

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
TUESDAY, MARCH 3, 2015
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, Chair O'Neill opened the meeting at 7:00 p.m.

The following were in attendance:

**Chair Shawn O'Neill
Councilor Kenneth Blow
Councilor Jay Kelley
Councilor Michael Tousignant
Town Manager Larry Mead
Assistant Town Manager V. Louise Reid**

Absent: Vice Chair Joseph Thornton

**Pledge to the Flag
Roll Call**

ACKNOWLEDGEMENTS:

COUNCILOR BLOW: He thanked OOB 365 for the great sliding event down Old Orchard Street and noted how exciting it was for both child and parent. He also announced that the OOB 365 Community Breakfast that was postponed in February will be held this Sunday from 1:00 to 5:00 at the American Legion.

ASSISTANT TOWN MANAGER: Just a reminder to all citizens that the second half of 2015 taxes are due in the Town of Old Orchard Beach on March 11, 2015.

ACCEPTANCE OF MINUTES: Town Council Meeting Minutes of February 17, 2015; Town Council Workshop Minutes of February 19, 2015; and Town Council Workshop Minutes of February 25, 2015.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Accept the Minutes of the Town Council Meeting Minutes of February 17, 2015; Town Council Workshop Minutes of February 19, 2015; and Town Council Workshop Minutes of February 25, 2015.

VOTE: Unanimous.

PUBLIC HEARING:

ORDINANCE AMENDMENTS RELATED TO NON-RESIDENTIAL MEDICAL MARIJUANA CULTIVATION AND FACILITIES.

CHAIR: I open this Public Hearing at 7:07 p.m.

Shall We Amend the Town of Old Orchard Beach Code of Ordinances as follows: Chapter 78 – ZONING, Article I – IN GENERAL, Section 78-1 – DEFINITIONS; Chapter 78 – ZONING, Article VI – DISTRICTS, Division 8 – GENERAL BUSINESS DISTRICT 1 (GB-1), Section 78-803 – CONDITIONAL USES; Chapter 78 – ZONING, Article VI –DISTRICTS, Division 16 – HISTORIC OVERLAY DISTRICT (HO), Section 78-1135 – PROHIBITED USES; Chapter 78 – ZONING, Article VII – CONDITIONAL USES, Division 2 – CONDITIONS, Section 78-1277 – MEDICAL MARIJUANA; Chapter 18 – BUSINESSES, Article XI – RESERVED, Sections 18-601 – 18-606 – Reserved; Appendix A – SCHEDULE OF LICENSE, PERMIT AND APPLICATION FEES – LICENSE ORDINANCE CATEGORIES?

BACKGROUND:

The Planner prepared a memo back in December for the Council which highlights the items related to this issue:

SUBJECT: Proposed Medical Marijuana Ordinance Amendments

The purpose of this memo is to provide information in regards to the proposed Medical Marijuana Ordinance. This information includes: 1. Ordinance language summary; 2. Creation of the Ordinance; 3. Planning Board review process; 4. Planning Board recommendation; 5. Consideration of other zoning districts; 6. Comment regarding adding Research and Development as a Conditional Use.

1. Ordinance language summary.

- The purpose of the proposed Ordinance amendments is to create local zoning controls to regulate Medical Marijuana as a land use, restricting where growing and processing operations are allowed, requiring a public approval process, and implementing performance standards for growing/processing operations and dispensaries. Also, the Ordinance amendments establish a business licensing requirement to monitor ongoing consistency with the Maine Medical Use of Marijuana Program.
- Chapters 78 (Zoning) and 18 (Business Licenses) are the Chapters within the Town of Old Orchard Beach Code of Ordinances that are proposed to be amended.
- Before Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries are allowed to conduct business, both uses will require State authorization, Planning Board approval as a Conditional Use and staff and Council approval through the Business License process.
- Chapter 78 amendments include:
 - A. Allowing Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries to be established as a Conditional Use within the General Business 1 (GB1) Zoning District. Both uses are not permissible for those properties that are with GB1 and Historic Overlay (HO) Zoning Districts.
 - B. Approval process identifying applicable review standards, application requirements, extended distance for abutter notifications, site walks, and public hearings.
 - C. State authorization before submission of a Conditional Use Application. The applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.
 - D. Exempting Medical Marijuana Home Production in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence. Note- as I understand, the town cannot regulate (through its ordinances) this type of Medical Marijuana use
 - E. Performance Standards that are specifically designed to regulate Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries. These standards include, but are not limited to security, outside appearance, odor control,

and proximity limits (by distance) to other Medical Marijuana Production Facilities and Medical Marijuana Registered Dispensaries as well as uses that may not be compatible.

- Chapter 18 (Business Licenses) amendments include:
 - A. Requiring staff and Council approval of a Medical Marijuana Business License before a Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility can conduct business.
 - B. State Authorization. Before issuance, renewal or amendment of a License, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program. Loss of such State authorization shall automatically invalidate the Town-issued License.
 - C. At initial and subsequent licensing, the Old Orchard Beach Police Department, Fire Department and Code Enforcement Officer shall inspect the premises to ensure security meets State requirements and applicable Town of Old Orchard Beach licensing criteria.

2. Creation of the Ordinance.

- During the summer of 2014, the Town received inquiries regarding the establishment of a facility for the cultivation of medical marijuana outside of a primary residence and for the production of edible medical marijuana products.
- In response to these inquiries, staff reviewed ordinances and found the Town's existing ordinances do not provide an adequate mechanism to regulate and control medical marijuana non-residential production facilities.
- As a result of this finding, the Council decided to enact a Moratorium to allow staff a reasonable amount of time to study the land use implications of medical marijuana non-residential production facilities and to develop reasonable regulations governing their location and operation.
- Town staff began its study by meeting with the Program Manager of the Maine Medical Marijuana Program and discussing the rules governing the Maine Medical Use of Marijuana Program.
- Further study was done by contacting other municipalities and people who have been involved with Medical Marijuana.
- Using York, Maine's proposed Medical Marijuana Ordinance as a model, Town staff and the Town's Attorney created its own Medical Marijuana Ordinance. This ordinance includes amendments to Chapter 78 (Zoning) and Chapter 18 (Business Licenses).
- The law firm that created York's Ordinance, Bernstein/Shur, is the same firm used by the Town. The Town consulted with Bernstein/Shur during the creation of OOB's version of the Ordinance.
- As part of the creation of the Ordinance, the Town analyzed current Town Zoning standards and existing land use patterns in order to determine which Zoning District(s) Medical Marijuana Registered Dispensary and Medical Marijuana Production Facility land uses could be allowed. Analysis attached.

3. Planning Board review process.

- Because some of the proposed amendments are within Chapter 78 (Zoning), the Planning Board (PB) must review and provide a recommendation to the Council. PB responsibilities include reviewing proposed changes to Chapter 78, holding a public hearing and providing a recommendation to the Council.
- In addition to Chapter 78, Chapter 18 (Business Licenses) and Appendix A (Schedule of License, Permit and Application Fees) are proposed to be amended. Chapter 18 and Appendix A do not require review and recommendations from the PB. Only Council review is required.

- As part of the PB's recommendation, they can propose changes to Ordinance language.
- PB and Council consideration can happen at the same time but the Council cannot rule on Chapter 78 amendments until the PB provides a recommendation.
- Ultimately, it's the Council's decision in regards to the final Ordinance language and adoption of the proposed Ordinance.

4. Planning Board recommendations.

- The PB began their consideration of the proposed Ordinance during November 2014. At their 11 December 2014 meeting, the PB recommended the Council adopt the proposed Ordinance with the following changes:
 1. Allow Medical Marijuana Production Facility's to be established as a Conditional Use within the General Business 2 (GB2) and Planned Mixed Use Development (PMUD).
 2. Add Severability language to Sec. 78-1277.
 3. Ensure proposed Ordinance definitions do not conflict with the definitions in the Medical Marijuana-related State Statutes.
 4. Consider adding language to allow Research and Development as a Conditional Use.
- The PB vote to recommend the proposed Ordinance was 3-1-0. The member with the vote not in favor noted that his objection is due to allowing the Medical Marijuana Production Facility Use within the GB2 District because of the development density and potential negative impacts (e.g., odor) to other properties.
- Note: the proposed Ordinance currently before the Council does not include the PB recommendations. Because the PB does not have the authority to change the language, the original Ordinance is presented to Council so the Council can decide if they feel the PB's recommendation are acceptable.

5. Consideration of other zoning districts.

- As part of the development of the proposed ordinance, staff considered all zoning districts. Research included, but was not limited to zoning ordinance standards, existing development, access to public water and sewer, and land availability. Staff determined that three zoning districts, GB1, GB2 and RD, were the most appropriate districts for Medical Marijuana land uses. We then further analyzed these three districts and decided GB1 was the best fit.
- The PMUD district was considered during initial staff research. The PMUD zoning ordinance standards allow many different land uses but when considering existing development patterns (which is primarily residential and education), staff determined the proposed Medical Marijuana uses appear to be not compatible with the existing use of land.

6. Regarding consideration of adding Medical Marijuana Research and Development as a conditional use. The town contacted Mary D'Agostino, Maine Medical Marijuana Program Manager if she could offer her understanding of whether under statute caregivers are allowed to conduct research and development as a distinct undertaking separate from the permitted cultivation of plants for qualified and approved users. Ms. D'Agostino responded by stating there is no statutory language which would allow a caregiver to open and operate a research and development enterprise unless any aspect of the operation falls fully under the parameters for being a caregiver. This means they would have to abide by all of the requirements for plant counts, security, etc.

Medical Marijuana Ordinances (Council Public Hearing – 20 January 2015)

Amendment to Chapter 78 – ZONING, Article I – IN GENERAL, Section 78-1 – DEFINITIONS

Section 78-1 shall be amended by adding the underscore language as follows:

Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, "Marijuana."

Medical Marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Medical Marijuana Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical Marijuana Land Uses: Any of 3 types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

Medical Marijuana Home Production (Land Use): Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

Medical Marijuana Production Facility (Land Use): A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence. This shall be considered a commercial use.

Medical Marijuana Registered Dispensary (Land Use): A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use.

Amendment to Chapter 78 – ZONING, Article VI – DISTRICTS, Division 8 – GENERAL BUSINESS DISTRICT 1 (GB-1), Section 78-803 – CONDITIONAL USES

Section 78-803 shall be amended by adding the underscore language as follows:

(5) Medical Marijuana Production Facility

(6) Medical Marijuana Registered Dispensary

Amendment to Chapter 78 – ZONING, Article VI – DISTRICTS, Division 16 – HISTORIC OVERLAY DISTRICT (HO), Section 78-1135 – PROHIBITED USES

Section 78-1135 shall be amended by adding the underscore language as follows:

(8) Medical Marijuana Production Facility

(9) Medical Marijuana Registered Dispensary

Amendment to Chapter 78 – ZONING, Article VII – CONDITIONAL USES, Division 2 – CONDITIONS, Section 78-1277 – MEDICAL MARIJUANA

Division 2, Section 78-1277 shall be amended by adding the underscore language as follows:

Sec. 78-1277 – Medical Marijuana

The purpose of this Section and related provisions of Article VII is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

(a) Approval Process: Any proposal to establish a new or alter an existing Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall require approval of the Planning Board as a Conditional Use. The Planning Board and applicant shall follow the Application and Review Process (Sec. 78-1238), Standards (Sec. 78-1240), Authority (Sec. 78-1266), and this Section (Sec. 78-1277) within Article VII. Notification of site walks and public hearings shall include all property owners within 1,000 linear feet, measured in a straight line from the property boundary of the proposed Dispensary or Facility. Notification or property owners shall be mailed at least 10 days before the scheduled site walk and public hearing. Applicants shall be responsible for mailing notifications to property owners to the addresses identified on a mailing list provided by the Town. In addition to other public notification requirements, the Town shall notify the Old Orchard Beach Police Department and the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services prior to the public hearing on any application.

(b) State Authorization: Before submission of a Conditional Use Application, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.

(c) Exemptions: As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting.

(d) Performance Standards: In addition to other requirements of this Section and related provisions of Article VII and other Chapters within the Town of Old Orchard Beach Code of Ordinances, the following shall apply to any application for a new or altered medical marijuana registered dispensary or a medical marijuana production facility:

(1) Medical Marijuana Registered Dispensary Limit. There shall be no more than one Medical Marijuana Registered Dispensary in the Town of Old Orchard Beach.

(2) Medical Marijuana Production Facility Limit. There shall be no more than four Medical Marijuana Caregivers allowed to operate within a single Medical Marijuana Production Facility.

(3) Proximity Limit. Only one Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted per lot. Additionally, no Medical Marijuana Production Facility shall be located on a lot that is within 250 feet of another lot on which a Medical Marijuana Production Facility or Medical Marijuana Registered Dispensary is located. This separation requirement will

prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.

(4) Proximity Location to other Uses. No Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be closer than 250 linear feet, measured in a straight line from the Dispensary or Facility building entrance, to the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, Town park, Town playground or church.

(5) Security. Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Old Orchard Beach Police Department and the Police Department finds the security measures are consistent with State requirements.

(6) Outside Appearance No signs containing the word “marijuana,” or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility. Interior advertisements, displays of merchandise or signs depicting the activities of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall be screened to prevent public viewing from outside such facility.

(7) Odors. No use shall emit offensive, harmful, or noxious odors beyond the property line.

(8) Business License. As a condition of use, the operator of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall obtain and retain all required business licenses pursuant to Chapter 18 - Businesses. The land use approval shall be considered abandoned if no license- holder occupies the Facility for a period of 2 years or more.

Amendment to Chapter 18 – BUSINESSES, Article XI – RESERVED, Sections 18-601 – 18-606 – Reserved

Article XI, Sections 18-601 - 18-606 shall be amended by deleting the ~~strikethrough~~ language as follows:

ARTICLE XI. – RESERVED

Secs. 18-601—18-606. – Reserved.

Article XI, Section 18-601 – 18-603 shall be amended by adding the underscore language as follows:

ARTICLE XI. – MEDICAL MARIJUANA REGISTERED DISPENSARY or MEDICAL MARIJUANA PRODUCTION FACILITY

DIVISION 1 – GENERALLY

Sec. 18-601 – 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:

Marijuana: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, "Marijuana."

Medical Marijuana: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition.

Medical Marijuana Caregiver: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

Medical Marijuana Land Uses: Any of 3 types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana.

Medical Marijuana Home Production (Land Use): Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

Medical Marijuana Production Facility (Land Use): A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver's primary year-round residence or their patient's primary year-round residence. This shall be considered a commercial use.

Medical Marijuana Registered Dispensary (Land Use): A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use.

Sec. 78-602 – Purpose

The purpose of this Article is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

Sec. 78-603 – Medical Marijuana License

This license shall be required for a Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility. The following shall apply:

- (1) *Town Approvals.* Before issuance, renewal or amendment of a License, the applicant shall secure applicable Town of Old Orchard Beach approvals including, but not limited to, Conditional Use.
- (2) *State Authorization.* Before issuance, renewal or amendment of a License, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program. Loss of such State authorization shall automatically invalidate the Town-issued License.

- (3) Inspections Required. At initial and subsequent licensing, the Old Orchard Beach Police Department, Fire Department and Code Enforcement Officer shall inspect the premises to ensure security meets State requirements and applicable Town of Old Orchard Beach licensing criteria.

Article XII, Sections 18-601 - 18-606 shall be amended by adding the underscore language as follows:

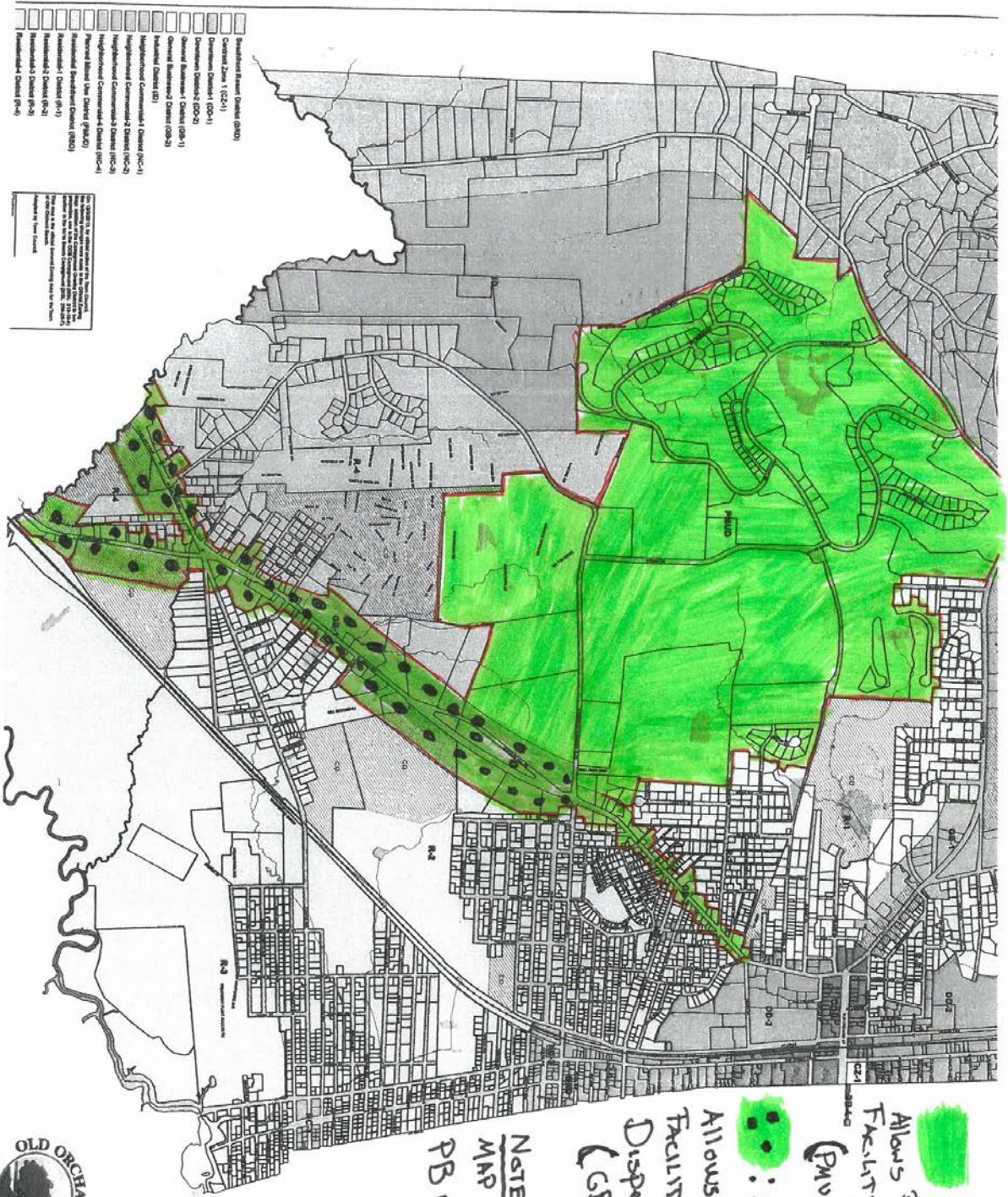
ARTICLE XII. – RESERVED

Secs. 18-604 - 18-620. - Reserved.

**Amendment to Appendix A – SCHEDULE OF LICENSE, PERMIT AND APPLICATION FEES
– LICENSE ORDINANCE CATEGORIES**

License Ordinance Categories shall be amended by adding the underscore language as follows:

<u>Medical Marijuana Production Facility</u>	\$ _____
<u>Medical Marijuana Registered Dispensary</u>	\$ _____



: Area that
 Allows Production
 Facility's ONLY
 (PBUD 1 GB2)

• : Area that
 Allows Production
 Facility's And
 Dispensaries
 (GB1)

NOTE: This
 MAP SHOWS
 PB recommendations

There were approximately twenty-five citizens who attended the Public Hearing and several expressed their opinions, the majority indicating concern in a number of issues.

HELENE WHITTAKER: At least 20 small children have died nationwide because of their parents' or caretaker's marijuana usage, since Colorado and Washington voted to legalize pot. It [began in November 2012](#), just over two years ago, and [it continues to happen in 2015](#). Four of those deaths occurred in Colorado, three in California. We need to seriously consider the consequences, neighborhood challenges and our town's reputation when it comes to having a marijuana dispensary. This is Old Orchard Beach's opportunity to shine, by mandating more than minimal requirements instead of just passable. There are questions that need asking and there are answers to how this facility should be dealt with. There are codes, ordinances and zoning however we don't know if these 3 can solve the issue we have on hand. The medical marijuana cultivation industry has many opportunities to enhance their public image and protect the environment by incorporating best practices to reduce or eliminate odors and other adverse environmental impacts from their operations. If we need to go ahead with the issue this is how we need to address the odor problem. The pungent odor from marijuana cultivation operations is objectionable to most people. Offensive odors can easily migrate in and around the marijuana cultivation site and some strains produce odors that are detectable in the surrounding neighborhood as well as adjacent tenants. All medical marijuana cultivation operations should employ ventilation and odor control that is more than just adequate for the size of the operation. In Denver and Las Vegas it is required that the following items be considered: a) A ventilation system shall be installed to ensure that the odor from such location cannot be detected at the exterior of the facility. Confirm with Uniform Mechanical Code (UMC) for confirmation of rate of air changes required. b) Air Quality – locations utilizing a boiler, Co2 enrichment or other means shall install appropriate scrubbers or other filtration systems. c) All facilities using a Co2 enrichment system shall be provided with an approved hazardous level detection system. Audible and visible notification shall be provided throughout the facility upon alarm. Other items to address:

1. Water Quality- Pre-treatment permits shall be obtained for any excess fertilizer, wastewater or storm water discharged from the facility.
2. Solid Waste-Disposal of product shall be in compliance with the State and town.
3. Depending on the growing medium, mold can be a huge factor in the health and welfare of growers. Special components for the growing medium are necessary to take in the humidity, heat etc.
4. Growing rooms are considered wet locations as they are subject to wash downs.
5. Storage of hazardous material used in the extraction process. Where will they be stored and monitored?
6. Will there be a security alarm system and cameras?
7. Proper electrical system for such growing conditions in place?
8. Proper fire system for this type of operation in place?
9. There shall be a complete operation and maintenance manual (O&M) created for any and all processes for medical marijuana including Material Safety Data Sheets (MSDS). Manuals to be reviewed by the State licensed Fire Protection Engineer and then submitted to Town of OOB for review and approval.
10. There shall be a documented training manual developed to be reviewed by the State licensed Fire Protection Engineer and then submitted to our town for review and approval?

Is OOB planning to take the above measures? It has been said at a previous meeting: The town lawyer indicated that each room needs its own ventilation system. Yet we're told what is there now is more than adequate. How can this facilities ventilation system be adequate for this kind of business when it was previously a Post Office and Vet clinic?

- a) If there are to be 4 growers, according to the town lawyer there should be 4 ventilation systems
- b) Are scrubbers included in this ventilation system to delete the smell from going into the neighborhoods?

Personally I'm not for it but if this facility is to move forward, the business needs to be a good neighbor and the town should want to exceed the required codes to make our town shine.

SHEILA FLATHERS: One of the major concerns that she expressed was the need for consideration in the appearance of the property. At the present time there are trucks and dumpsters and the property looks cluttered and does not add to the beauty of the neighborhoods. She indicated that we live in a highly visual world and a business's appearance has a lot to say about their service and how they fit into the community in which they are located. External appearance is important and should be one of the considerations in setting limitations on a business.

JENNA PAYEA: She spoke a few times and indicated that where they are considering having this business is a bad location. It is near the schools, near the residential area where there are a lot of seniors and it is at the entrance to our community. What does it say about the community? It should be near a medical facility or a doctor's office if this is indeed something that the medical profession is asking for. She also asked what is going to happen to the product dispersed if it is not a dispensary.

MARK KOENIGS: He spoke as a member of the Planning Board and also as a citizen. He said that the Planning Board spent a great deal of time in the discussion of this ordinance. He suggested that the Town Council is looking incorrectly at the agenda item's purpose which is to review the recommended ordinance, not the application that has been presented by Pierre Bouthiller. He discussed the various areas such as GB1, GB2, DD1, DD2, PMUD, AO, CO, RD, R1, R2, R3, R4, R5, HO, BRD, RBD, NC) and the aspects of each of those areas as it related to the ordinance being discussed. Discussion continued as it related to Cider Hill and areas such as Dunegrass, encompassing mostly residential.

GUY FONTAINE: He first questioned why we have to allow this at all and again it was explained that what we are discussing this evening is the ordinance, not the request for a business license. He was not in favor of permitting this type of business. He said it is not a good fit for our community. He also raised the factor from his research that crime is not the issue; money laundering is. He further stated that if physicians are advocating for this, why aren't they here to promote it? He also raised as did others the question of the distributions of cash.

MARK BEYERS: He recognized not only the security concern, the safety issue but also the fact that this is a cash business. He spoke of money laundering and the fact there is no level of accountability in the funding aspects of the business. He said that because marijuana is a controlled substance, it is still a federal crime to use, possess, or distribute it. In turn, handling proceeds from cannabis sales triggers anti-money laundering laws for banks. The current laws on the books have caused nearly all banks to deny bank accounts to marijuana business and to immediately shut down those bank accounts once discovered.

ALLISON MEYERS: She expressed concern as it regards the pressures on the staff of both the Fire and Police. Who else is going to monitor what is going on in the business? She felt there were reasons of concern to the possibility of the business being broken into and safety issues as well.

ROBIN DUBE: She raised the concerns that were brought forward at the workshop relative to the tattoo shop and yet that has been in business and all the concerns that were raised have not happened. She asked what the spirit of intent was and encouraged the Council to move forward with the agenda item this evening.

PIERRE BOUTHILLER: His main emphasis he indicated was research with some production, not a dispensary. In summarizing what some of the speakers indicated, in a nutshell, growing marijuana stinks. The marijuana smell of a flowering plant is very strong, making odor control essential. As mentioned before there should be expectations of odor control as part of the ability to open this type of business. Mr. Bouthiller indicated that probably the most effective odor control tool are carbon filters which prevent the smell that is emitted from the grow room. Attached to an exhaust fan, the humidity is kept under control. He assured the public that all forms of ability to neutralize the smell by creating ozone and oxidizing the bad smell will be done. Marijuana odor control has been one of the priorities that he has considered and an important part of the setup and was considered in the planning and designing of the operation. He spoke a great deal about his desire for a research center even though it is not legal in the State at this time. He indicated that U&E and other medical personnel have indicated an interest in being part of the program and the use of interns as they study patterns and trends in the use of marijuana and potential therapeutic uses. He emphasized several times that social, behavioral, and public health impacts are a major emphasis of the medical spectrum today. Research would suggest that marijuana has potential use in the treatment of pain, nausea, wasting disease, disorders, and the combination of knowledge and research is vital. There were other concerns address such as signage which it was indicated would be exactly as required by the Town; the appearance of the building would not in any way suggest what is being done within the business itself; there would be no advertising. He continued to suggest continued partnership with UNE and with the medical personnel.

The Council and Mr. Bouthiller discussed their concern that what appeared to be a change in the goal of this business which was research with some production, not a dispensary. The questions was asked about the initial suggestion of working as the primary caregiver option which was the first suggestion of what Mr. Bouthiller was attempting to address when the issue was presented several months ago. Primary caregiver means a person who is at least twenty-one years of age and who has agreed to assist with a patient's medical use of marijuana and who has never been convicted of a felony involving illegal drugs. Caregivers are simply professional gardeners in the instance of what was being suggested by Mr. Bouthiller. Concern by Councilors Blow and Kelley was that suddenly more emphasis is being placed on "research" than on the production for the care giver. The continued mention of support and partnership with UNE and medical personnel raised the request that Mr. Bouthiller produce for the Town Council correspondence from the UNE source and also the suggested medical doctors to which has been referred. Several times Council members requested – "show me." So an open item for Council members if verification of claims of connections with a local university and doctors.

PIERRE BOUTHILLER: Mr. Bouthiller encouraged the Council and citizens to recognize the need to educate the public with facts regarding proposed therapeutic cannabis research. He reminded everyone that the facility will be secure, state-of-the-art research

lab whose focus is the establishment of reviewable data performed by professional researchers and scholars from area institutions with the commitment to productive research. Mr. Bouthiller continued by indicating that currently the state does not allow medical marijuana research facilities and one of the problems we are grappling with, he said, is the lack of clarity in the state statute. There are currently dozens of medical marijuana caregivers in the community and my proposed facility would provide a safe and secure environment for growers. He continued by saying that informal research on medical marijuana currently happens when a caregiver makes a change in growing procedures to improve the products for their client. He continued to say that the state has failed in that it doesn't allow scientific research but he believes that is changing and that in the future the state will allow such research. As he has said many times before, he indicated that there are medical doctors and Ph.D. – level scientists on boards with his project. He said there is interest at the University of New England to set up his suggested business as an internship site. But when asked why they have not come forward he responded that it is a touchy situation and those interested in partnering with him are nervous about going public because of the criticism they might face.

PLANNER – JEFFREY HINDERLITER: Recognizing the concerns that have been raised this evening he, at the request of the Town Council, will go back and review the ordinance, make changes including the distances from schools from 250 feet to 500 feet; also consideration to noise, smell, safety, restrictions, signage, etc.

It should be noted that in an e-mail from Ed and Barbara Boucher, he also recommended 1,000 feet from school as well as child proof packaging of the product.

COUNCILOR TOUSIGNANT: He raised his concerns of the complexity of the issue that was discussed this evening and of the mixed messages as to what we are actually considering in the agenda item.

CHAIR O'NEILL: He thanks all those who came and participated in the discussion this evening and the item will appear under New Business at the March 17, 2015 Town Council meeting.

CHAIR: I close this Public Hearing at 8:53 p.m.

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 8:54 p.m.

Ernest Bencivenga & Nicholas Bencivenga (205-19-24-3), 2 Foote Street, Unit 3, one year round rental; Janice & Scott Hebert (208-1-1-7), 180 Saco Avenue, Unit 7, one year round rental; Peter Townsend (211-2-8), 32 Old Salt Road, one year round rental; Kevin Beaulieu (309-9-1-15), 7 Heath Street, Unit 15, one year round rental; and Laura Dawson (324-10-3), 23 Weymouth Avenue, one year round rental.

CHAIR: I close this Public Hearing at 8:55 p.m.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the Business Licenses as read.

VOTE: Yea – Councilors Blow, Kelley and Chair O'Neill

Abstain – Councilor Tousignant who left the room for a moment.

PUBLIC HEARING AMUSEMENT PERMITS:

CHAIR: I open this Public Hearing at 8:56 p.m.

New England Restaurant Group dba/Pirate's Patio & Galley (304-2-9), 2 Walnut Street, amplified music, dancing and karaoke - Outside and Inside – 12:00 p.m. to 8:00 p.m.; and Jeanne LaChance dba/J.J.'s Eatery Too (306-5-1), 12 B Old Orchard Street, single acoustic – outside and Inside – 6:00 p.m. to 9:00 p.m. – off season; and 6:30 p.m. – 9:30 p.m. – in season.

CHAIR: I close this Public Hearing at 8:57 p.m.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the Amusement Permits as read.

VOTE: Yea: Councilors Kelley, Blow and Chair O'Neill
Abstain: Councilor Tousignant who left the room for a moment.

TOWN MANAGER'S REPORT:

The Town Manager reported that he is working with the Human Resource Manager on updating the personnel policy and the new employee handbook. Working with the Planning office and a resident volunteer to look into the feasibility of reducing train whistle frequency at Old Orchard Beach crossings. Finalized the sale of the two tax acquired mobile homes. Continued to meet with the Department Heads on the FY16 budget workshops beginning the first week in April. Continued to work with staff and the town attorney on the proposed TIF for the Pines. We will be having an Executive Session on March 17th regarding this issue. Met with the Department of Environmental Protection on the downtown cleaning contract. Found a willingness to work with the Town in recognition of our unique issues. The new name for the Ballpark team is OOB Surge.

6364 Discussion with Action: Accept, with regret, the resignation of Guy Fontaine from the Ballpark Commission.

BACKGROUND: Guy Fontaine has been an avid supporter and member of the Ballpark Commission but now will be assuming the stipend position of Ballpark Operations Manager. We thank Guy for all that he has done to make the Old Orchard Beach Ballpark viable and the enormous amount of hands-on labor that he has provided. The Ballpark will be in good hands.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Accept, with regret, the resignation of Guy Fontaine from the Ballpark Commission.

VOTE: Unanimous.

6365 AGENDA ITEM: Discussion with Action: Approve the Liquor License Renewals for New England Restaurant Group dba/Pirate's Patio & Galley (304-2-9), 2

Walnut Street, m-s-v in a Restaurant; Jeanne LaChance dba/J.J. Eatery Two (306-5-1), 12 B Old Orchard Street, m-s-v in a Restaurant Lounge; and New Pier Pizza Corp. dba/Pier Pizza (306-6-1), 2 Old Orchard Street, m-v in a Restaurant.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the Liquor License Renewals as read.

VOTE: Unanimous.

6366 Discussion with Action: Amend Town Policy for Disposition of Tax-Acquired Property, adopted November 26, 2002.

BACKGROUND:

In discussion of the disposition of tax acquired property it was noted that the policy governs the process by which the Town of Old Orchard Beach disposes of tax-acquired property after the process established under Maine law which automatically confers ownership of properties to the Town by operation of law. In a recent workshop the Town Manager and the Tax Collector explained the process of tax acquired property. Real estate (land and buildings) become tax acquired by the municipality when three events occur:

First: The assessor must properly assess and commit the taxes to the collector.

Second: The tax collector and treasurer must strictly follow the recording and notice requirements in 36 M.R.S.A., Section 942 and 943.

Third: The Period of redemption outlined in Section 943 must expire without the total amount due having been paid. It is not necessary to take physical possession of the property or to send a notice that foreclosure has occurred, or to record a statement in the Registry of Deeds that foreclosure has occurred – it happens by operation law.

The Town Manager presented a draft policy for tax acquired property which he is suggesting replace the Town's present policy for the Disposition of Tax-Acquired Property which was enacted on November 26, 2002. Below is the policy (draft) which was discussed in detail and suggested that it be brought to the Council for review and possible adoption.

This policy more clearly outlines the Pre-Foreclosure Review and Evaluation of Liened Property. The purpose of the policy is to establish procedure and guidelines for the management and disposition of real property acquired for non-payment of taxes, service charges or fees as provided for in State law under MRSA Title 36, as amended from time to time. Nothing in these guidelines shall limit or restrict the authority of the Town Council to waive these guidelines to manage or dispose of tax acquired property, as granted under Town Charter and State law within the best interest of the Town of Old Orchard Beach.

The proposed policy indicates that at the same time that a Notice of Foreclosure is sent, the Tax Collector will make available for review the listing of pending properties. Said properties shall be reviewed by the Town Administration to include, but not limited to, the Tax Collector, Town Manager, Finance Director, Town Planner, Code Enforcement Officer, Assessor, Police Chief, Fire Chief, and Recreation Director for the purposes of conducting the review of property. The reason this is so important is that it allows the Town the opportunity to determine if there is any reason the property should not automatically go into foreclosure. This permits the Town staff to examine properties for factors involving known deposits or

exposures of hazardous waste, conditions of properties that might be considered a public safety hazard, health hazard, or a financial burden to the Town, terms and or conditions that might preclude or prevent reasonable foreclosure by tax lien, landlord related claims, market value at time of foreclosure, and any other factors deemed within the best interest of the Town. The review of property shall give consideration to the Town's ability to perfect such liens, and achieve reasonable collection of the total sum of back taxes, interest, and any other direct costs owed.

It was also noted in the policy that the Town Council, may, prior to automatic foreclosure, delegate, as permitted under Maine law, designate review and action to the Town Manager to determine properties that will not expire under automatic tax lien foreclosure processes and that shall be subject to a Waiver of Foreclosure Action. The Tax Collector shall prepare prior to redemption of the tax lien the Waiver of Foreclosure form and shall submit the same to the appropriate Registry of Deeds for recording. The Town shall retain all rights as granted by law for continued actions of equitable relief as amended from time to time.

The Town Manager explained that after the above process is done and outlined then the process of forwarding a copy of the list of tax acquired property to the Planning Board, Public Works Director, Superintendent of Wastewater, Director of Public Safety, the Recreation Director, the Conservation Commission and other department heads for their review and recommendations as to what shall be done with these properties. The policy will outline the various determinations of the properties.

It should be noted that during this process there is the opportunity for the property owner to come in and make a tax payment agreement with the Town Tax Collector which indicates payment on the property taxes and applied to the oldest outstanding tax and to all other real estate taxes on said property. Also due will be additional interest and lien costs. The Town Manager also presented to the Council a copy of the most recent update of properties in foreclosure showing name of the account, property identification, total update, value, square footage and any notes relative to the property as well as the location of the property.

AMENDMENT TO POLICY FOR TAX ACQUIRED PROPERTY

Section 1.0 General Purpose Statement

1.1 The purpose of this policy is to establish procedures and guidelines for the management and disposition of real property acquired for non-payment of taxes, service charges or fees as provided for in State law under MRSA Title 36 as amended from time to time. However, nothing in these guidelines shall limit or restrict the authority of the Town Council to waive these guidelines to manage or dispose of tax acquired property, as granted under Town Charter and State law, within the best interest of the Town of Old Orchard Beach.

Section 2.0 Pre-Foreclosure Review and Evaluation of Property in Lien

2.1 At the same time that Notice of Foreclosures are sent, pursuant to MRSA Title 36 §943, the Tax Collector shall make available for review the list of pending properties. Said properties shall be reviewed by Town Administration to include, but not limited to, the Tax Collector, Town Manager, Finance Director, Town Planner, Code Enforcement Officer, Assessor, Police Chief, Fire Chief, and Recreation Director for the purposes of conducting the Review of Property under Section 2.2.

2.2 Review of the Property as defined under Section 2.1 shall be initially conducted by Town Administration. Town Administration shall examine such Properties for such factors as situations involving known deposits or exposures of hazardous waste, conditions of Properties that might be considered a public safety hazard, health hazard, or a financial burden to the Town, terms and or conditions that might preclude or prevent reasonable foreclosure by tax lien, landlord related claims, market value at time of foreclosure and any other factors deemed within the best interest of the Town. The review of property shall give consideration to the Town's ability to perfect such liens, and achieve reasonable collection of the net sum of back taxes, interest, and any other direct costs owed.

2.3 After completion of the Review of Property by Town Administration, a list of Properties shall be compiled with description of said property, location by Map and Lot and a recommendation as to why the Property should not be subject to automatic tax lien foreclosure pursuant to MRSA Title 36.

Section 3.0 Council Consideration

3.1 The Town Council may, prior to automatic foreclosure, designate review and action to the Town Manager, hereinafter Designee, as in Section 2.1. Review and Action under this subsection shall determine a final list of Properties that will not expire under automatic tax lien foreclosure processes, pursuant to MRSA Title 36. Properties identified under Section 2.3 that are acted upon by the Council and or Designee shall be subject to a Waiver of Foreclosure Action.

Section 4.0 Waiver of Foreclosure

4.1 Any Properties as identified and acted upon under Section 3.0 shall be subject to a Waiver of Foreclosure, pursuant to MRSA Title 36 §944. The Tax Collector shall prepare prior to redemption of tax lien the Waiver of Foreclosure form and shall submit the same to the appropriate Registry of Deeds for recording. The Town shall retain all rights as granted under MRSA Title 36 for continued actions of equitable relief as amended from time to time.

Section 5.0 Tax Acquired Properties

5.1 Following the foreclosure of tax lien Property and within 90 days, the Tax Collector shall notify the owner of record at the last known address by certified mail, return-receipt that his/her right to redeem said Property has expired, pursuant to MRSA Title 36. Such notification shall advise the owner of record that the Property will be disposed of in accordance with this policy after the allowance of 30 days from mailing for response and in accordance with State law; a copy of which shall be included with the notification. The owner of record shall be afforded the right to redeem said property upon the payment in full an amount due under the lien and for all unpaid taxes outstanding on said property at that time.

5.2 The Town Manager, if necessary shall, in consultation with the Town Attorneys, review and pursue judicial confirmation of the Town's rights, title or interests in the subject property under 36 M.R.S.A. Section 946.

5.3 The Town Manager shall forward a copy of the list of tax acquired properties to the Planning Board, the Public Works Director, the Recreation Director, Town Planner, Code Enforcement Officer, Assessor, Police Chief, Fire Chief, Recreation Director, and the Conservation Commission, so that they may reply within 21 days of receipt whether any properties should be considered for retention for public use and provide a brief statement of the reasons therefore. The Town Manager shall coordinate and summarize these recommendations, summarize the result of his or her review of each such property and forward with recommendation to the Town Council as follows:

5.3.1 For non-residential, commercial, or residential property that is not the owner's primary residence, to sell the property with or without conditions, to retain for public use, to enter into an installment payment plan for redemption of property, or to take no action due to extenuating circumstances.

5.3.2 If the property is a single-family residence occupied by the owner or the owner's immediate family members, to enter into arrangements to secure just and prompt payment of outstanding and current taxes, related interests and costs, or to take no action at this time due to extenuating circumstances. The Town Manager may present the taxpayer with a written plan and an installment sales contract for payment of past due and currently due taxes, interest, and other cost due and owing to the Town under the tax lien and foreclosure process. The Town's costs shall include all costs incurred or to be incurred by the Town in addition to those incurred in the tax lien process and shall include, but not be limited to, insurance costs, registry filing and mailing costs, advertisement costs, and attorney's fees. The installment sales contract shall also require the owner of the property to maintain homeowner's insurance and provide proof of the same to the Town.

Failure of an owner to timely enter into an installment sales contract with the Town (within thirty (30 days) or strictly comply with the plan and terms of the installment sales contract, may result in a forfeiture of the plan and installment sales contract, and the property being either retained by the Town or sold under other provisions of this policy.

5.4 The Town Council may override a particular recommendation of the Town Manager but shall otherwise direct that the property be processed in conformance with the terms of this Policy. Nothing in this subsection shall be construed to limit or preclude the Council's authority and decision processes to retain tax-acquired property when so deemed by majority vote to be within the best interest of the Town. Considerations for such determinations shall include, but not be limited to, property that may have recreational or open space values, economic importance, potential for necessary present or future public easements, location or additions for public facilities or other criteria as determined by the Council.

5.5 Any sale of tax-acquired property shall be through a public sale through sealed competitive bids, or to the former owner of the property, as provided for by Town Charter. The Town Manager, in consultation with the Town Council, shall otherwise oversee the exact terms and conditions of such sale and use his or her best judgment to seek the best and most expedient method of sale and return on the sale for the Town.

Section 6.0 Savings Clause

6.1 In the event that this Policy or any part of it shall at any time be held to be contrary to law, void, or invalid by any court of competent and final jurisdiction or any administrative agency having final jurisdiction, or the Town Council, such determination shall not prevent the appropriate collection of real property taxes as set forth under MRSA Title 36 as amended from time to time.

Councilor Tousignant stressed several times and Councilor Kelley agreed that there needed to be a letter or something included with the tax bill that informs the citizens of this new policy and how it will affect them. Guy Fontaine suggested that it be sent only to those who have not paid their taxes to save taxpayer money. Consideration will be given to informing the public of the change in the policy as requested and it will also be put on the web site as well.

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Amend Town Policy for Disposition of Tax-Acquired Property, adopted November 26, 2002 and that something be sent out with the next tax bills informing the citizens of the change in the policy.

VOTE: Unanimous.

GOOD AND WELFARE:

HELENE WHITTAKER: She announced a Pot Luck Supper on March 12th at the Police Department being held by the Community Neighborhood Watch at 6:30 with a prize for the best appetizer and dessert.

GUY FONTAINE: He announced about upcoming plans in the summer months for the new baseball team and that it is a real pleasure to have the opportunity to work closely with the new team manager.

CHAIR O'NEILL: He again expressed appreciation to Guy Fontaine for his service and dedication to the work of the Ballpark which we know will continue.

ROBIN DUBE: She asked if consideration could be given to the businesses on Old Orchard Street that remain open have the snow removed in front of their businesses.

TOWN MANAGER: He explained that with the amount of snow and our limited staff, Public Works has done a magnificent job this winter.

ADJOURNMENT:

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Adjourn the Town Council Meeting at 9:45 p.m.

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 twenty-two (22) pages is a copy of the original Minutes of the Town Council Meeting of March 3, 2015.

V. Louise Reid