

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL WORKSHOP
WEDNESDAY, JULY 23, 2008 – 7:00 P.M.
TOWN HALL CHAMBERS
AGENDA**

A Town Council Workshop of the Old Orchard Beach Town Council was held on Wednesday, July 23, 2008 in the Town Hall Chamber. The Chairman opened the Workshop at 7:03 p.m.

Present were:

- Chairman James Long**
- Councilor Roxanne Frenette**
- Councilor Shawn O’Neill**
- Councilor Robin Dayton**
- Councilor Sharri MacDonald**
- Town Manager Stephen Guntz**
- Assistant Town Manager V. Louise Reid**
- Public Works Director Mary Ann Conroy**
- Archie St. Helaire – owner of BBI**
- Fred Golder – Palace Playland**

The discussion this evening will be on two issues: 1) Palace Playland Trash Disposal Request and discussion of the Ordinance to Regulate the Storage and Collection of Solid Waste, including commercial and residential; and (2) Collection Agencies.

Councilors Frenette and O’Neill expressed their concerns that this change would create the opening of a Pandora’s box and that others would want to be part of this change and that it could end up costing the Town more money. The questions of how and can the Transfer Station handle the additional impact with Palace Playland indicating that have 20 tons of waste. The subject of the possible purchase of a scale which had come in previous discussions prior to the last BBI contract was raised again for consideration.

Councilor Dayton made the point that it should be noted that by ordinance everyone should be sorting their cardboard and that the Town should be encouraging recycling. She also questioned the report to the State and the numbers that it contained indicating that she did not believe this gave an accurate picture and asked why. She read several times from Section 46-217 – Purpose of this Division is for the mandatory separation of all corrugated cardboard from the waste originating in the Town in order to ensure that the Town works toward the goals of the State to recycle 35 percent of all recyclable material and to reduce the Town’s costs of solid waste disposal. Section 46-221 – Transfer and Disposal – (a) All acceptable cardboard generated by retail businesses within the Town shall either be deposited at a designated collection area or collected by a licenses solid waste hauler for transfer to a designated collection area or to a recycling facility (and Councilor Dayton wanted read into the record the definition of a designated collection facility includes the transfer station; (b) All waste haulers must keep acceptable cardboard segregated for recycling. Neither the Town’s contracted waste hauler nor any other waste haulers within the Town shall dispose of acceptable cardboard at the Maine Energy Recovery Facility (MERC).

The following e-mail was sent from Fred Golder to the Council giving Palace Playland's position on defending the Memorandum of Understanding, and he expressed that their feelings still remain that this could be on a trial basis and work for both the Town and Palace Playland. "The Town passed ordinances in 1997 to deal with trash collection and to encourage retail businesses to recycle. Palace Playland supports the efforts of the current Town administration that encourages recycling and has negotiated a Memorandum of Understanding ("MOU") with Town officials for this purpose. Palace Playland operates the last oceanfront amusement park in New England. There are sixteen (16) independent businesses that operate on the grounds of Palace Playland. All of these businesses generate trash and cardboard and are required to separate the trash from the acceptable cardboard for recycling purposes. The MOU will allow Palace Playland to bring to the Transfer Station all the acceptable cardboard for recycling purposes, all cans and bottles for recycling purposes, and all other waste for delivery to the energy recovery facility designated in section 46-96. Palace Playland has agreed to pay a premium for the privilege of recycling. To the extent that there may be a concern that the recyclables and trash may be more than the Transfer Station can handle, this can only be determined by doing it. If it is more than the Transfer Station can handle, adjustments can be made. To the extent that there may be concerns that other retail businesses may want to use the Transfer Station, there are several things to keep in mind:

1. The goal of the ordinances is to encourage recycling.
2. There is no business quite like Palace Playland. The tons of waste generated each year by Palace Playland are approximately 60 tons with most of the waste generated in the months of July and August. Much of the waste is generated by the general public and that Palace Playland by collecting and transporting the waste to the Transfer Station is providing a public service.
3. To be fair and consistent any retail business that wants to follow Palace Playland's lead can enter into a MOU with the Town and pay a premium to recycle.
4. To the extent that the Transfer Station cannot handle the added recyclables and waste, the Town can expand the Transfer Station to handle the additional recyclables and waste, thereby becoming a model Town for handling recyclables."

Below is the Memorandum of Understanding that was presented previously to the Council and removed without prejudice.

Memorandum of Understanding

This Memorandum of Understanding ("MOU") is made this 2nd day of July 2008, by and between the Town of Old Orchard Beach, Maine, a municipal corporation ("Town"), by and through its Department of Public Works ("DPW"), and Palace Playland Associates LLC ("Palace Playland"), a limited liability company located at 1 Old Orchard Street, Old Orchard Beach, Maine.

The purpose of this Memorandum of Understanding is to set forth certain nonbinding understandings and agreements between the Town and Palace Playland with respect to our recent discussions regarding the use of the transfer station for depositing waste and acceptable cardboard for recycling.

Terms of Transaction

Whereas it is essential that Palace Playland have a cost efficient means of disposing of its waste; and whereas, the Town has a statutory obligation to provide a solid waste disposal facility for commercial waste generated within the town; and whereas the town must exercise its legal authority to control the collection, transportation and disposal of solid waste generated within its borders to ensure delivery of a steady supply of waste to the energy recovery facility designated in section 46-96; and whereas the town finds that use of an

energy recovery facility to process acceptable solid waste is an environmentally sound and economically viable solution to the solid waste disposal problem and thereby protects the public health, welfare and safety of the Town's citizens; and whereas the Town is required to have a suitable area for placement of a separate recycling container for acceptable cardboard from the other solid waste generated by the business; the parties agree to the following terms:

1. The term of this MOU shall be three years commencing on July 2, 2008, and terminating on September 2, 2011, unless modified in writing by the parties.
2. Palace Playland agrees to separate acceptable cardboard from the other solid waste generated by the business and to transport the acceptable cardboard and the other solid waste to the transfer station for the Town.
3. Palace Playland agrees to pay a Tipping Fee of \$65.73 per ton for 2008. It is understood that the Tipping Fee may be adjusted for each calendar year in accordance with the Waste Handling Agreement the Town has with Maine Energy.
4. Palace Playland agrees to pay the actual additional transport costs attributable to Palace Playland as calculated at the end of the season by the Director of Public Works, not to exceed \$1,000.00 per year.
5. Palace Playland agrees to pay an additional \$10.00 per ton to defray the costs of running the transfer station.
6. Palace Playland agrees to pay the Town for the cost within 30 days when billed based on the tonnage deposited at the transfer station.
7. Palace Playland also agrees to place at least four (4) containers for recycling in appropriate places throughout their premises to allow for the disposal of cans and bottles only.
8. Palace Playland agrees to transport these bags of cans and bottles to the transfer station for the benefit of the Town.
9. Palace Playland will transport the acceptable cardboard, the recyclable bottles and cans, and the other solid waste to the transfer station.
10. Palace Playland will deliver the acceptable cardboard flattened and broken down. It will be the Town's responsibility to place the cardboard in the appropriate collection bins.
11. Palace Playland will deliver the recyclable bottles and cans in separate bags. It will be the Town's responsibility to separate the bottles and cans from any refuse in the bags.
12. The weight of the load will be determined by weighing the truck fully loaded and then after unloading to ascertain the true weight of the solid waste, only after the cardboard and other recyclables have been unloaded.

The parties understand that the tons of waste generated each year by Palace Playland is approximately 60 tons with most of the waste generated in the months of July and August.

13. The parties understand that much of the waste is generated by the general public and that Palace Playland by collecting and transporting the waste to the transfer station is providing a public service.
14. The purpose of this MOU is to enable Palace Playland to dispose of its waste in a cost efficient manner and allow for the recycling of cardboard as well as cans and bottles that will benefit the Town and the community.

IN WITNESS WHEREOF, the Parties have entered into this Memorandum of Understanding as of July 2, 2008.

Town of Old Orchard Beach

Palace Playland Associates LLC

By: _____

By: Joel Golder

As discussion continued it was suggested that Palace Playland be permitted to bring their cardboard to the Transfer Station and that the requirements for recycling would be met. Councilor MacDonald agreed that it could be a trial basis as well. It was obvious throughout the discussions that many have issues with sitting in front of the MERC facility and waiting for the opportunity for disposal but this would be an argument that all those going to MERC could use. Also discussed were the additional costs for fuel in taking recyclables to South Portland versus taking them to the Transfer Station.

Below are Ordinances regarding Trash Disposal and Recycling which needs to be considered in relation to any contract or Agreement of Understanding.

Chapter 46 SOLID WASTE*

*Cross references: Environment, ch. 26; utilities, ch. 58; buildings and building regulations, ch. 66; manufactured housing, § 78-2056 et seq.
State law references: Disposal services, 30-A M.R.S.A. § 305; solid waste management, 38 M.R.S.A. § 1301 et seq.

Article I. In General

Secs. 46-1--46-25. Reserved.

Article II. Reserved.

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Article III. Storage and Collection

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Sec. 46-96. Designation of energy recovery facility.

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Article V. Recycling

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Division 2. Recycling Committee

Sec. 46-186. Purpose.

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Division 3. Corrugated Cardboard

Sec. 46-216. Definitions.

Sec. 46-217. Purpose.

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Sec. 46-219. Separation of acceptable cardboard.
Sec. 46-220. Collection.
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Secs. 46-222--46-250. Reserved.
Article VI. Illegal Dumping
Sec. 46-251. Dumping prohibited.
Sec. 46-252. Throwing or sweeping of rubbish or litter from buildings or stores.
Sec. 46-253. Presumption of responsibility for dumping.
Sec. 46-254. Illegal dump.
Sec. 46-255. Appeal Procedure.
Sec. 46-256. Enforcement.
Sec. 46-257. Penalties.
ARTICLE I. IN GENERAL
Secs. 46-1--46-25. Reserved.
ARTICLE II. RESERVED*

*Editor's note: An ordinance adopted April 19, 2005, repealed article II, §§ 46-26--46-29, which pertained to transfer stations and derived from Ord. of 7-6-1993, §§ 1--4; Ord. of 4-17-2001.

Secs. 46-26--46-55. Reserved.
ARTICLE III. STORAGE AND COLLECTION
Sec. 46-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dumpster means any container, the capacity of which is two cubic yards or greater, placed outdoors for the accumulation and storage, pending disposal, of any solid waste.
Residential household waste means any solid waste generated by a single-family dwelling, two-family dwelling or multifamily dwelling containing less than five dwelling units.

Solid waste means any useless, unwanted or discarded material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, scrap materials, junk, refuse, construction wastes and demolition wastes.

(Ord. of 4-21-1987, § 1)

Cross references: Definitions generally, § 1-2.

Sec. 46-57. Enforcement.

The building inspector shall administer and enforce sections 46-60, 46-61 and 46-62. The director of public works shall administer and enforce all other sections of this article.

(Ord. of 4-21-1987, § 7)

Sec. 46-58. Private collection, dumpsters or containers required.

(a) Any person owning and/or operating a multifamily dwelling containing five or more dwelling units, a residential condominium in multiple buildings and containing five or more dwelling units which are accessed by a common drive or driveways or by a private road or roads, a residential subdivision containing five or more dwelling units and in which the lots are accessed by a private road or roads, an apartment house or complex, a boarding home, a mobile home park as defined in 30-A M.R.S.A. § 4358(1)(B), an auditorium, a bottle club, a club, a hospital, a nursing home, a convalescent home or any business or activity for which a license is required pursuant to article II of chapter 18 shall provide for private collection and disposal of solid waste from the premises where such use, business or activity is operated and shall provide and utilize dumpsters in compliance with this article whenever solid waste material is accumulated and/or stored outdoors pending disposal. Two or more persons may provide common facilities for such accumulation, storage, collection or disposal, but utilization of common facilities shall not relieve any person from the requirement of complying with this article. Where site conditions eliminate potential dumpster location, a sufficient number of tightly sealed containers must be utilized, in compliance with section 46-62. This section does not require that private collection and disposal be provided to a condominium unit containing only one dwelling unit or a lot containing only one dwelling unit when such condominium unit or lot abuts a public street, even if private collection and disposal is required for other units or lots in the condominium or subdivision.

(b) Any person required by subsection (a) of this section to provide for private collection and disposal of solid waste is responsible, through the contractor providing the collection and disposal, for the cost of disposal of such solid waste at the Maine Energy Recovery Facility designated in article IV of this chapter.

(c) Notwithstanding subsections (a) and (b) of this section, any person who maintains a permanent residence of a property otherwise subject to subsections (a) and (b) of this section may participate in the town's recycling program during the time such person is occupying that residence, by placing recyclable materials in approved recycling containers and placing such containers for curbside collection under section 46-59 pertaining to residential household waste. Each contractor who collects commercial solid waste under subsection (a) of this section transports it to the Maine Energy Recovery Facility shall reimburse the town for the disposal fees paid by the town to the Maine Energy Recovery Facility for the commercial solid waste delivered by such contractor. Such reimbursement must be made within 30 days of receipt of an invoice from the town. The contractor may recover the cost of such reimbursement through appropriate charges to the customers generating the waste.

(Ord. of 4-21-1987, § 2; Ord. of 5-3-1994; Ord. of 4-15-1997; Ord. of 11-3-1999; Ord. of 12-5-2000; Ord. of 2-21-2006(1))

Sec. 46-59. Residential household waste.

(a) Municipal curbside collection shall be provided on public streets only, and only to properties which abut a public street and are not required to utilize private collection and disposal under section 46-58. Every resident of a one-, two-, three- or four-family dwelling which adjoins a public way shall provide and maintain for the purpose of sorting and putting out for collection of residential household solid waste, two 32-gallon bags or containers, or equivalent thereof, not to exceed 64 gallons total. No container shall weigh more than 60 pounds, including contents. The town shall not be responsible for damage to plastic containers, and the town shall have the authority to refuse collection service for failure to provide suitable containers.

(b) Containers set out for collection shall be placed as close to the street curb as possible without obstructing the roadway or sidewalk. Containers shall be set out for collection no later than 3:00 a.m. on the day of collection but no earlier than 3:00 p.m. on the day prior to the day of collection, and empty containers shall be removed from the street by 7:00 p.m. on the day of collection.

(Ord. of 4-21-1987, § 3; Ord. of 4-15-1997; Ord. of 5-4-2004; Ord. of 2-21-2006(1); Ord. 2-21-2006(2))

Sec. 46-60. Dumpster permit required.

No dumpster shall be placed in any outdoor location within the town without a valid dumpster permit. The dumpster installer/refuse hauler, property owner or occupant shall obtain the permit from the building inspector. Prior to the issuance of a permit, the applicant shall establish that the proposed installation will comply with section 46-62. All dumpster permits shall expire on December 31 of the year the permit is issued. (Ord. of 4-21-1987, § 4; Ord. of 5-3-1994)

Sec. 46-61. Temporary dumpster permits.

The building inspector may issue temporary permits for dumpsters to be utilized for construction and/or demolition waste on construction and/or demolition sites. In granting temporary permits, the building inspector may waive any of the requirements contained in section 46-62 where compliance would be impractical. Temporary permits shall expire upon completion of the construction and/or demolition.

(Ord. of 4-21-1987, § 6)

Sec. 46-62. Maintenance of dumpsters.

The owner or occupant of any property on which a dumpster is placed shall maintain the dumpster in accordance with the following:

- (1) All dumpsters shall be placed so as to have the least adverse impact on abutting and neighboring properties.
- (2) All dumpsters shall be screened with fencing or plantings which create a visual barrier on at least three sides.
- (3) No dumpster shall be placed on a public way.
- (4) All dumpsters shall be covered with tightfitting, odorproof and verminproof covers.
- (5) When in use, all dumpsters utilized to accumulate and store any food wastes shall be deodorized daily, when empty.
- (6) Dumpsters shall be emptied on a regular basis, and no dumpster shall be overfilled so that the cover cannot be tightly shut.
- (7) No solid waste shall be placed or allowed to accumulate outside the dumpster.

(Ord. of 4-21-1987, § 5; Ord. of 4-21-1987)

Secs. 46-63--46-90. Reserved.

ARTICLE IV. FLOW CONTROL

DIVISION 1. GENERALLY

Sec. 46-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acceptable waste means all solid wastes of the type accepted at the transfer station used by the town, including all ordinary household, municipal, institutional, commercial and industrial wastes with the following exceptions:

- (1) Demolition or construction debris from building and roadway projects or locations;
- (2) Liquid wastes or sludges;
- (3) Abandoned or junk vehicles;
- (4) Hazardous waste, that is waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes and other wastes defined as hazardous by the state or the Resource Conservation and Recovery Act of 1976, as amended, or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto;
- (5) Dead animals or portions thereof or other pathological wastes;
- (6) Water treatment residues;
- (7) Tree stumps;
- (8) Tannery sludge;
- (9) Waste oil; and
- (10) Discarded white goods, including but not limited to freezers, stoves, refrigerators and washing machines.

Collection facility means a building or container or designated area in which acceptable waste is deposited and temporarily stored for transshipment to the energy recovery facility.

Disposal facility means the facility designated by the town as the storage and/or disposal site for unacceptable wastes.

Energy recovery facility means the facility designated in this article which processes and recovers energy and/or useful materials from acceptable waste generated in the town.

Unacceptable waste means all solid waste of the type municipalities are required to regulate by 38 M.R.S.A. § 1305, which specifically excludes industrial and sewage treatment plant sludge, and not included in the definition of acceptable waste.

(Ord. of 11-18-1986, § IV)

Cross references: Definitions generally, § 1-2.

Sec. 46-92. Purpose.

(a) The town has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the town and is authorized to provide such a facility for industrial waste and sewage treatment plant sludge, pursuant to 38 M.R.S.A. § 1305(1). Municipal solid waste contains valuable recoverable resources, including energy, which if recovered reduce the cost of solid waste disposal. Because energy recovery technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their entire useful life. Consequently, a municipality that wants to utilize an energy recovery facility for processing municipal solid wastes generally must agree to provide the facility with a steady supply of solid waste for a relatively long period.

(b) The town must exercise its legal authority to control the collection, transportation and disposal of solid waste generated within its borders to ensure delivery of a steady supply of waste to the energy recovery facility designated in section 46-96. The town finds that use of an energy recovery facility to process acceptable solid waste is an environmentally sound and economically viable solution to the solid waste disposal problem and thereby protects the public health, welfare and safety of the town's citizens.

(Ord. of 11-18-1986, § III)

Sec. 46-93. Administration.

This article shall be administered by the municipal officers. Their powers and duties are to:

- (1) Adopt reasonable rules and regulations as needed to enforce this article.

- (2) Consider all license applications and grant or deny each application within 14 days after receipt of a completed application at the town hall or within such other time as the municipal officers and the applicant shall agree is reasonable.
 - (3) Review any alleged violation of this article and impose appropriate penalties therefor after notice and hearing as required by this article.
 - (4) Institute necessary proceedings, either legal or equitable, to enforce this article.
- (Ord. of 11-18-1986, § VIII)

Sec. 46-94. Enforcement.

- (a) All sections of this article are enforceable by duly authorized police officers and the municipal officers.
 - (b) Any person who violates any section of this article is subject to arrest and, if convicted, to punishment as provided in section 1-14.
 - (c) Whenever the municipal officers determine that there has been a violation of this article by virtue of noncompliance, they shall give notice of such violation to the person responsible by personal service or by registered mail, return receipt requested. The citation:
 - (1) Shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.
 - (2) May contain an outline of remedial action which, if taken, will effect compliance.
 - (3) Shall state that, unless corrections are made within the allotted time, the violator is subject to prosecution and/or to license revocation or suspension pursuant to this article.
- (Ord. of 11-18-1986, § XII)

Sec. 46-95. Exempted waste.

The following categories of waste shall be exempted from regulation by this article:

- (1) Materials from manufacturing, processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.
 - (2) Glass, metal or other noncombustible materials which are separated from acceptable waste by the generator as part of a recycling program approved by municipal officers.
 - (3) Cardboard, paper or other combustible materials which are separated from acceptable waste by the generator as part of a recycling program approved by the municipal officers, provided that any such recycling program shall not reduce the Btu content of acceptable waste below the Btu level acceptable to the energy recovery facility.
- (Ord. of 11-18-1986, § VII)

Sec. 46-96. Designation of energy recovery facility.

In accordance with 38 M.R.S.A. § 1304-B, the town hereby designates the Maine Energy Recovery Company facility located in Biddeford, Maine, as its energy recovery facility for the purposes cited in section 46-92.

(Ord. of 11-18-1986, § V)

Sec. 46-97. Variances.

The municipal officers may, on written application, grant a variance from a specific section of this article in a specific case, subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this article and the agreement between the town and the energy recovery facility.

(Ord. of 11-18-1986, § XIV)

Sec. 46-98. Regulated activity.

The accumulation, collection, transportation and disposal of acceptable waste and unacceptable waste generated within the town shall be regulated in the following manner:

- (1) All acceptable waste generated within the town shall be deposited at the transfer station or directly at the energy recovery facility.
- (2) All nonrecyclable, MERC unacceptable waste that is acceptable to the town disposal facility generated within the town shall be deposited at the town disposal facility.

(Ord. of 11-18-1986, § VI; Ord. of 3-20-1990)

Secs. 46-99--46-125. Reserved.

DIVISION 2. LICENSE

Sec. 46-126. Required; exception.

No person shall accumulate, collect, store, transport or dispose of acceptable waste or unacceptable waste generated within the town without obtaining a license from the municipal officers. However, a person who

accumulates, collects, stores, transports or disposes of less than five tons per month of his own waste shall not be required to obtain such a license.

(Ord. of 11-18-1986, § IX(9.1))

Sec. 46-127. Application.

(a) Any person required by this division to obtain a license shall make application to the building inspector, providing the information required. Each application shall be accompanied by a nonrefundable application fee as specified in the schedule of license, permit and application fees in appendix A of this Code.

(b) The application shall contain all information required by the municipal officers, including but not limited to the following:

(1) A description of the activity engaged in, for example, collection, transport, or disposal of acceptable and/or unacceptable waste;

(2) The type and amount of waste handled in each service area;

(3) A description of the facility operated and used; and

(4) An equipment inventory, including for vehicles a description of the make, model and year of each vehicle used for the collection or transportation of solid waste.

All information provided shall be revised annually upon application for license renewal.

(c) If the municipal officers determine the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The municipal officers shall be informed immediately in writing of any changes in or additions to equipment, including vehicles.

(Ord. of 11-18-1986, § IX(9.2), (9.3); Ord. of 4-1-2003, § 2)

Sec. 46-128. Fees.

The annual fee for the license required under this division for each vehicle licensed or for each applicant licensed for activities not involving the transport of solid waste shall be specified in the schedule of license, permit and application fees in appendix A of this Code. License fees shall not be prorated based upon the number of months for which the license is issued. License fees shall not be refunded if a license is suspended or revoked.

(Ord. of 11-18-1986, § IX(9.6); Ord. of 4-1-2003, § 2)

Sec. 46-129. Transferability.

Licenses issued pursuant to this division shall not be transferable. If an emergency or vehicle breakdown occurs, a licensee shall be issued a special license for a satisfactory replacement vehicle, upon furnishing of all information required for a licensed vehicle.

(Ord. of 11-18-1986, § IX(9.4))

Sec. 46-130. Expiration.

All licenses issued pursuant to this division shall expire one year from the date of issue unless otherwise stated on the license or unless the license is revoked or suspended sooner in accordance with this division.

(Ord. of 11-18-1986, § IX(9.5))

Sec. 46-131. Denial.

If the municipal officers deny the application for a license required under this division, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in section 46-133.

(Ord. of 11-18-1986, § IX(9.7))

Sec. 46-132. Suspension or revocation.

Any license issued pursuant to this division may be suspended or revoked by order of the municipal officers for the following causes after benefit of a hearing in accordance with the procedures in section 46-133:

(1) Violation of this article.

(2) Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to this article.

(3) Violation of any license condition.

(4) Falsehoods, misrepresentations or omissions in the license application.

(Ord. of 11-18-1986, § X)

Sec. 46-133. Hearings.

- (a) Anyone denied a license under this division or whose license is suspended or revoked pursuant to section 46-132 shall be entitled to a hearing before the municipal officers, if such request is made in writing within 30 days of the denial, suspension or revocation.
 - (b) Such hearing shall be held within 30 days after receipt of the written request for a hearing.
 - (c) The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least ten days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross examine witnesses.
 - (d) A determination shall be made by the municipal officers within ten days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.
 - (e) The municipal officers' final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice, but no later than ten days after the date notice of such final determination has been mailed by registered mail, return receipt requested, to the applicant, and the determination shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof, together with a statement that such decision may be appealed as provided in this section.
 - (f) Any controversy or claim arising out of or relating to the municipal officers' determination shall be directly reviewable by the superior court pursuant to M.R.S.A. Civ.P. rule 80B.
- (Ord. of 11-18-1986, § XI)
Secs. 46-134--46-160. Reserved.

ARTICLE V. RECYCLING
DIVISION 1. GENERALLY
Secs. 46-161--46-185. Reserved.

DIVISION 2. RECYCLING COMMITTEE*

*Cross references: Boards, committees, commissions, § 2-206 et seq.

Sec. 46-186. Purpose.

This division establishes that the recycling committee, whose purpose and function, with or without a recycling coordinator, will be to serve as an advisory committee. The committee should also:

- (1) Know and understand the needs and wishes of the community;
- (2) Plan and promote waste reduction, recycling, composting and environmental awareness;
- (3) Coordinate activities with other environmentally related groups within the community;
- (4) Promote citizen participation; and
- (5) Communicate plans and activities to the recycling coordinator, town manager and town council.

(Ord. of 6-20-1995, § 2)

Sec. 46-187. Organization and appointment.

(a) The recycling committee shall be comprised of a minimum of three members, whose terms shall be staggered and shall expire on June 30 of the appropriate year. Each member shall be appointed for a term of three years.

(b) Any vacancy on the committee shall be filled for the remainder to the term vacated. All members shall be appointed by the town council.

(Ord. of 6-20-1995, § 3)

Sec. 46-188. Responsibilities.

(a) The recycling committee shall elect from its membership a chair, vice-chair and a secretary. It shall be the responsibility of the chair to arrange meeting dates, provide the agenda for the meeting and be responsible for notifying the town manager's secretary of the agenda for publication.

(b) Pursuant to the town Charter, minutes of all meetings shall be filed in the office of the town clerk within 30 days after a meeting is held.

(c) The committee shall be responsible for recordkeeping of documents relevant to any project.

(d) In addition, the recycling committee may perform functions as may be required for recycling as the town council may assign from time to time, provided that such duties fall within the scope of recycling activity.

(Ord. of 6-20-1995, § 5)

Sec. 46-189. Handling of funds, expenses and revenue.

The handling of funds, expenses and revenue by the recycling committee shall be consistent with the town's rules, policies and ordinances.

(Ord. of 6-20-1995, § 6)

Sec. 46-190. Recycling coordinator.

The recycling coordinator shall be responsible for the following duties concerning the recycling committee:

- (1) Prepare a long range recycling plan.
- (2) Prepare and submit a budget to the town manager.
- (3) Maintain records and reports for both local and state levels.
- (4) Supervise, direct and provide support for recycling committee goals and projects, including but not limited to attending committee meetings, and helping to supply information to both the committee and the town council.

(Ord. of 6-20-1995, § 4)

Secs. 46-191--46-215. Reserved.

DIVISION 3. CORRUGATED CARDBOARD

Sec. 46-216. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acceptable cardboard means any corrugated cardboard that is not waxed or shiny in appearance and that has not been contaminated by food or oils.

Designated collection area means any area which is designated by the town, and includes the municipal transfer station.

Recycling container means any designated dumpster, container or bin used exclusively for recyclable material.

Retail business means the following categories which are listed in section 18-32: grocery stores, jewelry stores, novelty stores, including any retail establishment for which a license is not otherwise provided, where such establishments include linen goods, rugs, wearing apparel, electric appliances, radios, cameras, jewelry, knickknacks, giftware and souvenirs, stands and/or booths for the rental or sale of merchandise or equipment, and victualers (food, combined with any or all alcoholic/malt beverages).

(Ord. of 4-1-1997, § 3)

Cross references: Definitions generally, § 1-2.

Sec. 46-217. Purpose.

The purpose of this division is for the mandatory separation of all corrugated cardboard from the waste originating in the town in order to ensure that the town work towards the goals of the state to recycle 35 percent of all recyclable materials and to reduce the town's costs of solid waste disposal.

(Ord. of 4-1-1997, § 2)

Sec. 46-218. Enforcement.

This division shall be enforced by the code enforcement officer and/or the police department.

(Ord. of 4-1-1997, § 9)

Sec. 46-219. Separation of acceptable cardboard.

Any person who operates a retail business shall be required to separate all corrugated cardboard from the other waste which the business generates.

(Ord. of 4-1-1997, § 4)

Sec. 46-220. Collection.

(a) A retail business that has a suitable area for the placement of a separate container shall provide such container and shall accumulate the acceptable cardboard in the recycling container before it is collected by a waste hauler.

(b) A retail business which does not have a suitable area for placement of a separate recycling container shall separate acceptable cardboard from the other solid waste generated by the business and shall transport it or cause it to be transported to a designated collection area.

(c) All acceptable cardboard shall be flattened and broken down in order to save space and make collection easier.

(Ord. of 4-1-1997, § 5)

Sec. 46-221. Transfer and disposal.

(a) All acceptable cardboard generated by retail businesses within the town shall either be deposited at a designated collection area or collected by a licensed solid waste hauler for transfer to a designated collection area or to a recycling facility.

(b) All waste haulers must keep acceptable cardboard segregated for recycling. Neither the town's contracted waste hauler nor any other waste haulers within the town shall dispose of acceptable cardboard at the Maine Energy Recovery Facility.

(Ord. of 4-1-1997, § 6)

Secs. 46-222--46-250. Reserved.

ARTICLE VI. ILLEGAL DUMPING

Sec. 46-251. Dumping prohibited.

No person shall place, deposit, throw or drop any garbage, trash, rubbish, ashes, manure, paper, cans, bottles, sacks, grass cuttings, boxes, cloths or other waste upon any street, sidewalk, alley, public place, vacant lot or any premises in the town, and the presence of such waste upon any street, sidewalk, alley, public place, vacant lot or any premises shall constitute a violation of this article. Where such waste is found on private property, the owner of the property shall be responsible for the violation. Where such waste is found upon a street, sidewalk, alley or public place, the owner of the property abutting the street, sidewalk, alley or public place in the area where the waste is found shall be presumed to be responsible for the violation, if such waste is permitted to remain for longer than 24 hours, unless another person is identified as responsible for the violation pursuant to section 46-253.

(Ord. of 5-4-2004)

Sec. 46-252. Throwing or sweeping of rubbish or litter from buildings or stores.

No person shall sweep, throw or deposit in any street, alley, sidewalk, gutter or water body the sweeping or cleaning of dwelling houses, stores and other premises including any rags, paper, leaves, grass cuttings, rubbish or any other waste. Nor shall any such waste be placed in barrels located by the town on the streets or on the beach for the use of tourists. Where such waste is found upon a street, alley, sidewalk, gutter or water body, the owner of the property abutting the street, alley, sidewalk, gutter or water body in the area where the waste is found shall be presumed to be responsible for the violation if such waste is permitted to remain for longer than 24 hours, unless another person is identified as responsible for the violation pursuant to section 46-253.

(Ord. of 5-4-2004)

Sec. 46-253. Presumption of responsibility for dumping.

Whenever waste is found in violation of this article, the ability of a town enforcement official to identify any one item among the waste as belonging to an identifiable person shall be grounds for the enforcement official citing such person for a violation of the article and shall create a presumption, rebuttable only by clear and convincing evidence, that the person so identified is responsible for the violation of the article.

(Ord. of 5-4-2004)

Sec. 46-254. Illegal dump.

(a) The town council declares that all real property within the corporate limits should be maintained in a well-kept manner that will preserve property values, promote general welfare and present a pleasing appearance. It is further declared that the existence on certain lots and real property of conditions detrimental to the public health, safety and general welfare of the residents of the town contributes substantially to the problems of and the necessity for excessive expenditures for the protection against hazards and diminution of property values, prevention of crime, prevention of fire and prevention of general nuisance.

(b) Any property that serves a place where waste accumulates as described in sections 46-251 and 46-252 constitutes an illegal dump site, which the town may remedy as follows:

(1) Clean-up mandated. Whenever the owner of any real property permits a violation of this article and such a violation can be remedied by minor cleaning, the town manager or his designated agent shall give the said owner seven days from receipt of notice in writing to correct such situation. If such owner fails to remedy the situation or fails to appeal the notice as provided in section 46-255 within the period provided for such appeal, the town shall perform or cause to be performed the necessary work to bring the property in compliance with the standards set forth in this article. Notice provided herein shall be given by mailing by certified letter to the address found on the tax rolls of the town. If the owner of the offending property cannot be determined from the tax rolls, or the address of the owner cannot be determined, notice provided herein shall be given by advertising one time in a paper of general circulation and by posting a notice in a conspicuous place on said property.

(2) **Bill for compliance.** The owner shall be billed for any and all work performed to bring the property into compliance. Failure to pay the bill within 30 calendar days of mailing shall be considered failure to pay. Such failure to pay will result in the charge being assessed against the property and included in the next annual tax bill on the property, which charge shall be collected in the same manner as municipal taxes are collected.
(Ord. of 5-4-2004)

Sec. 46-255. Appeal Procedure.

When an owner of real property receives a notice of violation as described in section 46-254, he may file with the town manager an appeal within seven days of receipt of notice requesting a hearing before the town council at its next regular or special meeting. In case of appeal, the town shall not perform or cause to be performed the work provided in the notice until the town council has heard the appeal and made a determination on the matter. Failure of the property owner to file an appeal shall constitute consent by the property owner to the town's entry onto the property to perform the work provided in the notice.
(Ord. of 5-4-2004)

Sec. 46-256. Enforcement.

The enforcement officials for this article shall be the town's code enforcement officer and/or any officer of the police department.
(Ord. of 5-4-2004)

Sec. 46-257. Penalties.

Any person who violates any provision of this article commits a civil violation and shall be subject to a civil penalty of \$250.00 for a first offense, \$500.00 for a second offense and \$1,000.00 for a third and each subsequent offense. Each day such violation continues or is repeated by the same person shall constitute a separate violation. All penalties collected shall inure to the town.
(Ord. of 5-4-2004)

The second item on the workshop agenda was the subject of Collection Agencies. The following was presented to the Council by the Assistant Town Manager and it was the consensus of the Council that this should be brought forward to the next Council Agenda.

The Assistant Town Manager is presenting this evening a request from the Finance Director, Jill Eastman, and the Tax Collector, Deborah Mulherin, that consideration be given by the Council for the Town to enter into a Collection Agency Agreement to collect back personal property taxes and parking fines. The Finance Director instituted such a program in Auburn, Maine, during her many years as the Finance Director. It was highly productive in recovering back personal property taxes in an orderly and totally professional manner with clearly defined instructions as to what accounts will be considered based on proof of any circumstances of inability to pay. She indicated that over the years Old Orchard has yearly sent reminders to the long list of those owing back personal property taxes and that before the Collection Agency would contact any of them another mailing would be completed indicating that again we are requesting them to pay or set up a means of payment and if not heard from within the next thirty days the account would be turned over to the collection agency which would in the future affect their credit rating. The Finance Director sought bids from three Collection Agencies but only received bids from two:

ACS – Advanced Collection Services
Flat Commission Rate of 35% of recovered funds

Credit Service Agency of Maine
*Commission Rate of 40% of all dollars recovered
on Accounts of \$100 or more and less than one year old;*

40% of all dollars recovered on Accounts of \$100 or more and between one year old and three years old; and 50% applied to Accounts of less than \$100 and over three years old and Accounts on which legal action is deemed necessary.

When you read each Agreement you will see that there are procedures in place to protect the sensitivity of the issues; the necessity for professional courtesy and effective communication. Should either not be able to recover the funds due, no money is owed. Both agencies guarantee results, state-of-the-art technology and a record of delivering the highest level of customer service and performance. **RECOMMENDATION:** In reviewing the two bids the Finance Director strongly recommends ACS for two reasons: The simply one fee of 35% and her previous fifteen years of experience working with this company.

The Assistant Town Manager also presented the following additional information: In additional conversations with the Tax Collector, Deb Mulherin, she provided me with a listing of the unpaid personal property taxes and the interest from 1997 to 2008 with an amount of \$466,794.77 in personal property taxes owed to the Town of Old Orchard Beach and additional interest owing of \$153,343.29 for a total owed of \$620,138.06. The Tax Collector indicated that each year they are notified again of the outstanding amounts and in most of the instances it is for trailers and campers. She also indicated that she felt that if they were notified again that we had obtained the services of a Collection Agency that many of the smaller amounts would come in rather than risk the chance of showing poor credit rating. She asked that I indicate should fully supports this process and has been requesting it for a number of years and appreciates the Council discussing this option now. The Finance Director worked with Advanced Collection Services when she was in Auburn and that there were never issues in their working relationship. She urges consideration by the Council on her recommendation to approve a contract with ACS. Consideration of these funds being owed to the Town and therefore to the Taxpayers is a consideration as well.

Personal Property Taxes

<u>Year</u>	<u>Unpaid</u>	<u>Interest</u>
1997	24,223.87	13,445.43
1998	24,081.24	12,796.90
1999	35,848.95	18,365.78
2000	37,197.36	17,454.90
2001	46,989.65	21,144.35
2002	54,194.20	23,739.93
2003	44,568.03	14,825.89
2004	47,851.45	12,033.34
2005	46,608.83	9,328.53
2006	34,485.98	6,169.06
2007	31,808.15	5,362.70
2008	38,937.06	3,676.46
Total	\$ 466,794.77	\$ 153,343.29

Parking Tickets

In speaking with Deputy Chief Keith Babin he prepared for your review a listing of the outstanding parking tickets which he feels also should be included in our agreement with this agency, should the Council approve.

On the report that he gave to me today it indicates the following:

<u># of Unpaid Tickets</u>	<u>Amount Unpaid Tickets</u>	<u>Including Penalties</u>
2005	1,044	\$ 27,015
2006	1,748	45,755
2007	2,412	64,545
2008	1,889	49,485
Totals	7,093	\$ 186,800
		\$ 285,195

The Administration is asking for consideration of the Council to put this on the August 5th agenda.

The Workshop closed at 8:39 p.m.

Respectfully yours,

V. Louise Reid
Secretary Pro Tem to the Council

I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, do hereby certify the foregoing document consisting of fifteen (15) pages is a true copy of the original Minutes of the Workshop Meeting on .

V. Louise Reid