

AMENDMENTS TO CHAPTER 78, ARTICLE VII, DIV. 2 – CONDITIONS, SEC. 78-1281
Lodging Condominiums (Council Draft 2 6/2023 - Draft 2 Changes **Highlighted)**
New language underlined (all new language)

Sec. 78-1281 – Lodging Condominiums

(1) Purpose

The purpose of these regulations is to assure that lodging condominium projects are conditioned upon development approval in such a way as to ensure continued operation as a lodging condominium; to ensure appropriate public health, safety, welfare; to mitigate potential impacts of lodging condominiums on abutting property, off-site vehicular traffic, public utilities, building design and safety, police, fire and emergency services; to require rental licensing of all units; and to provide the town of Old Orchard Beach with appropriate licensing, code compliance, and operational controls.

(2) Applicability

The regulations in this Ordinance shall apply to any persons or entities operating or proposing to convert a lodging use into a lodging condominium in Old Orchard Beach and any persons or entities operating or proposing to operate one (1) or more lodging condominium units.

Lodging condominium projects approved by the town of Old Orchard Beach and operating before the date of the adoption of this ordinance. If a lodging condominium proposes a change to another use, add another use to its existing operations, expand the existing use (including additional square footage), or change unit size or location, such change of use, additional use, expansion of use, or unit change must be reviewed and approved by the Planning Board for compliance with this Section.

(3) Definitions exclusive to Lodging Condominium

As used in this section the terms listed below have meanings set forth below, whether or not such terms are otherwise defined elsewhere in the town of Old Orchard Beach Code of Ordinances. Terms not listed below have the same meanings as in applicable Old Orchard Beach Code of Ordinances Chapter including Chapter 78, Section 78-1 and Chapter 34, Section 34-26. **If terms conflict, the terms in this section prevail.**

Habitable Space: Space occupied by one or more persons for living, sleeping, eating or cooking, excluding kitchenettes, bathrooms, toilet rooms, laundries, foyers, pantries, corridors, stairways, closets, cellars, and storage spaces.

Lodging Condominium: A commercial condominium project with lodging condominium units within a lodging establishment, which units are individually owned, and, except as permitted in Section 78-1281 (9), one hundred (100) percent of which are made available for transient use as short-term **vacation or tourist** rentals when not being used by the unit owner.

Lodging Condominium Unit (Unit): Any room or groups of rooms located within a lodging condominium and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Lodging Establishment: A hotel, motel, bed and breakfast establishment or inn.

Personal use: The use or occupancy of a unit by a unit owner, by a non-rental paying guest of an owner, or by a member of the owner's family.

Seasonal: Any lodging condominium building or any lodging condominium unit used or occupied by unit owners, unit guests, transients, on-site manager, or any employee only during the period March 1 to December 1 of every calendar year.

Short-Term Rental: Any building or structure, or portion thereof, that is offered or provided to a guest or guests to be used for living or sleeping for a fee for less than thirty (30) consecutive calendar days. Short-term rental units may be whole house, duplexes, multifamily, apartments, condominiums, lodging condominium, and individual rooms or individual units in homes, duplexes, multifamily, apartments, condominiums, and lodging condominium.

Transient: means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement of whatsoever kind and nature for a period of less than (30) consecutive calendar days, counting portions of calendar days as full days. Any person occupying space in a lodging condominium shall be deemed to be a transient until the period of thirty (30) days has expired.

Unit Owner or Owner: An individual or entity that acquires any ownership interest in, and holds title to, one or more lodging condominium units.

(4) Permitting and Licensing

No person or entity shall construct, occupy or operate a lodging condominium within the Town without first obtaining all necessary permitting and licensing approvals pursuant to Chapter 78, Article VII (Conditional Uses) and this Section. Except as specifically provided for in this Section, all other applicable provisions of the Old Orchard Beach Code of Ordinances, including, but not limited to Chapter 18 (Businesses), Chapter 30 (Fire Prevention and Protection), Chapter 34 (Housing), and Chapter 78 (Zoning) as well as any state and federal codes and laws shall be applicable to the construction, occupancy and operations of lodging condominiums; provided however, that the more specific standards contained in this Section shall prevail over any general standards set forth in the town of Old Orchard Beach Code of Ordinances. A lodging condominium shall be allowed as a conditional use, subject to the terms of this Ch, 78, Article VII and this Section, and only within those zoning districts in which lodging condominiums are expressly allowed as a permitted or conditional use. Each application for a lodging condominium will be reviewed by the Planning Board. Approval shall be subject to required conditions necessary to carry out the standards of this Section.

Each lodging condominium unit requires a business license which will be reviewed by the Council. As part of business license renewal, each unit owner must provide the Town with copies of all rental records, tax receipts or any other documents necessary to verify conformance with the standards, conditions and requirements set forth in this Section and any Planning Board approval.

(5) Lodging Condominium Application

An application for a lodging condominium shall include the following as well any other information that the Town may determine is necessary to review the application.

- (a) Proposed site plan, drawn at a scale not to exceed one inch equals 40 feet or at a scale otherwise required by the town planner. Such plan shall be sealed by a professional engineer, landscape architect, or a surveyor licensed in the state and shall contain the following information:
1. Property boundary survey class 1, signed and sealed by a state-licensed land surveyor, showing bearings and distances of the subject property boundary, topographic elevations at a contour interval of no more than two feet, location and elevation of all existing and proposed structures, site features and site improvements.
 2. Information block containing location, address, map-block-lot number of the subject.
 3. Property as recorded in the town assessor's office, name and address of the applicant and owner if different.
 4. Approval block providing space for the signatures of planning board members.
 5. Map scale, north arrow (true north), and date the site plan was prepared including the date of any subsequent revisions made to the plan.
 6. Identification and location of all abutters and land use within two hundred (200) feet of property proposed to be converted.
 7. The dimensions and layout of all building and structures.
 8. Delineation of all existing and proposed public and private easements on or directly adjacent to the property.
 9. Location, dimensions, and layout of all existing and proposed built elements, including buildings and structures, parking areas, driveways, roads, sidewalks, fences, walls, steps, piers and docks, patios, swimming pools, and signage.
 10. Location of existing site features located on the property, including but not limited to existing streams, wetlands, drainage swales, tree lines, identification and location of specimen trees greater than eight inches caliper, location of existing rock outcrops, and boundary of 100-year flood zone as defined by the Federal Emergency Management Agency flood insurance rate map for the town.
 11. Location of existing and proposed utilities including overhead telephone poles and/or underground cables, public sewer and water lines, gate valves, fire hydrants, dumpsters or waste receptacles, private septic systems and water supply wells.
 12. Specification, layout, and quantity of proposed and existing landscaping.
 13. Location, layout, and dimensions of all existing and proposed drainage facilities, accompanied by detailed drainage calculations signed and sealed by a professional engineer licensed in the state.
 14. Location, specification, height and photometric data of existing and proposed exterior lighting.
- (b) Submission of the condominium plat prepared in accordance with Maine Revised Statutes Title 33 § 1602-109.
- (c) Submission of the condominium declaration.
- (d) Detailed description of all uses and operations.
- (e) Submission of municipal service and infrastructure analysis. The Planning Board must find the lodging condominium will not have a negative fiscal or services impact on the Town.
- (f) Responses to each of the twelve (12) criteria in Sec. 78-1240 of this Article.

- (g) Demonstrate conformance with the Sound standards in Chapter 26, Environment, including Sec. 26-63, Noise Level Standards, and Sec. 26-66, Measurement Procedures.
- (h) Demonstrate conformance with Conversion of Seasonal Structures to Year-Round Dwellings, Chapter 34, Article VIII.
- (h) Floor plan of converted building(s). Plans shall show interior use of space and dimensions.
- (i) Demonstrate conformance with applicable building and life safety code requirements.
- (j) Off Street Parking Plan. Lodging condominiums shall assign two off-street parking spaces for each lodging condominium unit and one off-street parking space for each on-shift employee.
- (k) Traffic impact analysis and assessment prepared by a Maine Licensed Traffic Engineer.
- (l) Submission of a waste disposal operation plan which shall be in compliance with Chapter 46, Solid Waste.
- (m) Detailed description stating how the lodging condominium will comply with the short-term occupancy requirements in this Section.
- (n) Statement describing how the lodging condominium association will ensure the lodging condominium and all unit owners will comply with this Section, including, but not limited to short-term rental and licensing requirements.
- (o) Documentation demonstrating how the lodging condominium complies with the zoning district(s) and applicable standards in Chapter 78, Zoning, including but not limited to Article VIII, Performance Standards.
- (p) Lodging condominium maintenance agreement.
- (q) Identify the maximum occupancy number for each lodging condominium unit.

(6) Condominium Declaration

Each lodging condominium is required to submit a copy of the condominium declaration. In addition to conforming with the condominium requirements identified in the Maine Condominium Act, all condominium declarations shall, at a minimum, include the following:

- (a) Requirement that each unit owner shall secure Town business license approval within sixty (60) days of unit closing and renewal business licenses in accordance with this Section and Chapter 18, Businesses, ordinance.
- (b) Requirement that each unit owner shall include documentation demonstrating compliance with the short-term occupancy standard in this Section.
- (c) Requirement that each lodging condominium building and each lodging condominium unit use and occupancy shall be seasonal.

- (d) Excepting a single unit used for the on-site manager, include language that states one hundred (100) percent of the units in the lodging condominium must be made available as short-term rental units for guests for at least three hundred five (305) a minimum of sixty (60) days or portions thereof out during the period March 1 to December 1 of every calendar year. and personal use of units by unit owners shall not exceed sixty (60) days or portions thereof out of every calendar year.
- (e) Requirement that unit guests are prohibited from remaining in any unit for thirty (30) or more consecutive days or portions thereof out of every calendar year. This prohibition includes consecutive or renewed short-term rentals to the same unit guest or relations of the same unit guest during the same calendar year.
- (f) Record keeping requirements identifying the way unit owners shall document short term and personal use occupancy. At a minimum, the manner shall include a recording of the days and payments for guest use and days used for personal use during each calendar year.
- (g) Requirement that the lodging condominium association will provide the Town with contact information (name, phone, email) of lodging condominium association membership and the lodging condominium management entity or company. Information shall include at least one contact who is available seven (7) days a week, twenty-four (24) hours a day. This information shall be provided to the Town Code enforcement officer each year, no later than 15 January or anytime there is a change.
- (h) Lodging condominium association bylaws.
- (i) Requirement that the lodging condominium association secure the services of a lodging condominium management entity or company. The lodging condominium association shall give the lodging condominium management entity or company the right to provide to the lodging condominium, the property, and to unit owners, lessees and other occupants, any or all on property services commonly provided at lodging establishments and condominium developments.
- (j) Requirement that unit owners shall be required to enter into a unit maintenance agreement with the lodging condominium association and/or the lodging condominium management.
- (k) Require operation on a three hundred sixty five (365) calendar days each year seasonal, seven (7) day a week basis the following services, at a minimum: front desk and lobby operations, housekeeping, and short-term rental reservation services.
- (l) Acknowledgement that lodging condominium association, lodging condominium management, and each unit owner shall allow town inspection and violation investigation.
- (m) Contracted private waste hauling.
- (n) Assigned parking spaces including two (2) on-site spaces for each unit.
- (o) Identify the maximum occupancy number for each lodging condominium unit.

- (p) Requirement that states the lodging condominium declaration shall not be amended without the prior approval of the Town.

(7) Lodging Condominium Association

A lodging condominium association shall be established to govern, maintain, and operate the lodging condominium and its services. The lodging condominium application and condominium declaration shall require the lodging condominium hotel association to hire a qualified professional management entity or company as management in order to maintain and operate all portions of the lodging condominium. The association and management entity or company shall file contact information with the Town. Any changes to association membership shall be reported to the Town.

Unit owners shall be required to enter into a unit maintenance agreement with the lodging condominium association or the lodging condominium management.

(8) Lodging Condominium Management

The lodging condominium association shall enter a contract with a professional management entity or company to manage operations. The management entity or company shall have experience in the hotel/motel management business and condominium developments. Lodging condominium management responsibilities shall include, at a minimum: front desk and lobby operations, housekeeping, short-term rental reservation services, and monitor and document the use of each lodging condominium unit; and may include care of landscape areas, building maintenance, maintenance of common areas, and other amenities and improvements. Any changes to the lodging condominium management company shall be reported to the Town.

Unit owners shall be required to enter into a unit maintenance agreement with the lodging condominium association or the lodging condominium management.

(9) Seasonal Use/Occupancy

Use of the lodging condominium building(s) and occupancy of any lodging condominium unit shall only be allowed during the period March 1 to December 1 of every calendar year. Lodging condominium building(s) and lodging condominium units shall not be used or occupied in any manner during the period December 2 to February 28 of every calendar year. Use and occupancy includes unit owners, unit guests, transients, on-site manager, and any employee.

(10) Short Term Occupancy

Every lodging condominium unit must be made available as a rental unit for guests for a fee (i.e., guests who rent and pay for the owner's unit through the condominium hotel management or entity, or through the unit owner directly) at least three hundred five (305) a minimum of sixty (60) days or portions thereof ~~out~~ during the period March 1 to December 1 of every calendar year. Unit guests are prohibited from remaining in any unit for thirty (30) or more consecutive days or portions thereof out of every calendar year. ~~Personal use of units by unit owners shall not exceed sixty (60) days or portions thereof out of every calendar year.~~ No unit shall be used as a timeshare, fractional or other vacation ownership unit.

Consecutive or renewal of short-term rental to the same unit guest or a relation of the unit guest during the same calendar year is prohibited.

No more than one (1) unit in a lodging condominium may be used for the occupancy by a person or family serving as the on-site manager of the lodging condominium. This unit shall be exempt from the less than thirty (30) day rental and sixty (60) day personal use requirement.s.

(11) Performance Standards for Lodging Condominiums

A lodging condominium requires approval from the Planning Board prior to the issuance of any business license, building permit or certificate of occupancy. In addition to the standards referenced in this Section, each lodging condominium is required to meet the following standards, conditions, and requirements.

- (a) No unit may be converted into or used as any form of permanent residence.
- (b) All units shall be completely furnished with furniture and appliances.
- (c) A front desk and lobby area accessible to members of the public.
- (d) The lodging condominium shall have in place waste disposal operational plan in conformance with Chapter 46, Solid Waste. 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 lodging condominiums shall have contracted private waste hauler.
- (e) The lodging condominium 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.
- (f) Municipal service and infrastructure analysis. All proposed lodging condominium conversions will be reviewed by the Planning Board with respect to its effect upon existing services and facilities. The Planning Board must find the lodging condominium will not have a negative fiscal or services impact on the Town. The applicant for a conversion shall provide analysis addressing how the conversion will affect each of the following:
 - 1. Schools, including enrollment and busing.
 - 2. Road maintenance and snow removal.
 - 3. Police.
 - 4. Fire and ambulance protection.
 - 5. Solid waste disposal.
 - 6. Recreation facilities.
 - 7. Sewer facilities.
 - 8. Runoff water disposal drainageways and/or stormwater infrastructure.
- (g) Each unit must be made available to guests for short-term rental transient use, only except as may specifically provided otherwise in this Section. At all times when a unit owner has not reserved its lodging condominium unit for personal use, the unit shall be made available as a short term rental unit.

- (h) Each unit owner shall secure business license approval for each short-term rental and up-to-date business license renewal for each short-term rental.
- (i) No unit shall be used as a timeshare, fractional or other vacation ownership unit.
- (j) Each unit owner shall become a member of a condominium hotel association.
- (k) The condominium declaration submitted shall require operation on a ~~three hundred sixty five (365) calendar days each year seasonal~~, seven (7) day a week basis the following services at a minimum: front desk and lobby operations, housekeeping, and short-term rental reservation services.
- (l) Condominium declaration that complies with Section 78-1281 (6) of this Article.
- (m) Except as specifically provided for in this Section, all other applicable provisions of the Old Orchard Beach Code of Ordinances Chapter 78, Zoning, shall apply to the lodging condominium project, including, but not limited to applicable standards of the zone in which the project is located.
- (n) Conformance with each of the twelve (12) criteria in Sec. 78-1240 of this Article.
- (o) All ancillary or accessory uses to the lodging condominium, such as restaurants, cafes, and retail sales, shall be operated on the same property as the lodging condominium building or buildings.
- (p) Every lodging condominium unit shall contain ~~at least 200~~ a minimum of four hundred (400) square feet of floor area of habitable space. ~~for the first occupant and at least 150 square feet of additional area of habitable space for each additional occupant. A child under the age of one shall not be counted as an occupant for the purposes of this section.~~

(12) Licensing

Each unit owner shall secure business license approval for each lodging condominium unit and up-to-date business license renewal for each unit. Each unit owner shall secure business license approval for each lodging condominium unit within sixty (60) days of unit closing. Each unit must be made available to guests for short-term rental transient use only, except as may specifically provided otherwise in this Section.

At the time of business license renewal, each unit owner shall provide the Town with copies of all rental records, tax receipts or any other documents necessary to verify conformance with the standards, conditions and requirements set forth in this Section.

(13) Reporting

Each unit owner and the lodging condominium association shall maintain and regularly make available to the Town information, records, and documentation, and also shall allow reasonable access to individual units, as the Code Enforcement Officer or designee finds necessary to inspect, have or review in order to ensure the unit owner's and lodging condominium association's compliance with

this Section and other applicable Town laws, regulations, the lodging condominium conditions, the condominium plat and plans, and condominium declaration.

(14) Amendments and Changes

If a lodging condominium proposes a change to another use, add another use to its existing operations, expand the existing use (including additional square footage), or change unit size or location, such change of use, additional use, expansion of use, or unit change must be reviewed and approved by the Planning Board for compliance with this Section. Any plan or plat amendments must be reviewed and approved by the Planning Board for compliance with this Section. Any condominium declaration change shall be in compliance with this Section. Any changes to association membership or the lodging condominium management company shall be reported to the Town.

(15) Inspections

- (a) Conduct of inspections. The code enforcement officer is authorized to conduct inspections of all premises within the scope of this Section.
- (b) Investigation of complaints. The code enforcement officer shall investigate all complaints of alleged violations of this Section.
- (c) Right of entry. The code enforcement officer in the performance of his duties shall have the right of access to any premises at reasonable hours, upon giving proper identification, for the purpose of inspecting the premises in order to determine compliance with this Section and for the purpose of examining and inspecting any work performed under this Section.
- (d) Access. Owners, agents, operators, and occupants shall provide access to all parts of the premises within their control to the code enforcement. Refusal to provide such access shall be a violation of this Section.

(16) Violations and Enforcement

- (a) When any violation of this Section is found to exist, the code enforcement officer or their designee is hereby authorized and directed to institute any and all actions either legal or equitable that may be appropriate or necessary for the enforcement of this Section, the action to be brought in the name of the town.
- (b) Enforcement. The code enforcement officer or their designee is granted authority to enforce this Section in accordance with town of Old Orchard Beach Code of Ordinances, Chapter 78, Article II.

(17) Conflicting Language

- (a) Conflict between chapters, articles, divisions or sections. If the provisions of different chapters, articles, divisions or sections of the town of Old Orchard Beach Code of Ordinances conflict with this Section, the provisions of this Section shall prevail.
- (b) Conflict with statutes. Where any conflict exists between a provision of this Section and any provision of the Maine Revised Statutes, the Statutes shall prevail.