET-UP Date for Event 1/1/23 Day of Week Sunday from 9am to 10am

Date of Event _____ Day of Week _____ from _____ to _____

Date of Event _____ Day of Week _____ from _____ to _____

Date of Event _____ Day of Week _____ from _____ to _____

Date of Event _____ Day of Week _____ from _____ to _____

TAKE-DOWN date 1/1/23 Day of Week Sunday from 1pm to 2pm

RAIN DATE(s) _____ Times _____
(if rain date listed, insurance must list rain date)

5. Location of the Event _____
(if applicable, a map or diagram showing the area to be used, or parade route)

6. The estimated number of participants in the event
____ 0-150; 150-500; ____ 500-1000; ____ 1,000+

* Outside event. COVID protocols followed if needed.

7. If a parade or public gathering, will it occupy any or all of the roadway involved or to be traversed? (if yes, explain). Use extra sheet of paper to describe exact route of parade, including any water stops.

No

8. Will the sale of food and/or beverages occur at the event? No If yes, describe the commodities to be sold.

- Alcoholic Beverages (only at Ballpark, using Ballpark Licensee) Pot Luck Items
- Professional Catering Non-Profit Food Vendors Retail Food Vendors

9. Will there be merchandise sold at the event? YES NO

Description of merchandise Possibly hats, towels, t's.

10. Is the event a Charitable event? YES NO

Is this event co-sponsored by the Town of Old Orchard Beach? YES NO

If this event a Regional School Unit #23 event? Yes NO

(The request for a waiver can only be requested if the event is a RSU #23 event or sponsored or co-sponsored by the Town of Old Orchard Beach).

11. If the event is charitable, name the beneficiary of the proceeds from the event:

12. List any Event Sponsors:

The Brunswick
Portland Rugby Club

Will admission be charged for the event? YES NO
Will participants be charged for parking? YES NO

13. Has this event been held previously in Old Orchard Beach?

YES (if yes, please list dates): New Year's Day (past 19+ yrs)
 NO

14. What is the applicant doing to ensure the event will not endanger the public safety or disturb the peace? Describe your plans for security at your event, including crowd control (attach additional sheets if necessary). Security plan will need final approval by the Old Orchard Beach Police Department and they have final say in appropriate number and type of security personnel required. Must include at least one Old Orchard Beach Police Officer, if security is required. Costs associated with security are the sole responsibility of the event organizer.

Please describe your security plan (including your plans for controlling ingress/egress of all persons, vehicles, equipment, and Emergency Medical Services):

Will hire OOB police personnel, Volunteers to assist w/parking & crowd control. @ entrances of Fernold & 4th ave.

Additional Uniformed presence provided by: Off-Duty Police Officers; Private Security; Volunteers

Times: 10am - 2pm How many? 2 officers / multiple vol's.

If you have already made contact with someone about security, provide the contact name and number:

Name: Will be done directly w/ OOB Police Dept. Phone Number: _____

Please list any items that will be left overnight. If equipment will be left on-site overnight, provide details for personal property safety and security of site: (Note that the event organizer is solely responsible for items left on the property. The Town assumes no responsibility for items of personal property at the location at any time)

N/A

* Additional support from State Police Dive Team
Emergency medical personnel & 1st Responders on beach.

Will audible devices be used at this event? YES NO

If yes, what type of devices will be used? What time will they be used? (Decibel level limits are in Chapter 26 of the Code of Ordinances).

PA system on beach for music & announce event.
Volume consistent w/past year's events.

Where will the event attendees/participants park? _____

Designated parking lots
via the Sea View Motel (and OOB Public Works
& Waves for street parking)

Will a shuttle service be provided from parking areas to the event site? YES NO

If yes, please describe shuttle plan, and name of company provided service:

Will you require special parking (RV's, trailers, trucks)? _____ YES _____ NO

If yes, give details: _____

15. Describe your plans for waste disposal at your event. What arrangements have you made for removal and disposal of trash generated by your event? Please supply details of numbers and type of containers and supplier of containers that will be used. (Attach additional sheets if necessary) Costs associated with waste disposal are the sole responsibility of the event organizer. Disposal in Town trash receptacles is NOT an accepted means of disposal, and is prohibited.

Receptacles on beach. PU & remove all debris that day.

Is the use of barricades necessary/requested for this event? yes

If yes, number needed and location Top of Fernold & 4th streets.

Will it be necessary to cover street and/or parking signs for this event, or place no parking signs?

YES NO If yes, please describe:

OOB Public Works has assisted w/this in past.

Is any other public works assistance needed? 4' x 8' stage delivered by OOB Public Wks prior to event.

If using First Street or Memorial Park Parking Lot, has the applicant reserved two spaces for Amtrak Parking? _____.

16. Will there be any use of fire (i.e. tiki torches, grills, barbecues, bonfires, etc?) For Bonfires, the pit/bonfire must be pre-approved for use by the Fire Department; the wood to be burned has no paint or nails; the portable pit or bonfire can be removed or filled in after the event leaving no residue or noticeable impact; a small water extinguisher and shovel are present; at least one adult be assigned to "keep fire watch" at all times. Note a burn permit must also be obtained from the Fire Department for the date specified on the date of the event. The Fire Department will issue a permit based on class day as listed by the Maine Forest Service. Permission may be refused or revoked if the Maine State Forestry Commission (governing body) declares a "Red Flag" day on which NO open fires may be allowed in our zone. A \$100 **cash** deposit is required for all fires to be returned to the applicant if the area is cleaned to the satisfaction of the public works department and/or fire department.

_____ YES NO

If yes, explain: _____

17. Describe your plans for all signage and/or decorations for the event. Please include type of signage to be used, and description of verbiage being posted on signage.

Promo banner displayed on lawn of SBSI. Sponsor banners hung in Brunswick Patio area.

Will this event be posting a banner on public property? _____ YES NO

If yes, please list requested dates, dimensions of banner, wording on banner, and location (no more than two weeks prior to the event):

18. Alcohol is not allowed on public property, except as outlined in the liquor license for the Ballpark. If this is a Ballpark event, will there be alcohol available for consumption? Note, if alcohol is being served, the Town requires additional Liquor Liability Insurance (minimum \$2,000,000, listing Town of Old Orchard Beach as additionally insured): _____ YES NO

Will the alcohol be: _____ Sold; _____ Given away; _____ Both

Describe the type of alcohol to be served, times consumption will be allowed, and plans for controlling consumption:

N/A

19. If this is a Ballpark Event, have you signed an agreement with the Ballpark Commission for use of the Ballpark? _____ Yes, it's attached _____ No

20. Will the event involve professional fireworks? _____ YES NO
Consumer Fireworks are prohibited. If professional fireworks are requested, what is the name of the Pyrotechnics Company? _____
(If fireworks are requested, the Fire Chief or his designee must approve of the site prior to the application being submitted to the Town Council for consideration. The Pyrotechnics Company must submit the approval the Maine State Fire Marshal's Office at least one week prior to the event, and the event sponsor's insurance must list that fireworks are occurring).

What time/date will the fireworks display occur? _____

21. Will there be any kind of animals at this event? (e.g. petting zoo, pony rides, etc.) ___ YES NO

If so, please indicate the location of the animals on the Site Plan/Map.

22. Piping Plovers are state and federally protected birds that nest on beaches. There are mandatory beach management guidelines from April 1st through August 31st of each year. Will this event occur on the beach? YES _____ NO

If yes, you must contact the Public Works Department at 207-934-2250, approximately one week prior to the event. In the event there are any active piping plover nests in the vicinity of your event, you may have to move your event farther down the beach, or request permission to change the date of your event.

Piping Plover Essential Habitat: The Maine Department of Inland Fisheries and Wildlife (MDIFW) has designated two areas on Old Orchard Beach as "Essential Habitat" for nesting piping plovers. By statute, a state agency or municipal government shall not permit, license, fund, or carry out projects that will significantly alter an Essential Habitat or violate protection guidelines adopted by MDIFW. This rule is not a prohibition of all projects within areas designated as Essential Habitat. **However, projects must be reviewed by MDIFW before Town approval.**

If the event is located partly or wholly within a mapped Essential Habitat the applicant will need to coordinate with municipal staff to submit a "Request for Project Evaluation" to MDIFW. MDIFW will evaluate the final project proposal per review standards established for Essential Habitats and determine if the project would significantly alter the habitat or violate protection guidelines.

The applicant is encouraged to obtain MDIFW guidance during project planning and design. Early involvement of MDIFW will help to minimize or avoid potential conflicts, facilitate cooperation between all parties, and enable quick turnarounds on project evaluations.

23. Certificate of Insurance and Additional Insured Endorsement page must be provided to the Town of Old Orchard Beach Town Clerk's Office 30 days prior to the event date. The applicant shall at its own cost and expense furnish a policy or policies for property damage or bodily injury in the amount of at least \$500,000. The Town of Old Orchard Beach **MUST** be listed as an Additional Named Insured.

_____ Yes, it has been provided with the application; No, it will be provided at least 30 days prior to the event. *Our insurer will issue once our 2023 coverage is put into place. (Re-newed)*

24. Is the applicant requesting the use of the RSU #23 school property (schools, parking lots, playing fields)? _____ YES NO. If yes, has the applicant received approval from RSU #23 or the date the applicant will receive approval?

SPECIAL EVENT PERMIT AGREEMENT

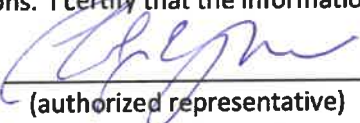
I, Philip Geelhoed on behalf of Special Olympics Maine
(Print Applicant Contact Name) (Print Organization/Group Name)

Agree to abide by the following Special Event requirements:

1. All pre-event determined fees shall be paid at least two weeks prior to the event. I agree to pay any costs determined after the event immediately upon receipt of invoice.
2. Certificate of Insurance and Additional Insured Endorsement page must be provided to the Town Clerk's Office at least 30 days prior to the event date. The Town of Old Orchard Beach MUST be listed as an Additional Name Insured with the proper endorsement included. PG (initial)
3. To develop a comprehensive security plan in conjunction with the Old Orchard Beach Police Department.
4. Town property shall not be removed from the premises including but not limited to benches, trashcans, tables, chairs, fencing, signs, etc.
5. Premises will be left in as good a condition as received except for reasonable wear and tear. All trash will be disposed of properly within 12 hours of the end of the event. I accept responsibility for any damages that might occur during the period of use.
6. To comply will all laws, rules, and regulations of the federal, state, and Town governments governing operations and conduct on Town property.
7. This permit agreement may be terminated by the Town of Old Orchard Beach at any time upon finding a violation of any rule, ordinance, and/or condition of the permit or upon good cause shown.
8. For myself and any other persons, organizations, firms and corporations sponsoring the event, which is the subject of this permit application, jointly and severally, hereby contract and agree to pay all costs of services provided by the Town of Old Orchard Beach, in support of said event.
9. For myself and any other persons, organizations, firms, and corporations sponsoring the event which is the subject of this permit application, jointly and severally, hereby contract and agree to indemnify, defend and hold harmless the Town of Old Orchard beach, its officers and employees, against all claims, loss or liability from any claim or suit arising or alleged to have arisen from any act or omission of said applicant, its agents, invitees or other sponsor in connection with said event.

10. The facility/area is provided in an "as is" condition. The event organization assumes all responsibility for the security and safety of all participants and spectators of the event.
11. I understand that the Town of Old Orchard Beach has no responsibility for equipment and/or items of personal property at the location at any time.
12. Any misrepresentation or deviation from the final permit conditions will result in immediate revocation of the permit and halting of the event.
13. Events are considered rain/shine. Refunds are not issued if the event does not occur.
14. The permit does not authorize alcohol on any public property, including, but not limited to the beach, Memorial Park, streets and sidewalks.
15. Consumer Fireworks are illegal in Old Orchard Beach.

I have read and understand the Special Events Permit Agreement terms and conditions and I agree to be bound by said terms and conditions. I certify that the information I provided is accurate to the best of my knowledge.

Signature:  Date: 11-18-2022
 (authorized representative)

Print name: Philip Jeelhood

Print Organization Name (if applicable): Special Olympics Maine

SITE PLAN SKETCH OF SPECIAL EVENT (Completed by Event Coordinator)

In the space below, please provide the following information. Attach a separate map if necessary.

General Map of Location
Event Coordinator's Booth
Tents/Stages/Grandstands
Porta Potties/Rest Rooms

Vendor Locations
Garbage Cans
Water Sources

Street Closures/Parking Information
Water/Electricity Sources
Loudspeakers

