

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

**FROM: Planning Department**

**SUBJECT: Lodging Condominium Ordinance Updates (D2 – 6/2023); Question Responses**

**REQUEST: Review Updated Ordinance**

**DATE: 13 June 2023**

### **Lodging Condominium Ordinance Update**

At the 17 May workshop, Council requested several changes to the Lodging Condominium Conditional Use Ordinance. The requested changes include:

1. Increase the minimum square footage for each unit.
2. Increase the number of days unit owners can occupy their unit.
3. Decrease the amount of time during a calendar year lodging condominiums can be occupied.
4. Address consecutive rental by same occupant.

In response to Council requests, Draft 2 of the Ordinance includes the following:

1. Minimum square footage increased to 400 sq. ft. (formerly 200 sq. ft.).
2. 60-day maximum occupancy requirement for unit owners removed (formerly limited owners to a max of 60 days).
3. Building and unit use and occupancy limited to seasonal use only, which is the period between 1 March and 1 December (formerly use and occupancy allowed the entire calendar year).
4. Standard prohibiting consecutive or renewal of rentals to same unit guest or relations of the unit guest.

Below is a summary of all changes included in Draft 2:

- (3) p. 1: Standard added regarding conflicting definitions.
- (3) p. 1: “vacation or tourist” removed- no need to identify this.
- (3) p. 2: Seasonal definition added. Seasonal is defined as the period between 1 March and 1 December.
- (5.h) p. 4: Seasonal to year-round conversion requirement removed because use and occupancy must be seasonal.
- (5.h.) p. 4: Floor plan included as one of the required submissions.
- (6.c) p. 4: Condo declaration must include language that acknowledges building and unit use and occupancy is limited to seasonal.
- (6.d) p. 5: Requires units to be made available for rental a minimum of 60 days (formerly 305 days) during a seasonal calendar year. Requirement that owner’s max occupancy is limited to 60 days is removed.
- (6.e) p. 5: Prohibits unit guests and their relations from occupying any unit for 30 days or more during a seasonal calendar year.
- (6.k) p. 5: Remove requirement for 365-day building operation.
- (9) p. 6: New standard limiting use and occupancy of building and units to 1 March – 1 December.
- (10) p. 6: Remove requirement that units must be rented or made available to rent at least 305 days every calendar year. Replace 305 with 60 days every seasonal calendar year.
- (10) p. 6: Remove requirement that owner’s max occupancy is limited to 60 days.
- (10) p. 7: Add prohibition for unit guests and their relations from occupying any unit for 30 days or more during a seasonal calendar year.
- (11.g) p. 7: Remove second sentence because first sentence basically says the same.
- (11.k) p. 8: Remove 365-day operation requirement and replace with seasonal.
- (11.p) p. 8: Increase the minimum unit square footage to 400 sq. ft. (formerly 200 sq. ft.).
- (17) p. 9: Add specific conflicting language standard which identifies which language prevails in the case of a conflict.

### **Question Responses**

At the 17 May Workshop, Council requested a few responses to questions. See below.

Can condominiums be prohibited?

According to Maine Condo Statutes Title 33 §1601-106, Applicability of local laws and regulations, “A zoning, subdivision, building code or other real estate use law, ordinance or regulation may not prohibit the condominium form of ownership.” So, we cannot prohibit condominium ownership.

Average size of condominium units?

Because condominiums can include anything from a former motel room to an entire single-family home, individual unit size varies considerably, and an average of all condo units may provide a number that is not accurate representation of what actually exists. For example, the recently converted motel to condo at 78 East Grand has a unit size of approx. 270 sq. ft. and duplex condos located off Reggio have a unit size of approx. 2,200 sq. ft. An average between these is likely not a good example of the entire representation of condo’s in OOB.

Average size of hotel/motel units?

A typical hotel/motel room with two double beds is approx. 280 – 325 sq. ft. Efficiency units can be 150 sq. ft. and suites over 400 sq. ft. After a brief check of hotel/motel websites in OOB, it appears most are around the same size as typical hotel/motels rooms so 300 sq. ft. is a fair average.

Lodging condominium conversions pros/cons?

Below are a few possible pros and cons of conversions to lodging condominiums. Note- this is for seasonal use (as proposed in the Draft 2 ordinance) and not year-round.

Pros

- Extended occupancy during off-season may create an increase in local business
- Saving untouched land from construction and development; encourages infill development
- Higher property value/increased taxes
- Property rehab

Cons

- Loss of OOB’s identity
- Encourages moving away from tourism culture and loss of tourism
- Loss of special place/memories for tourists
- Decrease job opportunities (e.g., maintenance, housekeeping, front desk)
- Fewer tourist = decrease in tourist spending
- Size and quality of rooms. Rooms intended for lodging now used for long term habitation. Life/fire/code safety?

Can a hotel/motel convert a portion of their units to condominiums and keep the remaining units as traditional hotel/motel units?

In my opinion, yes. As stated above municipalities cannot prohibit condominium form of ownership. What will be tricky is how common elements (hallways, parking lots, etc.) are separated from the non-condo portions of the hotel/motel. For example, will the condo association be solely responsible for maintaining/improving non-condo areas, including funding? This is a dilemma the developer will need to resolve.

Two final comments. First, it’s important to remember the intent is to keep the lodging element intact meaning there must be rentals associated with these properties. By reducing the number of days a unit must be rented or made available to rent do we drift further away from the intent?

Second, a note about year-round occupancy of hotels/motels. Currently in OOB, hotels/motels are operated on a seasonal or year-round basis. Seasonal hotels/motels can offer room rentals during the period from 1 March to 1 December. Year-round can offer room rentals for 12 months every calendar year. As I understand, year-round hotels/motels have operated in OOB for many years and, according to licensing, up to one-third of OOB’s hotels/motels operate year-round. Also, it appears there are minimal standards that apply to seasonal hotels/motel conversions to year-round. The proposed lodging condominium ordinance would not apply to year-round hotels/motels because they are not condominiums. If Council wants to consider seasonal to year-round conversions of hotels/motels, I recommend we do that as a separate agenda item.