
NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on August 15th, 2023, at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 78, Article II, Section 78-36(b); Article VI, Section 78-215(b)(3), (4) and renumber existing (4)(5) and (6); Article 78-1412; and 78-1856-1863, by adding the underscored language and deleting the strikethrough language below. These amendments propose changes to the Erosion and Sedimentation Control Ordinance to comply with the Town's current Stormwater Management Plan:

Sec. 78-36. Applications for building permits and certificates of occupancy.

- (a) All applications for building permits and certificates of occupancy shall be made in writing on forms furnished by the code enforcement officer.
- (b) All applications for building permits for new construction or additions shall be accompanied by plans drawn to scale showing the actual dimensions and shape of the lot to be built upon; the exact size and location on the lot of buildings already existing, if any; and the location and dimensions of the proposed buildings or alterations, including parking facilities. The application shall include such other information as lawfully may be required by the code enforcement officer to determine conformance with and to provide for the enforcement of this chapter. The plans shall also include an erosion and sedimentation plan as required by Article VIII, Division 8 Erosion and Sedimentation Controls, of this chapter.

Sec. 78-215. Applications.

- (b) *Administrative site plan review application requirements; waiver.* The applicant shall file all designated application fees, as determined by the town council, and provide four copies of the application and relevant submissions as provided and specified by the planning department. Submissions shall include but not be limited to the following:
 - (1) Proof of right title and interest in the subject property;
 - (2) A scaled site plan showing existing and proposed site features;
 - (3) Stormwater ~~and soil erosion control~~ plan if applicable;
 - (4) Erosion and sedimentation control plan as required per Article VIII, Division 8 of this Chapter;
 - ~~(45)~~ Scaled building elevations and proposed sign layouts if applicable;
 - ~~(56)~~ Property boundary and/or topographic survey if applicable; and
 - ~~(67)~~ Any other information deemed necessary by the town planner to make a reasonable and informed ruling on the proposed project.

The town planner may waive various submission requirements of the administrative site plan review application if the planner determines that the nature of the proposed activity and/or the character of the property does not warrant these submissions.

Sec. 78-1412. Plan submission.

A plan showing the private way for one lot shall be prepared by a registered land surveyor licensed to practice in the state. A plan showing the private way for two or more lots shall be prepared by a registered land surveyor and professional engineer licensed to practice in the state. The plan shall be drawn in permanent ink on permanent transparency material and shall be sealed by the surveyor and/or engineer preparing the plan. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of the planning board, the date of approval, and the words, "Private Way, Approved by the town Planning Board." The plan shall show information sufficient to establish on the ground the exact location, direction, width, and length of the private way. In addition, a street plan, profile and cross section shall be submitted for each private way serving two or more lots. The plan shall also include an erosion and sedimentation control plan as required per Article VIII, Division 8 of this Chapter. The plan shall also contain a note which shall read, "The Town of Old Orchard Beach shall not be responsible for maintenance, repair, plowing, or similar services for the private way shown on this plan." The original plan shall be recorded in the county registry of deeds within 60 days of approval by the planning board. If the plan is not recorded within this period, the approval of the planning board shall be void.

Sec. 78-1856. Applicability of standards.

The following standards shall apply to all uses with the exception of the construction or expansion of single family detached houses and their accessory uses or structures:

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a shoreland zoning permit or site plan, subdivision, or conditional use approval shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all states of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

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- (5) Natural and manmade drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a 25-year storm or greater and shall be stabilized with vegetation or lined with riprap.

Sec. 78-1856. Purpose

The purpose of this division is to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of the Town of Old Orchard Beach by establishing minimum requirements to control erosion at construction sites and prevent migration of sediment from construction sites so that erosion and sedimentation do not adversely impact off-site natural resources, properties, or the municipal separate storm sewer system.

Sec. 78-1857. Definitions

Disturbed area. "Disturbed area" means all land areas that are stripped, graded, grubbed, filled, or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. Cutting of trees without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area".

Permanently stabilized. "Permanently stabilized" means areas that have been brought to final grade and have been stabilized with vegetation, seeding, sod, or through the use of permanent mulch, riprap, gravel road base, or pavement. Vegetated areas are considered permanently stabilized when vegetation is well-established with 90% mature vegetation cover.

Sec. 78-1858 Applicability

The provisions of this division shall apply to all uses and construction resulting in disturbed area, regardless of size, that also requires a shoreland zoning permit, building permit, or site plan, subdivision, conditional use, administrative design review, or private way approval. The provisions of this division require a written soil erosion and sedimentation control plan for such construction.

Section 78-1859 General Standards

Development shall be designed to fit with the topography and soils of the site, to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

Sec. 78-1860 Requirements

- (1) The erosion and sedimentation control plan shall show the use of erosion and sedimentation control measures consistent with the minimum standards outlined in the Maine Department of Environmental Protection's Land Rule, Chapter 500 Stormwater Management, Appendix A Erosion and Sediment Control, Appendix B.1 Inspection and Maintenance During Construction (subsections B.1(a) Inspection and corrective action and B.1(b), Maintenance), and Appendix C Housekeeping. Appendix B, subsection B.1(c) Documentation, shall apply to projects resulting in greater than or equal to one acre of disturbed area.

Erosion and sedimentation control measures shall be designed, installed, and maintained according to the latest revisions of the following Maine Department of Environmental Protection documents:

- a. Maine Erosion and Sediment Control Best Management Practices (BMPs) Manual for Designers and Engineers.
- b. Maine Erosion and Sediment Control Practices Field Guide for Contractors.

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- (2) Erosion and sedimentation control shall be designed to protect downgradient buffer areas as well as areas where stormwater may flow offsite. Catch basin inlets receiving flow from construction sites, both onsite and offsite, shall be provided with inlet protection.
 - (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving disturbed area and shall be in operation during all stages of the construction until the site has been permanently stabilized. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion. Temporary control measures shall not be removed until the site has been permanently stabilized.
 - (4) Natural and manmade drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed, at a minimum, to convey water from a 25-year storm and shall be stabilized with vegetation or lined with riprap.
 - (5) If washout/cleanout from concrete, stucco, paint, curing compounds or other construction materials is to be completed on the construction site, designated area(s) shall be established and marked on the erosion and sedimentation control plan. This area shall be a minimum of 50 feet from all drainage structures, ditches, waterbodies, and protected natural resources as defined in 38 M.R.S. §480-B, as well as property boundaries. If 50 feet is not possible, the washout area shall have necessary controls in place to not allow it to overflow or secondary containment for the washout area shall be provided. The area shall not have an outlet to discharge wastes or flows. No detergents shall be used or vehicles washed in this location. A leak-proof pit or container shall be established in the washout area(s), to which washings shall be directed. This area shall be used for washout containment and dewatering by evaporation only. The pit shall not allow infiltration to occur. To prevent clean water from entering the pit, the washout area shall be covered during precipitation events. Contractor inspections of the pit shall be conducted daily to ensure no leaks are present and no discharge is occurring.

Sec. 78-1861 Plans

- (1) The erosion and sedimentation control plan shall be submitted to the permitting authority for approval as part of the land use development process or with the shoreland zone or building permit application, and shall include, at a minimum:
 - a. temporary and permanent erosion and sedimentation control measures shown on the construction plan(s) and/or building plans.
 - b. erosion and sedimentation control notes and details within the plan set, and
 - c. inspection, maintenance, and housekeeping requirements during construction within the plan set.

The erosion and sedimentation control notes and details and inspection, maintenance, and housekeeping requirements may be required to be supplemented with additional written information as needed.

- (2) The level of detail shown on the erosion and sediment control plan shall be based on the size and complexity of the project. The permitting authority may require the erosion and sediment control plan, notes, and details and inspection, maintenance, and housekeeping requirements be prepared by a professional engineer, landscape architect, or other licensed professional with expertise in the erosion control measures, if warranted by the size or complexity of the project, or by the potential impacts of the project on natural resources or off-site property.
- (3) During construction, the code enforcement officer or designee, may require the contractor prepare a phasing plan for construction projects resulting in more than five acres of disturbed area at any

one time. The phasing plan shall show the limits of each phase and the temporary or permanent stabilization methods to be used for each phase. The phasing plan shall require the stabilization of each phase to be completed before the next phase, such that no more than five acres of disturbed area is present at any one time.

Sec. 78-1862 Inspections

- (1) Conduct of inspections. The code enforcement officer, other municipal staff, or their designee is authorized to conduct inspections of all premises within the scope of this division and may request corrective actions. Additional measures may be required where necessary to prevent the migration of sediment offsite.
- (2) Right of Entry. The code enforcement officer, other municipal staff, or their designee in the performance of their duties may enter upon the premises at reasonable hours, upon giving proper identification, for the purpose of inspecting the premises to determine compliance with this division.
- (3) Access. Owner, agents, operators, occupants, or contractor shall provide access to all parts of the premises within their control to the code enforcement officer, other municipal staff, or their designee. Refusal to provide such access shall be a violation of this division.
- (4) The following erosion and sedimentation control inspections by the code enforcement officer, other municipal staff, or their designee are required at a minimum; however, the code enforcement officer, other municipal staff, or their designee may waive inspections b. through d., if a project results in less than one acre of disturbed area. Additionally, erosion and sedimentation control inspections, for projects resulting in less than one acre of disturbed area and requiring only a building permit, may be conducted as part of a required building permit inspection based on the code enforcement officer's discretion.
 - a. Prior to soil disturbance to confirm temporary erosion and sedimentation control measures have been installed.
 - b. During the active earth moving phase of construction (minimum of three inspections) to determine if temporary erosion and sedimentation control measures are functioning properly.
 - c. At project completion to ensure the site reached permanent stabilization and all temporary erosion and sediment controls have been removed.
 - d. For projects lasting longer than one year, an annual inspection until the project reaches substantial completion. Substantial completion is considered the point in time when site work, paving (minimum of binder course), and utilities are complete and stormwater management facilities have been installed and are functioning as intended and the site areas are stabilized.
- (5) It is the responsibility of the developer to notify the code enforcement officer, other municipal staff, or their designee that an inspection is due, under subsection 4.a and 4.c. The lack of an inspection by the code enforcement officer, other municipal staff, or their designee shall not absolve the developer of the responsibility to install and maintain erosion and sedimentation controls as required under this division and State law.
- (6) Contractor inspections are to be conducted by a person with knowledge of erosion and sediment sedimentation control, including the standards and conditions in the permit or approval.

Sec. 78-1863 Enforcement

- (1) **Notice of Violation.** Whenever the code enforcement officer finds that a person has violated this division, the code enforcement officer may order compliance with this division by written notice of violation to that person indicating the nature of the violation(s), a statement of the division provision(s) alleged to have been violated, including a statement of the penalties for violation, and ordering the action necessary to correct it, including, without limitation:
- a. **The abatement of violations and the cessation of practices or operations in violation of this division;**
 - b. **At the person's expense, compliance with or repair of the erosion and sedimentation control measures required as a condition of approval of the erosion and sedimentation control plan, and/or the restoration of any affected portion(s) of the site;**
 - c. **The payment of fines, of the municipality's remediation costs and of the municipality's reasonable administrative costs and attorneys' fees and costs;**
 - d. **If abatement of a violation, compliance with the erosion and sedimentation control plan, repair of erosion and sedimentation control measures, and/or restoration of affected portions of the site is required, the notice shall set forth a deadline within which such abatement, compliance, repair, and/or restoration must be completed.**
- (2) **Stop Work Order.** The code enforcement officer may issue a stop work notice whenever:
- a. **A person has not acted on a notice of violation issued pursuant to this division within the time set forth in the notice, or**
 - b. **A person subject to the applicability section of this division undertakes construction without first submitting an application for and obtaining approval of an erosion and sedimentation control plan.**
- The code enforcement officer will attempt to deliver the stop work notice to the applicant, the person performing the construction, or the owner or occupant of the site, as appropriate, by any means reasonable calculated to effectuate delivery. Once the stop work notice has been delivered, no further construction at the site may proceed other than as is necessary to correct the non-compliance. Construction may resume only when the code enforcement officer provides written notice that the person may resume construction.**
- (3) **Enforcement Measures:** The code enforcement officer or their designee is granted authority to enforce this division in accordance with Town of Old Orchard Beach Code of Ordinances, Chapter 78, Article II.

Per Order of the Municipal Officers this 1st day of August, 2023.

A True Copy

Attest:

s/Kim McLaughlin

Kim M. McLaughlin, Town Clerk