

**TOWN OF OLD ORCHARD BEACH  
TOWN COUNCIL MEETING  
TUESDAY, JANUARY 4, 2011  
TOWN HALL CHAMBERS**

**A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, January 4, 2010. Chairman Quinn opened the meeting at 7:00 p.m.**

**The following were in attendance:**

**Chair Bob Quinn  
Vice Chair Michael Tousignant  
Councilor Shawn O'Neill  
Councilor Robin Dayton  
Councilor Sharri MacDonald  
Town Manager Jack Turcotte  
Assistant Town Manager Louise Reid**

**Pledge to the Flag  
Roll Call**

**PRESENTATION:**

**Quarterly Report from the Ballpark Commission presented  
by Ballpark Commissioner and Vice Chair Dana Furtado**

**A quarterly report of the ongoing work at the Old Orchard Beach Ballpark was given by Dana Furtado, Vice Chair of the Ballpark Commission. The enthusiastic report highlighted not only the financial but the activity schedule over the past year from July 1, 2010 to September 30, 2010. When one considers how the Ballpark has developed from a littered piece of property to the very impressive groomed fields because of the work of a host of volunteers, one can only congratulate the Commission for their labors of love. Vice Chair Furtado indicated that the Ballpark raised \$10,975 in field rentals for the past quarter and for the whole season both night and day games amounted to 81 games played. An additional 27 games were played where the fee was waived. This allowed residents and visitors to attend 108 games mostly all free-of-charge. Recognizing that the Council expects the Ballpark to be self-sustaining, it was also pointed out and recognized that with a host of volunteers running the operations, levels of ability to reach out in the marketing scheme is difficult. The Commission is looking further into other marketing aspects of the Ballpark such as musical events but money will need to be raised up front in order to facilitate such events. Vice Chair Furtado again highlighted the work that has been done including the field of seedlings has been cleared out and leveled and electric wires from the old sound systems had been removed; the field has been sodded and there is cost to the upkeep of these facilities so they don't deteriorate in the future. He spoke about the in-kind donations that have been given in support of the work at the Ballpark and the continued joining with community groups such as OOB365 in having events that entertain and bring not only citizens, but tourists, into the Ballpark arena. He also said that the Commission has worked hard to reduce potential injury at the stadium by replaced cracked plastic seats, filling gaps in the concrete and reducing the gap between handrail fixtures and stairs. Sheila Flathers, Secretary to the Ballpark Commission and Vice Chair Furtado gave the following report on money raised and spent.**

<b>Income</b>	<b>\$</b>	<b>26,896.50</b>
<b>Expenses</b>	<b>\$</b>	<b>(23,425.09)</b>
<b>Excess of revenue</b>	<b>\$</b>	<b>3,471. 41</b>
<b>Retained earnings</b>	<b>\$</b>	<b>2,579.36</b>
<b>Retained Earnings</b>	<b>\$</b>	<b>6,050.80</b>

Some of the utility costs include operational supplies such as toiletries, facility cleaning supplies, ground maintenance equipment, concession stand food and products, electricity (our biggest cost factor), advertising.

Vice Chair Furtado explained about the fee and the use structure for the Ballpark and the manner in which they calculated a rate increase (later asking that it be removed from the agenda as an item for vote so that more consideration and research could be placed on providing more accurate information and concrete financial totals to decide whether the increase would be helpful or detrimental.) Vice Chair Furtado explained the contacts that had been made with Scarborough, Deering Oaks, Waynright, and Hadlock Field in discussions about how to set the new fees. It was expressed by the Vice Chair of the Ballpark Commission that they all understand that they are stewards of the facility and as such are addressing the concerns raised by the Code Enforcement Officer and the Town Manager on updates necessary for the upcoming season. Some of these concerns related to roofing, expansion joints, door in mechanical room being separated from the showers, fixing of counters, and other miscellaneous items. Town Council Chair Quinn asked if there was enough money projected to address these issues to which the answer was that there was money budgeted for same. The Town Manager indicated that the only outstanding invoice is one for approximately \$600 that needs to be paid for some roofing material and for which a purchase order was issued today. It was also noted that the facility will receive a \$10,000 user fee in February from the New England Collegiate Baseball League team called the Raging Tides. It was noted that games last year that probably will be played this year and for which fees were waved included the games in the United States Collegiate Athletic Tournament, the Can-Am League games, and games played by local high school teams.

During the discussion period with the Town Council there were several questions that were asked including Vice Chair Tousignant's inquiry about the loan with the Bank and how much is owing, how much has been paid, and what fund from which it was taken. The Town Manager indicated that he would provide that information to the Town Council. Vice Chair Tousignant again raised the issue of the need for a business plan and although saying he would approve increases he agreed with the approach that further research was necessary in the calculation of fees. He said it was important that they actually account for what it costs to run the facility such as would be evident in a business plan projection. Commissioner Furtado indicated that they have moved significantly ahead in the formulation of procedures and policies and put them in place and reminded the Council that in the coming weeks it is hoped that they can focus on fund raisers so that they can attract other forms of revenue to enhance the operation of the Ballpark. Councilor MacDonald congratulated the Ballpark Commission for the work that they have done and the giving of hundreds of dedicated hours to the activities which have brought entertainment and enjoyment to our citizens and tourists alike. Councilor Shawn O'Neill praised the Commission and indicated they have his support

and that he also supported the incentive program where teams are given incentives to play more games at a lesser cost which will entice more income in the long run.

The presentation by the Vice Chair of the Ballpark Commission was well received by the Council and expressions of appreciation were given.

**ACCEPTANCE OF MINUTES:** Town Council Minutes of December 21, 2010.

**ACKNOWLEDGEMENTS:**

**VICE CHAIR TOUSIGNANT:** To the OOB 365 group – our sincere thanks for an absolutely enjoyable First Night. This is the second year and it has increased in attendance. The 6:30 fireworks was a fabulous idea and permitted families to come that normally would not have been able to do so because of the lateness of the midnight hour. For those who were out into the night – the midnight fireworks was a very entertaining experience and a great way to welcome the New Year – 2011.

**VICE CHAIR TOUSIGNANT:** To all who participated either by plunging into the ocean or by watching, our sincere congratulation on raising over \$100,000 for the Special Olympics. The attendance at all of our events this weekend was amazing and only the beginning of better things to come.

**COUNCILOR MACDONALD:** Two important events are occurring on Sunday, January 16, 2011. When: Sunday January 16, 2011 12:30 p.m. - **JIMMY THE GREEK'S FOUR MILER** (Snow Date will be decided by 6AM on the 16th to be moved to Sunday January 23, 2011 at 12:30 p.m.) - Call 934-7499. Where: Jimmy the Greek's Restaurant 215 Saco Ave Old Orchard Beach, Maine. For Whom: Proceeds to benefit "Send a Kid to Camp" for the Old Orchard Beach Recreation Department and the Boys and Girls Club Alumni Association Scholarship. Cost: \$15 Pre-Registration [www.baystateevents.com](http://www.baystateevents.com) OR \$19 Race Day. Further information call Recreation at 934-0860. At the same day from 3:00 to 6:00 p.m. at the Lion's Club, 128 Saco Avenue, join them in a free dinner to celebrate our great community. Turkey with all the trimmings or spaghetti and meatballs, desserts, coffee and tea. OOB 365 is sponsoring this event with the Lion's club and another opportunity to show your community spirit.

**PUBLIC HEARING:**

**CHAIR:** I open this Public Hearing at 7:24 p.m.

Shall We Amend Chapter 78 – Zoning, Section 78-1, 78-2 through and including 78-5, 78-34, 78-93 through and including 78-95, 78-456 through and including 78-457, Division 17, Section 78-1176 through and including 78-1185, 78-1201 through and including 78-1218. These amendments deal with mandated Shoreland Zoning?

## **BACKGROUND:**

**From: Mike Nugent/Code Enforcement Officer**

**Date: 2/3/2011**

**Re: Chapter 78 Shoreland Zoning revisions**

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**On May 1, 2006, the State Department of Environmental Protection adopted new Shoreland Zoning Standards that must be adopted by communities. The Town of Old Orchard Beach hires SMRPC to create the initial draft.**

**The Town's Attorney, Conservation Commission and Planning Board have reviewed the language. The Planning Board and Town Council had a joint meeting with the town's attorney in attendance on November 4, 2010. After a couple of adjustments that were identified at the November 4<sup>th</sup> meeting, The Planning Board voted to hand the document onto Town Council at their meeting on November 18<sup>th</sup>. The Ordinance committee reviewed this at their December 1<sup>st</sup> meeting and did not request any modifications.**

**Attached is a copy of the final draft.**

AMENDMENT TO OLD ORCHARD BEACH ZONING ORDINANCE  
CONCERNING SHORELAND ZONING

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 78, ZONING, of the Old Orchard Beach Code is amended as follows.

Section 78-1, Definitions, is amended by adding the underscored text and deleting the text in strikeover type, as shown below. Terms not listed below are unchanged.

If there is any difference of meaning or implication between the text of this chapter and any map or illustration other than the official Shoreland Zoning Map, the text shall control. Terms not defined in this section shall have their commonly accepted meanings. Certain terms specific to the Shoreland Zone are defined in Section 78-1218. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquaculture means land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Canopy means the more or less continuous cover formed by tree crowns in a wooded area.

Cross-sectional area of a stream or tributary stream channel means an area which is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH means the diameter of a standing tree measured 4.5 feet from ground level.

**It was noted that further changes are technical and would not require a second public hearing but the big issue considered is the matter of space and bulk regulations (for example, 40,000 square foot minimum lot size). If those are changed it would require another public hearing.**

**Because of issues related to questions that have been asked the more information needed to be given to the Council, the Council removed indefinitely this Public Hearing item.**

**MOTION: Chair Quinn proposed the agenda item be tabled indefinitely and the four members of the Council agreed.**

**VOTE: Unanimous.**

**CHAIR: I close this Public Hearing at 7:28 p.m.**

**PUBLIC HEARING:**

**CHAIR:** I open this Public Hearing at 7:28 p.m.

**Shall We Revise Chapter 66, Article II, Building Code Section 66-26, 66-27 and 66-112, and Delete 66-28 and Article VIII and IX, of the Code of Ordinances of the Town of Old Orchard Beach.**

**Councilor Dayton asked that the Code Enforcement Officer describe the purpose for the revisions. Mike Nugent, Code Enforcement Officer indicated that in 2007, the State Legislature passed a law creating the first ever “State Wide Building Code”. He indicated that the State passed legislation that required all communities with a population of 2000 or more, use the State Building Code (2009 International Building Code, 2009 International Residential Code and 2009 International Existing Building Code), effective December 1, 2010. All local building codes were preempted and the new code took over. This amendment simply puts the Town in compliance with the new State Building Code.**

**MAINE UNIFORM BUILDING AND ENERGY CODE**

**§9724. Application**

**2. Prior statewide codes and standards. Effective December 1, 2010, the Maine Uniform Building and Energy Code adopted pursuant to this chapter replaces, and is intended to be the successor to, the Model Energy Code established in Title 35-A, section 121 and the Maine model radon standard for new residential construction set forth in Title 25, section 2466. [2009, c. 261, Pt. A, §8 (AMD) .]**

**3. Ordinances. Effective December 1, 2010, except as provided in subsection 4 and section 9725, any ordinance regarding a building code of any political subdivision of the State that is inconsistent with the Maine Uniform Building and Energy Code is void. [ 2009, c. 261, Pt. A, §9 (AMD) .]**

**4. Exception. This section does not prohibit the adoption or enforcement of an ordinance of any political subdivision that sets forth provisions for local enforcement of building codes. The requirements of the Maine Uniform Building and Energy Code do not apply to:**

**A. Log homes or manufactured housing as defined in chapter 951; or [2007, c. 699, §6 (NEW).]**

**B. Post and beam or timber frame construction. [2007, c. 699, §6 (NEW).]  
[ 2007, c. 699, §6 (NEW) .]**

**1. Limitations on home rule authority. This chapter provides express limitations on municipal home rule authority. Beginning December 1, 2010, the Maine Uniform Building and Energy Code must be enforced in a municipality that has more than 2,000 residents and that has adopted any building code by August 1, 2008.**

**Pursuant to MRSA Title 10 ss 9724 , all towns in Maine population of 2000 or more, must use the new standard which will be the 2009 International Building Code, International Residential Code and International Energy Conservation instead of any local building code. The building Code for the Town of Old Orchard Beach is the 2003 International Building Code and International Residential Code with some local amendments.**

The good news for a Town like Old Orchard Beach is that there will be no major impact on how we do business today. The 2009 Code is substantially the same as the 2003 Code.

The new laws also change the Code Enforcement Certification program. While many Code Officers will be “grandfathered” due to their tenure or because they hold National Certifications and experience enforcing similar standards, some Code Officers will have to attend hours of training and testing.

## Chapter 66 BUILDINGS AND BUILDING REGULATIONS\*

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\*Cross references: Department of planning and development, § 2-471; compliance of premises and building for special amusement, § 6-63; environment, ch. 26; fire prevention and protection, ch. 30; new building construction with sprinkler systems, fire alarms and smoke detectors, fire lanes, § 30-56 et seq.; building additions and renovations with sprinkler systems, fire alarms and smoke detectors, fire lanes, § 30-63; housing, ch. 34; structural requirements for housing, § 34-126 et seq.; discharge near dwellings or occupied building or structure, § 38-26; discharge causing projectile to pass near dwelling or occupied building or structure, § 38-27; outdoor vending machines, § 38-271 et seq.; solid waste, ch. 46; streets, sidewalks and other public places, ch. 50; utilities, ch. 58; building sewers, § 58-151 et seq.; floods, ch. 70; new construction or substantial improvement of any structure, § 70-117; subdivisions, ch. 74; zoning, ch. 78; conformance and nonconformance, § 78-141 et seq.; buildings and structures, § 78-1381 et seq.

State law references: Regulation of construction and improvements, 30-A M.R.S.A. § 4101 et seq., [10 M.R.S.A. § 9724.](#), [25 M.R.S.A. § 2371.](#)

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### Article I. In General

Secs. 66-1--66-25. Reserved.

### Article II. Building Code

~~Sec. 66-26. Adopted by reference.~~ [Sec. 66-26. Administration and enforcement of Maine Uniform Building and Energy Code.](#)

~~Sec. 66-27. Code revisions.~~ [Sec. 66-27. Additional requirements.](#)

~~Sec. 66-28. Violation penalties.~~

Secs. 66-29--66-55. Reserved.

### Article III. Electrical Code

[Sec. 66-56. Adopted by reference.](#)

[Sec. 66-57. Violation penalties.](#)

[Sec. 66-58. Enforcement.](#)

Secs. 66-59--66-85. Reserved.

### Article IV. Plumbing

#### Division 1. Generally

[Sec. 66-86. Enforcement.](#)

Secs. 66-87--66-110. Reserved.

#### Division 2. Plumbing and Subsurface Wastewater Disposal System Permits

[Sec. 66-111. Applicability; definitions.](#)

[Sec. 66-112. Plumbing permit fees.](#)

[Sec. 66-113. Subsurface wastewater disposal system fees.](#)

Secs. 66-114--66-140. Reserved.

Article V. Building and Property Maintenance

Division 1. Generally

Sec. 66-141. National property maintenance code.

Secs. 66-142--66-170. Reserved.

Division 2. Minimum Standards for Exterior of Buildings and Structures and Areas

Sec. 66-171. Definitions.

Sec. 66-172. Purpose; scope.

Sec. 66-173. Enforcement.

Sec. 66-174. Penalties.

Sec. 66-175. Maintenance required.

Sec. 66-176. Maintenance standards for buildings and structures.

Sec. 66-177. Maintenance standards for premises and yard area.

Sec. 66-178. Maintenance after casualty damage.

Secs. 66-179--66-205. Reserved.

Article VI. Fences

Sec. 66-206. Use of barbed wire, spikes or similar devices.

Secs. 66-207--66-215. Reserved.

Article VII. Removal of Signs from Vacant Commercial Buildings

Sec. 66-216. Definitions.

Sec. 66-217. Purpose.

Sec. 66-218. Violation.

Sec. 66-219. Order of removal.

Sec. 66-220. Appeal of order of removal.

Sec. 66-221. Removal by the town.

Sec. 66-222. Costs of removal.

Sec. 66-223. Penalties and enforcement.

Secs. 66-224--66-230 ~~40~~. Reserved.

~~Article VIII. Existing Building Code~~

~~Sec. 66-231. Adoption by reference.~~

~~Sec. 66-232. Code revisions.~~

~~Sec. 66-233. Violation penalties.~~

~~Secs. 66-234--66-240. Reserved.~~

~~Article IX. Residential Code~~

~~Sec. 66-241. Adoption by reference.~~

~~Sec. 66-242. Code revisions.~~

~~Sec. 66-243. Violation penalties.~~

ARTICLE I. IN GENERAL

Secs. 66-1--66-25. Reserved.

ARTICLE II. BUILDING CODE\*

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\*Editor's note: An ordinance adopted September 7, 2004, repealed the former Art. II., §§ 66-26--66-28, and enacted a new Art. II as set out herein. The former Art. II pertained to adoption of BOCA National Building Code/1993 and derived from Ord. of 3-1-1994, §§ 1, 3, 5.

Note: Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this article, being a corrective ordinance for the purpose of correcting certain technical errors in the original



adoption of the Code, shall be effective as of September 7, 2004, the date on which the Code was first adopted.

State law references: Authority to adopt technical codes by reference, 30-A M.R.S.A. § 3003; board of appeals, 30-A M.R.S.A. § 2091.

~~Sec. 66-26. Adopted by reference.~~

~~That a certain document, a copy of which is on file in the office of the Town Clerk of Old Orchard Beach, being marked and designated as the International Building Code, 2003 edition, as published by the International Code Council, be and is hereby adopted as the Building Code of the Town of Old Orchard Beach, in the State of Maine for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure other than detached one and two-family dwellings and multiple single family dwellings (town houses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said building code on file in the office of the Town of Old Orchard Beach are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in section 66-27 of this article.~~

Sec. 66-26. Administration and enforcement of Maine Uniform Building and Energy Code.

Effective December 1, 2010, the Town of Old Orchard Beach applies and enforces the Maine Uniform Building and Energy Code ("M.U.B.E.C."), as required by 10 M.R.S.A. § 9724. The Code Enforcement Officer of the Town of Old Orchard Beach shall serve as the building official as defined in 25 M.R.S.A. § 2371 and shall be responsible for issuing building permits and certificates of occupancy. The Code Enforcement Officer shall be responsible for inspecting all permitted construction for compliance with all components of M.U.B.E.C., as such components may be revised from time to time by the Technical Building Codes and Standards Board. Administration and enforcement of M.U.B.E.C., including permits, fees, violations, penalties and appeals, shall be in accordance with Article II of Chapter 78, Zoning and Appendix A of the Old Orchard Beach Code.

(Ord. of 9-7-2004(1); Ord. of 8-2-2005(4), § 1)

~~Sec. 66-27. Code revisions:~~

~~Throughout this Code, all references to the "Building Official" shall mean the Code Enforcement Officer of the Town of Old Orchard Beach.~~

~~Throughout this code, all references (except in Section 3305.1) to the "International Plumbing Code" shall be deleted and replaced with the words "State of Maine Internal Plumbing Rules, Chapter 238."~~

~~Throughout this code, all references to the "ICC Electrical Code" shall be deleted and replaced with the words "Rules adopted by the Electricians' Examining Board pursuant to 32 M.R.S.A. § 1153-A."~~

~~Throughout this code, all references to the "International Fire Code" shall be deleted and replaced with the words "NFPA 1 Uniform Fire Code 2003."~~

~~Throughout this code, all references to the "International Fuel Gas Code" shall be deleted and replaced with the words "the rules adopted by the Commissioner of Public Safety under 25 M.R.S.A. § 2465, the rules adopted by the Oil and Solid Fuel Board under 32~~

~~M.R.S.A. Ch. 33 or the rules adopted by the Propane and Natural Gas Board under 32 M.R.S.A. § Ch. 130, as applicable."~~

~~Throughout this code, all references to the "International Private Sewage Disposal Code" shall be deleted and replaced with the words "Maine Subsurface Wastewater Disposal Rules, Chapter 241."~~

~~In addition, the following sections are hereby revised:~~

~~Section 101.1 Title is amended by inserting the words "the Town of Old Orchard Beach" in place of "[NAME OF JURISDICTION]."~~

~~Section 105.1 Required is amended by deleting the words "gas, mechanical" without replacement.~~

~~Section 105.1.1 Annual Permit is amended by deleting the entire section without replacement.~~

~~Section 105.1.2 Annual Permit Records is amended by deleting the entire section without replacement.~~

~~Section 105.2 Work Exempt From Permit is amended by deleting items 1, 2, 4, 5 8 and 9 under the heading "Building" without replacement. This section is further amended by deleting all items under the heading "Gas" and inserting the words "No local permit required for gas installations." This section is further amended by deleting all items under the heading "Mechanical" and inserting the words "No local permit required for Mechanical Installations."~~

~~Section 105.5 Expiration is amended by deleting the entire section and inserting the following words: "Time limitation of permits: A building permit issued under the provisions of this code shall become void if work has not commenced within six months of the date of approval and shall expire two years from the date of issue. A building permit may be renewed once for a one-year period upon submission of an application and payment of the prescribed fee prior to the expiration of the original permit. All codes, ordinances and statutes in effect at the time of the renewal application must be complied with before said permit is issued."~~

~~Section 112.1 Board of Appeals, General is amended by deleting the second sentence and substituting the words "The Old Orchard Beach Zoning Board of Appeals shall serve as the Board of Appeals."~~

~~Section 112.3 Qualifications is amended by deleting the entire section without replacement.~~

~~Section 1025.2 Minimum Size is amended by deleting the "Exception" section without replacement.~~

~~Section 1612.3 Establishment of Flood Hazard Areas is amended by inserting the words "Town of Old Orchard Beach Flood Hazard Ordinance" in place of [NAME OF JURISDICTION] and "November 20, 1990" in place of [DATE OF ISSUANCE].~~

~~Section 1612.4 Design and Construction is amended by deleting the period at the end of the section and inserting the words "Old Orchard Beach Flood Hazard Ordinance."~~

~~Section 2111 Masonry Fireplaces is amended by deleting the entire section and inserting the following words "Masonry Fireplaces shall be constructed to the standards found in NFPA 211, Standard for Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances, 2002 Edition."~~

~~Section 2112 Masonry Heaters is amended by deleting the entire section and inserting the words "Masonry Heaters shall be constructed to the standards found the NFPA 211, Standard for Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances, 2002 Edition."~~

~~Section 2113 Masonry Chimneys is amended by deleting the entire section and inserting the words "Masonry Chimneys shall be constructed to the standards found in NFPA 211, Standard for Chimneys, Fireplaces, Vents and Solid Fuel-Burning Appliances, 2002 Edition."~~

~~Section 2702.3 Maintenance is amended by deleting the words "International Fire Code" and inserting the words "NFPA 110, Standard for Emergency and Standby Power."~~

~~Chapter 30 Elevator and Conveying Systems is amended by deleting it in its entirety and inserting the words "All Elevator and Conveying Systems installed shall comply with the Maine State Elevator Regulations found in Title 32, Chapter 133 of the Maine Revised Statutes, Annotated."~~

~~Chapter 32 Encroachments Into the Public Way is amended by deleting the entire section without replacement.~~

~~Section 3305.1 Facilities Required is amended by deleting "the International Plumbing Code" and inserting "Federal and State OSHA requirements."~~

~~Section 3410.2 Applicability is amended by inserting the words "September 7, 2004."~~

## Sec. 66-27. Additional requirements.

Notwithstanding the exceptions to permit requirements in M.U.B.E.C., permits are required for the following in the Town of Old Orchard Beach:

- (a) One-story detached commercial accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11m<sup>2</sup>);
- (b) Water tanks for commercial uses supported directly on grade if the capacity does not exceed 5,000 gallons (18 925L) and the ratio of height to diameter or width does not exceed 2:1.

(Ord. of 9-7-2004(1); Ord. of 8-2-2005(4), § 2)

## ~~Sec. 66-28. Violation penalties:~~

~~Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the code enforcement officer, or of a permit or certificate issued under the provisions of the code, shall be subject to penalties, upon conviction, of a fine of not less than \$100.00 and not more than \$2,500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~

~~(Ord. of 9-7-2004(1); Ord. of 8-2-2005(4), § 2)~~

~~Secs. 66-29--66-55. Reserved.~~

## ARTICLE III. ELECTRICAL CODE\*

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\*Editor's note: An ordinance adopted August 2, 2005, repealed the former Art. III., §§ 66-56--66-58, and enacted a new Art. III as set out herein. The former Art. III pertained to adoption of the National Electrical Code 1999 and derived from Ord. of 4-20-1999, §§ 1, 3, 5; Ord. of 8-17-2004, § 5.

Note: This article is effective August 2, 2005.

Cross references: Utilities, ch. 58.

State law references: Authority to adopt codes by reference, 30-A M.R.S.A. § 3003.

**Sec. 66-56. Adopted by reference.**

The rules adopted by the Electricians' Examining Board pursuant to 32 M.R.S.A. § 1153-A are hereby adopted as the Electrical Code of the Town of Old Orchard Beach ("this Code").

(Ord. of 8-2-2005(5), § 1)

**Sec. 66-57. Violation penalties.**

Any person who violates a provision of this code or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the electrical inspector, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties, upon conviction, of a fine of not less than \$100.00 and not more than \$2,500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense. As an additional remedy, any violation of this code shall be deemed and is declared to be a nuisance and may be subject to abatement by restraining order or injunction issued by a court of competent jurisdiction.

(Ord. of 8-2-2005(5), § 2)

**Sec. 66-58. Enforcement.**

Enforcement of this code shall rest with the electrical inspector.

(Ord. of 8-2-2005(5), § 3)

Secs. 66-59--66-85. Reserved.

#### **ARTICLE IV. PLUMBING\***

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\*State law references: Maine Plumbing Code, 32 M.R.S.A. § 3403-B.

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#### **DIVISION 1. GENERALLY**

**Sec. 66-86. Enforcement.**

This article shall be enforced by the municipal plumbing inspector or his designee.

(Ord. of 12-21-1993, § 5)

Secs. 66-87--66-110. Reserved.

#### **DIVISION 2. PLUMBING AND SUBSURFACE WASTEWATER DISPOSAL SYSTEM PERMITS**

**Sec. 66-111. Applicability; definitions.**

(a) This division applies to fees charged by the town for plumbing and subsurface wastewater disposal system permits issued by the town pursuant to 30-A M.R.S.A. § 4201 et seq. and pursuant to rules promulgated by the department of human services under authority of 30-A M.R.S.A. § 4201 et seq.

(b) For purposes of this division, the terms contained in this division shall have the meanings given to them in the state plumbing code.

(Ord. of 12-21-1993, § 1)

**Sec. 66-112. Plumbing permit fees.**

At the time of issuance by the town of a plumbing permit pursuant to 30-A M.R.S.A. § ~~4201~~ 4211 et seq. and the state plumbing code, the plumbing permit applicant shall pay a fee in accordance with the following schedule and at the rate provided for each classification shown:

- (1) Any person who shall begin any work for which a permit is required by the state plumbing code without first having obtained a permit therefore shall, if subsequently eligible to obtain a permit, pay double the permit fee fixed by this section for such work. However, this subsection shall not apply to emergency work when it shall be proved to the satisfaction of the local plumbing inspector that such work was urgently necessary and that it was not practical to obtain a permit before the commencement of the work. In all such emergency cases, a permit must be obtained within four working days or else a double permit fee shall be charged.
- (2) For the purpose of this section, a sanitary plumbing outlet on or to which a plumbing fixture or appliance may be set or attached shall be construed to be a fixture. Fees for reconnection and retest of existing plumbing systems in relocated buildings shall be based on the number of plumbing fixtures, water heaters, etc., involved.
- (3) The following permit fees shall be charged:
  - a. The minimum fee for all permits shall be as specified in the schedule of license, permit and application fees in appendix A of this code.
  - b. The fixture fee shall be as specified in the schedule of license, permit and application fees in appendix A of this code per fixture.
  - c. The re-inspection fee shall be as specified in the schedule of license, permit and application fees in appendix A of this Code. A re-inspection fee shall be charged by the local plumbing inspector when work has not been completed upon an inspection or when work was not in compliance with the state plumbing code.
  - d. When only new water distribution and/or drainage pipes are installed or relocated in a building, but no fixtures are installed, the fee shall be as specified in the schedule of license, permit and application fees in appendix A of this code.
  - e. A hookup fee as specified in the schedule of license, permit and application fees in appendix A of this code shall be charged for the connection to a building sewer of a mobile home which bears the Housing and Urban Development (HUD) seal or a modular home which bears the Manufactured Housing Board seal.
  - f. A hookup fee of as specified in the schedule of license, permit and application fees in appendix A of this code shall be charged for connection to a public sewer when piping is installed beyond the jurisdiction of the sanitary district.
  - g. Relocated mobile homes, modular homes or any other similar structures shall be considered as new conventional stick built structures. A plumbing fixture fee shall be charged based on this section.
  - h. A permit is valid only for the named applicant and may be transferred by payment of a transfer fee as specified in the schedule of license, permit and application fees in appendix A of this code.

(Ord. of 12-21-1993, § 2; Ord. of 4-1-2003, § 2)

**Sec. 66-113. Subsurface wastewater disposal system fees.**

- (a) Prior to the local plumbing inspector's issuance of a subsurface wastewater disposal system permit, the permit applicant must pay the local plumbing inspector a permit fee as specified in the schedule of license, permit and application fees in appendix A of this code.
- (b) A person who starts construction without first obtaining a subsurface wastewater disposal permit shall pay double the permit fee indicated in subsection (a) of this section.

(Ord. of 12-21-1993, § 3; Ord. of 4-1-2003, § 2)  
Secs. 66-114--66-140. Reserved.

## ARTICLE V. BUILDING AND PROPERTY MAINTENANCE

### DIVISION 1. GENERALLY

#### Sec. 66-141. International Property Maintenance Code.

(a) *Adopted.* That a certain document, a copy of which is on file in the office of the Town Clerk of Old Orchard Beach, being marked and designated as the International Property Maintenance Code, 2003 edition, as published by the International Code Council, be hereby adopted as the Property Maintenance Code of the Town of Old Orchard Beach, in the State of Maine for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structure are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Town of Old Orchard Beach are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, deletions and changes, if any, as prescribed in section 66-141(b) of this section.

(b) *Code revisions.* The following sections are hereby revised.

Throughout this code, all references to the "Code Official" shall mean the Code Enforcement Officer of the Town of Old Orchard Beach.

Throughout this code, all references to the "International Fuel Gas Code" shall be deleted and replaced with the words "the rules adopted by the Commissioner of Public Safety under 25 M.R.S.A. § 2465, the rules adopted by the Oil and Solid Fuel Board under 32 M.R.S.A. Ch. 33 or the rules adopted by the Propane and Natural Gas Board under 32 M.R.S.A. § Ch. 130, as applicable."

Throughout this code, all references to the "International Fire Code" shall be deleted and replaced with the words "NFPA 1 Uniform Fire Code 2003."

Throughout this code, all references to the "International Plumbing Code" shall be deleted and replaced with the words "State of Maine Internal Plumbing Rules Chapter 238."

Throughout this code, all references to the "ICC Electrical Code" shall be deleted and replaced with the words "Rules adopted by the Electricians' Examining Board pursuant to 32 M.R.S.A. § 1153-A."

*Section 101.1 Title* is amended by inserting the words "Town of Old Orchard Beach."

*Section 103.5 Fees* is amended by inserting the words "the Town of Old Orchard Beach Schedule of License, Permit and Application Fees."

*Section 106.3 Prosecution of Violation* is amended by deleting the word "misdemeanor" and inserting the words "civil violation."

*Section 111 Means of Appeal* is amended by deleting the section in its entirety and replaced with the words "The Old Orchard Beach Zoning Board of Appeals shall serve as the Board of Appeals."

*Section 302.4 Weeds* is amended by inserting the words "10 inches" in the bracket [jurisdiction to insert height in inches.]

*Section 303.14 Insect Screens* is amended by inserting "May 15" in the first date bracket and "October 1" in the second date bracket.

*Section 602.4 Occupiable work spaces* is amended by inserting "September 1" in the first date bracket and "May 15" in the second date bracket.

*Chapter 8 Referenced Standards* is amended by deleting the words "IPC-03 ICC International Plumbing code" and inserting the words "State of Maine Internal Plumbing Rules 144A CMR 238" In addition, this section is amended by deleting the words "IZC-03 International Zoning Code" without replacement.

(c) *Violation penalties.* Any person who violates a provision of this code or fails to comply with any of the requirements thereof shall be subject to penalties, upon conviction, of a fine of not less than \$100.00 and not more than \$2,500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Ord. of 9-7-2004(2); Ord. of 8-2-2005(6), §§ 1--3)

**Editor's note:** An ordinance adopted September 7, 2004 repealed the former section 66-141 and enacted a new section 66-141 as set out herein. The former section 66-141 pertained to National Property Maintenance Code and derived from Ord. of 5-21-1998, §§ 1, 2; Ord. of 11-4-1998.

**Note:** Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this section, being a corrective ordinance for the purpose of correcting certain technical errors in the original adoption of the Code, shall be effective as of September 7, 2004, the date of which the Code was first adopted.

**Sec. 6-142. Reserved.**

**Editor's note:** An ordinance adopted September 7, 2004, repealed § 66-142 in its entirety. Formerly, such section pertained to enforcement and derived from 5-21-1998, § 5; Ord. of 11-4-1998.

**Secs. 66-143--66-170. Reserved.**

## **DIVISION 2. MINIMUM STANDARDS FOR EXTERIOR OF BUILDINGS AND STRUCTURES AND AREAS**

**Sec. 66-171. Definitions.**

Terms used in this division shall be as defined in chapter 78 pertaining to zoning and the building code adopted in section 66-26.

(Ord. of 10-17-1995, § 2)

**Sec. 66-172. Purpose; scope.**

The purpose of this division is to set a minimum standard for the condition and maintenance for the exterior of all buildings and structures and the premises surrounding such buildings and structures in order to protect the economic well-being of the town's inhabitants. In particular, because the economy of the town is heavily dependent upon tourism, the appearance of the town as an attractive, well kept, safe, clean community is extremely important to the economic health of its businesses and the corresponding employment opportunities for its residents. Buildings which are not well maintained and which take on an unkempt, dilapidated appearance have a negative, blighting effect not only on the immediately surrounding properties but on the community as a whole and the town's economy. This division is intended to require property owners to maintain their properties in good repair in order to preserve the community's safety and welfare.

(Ord. of 10-17-1995, § 1; Ord. of 4-7-1998)

**Sec. 66-173. Enforcement.**

The code enforcement officer shall enforce this division. If a violation occurs, the code enforcement officer shall notify the property owner, serving a written notice by certified mail or by hand delivery. The notice shall explain the nature of the violation and shall allow no more than 30 days from the date of the receipt of the notice to correct the violation. If the violation is not corrected within the required time allowed, the property owner shall be subject to penalties as set forth in section 66-174.

(Ord. of 10-17-1995, § 7)

**Sec. 66-174. Penalties.**

Any person who violates any section of this division commits a civil violation punishable by a civil penalty of \$100.00 for each day the violation continues after the allotted correction period as referenced in section 66-173. In addition the town may pursue all remedies and relief available at law and or in equity, including without limitation the remedies and relief provided in 30-A M.R.S.A. § 4452.

(Ord. of 10-17-1995, § 8; Ord. of 4-7-1998)

**Sec. 66-175. Maintenance required.**

All buildings and structures and all parts thereof shall be maintained in a safe, sanitary and non-hazardous manner. All means of egress, devices, safeguards and equipment shall be kept in good working order. The exterior of all premises and the condition of all buildings, structures and components thereon shall be maintained so as to prevent and repair deterioration, so that the appearance thereof shall reflect a level of maintenance ensuring that the property itself may be preserved safely, and so that hazards to the public health and safety are avoided.

(Ord. of 10-17-1995, § 3; Ord. of 4-7-1998)

**Sec. 66-176. Maintenance standards for buildings and structures.**

(a) Each property owner shall keep all exterior components of every principal and accessory structure in good repair, including but not limited to walls, roofs, chimneys, cornices, gutters, downspouts, drains, porches, steps, landings, fire escapes, exterior stairs, windows, shutters, doors and storefronts.

(b) All surfaces shall be maintained free from deterioration, including but not limited to broken glass; loose or missing shingles or siding; crumbling brick, stone and mortar; and peeling, scaling or deteriorated paint.

(c) All surfaces shall be covered with a protective coating, such as paint, plastic or other coating, which preserves the structure and does not contribute to deterioration.

(Ord. of 10-17-1995, § 4)

**Sec. 66-177. Maintenance standards for premises and yard area.**

(a) All premises and yard areas shall be maintained in a safe and sanitary condition, including but not limited to steps, walks, driveways, fences, retaining walls, trees, shrubs, grass and weeds. if any such area or object constitutes a danger to health or safety, it shall be repaired, replaced or removed.

(b) All fences, retaining walls or similar structures shall be firmly anchored in the ground and maintained in good structural repair. Wooden elements or other elements subject to deterioration from weathering shall be maintained with chemicals or paint to preserve the element and to retard deterioration.

(c) Weeds and grass shall be kept trimmed and from becoming overgrown.



(d) All yards, courts or lots shall be kept free of accumulations of trash, garbage, refuse, junk or other noxious or offensive material which may cause a fire hazard or may act as a breeding place for vermin or insects.

(Ord. of 10-17-1995, § 5)

**Sec. 66-178. Maintenance after casualty damage.**

Within a period of 30 days after casualty damage to any premises, the owner shall contract for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith.

(Ord. of 10-17-1995, § 6)

Secs. 66-179--66-205. Reserved.

**ARTICLE VI. FENCES\***

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\*State law references: Fences, 30-A M.R.S.A. § 2951 et seq.

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**Sec. 66-206. Use of barbed wire, spikes or similar devices.**

(a) It shall be unlawful to erect or maintain anywhere in the town a fence equipped with or having barbed wire, spikes or any similar device within seven feet of the ground level.

(b) Notwithstanding subsection (a) of this section, fences equipped with or having barbed wire, spikes or similar devices within seven feet of the ground level shall be deemed lawful, provided that such fences are protected by an upper rail or board of wood and clearly identified by appropriate notices posted conspicuously along the fence line.

(Ord. of 7-30-1974, §§ 1, 2)

Secs. 66-207--66-215. Reserved.

**ARTICLE VII. REMOVAL OF SIGNS FROM VACANT COMMERCIAL BUILDINGS\***

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\*Cross references: Signs, 78-1621 et seq.

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**Sec. 66-216. 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:

*Closure of a business* means either that:

(1) A business has ceased operation, leaving the building, lot or a portion of the building or lot vacant, and the operator of the business does not intend to resume operation; or

(2) A business has failed to renew its license under chapter 18, article II, licenses within 30 days after the deadline for filing a renewal application.

*Intend to resume operation* means that the operator of the business can demonstrate a specific business plan for resuming operation within ten days after the business first ceased to operate.

(Ord. of 1-7-2003, § 2)

**Cross references: Definitions generally, § 1-2.**

**Sec. 66-217. Purpose.**

Over the years a number of businesses in the town have closed, leaving vacated buildings and/or empty lots. Many of these properties have signs that remain after the closure in a state of disrepair, creating an eyesore. Further, these signs would give an appearance of a business existing in that location for visitors to the town. This article is intended to require the removal of such signs upon the permanent closure of businesses in the town.

(Ord. of 1-7-2003, § 1)

**Sec. 66-218. Violation.**

Upon closure of a business, as defined in section 66-216, the owner of the property on which the business is or was located shall remove any and all signs related to the closed business. Failure to do so will be a violation of this article.

(Ord. of 1-7-2003, § 3)

**Sec. 66-219. Order of removal.**

Upon the closure of a business, if the owner of the property on which the business is or was located does not remove all signs as required by section 66-218, the license administrator, as defined in ch. 18, article II, licenses, or the code enforcement officer will send a written order of removal to the owner of record of the affected property, requiring that he remove any remaining signs from the property within a period of 20 days after the date of the order and notifying the property owner that the town will dismantle and remove the signs, as provided, in section 66-221, if the property owner fails to comply with the order of removal. Failure of the property owner to comply with the order of removal will be a violation of this article.

(Ord. of 1-7-2003, § 4)

**Sec. 66-220. Appeal of order of removal.**

The property owner may appeal the order of removal to the town council by filing a written request for appeal within ten days after the date of issuance of the order of removal. After hearing, the town council may rescind or modify the order of removal only if the town council finds that the order was clearly erroneous.

(Ord. of 6-7-2003, § 5)

**Sec. 66-221. Removal by the town.**

If the property owner fails to comply with an order of removal under section 66-219, in addition to pursuing the other remedies available to it under this article, the town may dismantle and remove the signs at the property owner's expense. The town shall take reasonable care not to damage the component parts of the signs and shall leave those component parts in a safe location on the owner's property or remove them and store them for up to 60 days, after which they may be destroyed if not claimed by the owner. In no event shall the town be liable for any damage to or loss of the component parts of any signs removed pursuant to this section. If the property owner has filed an appeal under section 66-220, the town shall not remove the signs before the town council has decided the appeal.

(Ord. of 6-17-2003, § 6)

**Sec. 66-222. Costs of removal.**

Upon removal of the signs, the town shall bill the owner for the cost of dismantling, removing and storing the signs. Failure of the property owner to pay in full within 30 days of

the date of the bill will be a violation of this article, and the costs of dismantling, removing and storing the signs shall be recoverable as penalties in addition to the penalties provided in section 66-223. As to any signs erected after June 17, 2003, any unpaid costs of dismantling, removing and storing the signs shall constitute a lien on the property to which the property owner will be deemed to have consented by virtue of accepting a permit to erect such signs. (Ord. of 6-17-2003, § 7)

**Sec. 66-223. Penalties and enforcement.**

The penalty for any violation of this article shall be a civil penalty of \$100.00 per violation. Failure of the owner to comply with an order of removal under section 66-219 shall subject the owner to daily penalties for each day the sign remains on the property after the date of the order of removal. After the license administrator or code enforcement officer has issued a notice of removal under section 66-219, further enforcement of this article will be done by the police department by civil citation and complaint.

(Ord. of 5-7-2003, § 5; Ord. of 6-17-2003, § 8)

Secs. 66-224--66-~~230~~. 240. Reserved.

**~~ARTICLE VIII. EXISTING BUILDING CODE\*~~**

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~~\*Editor's note: An ordinance adopted September 7, 2004, did not specifically amend the Code. Therefore, such provisions were added as a new article VIII, §§ 66-231--66-233 at the editor's discretion.~~

~~Note: Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this article, being a corrective ordinance for the purpose of correcting certain technical errors in the original adoption of the Code, shall be effective as of September 7, 2004, the date of which the Code was first adopted.~~

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~~Sec. 66-231. Adoption by reference.~~

~~That a certain document, a copy of which is on file in the Town office of Old Orchard Beach, being marked and designated as the International Existing Building Code 2003 edition as published by the International Code Council, be and is hereby adopted as the Existing Building Code of Old Orchard Beach in the State of Maine for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings, as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provision, penalties, conditions and terms of said existing building code on file in the office of Old Orchard Beach are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, deletions and changes, if any, prescribed in section 66-232 of this article.~~

~~(Ord. of 9-7-2004(3); Ord. of 8-2-2005(7), § 1)~~

~~Sec. 66-232. Code revisions.~~

~~The following sections are hereby revised:~~

~~Throughout this code, all references to the "Code Official" shall mean the Code Enforcement Officer of the Town of Old Orchard Beach.~~

~~Throughout this code, all references to the "International Fire Code" shall be deleted and replaced with the words "NFPA 1 Uniform Fire Code 2003."~~

~~Throughout this code, all references to the "International Plumbing Code" shall be deleted and replaced with the words "State of Maine Internal Plumbing Rules Chapter 238."~~

~~Throughout this code, all references to the "ICC Electrical Code" shall be deleted and replaced with the words "Rules adopted by the Electricians' Examining Board pursuant to 32 M.R.S.A. § 1153-A."~~

~~Throughout this code, all references to the "International Fuel Gas Code" shall be deleted and replaced with the words "the rules adopted by the Commissioner of Public Safety under 25 M.R.S.A. § 2465, the rules adopted by the Oil and Solid Fuel Board under 32 M.R.S.A. Ch. 33 or the rules adopted by the Propane and Natural Gas Board under 32 M.R.S.A. § Ch. 130, as applicable."~~

~~Section 101.1 Title is amended by inserting the "Town of Old Orchard Beach."~~

~~Section 104.2.1 Preliminary Meeting is amended by deleting the word "shall" and insert the word "may" before the phrase "meet with the permit applicant."~~

~~Section 105.1.1 Annual Permit is amended by deleting it in its entirety.~~

~~Section 105.1.2 Annual Permits Records is amended by deleting it in its entirety.~~

~~Section 105.2.3 Public Service Agencies is amended by deleting it in its entirety.~~

~~Section 109.3 Require Inspections is amended by deleting the word "shall" and inserting the word "may."~~

~~Section 112.1 Board of Appeals, General is amended by deleting the second sentence and substituting the words "The Old Orchard Beach Zoning Board of Appeals shall serve as the Board of Appeals."~~

~~Section 112.3 Qualification is amended by deleting it in its entirety.~~

~~Section 202 General Definitions - Substantial Damage and Substantial Improvement is amended by deleting the word "market" and inserting the word "assessed."~~

~~Section 410 Plumbing is amended by deleting it in its entirety and inserting the words "State of Maine Internal Plumbing Rules Chapter 238 and Maine Subsurface Waste Water Disposal Rules 144A-CMR 241."~~

~~Section 605.3.1.1(8) Single-exit buildings is amended by deleting the words "5 square feet" and inserting the words "5.7 square feet."~~

~~Section 608 Electrical is amended by deleting it in its entirety and inserting the words "NFPA 70 (NEC) latest adopted version by the State of Maine."~~

~~Section 808 Electrical is amended by deleting it in its entirety and inserting the words "Rules adopted by the Electricians' Examining Board pursuant to 32 M.R.S.A. § 1153-A."~~

~~Section 810 is amended by deleting it in its entirety and inserting the words "State of Maine Internal Plumbing Rules Chapter 238 and Maine Subsurface Waste Water Disposal Rules 144A-CMR 241."~~

~~Section 1201.2 is amended by inserting the words "September 7, 2004."  
(Ord. of 9-7-2004(3); Ord. of 8-2-2005(7), § 2)~~

~~Sec. 66-233. Violation penalties:~~

~~Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who repairs or alters or changes the occupancy of a building or structure in violation of the approved construction documents or directive of the code enforcement officer or of a permit or certificate issued under the provisions of this code shall be subject to penalties, upon conviction, of a fine of not less than \$100.00 and not more than \$2,500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~

~~(Ord. of 9-7-2004(3); Ord. of 8-2-2005(7), § 3)  
Secs. 66-234--66-240. Reserved.~~

## ~~ARTICLE IX RESIDENTIAL CODE\*~~

~~\*Editor's note: An ordinance adopted September 7, 2004, did not specifically amend the Code. Therefore, such provisions were added as a new article IX, §§ 66-241--66-243 at the editor's discretion.~~

~~Note: Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, this article, being a corrective ordinance for the purpose of correcting certain technical errors in the original adoption of the Code, shall be effective as of September 7, 2004, the date of which the Code was first adopted.~~

### ~~Sec. 66-241. Adoption by reference.~~

~~That a certain document, a copy of which is on file in the office of the Town Clerk of the Town of Old Orchard Beach, being marked and designated as the International Residential Code, 2003 edition, as published by the International Code Council, be and is hereby adopted as the Residential Code of the Town of Old Orchard Beach, in the State of Maine for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the Town of Old Orchard Beach and are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, as prescribed in section 66-242 of this article.~~

~~(Ord. of 9-7-2004(4); Ord. of 8-2-2005(8), § 1)~~

### ~~Sec. 66-242. Code revisions.~~

~~The following sections are hereby revised:~~

~~Throughout this code, all references to the "Building Official" shall mean the Code Enforcement Officer of the Town of Old Orchard Beach.~~

~~Throughout this code, all references to the "International Plumbing Code" shall be deleted and replaced with the words "State of Maine Internal Plumbing Rules, Chapter 238."~~

~~¶~~

~~Throughout this code, all references to the "ICC Electrical Code" shall be deleted and replaced with the words "Rules adopted by the Electricians' Examining Board pursuant to 32 M.R.S.A. § 1153-A."~~

~~Throughout this code, all references to the "International Fire Code" shall be deleted and replaced with the words "NFPA 1 Uniform Fire Code 2003."~~

~~Throughout this code, all references to the "International Fuel Gas Code" shall be deleted and replaced with the words "the rules adopted by the Commissioner of Public Safety under 25 M.R.S.A. § 2465, the rules adopted by the Oil and Solid Fuel Board under 32 M.R.S.A. Ch. 33 or the rules adopted by the Propane and Natural Gas Board under 32 M.R.S.A. § Ch. 130, as applicable."~~

~~Section R101.1 Title is amended by inserting the words "Town of Old Orchard Beach."~~

~~Section R112.1 Board of Appeals, General is amended by deleting the second and third sentences and substituting the words "The Old Orchard Beach's Zoning Board of Appeals shall serve as the Board of Appeals."~~

~~Section 112.3 Qualifications is amended by deleting the entire section.~~

~~Table R301.2(1) Climatic and Geographic Design Criteria is amended by inserting the following:~~

- ~~• Under "Ground Snow Load (pounds per square foot)" insert the word "60"~~
- ~~• Under "Wind Speed (miles per hour)" insert the word "100"~~
- ~~• Under "Seismic Design Category" insert the word "C"~~
- ~~• Under "Weathering" insert the word "severe"~~
- ~~• Under "Frost Line Depth" insert the words "48 inches"~~
- ~~• Under "Termite" insert the words "none to slight"~~
- ~~• Under "Decay" insert the words "none to slight"~~
- ~~• Under "Winter Design Temperature" insert the words "to -5 degrees F"~~
- ~~• Under "Ice Shield Underlayment Required" insert the word "Yes."~~
- ~~• Under "Flood Hazards" insert the words "March 2, 1993 date of adoption of the Floodplain Management Ordinance of the Town of Old Orchard Beach Maine (k)"~~
- ~~• Under "Air Freezing Index" insert the word "1500."~~
- ~~• Under "Mean Annual Temperature" insert the words "45 degree Fahrenheit"~~

~~Section R309.3 Floor Surfaces is amended by adding the following words at the end of the section: "The sills of all door openings between garages and adjacent interior spaces shall be raised not less than four inches above the garage floor."~~

~~Section R310.1.1 Minimum Opening Area is amended by deleting the Exception provision.~~

~~Section R311.6 Ramps is amended by adding "non ADA Accessible Ramps"~~

~~Section R323 Flood Resistant Construction, General is amended by deleting the entire section and inserting the words "For Flood Resistant Construction, refer to Chapter 70, Article II of the Code of the Town of Old Orchard Beach, Maine"~~

~~Section R903.4.1 Overflow drains and scuppers is amended by deleting the words "International Plumbing Code" and inserting the words "the State of Maine Internal Plumbing Rules Chapter 238." (refers to outside roof drains)~~

~~Chapters 26 through 32 are deleted in their entirety and are to be replaced with the words "All Plumbing shall be installed in accordance with the State of Maine Internal Plumbing Code, Chapter 238."~~

~~Appendix A is deleted in its entirety.~~

~~Section A1101 Private Sewage Disposal, General is amended by deleting the words "International Private Sewage Disposal Code" and inserting the words "Maine Subsurface Wastewater Disposal Rules, Chapter 241."~~

~~(Ord. of 9-7-2004(4); Ord. of 8-2-2005(8), § 2)~~

~~Sec. 66-243. Violation penalties.~~

~~Any person who violates a provision of this code or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the code enforcement officer, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties, upon conviction, of a fine of not less than \$100.00 and not more than \$2,500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.~~

~~(Ord. of 9-7-2004(4); Ord. of 8-2-2005(8), § 3)~~

Councilor Dayton asked whether this required additional training and the Code Enforcement Officer indicated that in almost all areas he is already certified and in the areas of ventilation he will be attending a conference in January at Saco.

**CHAIR:** I close this Public Hearing at 7:43 p.m.

**PUBLIC HEARING:**

**CHAIR:** I open this Public Hearing at 7:43 p.m.

Shall we Amend the Code of Ordinances, Article IV, Division 8, Ballpark Commission, Sections 2-398 and 2-401 to add alternates and change the quorum requirements?

**BACKGROUND:**

The Old Orchard Beach Ballpark Commission has agreed that there should be several changes to be considered to keep the continuity and momentum flowing. The Committee voted unanimously for the following:

1. Add two alternate commissioners for the purpose of filling in should regular members not be available for scheduled meetings. These alternates would be voting members only when filling in for absent commissars and at such time they would be considered a Commissioner and held in the same regard and with the same responsibilities as sitting Commissioners.
2. The Commissioners hope that the Council would consider changing the number of Commissioners that constitute a quorum from the current number of five (5) to four (4) members, in the hope that given certain unforeseen circumstances that the Commission would always be able to vote on any item in a timely fashion.

#### **DIVISION 8. BALLPARK COMMISSION**

**Sec. 2-396. Ballpark defined.**

For purposes of this division, the term "the ballpark" means the municipal facility located on E. Emerson Cummings Boulevard, commonly known as the Ballpark, consisting of approximately 49 acres of land improved with a stadium, playing fields and parking areas. (Ord. of 3-16-2010, § 1)

**Sec. 2-397. Ballpark commission formed.**

Pursuant to section 409.4 of the Charter, there is hereby created an agency of the town by the name of the "ballpark commission." (Ord. of 3-16-2010, § 2)

**Sec. 2-398. Appointment, vacancies, term.**

The ballpark commission ("commission") shall consist of seven regular members and two alternate members appointed by the town council for a term of three years each commencing on the date of appointment, except that of those first appointed, three shall be for a term of three years, three shall be for a term of two years and one shall be for a term of one year. Any vacancy in the membership of the commission shall be filled by the town council for the unexpired term. Members whose terms expire shall continue to serve until their successors are appointed and qualified. Members of the commission serve at the will of the town council and may be removed by vote of the council at any time for any reason.  
(Ord. of 3-16-2010, § 3)

**Sec. 2-399. Powers and duties.**

Subject to town council oversight, the commission shall be responsible for the improvement, maintenance and operation of the ballpark. In order to carry out that responsibility, the commission shall have the following powers and duties:

Undertaking maintenance of and improvements to the physical facilities, subject to appropriation of funds therefore by the town council and subject to the town's established purchasing and procurement procedures.

Scheduling events, subject to issuance by the town council of special events permits under chapter 42, article IV, division 5 of the Town Code.

Raising funds to be used exclusively for the improvement, maintenance and operation of the ballpark through the sale of advertising or other promotional activities and through soliciting and accepting donations on behalf of the town, all in accordance with the town's established finance and accounting procedures.

All such funds received by the commission shall be remitted to the town treasurer for deposit in a dedicated revenue account denominated "the ballpark fund."

Soliciting, supporting and organizing the efforts of volunteers to assist in the improvement, maintenance and operation of the ballpark as a community facility.

With the approval of the town manager, obtaining the assistance of town employees in connection with the improvement, maintenance and operation of the ballpark.

Performing such other duties and responsibilities and exercising such other powers as the town council may, from time to time, by order, assign to the commission.

(Ord. of 3-16-2010, § 4)

**Sec. 2-400. Meetings.**

The commission shall establish a schedule of regular meetings, which shall provide for at least 12 meetings per calendar year. The commission shall meet at least monthly during June, July, August and September. The commission chairperson may call special meetings as he or she deems necessary.

(Ord. of 3-16-2010, § 5)

**Sec. 2-401. Quorum, procedure, officers.**

~~Five~~ Four members of the commission shall constitute a quorum for the purpose of conducting a meeting. Any action by the commission requires a majority vote of those members present and voting. The commission may adopt additional rules, not inconsistent with this division, for the conduct of its activities.

The commission shall choose annually a chairperson and a secretary from among its members. The secretary shall maintain a permanent record of the commission's meetings.

(Ord. of 3-16-2010, § 6)



**Sec. 2-402. Authority to appoint agents.**

The commission may, with the consent of the town manager and the vote of the town council, designate one or more of the members or other volunteers to serve as the commission's agents for carrying out the commission's responsibilities. Such agents may not, however, bind the town to any contractual or financial commitments unless expressly authorized to do so by the town council.

(Ord. of 3-16-2010, § 7; Ord. of 8-25-2010)

**Sec. 2-403. Report to the council.**

On a quarterly basis, starting on the 16th of June, 2010, the Commission shall submit to the town council a written report on the status of improvements, maintenance and operations at the ballpark, including a summary of the commission's activities during the immediately preceding three months.

(Ord. of 3-16-2010, § 8)

**Sec. 2-404. Ballpark is land owned by the public but not considered a park.**

The ballpark, as defined in this division, is intended to be operated as a sports/entertainment/events and recreation area and not as a public park subject to the care and superintendence of the conservation commission nor shall its operation be considered a recreation program subject to oversight by the recreation board.

(Ord. of 3-16-2010, § 9)

**Secs. 2-405--2-410. Reserved.**

There was lengthy discussion on the request of the Commission as far as the quorum was concerned and there appeared to be a consensus among the Council that the consensus should remain the same but that there was agreement for the addition of two alternate commissioners for the purpose of filling in should regular members not be available for scheduled meetings. It was pointed out by Vice Chair, Dana Furtado, of the Ballpark Commission, that some members go away during the winter months and in order to move the business of the Commission forward in a productive way, the alternates would be able to step in and vote in the absence of a regular voting member. The Commissioners had suggested that the Council consider changing the number of Commissioners that constitute a quorum from the current number of five (5) to four (4) members, in the hope that given certain unforeseen circumstances that the Commission would always be able to vote on any item in a timely fashion. Councilor Dayton indicated that it might seem a little counterintuitive to be adding members and lowering the quorum. The question was raised by Councilor Dayton regarding the procedures or policy for the replacement of a regular member of a board by a Alternate before the meeting actually occurs and the Town Manager was to discuss this issue with the Town Clerk and report to the Council on the procedure of Alternates and their voting status. Phil Weyenberg, a member of a Board, indicated that Alternates attend meetings regularly and participate in discussion but unless they are actually replacing a voting member who is absent, they do not vote but nothing is done beforehand except in cases where the member is able to indicate he or she will be absent. Again, the Town Manager indicated he would address this question with the Town Clerk. Vice Chair Tousignant reiterated his agreement with Mr. Weyenberg's evaluation of the policy. Vice Chair Tousignant reminded the Council that at the formation of the Ballpark Commission members of the public voiced concern when the Commission was created regarding the number of people needed for a quorum. Originally the proposal was for a five-member Commission with a three-member quorum needed, and it was

decided to increase the number of members so that there would be a five-member quorum, which would increase the representation needed. It appeared that the consensus of the Council seemed to be that they preferred that the quorum level remain the same and the acknowledgement by the Vice Chair and the Secretary of the Ballpark Commission seemed to indicate they agreed. This item will go under new business at the next meeting of the Town Council.

**CHAIR:** I close this Public Hearing at 8:05 p.m.

**PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:**

**CHAIR:** I open this Public Hearing at 8:05 p.m.

**Robert Leighton, Jr.**, (105A-1-6), 2 Long Cove Drive, one year round rental for the main house only; **David W. Green** (312-11-16) 40 Cedar Avenue, three year round rentals; and **Arthur Whipple** (316-13-17), 105 West Grand Avenue, one year round rental.

**CHAIR:** I close this Public Hearing at 8:07 p.m.

**MOTION:** Councilor Dayton motioned and Councilor O'Neill seconded to approve the business licenses as read.

**VOTE:** Unanimous.

**TOWN MANAGER'S REPORT:**

Since my last report I have enjoyed two long weekends. Thanks to the holiday falling on a Saturday. However the short work week, although providing a nice rest, did result in less personal production. My meeting schedule has been light not only because of the work schedule but many meetings were not scheduled due to personal vacations. We continue to negotiate with Public Works and I am sorry to report that I am not optimistic we can come to an agreement but we will still work for a positive outcome. Most of my energy since we last were together has focused on the Tide Gate and the Ball Park. There is a scheduled meeting with the Department of Environmental Protection next week to review data and to work toward an operational procedure which benefits conservation and helps reduce potential flooding. My involvement in the Shoreland Zoning project has intensified since the departure of Gary Lamb. Mike Nugent has frequently communicated with me on its development as he has been responsible for the most recent activity. I was impressed with the First Night success. The crowd at the early fireworks was impressive. My thanks to OOB 365 and all the volunteers who helped make that night highly successful. I believe this event has potential for major future growth. I was told that the midnight fireworks were well attended and I have to admit I was tucked away for a long winter's nap. The Lobster Dip fundraiser was highly successful. The positive press coverage for Old Orchard Beach during the holiday period was extremely rewarding. I spent a lot of time on the road as many of you know I was in Worcester, Massachusetts a couple of days ago and ran into folks who had many wonderful comments about the great direction that OOB is going. This is truly a compliment to many groups of citizens who are helping Old Orchard Beach be a great place to live and visit. I

share with you tonight the list of goals created by the department heads in an exercise we accomplished similar to Town Council activities. I am sure you will find the goals interesting. What I found most revealing is how similar the Department Head goals were to the goals set by the Town Council. What we tried to do for you were to identify how many Department Head goals had a close identity to the Council's goals. On page one of the handouts I listed the Council goals in bold black print; under each Council goal printed in red I listed a Department Head goal which I believe was closest, if not exactly the same as the Council goal. Remember, the Department Heads did not have the Council goals available to them when they created their goals. The Department Head who drafted the indication they wanted to be part of the witness protection program has requested to remain anonymous. Therefore we did not include this goal for your review.

**TABLED ITEMS:**

**AGENDA ITEM NUMBER 5625 – Tabled at the December 21, 2010 meeting.**

**Discussion with Action: Set 2011 usage fees and terms for use of the Ballpark fields.**

Some of the issues about setting of usage fees and terms for use of the Ballpark was discussed at the beginning of the meeting in the presentation given by the Vice Chair of the Ballpark Commission, Dana Furtado. It was suggested by Commissioner Furtado that the Ballpark Commission would like to go out and review again the fees of other groups providing the same level of services to the public and readdress this at a later date. Both Councilors O'Neill, MacDonald and Vice Chair Tousignant agreed they would have supported the change in the fee but that if the Commission felt it more feasible to go out and do more research then the Council would vote accordingly. During this discussion Vice Chair Tousignant related that he believe determining those fees would be more realistic if they had a control on the actual costs of running the Ballpark and fees would be adjusted accordingly to that fact, understanding that one does not want to overcharge so that they are no longer in the running for requests for usage of the fields. There was a positive tone in the motion to remove indefinitely and to permit the Commission to study the issue longer.

**MOTION: Vice Chair Tousignant motioned and Councilor O'Neill seconded to Table indefinitely to Set 2011 usage fees and terms for use of the Ballpark fields.**

**VOTE: Unanimous.**

**NEW BUSINESS:**

**# 5630 Discussion: Community Development Grant Committee (CDBG); and Design Review Committee.**

The Chair indicated that due to the Chair of the Community Development Grant Committee not being able to attend this item will be rescheduled to the next meeting. The Council members indicated this item would be on the January 18, 2011 agenda.

**MOTION: Chair Quinn motioned and Councilor MacDonald seconded to schedule the Discussion: Community Development Grant Committee (CDBG) and Design Review**

Committee report on the January 18, 2011 agenda.

VOTE: Unanimous.

# 5631 Discussion with Action: Accept the Financial Report provided by the Ballpark Commission and approved by the Town's Finance Director.

**TOWN OF OLD ORCHARD BEACH**

**BALLPARK**

Combining Statement of Revenues,  
Expenditures and Changes in Fund  
Balances

As of December 29, 2010

	Fund 214 Ballpark Restoration
<b>Revenue</b>	
<b>s:</b>	
Advertising income	0.00
Donations	4,634.78
Concession income	7,292.75
Gate Receipts	0.00
Field Rentals	10,975.00
Souvenir Revenue	24.00
Other	1,626.00
<b>Total revenues</b>	<b>24,552.53</b>

Reconciliation (for Finance Dept. use only)	
Revenue control to tie to above	24,552.53
Less transfers in	0.00
<b>Adjusted Revenue control</b>	<b>24,552.53</b>
<b>Difference</b>	<b>0.00</b>

**Expenditures**

<b>:</b>	
Utilities	11,080.47
Advertising	1,063.00
Operating Supplies	600.24
Ground maintenance & improvements	3,982.27
Concession Supplies	1,094.31
Ballpark Improvements	3,260.80
<b>Total expenditures</b>	<b>21,081.09</b>

Reconciliation (for Finance Dept. use only)	
Appropriation control to tie to above	21,081.09
Less non-operating expenses	
Less transfers out	
<b>Adjusted Appropriation Control</b>	<b>21,081.09</b>
<b>Difference</b>	<b>0.00</b>

<b>Excess (deficiency) of revenues over (under)</b>	
Expenditures/Operating income (loss)	3,471.44
<b>Non-operating revenues (expenses):</b>	
Interest expense	0.00
Total non-operating revenue (expense)	0.00
Gain (loss) before operating transfers	3,471.44
<b>Other financing sources (uses):</b>	
Transfers in	0.00
Transfers (out)	0.00
Total other financing sources (uses)	0.00
<b>Excess (deficiency) of revenues and other financing sources over (under) expenditures/</b>	
Net income (loss)	3,471.44
<b>Fund equity/Retained earnings (deficit), beginning of period</b>	<b>2,579.36</b>
<b>Fund equity/Retained earnings (deficit), end of period</b>	<b>\$ 6,050.80</b>
<b>To tie to fund equity ending balance</b>	<b>6,050.80</b>
<b>Difference</b>	<b>0.00</b>

The Town Manager noted that there were two changes in the accounting report; first under Concession income where \$1,172 of revenue was posted incorrectly; it was posted as a negative expenditure and should have been posted to the revenue account. The second account affected is the Concession Expenditures which were increased by \$1,172. The correct total for Concession income as of December 29, 2010 is \$8,464.75; and the corrected total for Concession expense as of December 29, 2010 is \$2,266.31.

Discussion was lengthy first on the way the agenda item was written. Councilor Dayton indicated she would not support the written dialogue of the agenda item for the Council does not accept unaudited financial reports. The Assistant Town Manager who prepares the agenda indicated she wrote it such because the Council had specifically asked for the presentation of the financials at the last meeting and she felt a record of the acceptance of that report was proper and suggested that the wording might say "Received" rather than "Accept" but further discussion continued and Councilor O'Neill indicated that perhaps tabling the item altogether would be most proficient considering that it is already reflected in the agenda itself that the matter was discussed.

**MOTION:** Councilor O'Neill motioned and Vice Chair Tousignant seconded to Table Agenda Item Number 56 Accept the Financial Report provided by the Ballpark Commission and approved by the Town's Finance Director.

**VOTE: Unanimous.**

**GOOD AND WELFARE:**

**JOE GUARINO:** Mr. Guarino expressed his opinion that in the 1990's the Planning staff and the Town inappropriately created Shoreland Zoning for his property that was too restrictive. He would like the Town to eliminate the Resource Protection areas on his property and reduce the 150 foot zone to meet the State's minimum 75 foot delineation.

**ADJOURNMENT**

**MOTION:** Vice Chair Tousignant motioned and Councilor O'Neill seconded to adjourn.

**VOTE:** Unanimous.

**Respectfully Submitted,**

**V. Louise Reid  
Town Council Secretary**

**I, V. Louise Reid, Secretary to the Town Council of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of thirty (30) pages is a true copy of the original Minutes of the Town Council Meeting of January 4, 2011.**

**V. Louise Reid**