

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL MEETING
Tuesday, October 6, 2015
TOWN HALL CHAMBERS
7:00 p.m.**

A Town Council Meeting of the Old Orchard Beach Town Council was held on Tuesday, October 6, 2015. Chair O'Neill opened the meeting at 7:02 p.m.

The following were in attendance:

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

**Pledge to the Flag
Roll Call**

ACKNOWLEDGEMENT:

COUNCILOR KELLEY: A reminder that on Saturday, October 31, 2015 the Fire Department will be celebrating their Annual Halloween Party. It is always a great event enjoyed by residents and children of all ages. It begins at 6:00 p.m. We remind everyone of the Community Fall Yard Sale and Vendor Fair FOR A CAUSE. Saturday, October 10 – 8:00 to noon – at the Trinity Episcopal Church, across from Thornton Academy on Cleveland Street. The Community Animal Watch will be participating attempting to raise funds to support animal causes. Thanks to all who participated in the disposal of drugs held at the Police Department.

COUNCILOR TOUSIGNANT: The Town Clerk has asked that we announce that absentee voting is taking place here is the Town Council Chamber each day from 8:00 to 4:00 and on Tuesday's from 8:00 to 6:00 p.m. through Friday, October 30th. Election Day is Tuesday, November 2nd at the High School and hours are from 8:00 to 8:00.

ACCEPTANCE OF MINUTES:

Accept the Town Council Meeting Minutes of September 15, 2015; and the Administrative Review Board Minutes of September 23, 2015.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Accept the Minutes as read.

VOTE: Unanimous.

PUBLIC HEARING: REFERENDUM QUESTION #1

CHAIR: I open this Public Hearing at 7:06 p.m.

Referendum Question #1: Shall Order #2015-3A entitled, "Order to Authorize the Town of Old Orchard Beach to Issue General Obligation Bonds in the Principal Amount of \$857,000 to Fund Wastewater Treatment Facility Improvements, including a Process Building and Dewatering Upgrade Project," be adopted?

John Bird requested information on whether "odor control" is included in this upgrade. He gave an historical summary of the Waste Water facility going back to 1988 and mentioned how much of the equipment and the building itself is old. Technology has changed over the years and the building is in great need upgrades in almost every area. He was concerned that this bond did not include those upgrades. The Town Manager said the bond does not cover "odor" control but the Town is meeting with residents of Ocean Park on October 28th to discuss other ways of containing "odor" issues. Chris White, Superintendent of Waste Water, defined what the \$857,000 bond will cover explaining about clean water and sludge as it regards landfill and composting. He said this project is labor intensive and it is an investment that will start the Waste Water facility on the right road to upgrading its equipment. The Town Manager then encouraged support of the bond and asked citizens to recognize the worthiness of this bond project. The \$857,000 the town is proposing to borrow is purposed for adding a piece of dewatering equipment and associated apparatus. The department has performed multiple pilot tests on different pieces of dewatering equipment this year. The criteria we are looking for is a piece of equipment that will operate in an automated mode, reduce labor demands associated with the dewatering process, produce a 30% bio solid and reduce staff exposure to aerosols. Also included in the proposed project is the resealing of the process building floor which is showing signs of cracking. Also included in the project are misc. pumps, a chemical feed system and control panel. If there is enough funds we will also consider modifying and/or replacing the existing conveyer system. To date the town has not invested any funds in engineering for this project. If approved by the voters, the town would send the data from the pilot testing to be evaluated for life cycle costs.

CHAIR: I close this Public Hearing at 7:18 p.m.

PUBLIC HEARING: GENERAL ASSISTANCE ORDINANCE

CHAIR: I open the Public Hearing at 7:19 p.m.

Shall We Amend the General Assistance Ordinance, including 6.8 Basic Necessities, Overall Maximum Levels of Assistance; 6.8a Food; 6.8 Basic Necessities, Housing Maximums; C. Utilities, Electricity Maximums; and re-adopt without changes, D. Fuel; and E. Personal Care and Household Supplies?

CHAIR: I close the Public Hearing at 7:20 p.m.

BACKGROUND:

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

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on October 6th, 2015 at 7:00 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the General Assistance Ordinance by changing the dollar amounts allowed for Overall Maximums, Food Maximums, Housing Maximums, Utilities, Heating Fuel, and Personal Care & Household Supplies by deleting the strikethrough amounts and adopting the underscored amounts, as follows:

Amend Section 6.8 Basic necessities; Overall maximum levels of assistance

No. in Household	CURRENT MONTHLY	PROPOSED MONTHLY
1	\$762.00	\$803.00
2	\$901.00	\$956.00
3	\$1163.00	\$1181.00
4	\$1463.00	\$1563.00
5	\$1565.00	\$1641.00
6	\$1640.00	\$1716.00

*Add \$68.00 \$75.00 a month for each additional person.

Section 6.8 a) Food

No. of Household	CURRENT PROPOSED	CURRENT WEEKLY	PROPOSED WEEKLY	CURRENT MONTHLY	CURRENT MONTHLY
1	\$46.51	\$45.12	\$83.02	\$200.00	\$194.00
2		\$85.35	\$118.84	\$367.00	\$357.00
3		\$122.33	\$150.93	\$526.00	\$511.00
4		\$155.35	\$179.30	\$668.00	\$649.00
5		\$184.42	\$215.12	\$793.00	\$771.00
6		\$221.40	\$237.67	\$952.00	\$925.00
7		\$244.65		\$1,052.00	\$1,022.00
8		\$279.53		\$271.86	
	\$1,202.00	\$1,169.00			

Decrease Additional persons from \$150.00 to \$146.00 per month.

Amend Section 6.8 Basic necessities; Housing maximums

UNHEATED Bedrooms		CURRENT PROPOSED		CURRENT	
	PROPOSED	WEEKLY		WEEKLY	MONTHLY
	MONTHLY				
0		126.00	148.00	541.00	636.00
1		126.00	176.00	541.00	757.00
2			156.00	218.00	672.00
939.00					
3		216.00	296.00	928.00	1,272.00
4		216.00	301.00	928.00	1,293.00

HEATED Bedrooms		CURRENT PROPOSED		PROPOSED	
	CURRENT	CURRENT PROPOSED	WEEKLY	WEEKLY	MONTHLY
	MONTHLY	WEEKLY			
0	139.00	172.00	596.00	740.00	
1	147.00	206.00	633.00	886.00	
2	188.00	256.00	810.00		1,099.00
3	259.00	341.00		1,114.00	1,468.00
4		266.00			356.00
	1,531.00				1,143.00

C. Utilities. Electricity Maximums for Households Without Electric Hot Water. The maximum amounts allowed for utilities for lights, cooking, and other electric uses, excluding electric hot water are:

Number in Household	Weekly	Proposed	Monthly	Proposed
1	\$14.00		\$60.00	
2	\$15.70		\$67.50	
3	\$17.45		\$75.00	
4	\$19.20	\$19.70	\$82.50	\$86.00
5	\$23.10		\$99.00	
6	\$25.00		\$107.00	

*Add \$7.50 a month for each additional family member.

Electricity Maximums for Households that Use Electrically Heated Hot Water. The maximum amount allowed for electric utilities for dwelling units that have electrically heated hot water shall be \$70 per month for the first member of the household, with an additional \$10 per month for each additional household member.

Number in Household	Weekly	Proposed	Monthly	Proposed
1	\$19.10		\$82.00	\$86.00
2	\$23.75		\$102.00	
3	\$27.70		\$119.00	
4	\$32.25		\$139.00	
5	\$37.30		\$160.00	
6	\$41.00		\$176.00	

RE-ADOPT THIS SECTION WITH NO CHANGES) D) Fuel. Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

When considering requests for heating fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

Month	Gallons	Month	Gallons
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
	May	50	

(RE-ADOPT THIS SECTION WITH NO CHANGES) E. Personal Care and Household Supplies. Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and light bulbs

Number in Household	Weekly Amount	Monthly Amount
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

For each additional person add \$1.25 per week or \$5.00 per month.

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

Number of Children	Weekly Amount	Monthly Amount
1	\$12.80	\$55
2	\$17.40	\$75
3	\$23.30	\$100
4	\$27.90	\$120

PUBLIC HEARING BUSINESS LICENSES AND APPROVAL:

CHAIR: I open this Public Hearing at 7:20 p.m.

Christina Spellman (104-2-14-103), 135 Portland Avenue, #103, one year round rental; Christopher B. Hitchcock (105A-1-400-B2), 53 Wild Dunes Way, Unit B2, one year round rental; Ernie & Keely Stanhope (207-2-13-406), 161 Saco Avenue, Unit #406, one year round rental; Sandra Germaine (210-1-20-26), 39 Smithwheel Road, #26, one year round rental; Jon Stewart (310-6-1-240), 39 West Grand Avenue, one year round rental; and Ray & Dawn Fenuccio (317-4-7), 12 Beecherie Avenue, one year round rental.

CHAIR: I close this Public Hearing at 7:22 p.m.

MOTION: Vice Chair Thornton motioned and Councilor Blow seconded to Approve the business licenses as read.

VOTE: Unanimous.

PUBLIC HEARING AMUSEMENT PERMITS:

CHAIR: I open the Public Hearing at 7:23 p.m.

HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, Music - 11:00 a.m. to 1:00 a.m. – Inside and 11:00 a.m. to 12:30 a.m. Outside.

CHAIR: I close the Public Hearing at 7:24 p.m.

MOTION: Vice Chair Thornton motioned and Councilor Kelley seconded to Approve the Amusement Permit as read.

VOTE: Unanimous.

TOWN MANAGER'S REPORT

The Town Manager worked with the Planner and legal Counsel to clarify to what extent retail sales are permitted in Home Occupations. This was related to an application in front of the Planning Board. The finding was that retail sales are not permitted except as a very incidental part of any home occupation. He met with the Interim Public Works Director and Wright Pierce engineering to review drawings for proposed drainage and sidewalk work on the west side of First Street. The Town will be inviting affected property owners to a meeting to view what is proposed. The Saco Avenue Intersection project is moving along well. Base paving is scheduled to take place this Friday. Fall paving of Ross Road from Portland Avenue to Scarborough line is being done, including leveling of the culvert at the low spot. Milliken Street and Walnut Street will be done in the next week or two. Staff is working on the Wastewater Storage Building upgrade and will be reviewed by the Planning Board on October 8th. Have put together a proposal to secure a state grant to construct twelve boardwalks on side streets along East Grand Avenue and to rebuild two other boardwalks. We have started to work to consider the Milliken Street parking lot area as the staging area for downtown cleaning services and trash removal. This proposal will come before the Council in the near future. The Administrative Review Board has met twice to discuss

possible ordinance revisions intended to hold licenses businesses more accountable for repeated violations. Staff has met with Dunkin Donuts personnel and the MDOT and the developer to discuss the proposed Dunkin Donuts at the corner of Saco Avenue and Smithwheel Road. Our discussion centered around traffic concerns at this already busy intersection. Staff urged that a traffic light be part of this development. However, MDOT was very doubtful that the volume of traffic is high enough to meet its standards for signalization. Staff from Town Departments met with the developer who owns 2/3 of the remaining undeveloped lots in the Homewood Park area, east of Garden Street. His intent is to develop the remaining paper streets, over 100 lots. Staff is in discussions whether streets would be public or private, drainage, and stormwater management.

6506 Discussion with Action: Approve the Special Event Permit for the Chamber of Commerce to hold their annual Season by the Sea Celebration on Sunday, December 6th, 2015, from 10 a.m. to 5 p.m., (rain date December 13th, 2015) to include a parade, music, tree lighting in the Square and possibly Memorial Park, civic organizations serving food, and horse drawn hayrides. Request for a banner in the Square from November 16th, 2015 to December 8th, 2015.

MOTION: Councilor Tousignant motioned and Vice Chair Thornton seconded to Approve the Special Event Permit as read.

VOTE: Unanimous.

6507 Discussion with Action: Appropriate \$750 from Account Number 20102-50549 – Town Manager – Miscellaneous Expense, with a balance of \$10,750; to Account Number 20174-50708 – Firefighters Halloween Party, with a zero balance to support the Town’s Halloween Party.

BACKGROUND: The Annual Halloween Party held at the Fire Department is a favorite for not only citizens but visitors and an enjoyment for everyone.

MOTION: Councilor Kelley motioned and Vice Chair Thornton seconded to appropriate \$750 from Account Number 20102-50549 – Town Manager – Miscellaneous Expense, with a balance of \$10,750; to Account Number 20174-50708 – Firefighters Halloween Party, with a zero balance to support the Town’s Halloween Party.

VOTE: Unanimous.

6508 Discussion with Action: Amend the Town of Old Orchard Beach Code of Ordinances as follows: Chapter 54 – Traffic and Vehicles, Article V – Stopping, Standing, Parking, Division 2 – Specific Places, Section 54-187 – Restrictions and Prohibitions, Seaside Avenue.

BACKGROUND: After a workshop and a public hearing and input from many citizens, the Police Chief’s recommendation is no parking on either side of Seaside Avenue. Eliminate all parking on Seaside Avenue from the intersection of Union Avenue and Seaside Avenue to the intersection of Seaside and Winona Avenue.

PROPOSED NEW ORDINANCE

Sec. 54-187. Restrictions and prohibitions.

Diagonal parking only shall be allowed on the ocean side of Seaside Avenue, between Colby Avenue and Temple Avenue; each parking space shall have a 30-minute limit and shall be so marked with appropriate signs. No vehicle shall be parked on either side of Seaside Avenue between Randall Avenue and Porter Road. Parallel parking only shall be allowed on the ocean side of Seaside Avenue between Winona and Tunis Avenues. No vehicle shall be parked on the westerly side of Seaside Avenue between Winona and Tunis Avenues. Parking is allowed on both sides of Seaside Avenue from Demeritt Square to Oceana Winona Avenue; parking is allowed on the ocean side only of Seaside Avenue from Oceana to Tunis Avenue; Parking is allowed on both sides of Seaside Avenue from Tunis Avenue to Odessa Seacliff Avenue. No vehicle shall be parked on both either sides of Seaside Avenue from Winona Seacliff Avenue to Union Avenue.

There was conversation from Roger Stevens and Sherry Tripp regarding concerns about this. Mr. Stevens said it was not fair to those who are visitors to the beach in the summer time and it is favoring just a few property owners in that area. Ms. Tripp was concerned about the enforcement of those who infringe on the easements of town property.

MOTION: Councilor Tousignant motioned and Vice Chair Thornton seconded to Amend the Town of Old Orchard Beach Code of Ordinances as follows: Chapter 54 – Traffic and Vehicles, Article V – Stopping, Standing, Parking, Division 2 – Specific Places, Section 54-187 – Restrictions and Prohibitions, Seaside Avenue.

VOTE: Unanimous.

6509 Discussion with Action: Approve the purchase of bulk road salt from Eastern Salt Company, Inc., in the amount of \$59.29 per ton, not to exceed \$60,000, from Account Number 20151-50515 – Public Works Road Salt – Winter Account, with a balance of \$60,000.

BACKGROUND:

The Public Works Department went out to bid for Bulk Road Salt. They received five bids:

Monson Companies Inc.	No bid
Morton Salt, Inc.	\$61.50
Granite State Minerals, Inc.	\$73.49
Cargill	No bid
Eastern Salt	\$67.45

After consultation with the bidders, Eastern Salt Company came in with their adjusted bid of \$59.29 per ton and it is recommended that we accept their bid for this year. The Public Works Office Manager was able to bring forth this lower bid.

MOTION: Councilor Kelley motioned and Vice Chair Thornton seconded to Approve the purchase of bulk road salt from Eastern Salt Company, Inc., in the amount of \$59.29 per ton, not to exceed \$60,000, from Account Number 20151-50515 – Public Works Road Salt – Winter Account, with a balance of \$60,000.

VOTE: Unanimous.

6510 Discussion with Action: Approve the bid from Burns' Fencing to remove and install a new fence around the Memorial Park Tennis Courts, in the amount of \$8,725.00 from Account Number 50002-50812 – Memorial Park Capital Improvements with a balance of \$60,000.

BACKGROUND:

The Public Works Department went out to bid and received three quotes:

Burns' Fencing	\$ 8,725.00
Coastal Fence	\$ 9,850.00
H. A. Stone & Sons	\$12,100.00

The Public Works Department is recommending accepting the Burns' Fencing bid of \$7,730.00.

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the bid from Burns' Fencing to remove and install a new fence around the Memorial Park Tennis Courts, in the amount of \$8,725.00 from Account Number 50002-50812 – Memorial Park Capital Improvements with a balance of \$60,000.

VOTE: Unanimous.

6511 Discussion with Action: Approve the services of Ted Berry Company to do the fall 2015 and spring 2016 cleaning of the wet wells at the Waste Water Facility and Pump Stations in the amount of \$30,000 from Account Number 20161-50342 – Waste Pumping Expenses, with a balance of \$30,000.

BACKGROUND:

The OOBWWTF does not have any automated equipment to remove grit/sand/textiles as it enters the WWTF. Instead of removing the textile items, they are 'shredded' by inline grinders. A portion of the grit/sand settles in tanks and wet wells at the WWTF and pump stations. The OOBWW department must periodically clean out the various tanks, channels and wet wells manually. Cleaning is normally performed twice a year. Some of the cleanings require the staff to divert flow, bypass a portion of the treatment process and perform permitted confined space entry(s). This makes some of the cleaning 'time sensitive'. The OOBWW department has worked alongside the Ted Berry Company with all aspects of the cleaning over the past ten years. The OOBWW department supplies the safety equipment and runs the permitted confined space entry program that is required to access some of the tanks. Ted Berry Company has previous knowledge of the system and has demonstrated a high level of efficiency. By working closely with Ted Berry the OOBWW staff has reduced the amount of time it takes to complete the cleanings. It is expected that the Ted Berry Company and OOBWW staff will complete the cleanings in three days at a total cost of \$8000. It is estimated that there will be another \$7000 to dispose of the debris at Eco-Maine in Westbrook. The request is also to approve the spring cleanings which are estimated to be the same cost.

**Christopher White,
Wastewater Superintendent**

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Approve the services of Ted Berry Company to do the fall 2015 and spring 2016 cleaning of the wet wells at the Waste Water Transfer Facility and Pump Stations in the amount of \$30,000 from Account Number 20161-50342 – Waste Pumping Expenses, with a balance of \$30,000.

VOTE: Unanimous.

6512 Discussion with Action: Transfer the Surplus Equipment – Fire Department’s 2001 GMC ½ Ton Truck to Regional School Unit 23 from the Town of Old Orchard Beach, at no cost.

BACKGROUND: Two years ago the F350 was turned over to the Regional School Unit 23. The School is asking to do a swap for the ½ ton Fire Department’s 2001 GMC Truck and the F350 would go out in the Surplus Action.

MOTION: Councilor Blow motioned and Vice Chair Thornton seconded to Transfer the Surplus Equipment – Fire Department’s 2001 GMC ½ Ton Truck to Regional School Unit 23 from the Town of Old Orchard Beach, at no cost.

VOTE: Unanimous.

At this point Councilor Tousignant asked to be excused.

6513 Discussion with Action: Approve the Agreement with Woodward & Curran for Engineering Services, at a cost of \$10,000 from Account Number 20161-50300 - Waste Water Treatment Plant Professional Engineering, with a balance of 20,000 (this expenditure to be reimbursed with the proceeds from the General Obligation Bond issue scheduled for April 2016.)

BACKGROUND:

MOTION: Councilor Blow motioned and Vice Chair Thornton seconded to Approve the Agreement with Woodward & Curran for Engineering Services, at a cost of \$10,000 from Account Number 20161-50300 - Waste Water Treatment Plant Professional Engineering, with a balance of 20,000 (this expenditure to be reimbursed with the proceeds from the General Obligation Bond issue scheduled for April 2016.)

**VOTE: YEA: Councilors Blow, Kelley, Vice Chair Thornton, Chair O’Neill
ABSENT: Councilor Tousignant had been excused from the meeting.**

6514 Discussion with Action: Approve the purchase of five (5) School Zone flashing signs in the amount of \$11,543.35 from Account Number 50002-50506 – Public Works Capital Improvements Road Maintenance/Improvements, as part of the Saco Avenue Intersection Project, with a balance of \$766,747.31.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the purchase of five (5) School Zone flashing signs in the amount of \$11,543.35 from Account Number 50002-50506 – Public Works Capital Improvements Road Maintenance/Improvements, as part of the Saco Avenue Intersection Project, with a balance of \$766,747.31.

VOTE: YEA: Councilors Blow and Kelley, Vice Chair Thornton, Chair O’Neill
ABSENT: Councilor Tousignant had been excused from the meeting.

At this point Councilor Tousignant rejoined the meeting.

6515 Discussion with Action: Set a Public Hearing date of October 20th, 2015, to amend Chapter 34, Housing, Sections 34-26 (Definitions); 34-29 (Responsibility of owners); 34-30 (Responsibilities of rooming house operators); 34-91 (Occupancy requirements); 34-93 (Habitable space requirements); 34-94 (Public space); 34-95 (Accessory rooms); 34-96 (Access and vertical travel between stories); 34-97 (Exits); 34-126 (General Requirements); 34-127 (Exterior protection); 34-128 (Interior protection); 34-156 (Installation, location and maintenance); 34-157 (Protection from freezing); 34-158 (Safeguarding of moving parts); 34-159 (Plumbing); 34-160 (Fuel gas); 34-161 (Heating); 34-164 (Fuel oil); 34-195 (Portable extinguishers required in multiple dwellings); and 34-196 (Smoke detectors), of the Town of Old Orchard Beach Code of Ordinances.

BACKGROUND:

A great deal of time and effort has been put into consideration of the changes to the Ordinances as it relates to housing and other requirements in the hiring of international students.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Set a Public Hearing date of October 20th, 2015, to amend Chapter 34, Housing, Sections 34-26 (Definitions); 34-29 (Responsibility of owners); 34-30 (Responsibilities of rooming house operators); 34-91 (Occupancy requirements); 34-93 (Habitable space requirements); 34-94 (Public space); 34-95 (Accessory rooms); 34-96 (Access and vertical travel between stories); 34-97 (Exits); 34-126 (General Requirements); 34-127 (Exterior protection); 34-128 (Interior protection); 34-156 (Installation, location and maintenance); 34-157 (Protection from freezing); 34-158 (Safeguarding of moving parts); 34-159 (Plumbing); 34-160 (Fuel gas); 34-161 (Heating); 34-164 (Fuel oil); 34-195 (Portable extinguishers required in multiple dwellings); and 34-196 (Smoke detectors), of the Town of Old Orchard Beach Code of Ordinances.

VOTE: Unanimous.

BACKGROUND:

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

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on October 20th, 2015, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 34, Housing, Sections 34-26 (Definitions); 34-29 (Responsibility of owners); 34-30 (Responsibilities of rooming house operators); 34-91 (Occupancy requirements); 34-93 (Habitable space requirements); 34-94 (Public space); 34-95 (Accessory rooms); 34-96 (Access and vertical travel between stories); 34-97 (Exits); 34-126 (General Requirements); 34-127 (Exterior protection); 34-128 (Interior protection); 34-156 (Installation, location and maintenance); 34-157 (Protection from freezing); 34-158 (Safeguarding of moving parts); 34-159 (Plumbing); 34-160 (Fuel gas); 34-161 (Heating); 34-164 (Fuel oil); 34-195 (Portable extinguishers required in multiple dwellings); and 34-196 (Smoke detectors); of the Town of Old Orchard Beach Traffic Ordinance is amended by deleting the strikethrough language and adding the underscored language:

Chapter 34 - HOUSING

FOOTNOTE(S):

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Cross reference— Utilities, ch. 58; buildings and building regulations, ch. 66. (Back)

ARTICLE I. - IN GENERAL

Secs. 34-1—34-25. - Reserved.

ARTICLE II. - MINIMUM STANDARDS

DIVISION 1. - GENERALLY

Sec. 34-26. - 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:

Alcove means a small recessed section of a room.

Basement means that portion of a building located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Cellar means that portion of a building located partly or entirely underground but having half or more than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants, with the exception of buildings or parts of buildings used as a motel, hotel, guest cottage, cabin, sporting camp or other similar facility, rented or leased for a period not more than 30 days.

Dwelling unit means any room or groups of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXISTING STRUCTURE ANY RESIDENCE ERECTED PRIOR TO THE DATE OF THE ADOPTION OF THE CODE, WHICH HAS A LEGAL BUILDING PERMIT, AND OCCUPANCY PERMIT

Family means a household containing a single housekeeping unit occupied by one or more persons.

Finished grade means the natural surface of the ground, or surface of the ground after completion of any change in contour.

Habitable room means a room or enclosed floor area consisting of habitable space.

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

Immediate family means mother, father, sister, brother, and children of the owner or occupant and spouse.

INTERNATIONAL GUEST WORKER A FOREIGN NATIONAL BROUGHT TO THE UNITED STATES TO FILL A TEMPORARY JOB MUST MEET ALL FEDERAL AND STATE REQUIREMENTS (i.e. H2B worker)

Kitchen means space, 60 square feet or more in floor area, used for cooking or preparation of food.

Kitchenette means space less than 60 square feet in floor area, used for cooking or preparation of food.

LIVING ROOM A ROOM IN A RESIDENCE USED FOR COMMON SOCIAL ACTIVITIES OF THE OCCUPANTS

Mixed occupancy means occupancy of a building in part residential use and in part some other use not accessory thereto.

Multiple dwelling means any dwelling containing more than two dwelling units, rooming units or a combination of both.

Premises mean a lot, plot, or parcel of land including the buildings or structures thereon.

Public space means that space used in common by the occupants of several units within a dwelling or rooming house and by the public.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rooming house means any dwelling or part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not members of the owner's or operators immediate family.

Stairway means one or more flights of stairs and the necessary landings and platforms connected therewith to form a continuous passage from one floor to another.

Story means the portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story only when its ceiling is six or more feet above the finished grade.

Students traveling with a J-1 cultural exchange work visa means nonimmigrant students visiting with a J-1 visa from May to October of the calendar year.

Toilet room means enclosed space containing one or more water closets, which may also contain one or more lavatories, and other plumbing fixtures.

(Ord. of 4-2-1991, § 4; Ord. of 4-7-2009(1))

Sec. 34-27. - Applicability.

This article shall apply to residential premises as follows:

- (1) Lots, plots, or parcels of land on which residential buildings, buildings of mixed occupancy or accessory structures are located.**
- (2) Residential buildings, including one- and two-family dwellings, multiple dwellings, and rooming houses or boardinghouses.**
- (3) Residential occupancies in buildings of mixed occupancy.**

(Ord. of 4-2-1991, § 1)

Sec. 34-28. - Prohibition.

No person shall occupy as owner/occupant or shall rent to another for occupancy any dwelling, dwelling unit, or rooming unit that does not comply with the requirements of this article.

(Ord. of 4-2-1991, § 3)

Sec. 34-29. - Responsibility of PROPERTY owners.

(a) Owners of premises shall be responsible for compliance with this article and shall remain responsible therefor regardless of the fact that this division may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

(b) Owners of premises shall be responsible for proper maintenance, condition, and operation of service facilities. (Ord. of 4-2-1991, § 30)

(c) PLACARDS MUST BE PLACED TO THE EXTERIOR OF THE BUILDING VISABLE FROM THE PUBLIC AND/OR PRIVATE RIGHT OF WAY (ROAD).THE PLACARD MUST INDICATE THE NUMBER OF OCCUPANTS IN EACH UNIT. THE COLOR OF THE PLACARD MUST BE IN CONTRAST TO THE STUCTURE IT IS PLACED.

THE SIZE MUST BE 6 INCHES BY 6 INCHES

Sec. 34-30. - Responsibilities of rooming house operators PROPERTY OWNER.

Rooming house operators PROPERTY OWNERS shall be responsible for compliance with this article in regard to the following:

- (1) Limiting occupancy to the maximum permitted by this article.
- (2) Maintenance of safe and sanitary conditions in all parts of the rooming house premises.
- (3) Maintenance and operation of all required service facilities.
- (4) Maintenance of all plumbing, cooking and refrigeration fixtures and appliances within his control, as well as building equipment and facilities, in an operative, clean and sanitary condition.
- (5) Sanitary maintenance of walls, floors and ceilings.
- (6) Keeping exits clear and unencumbered.
- (7) Disposal of building garbage and refuse in a clean and sanitary manner.
- (8) Extermination of insects, rodents or other pests on the premises.
- (9) Hanging and removing required screens.

(Ord. of 4-2-1991, § 31)

Sec. 34-31. - Responsibilities of occupants.

Occupants of dwelling units shall be responsible for compliance with this article in regard to the following:

- (1) Limiting occupancy of that part of the premises which he occupies or controls to the maximum permitted by this article.
- (2) Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.
- (3) Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which he occupies or controls, in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- (4) Keeping exits from his dwelling unit clear and unencumbered.
- (5) Disposal of garbage and refuse into provided facilities in a clean and sanitary manner.
- (6) Extermination of insects, rodents or other pests within his dwelling unit.
- (7) Hanging and removing required screens.
- (8) Keeping his domestic animals and pets in an appropriate manner and under control.

(Ord. of 4-2-1991, § 32)

Secs. 34-32—34-60. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

FOOTNOTE(S):

--- (2) ---

Cross reference— Administration, ch. 2. (Back)

Sec. 34-61. - Duty of code enforcement officer.

This article shall be administered by the code enforcement officer. The code enforcement officer shall cooperate with other municipal, governmental and private agencies engaged in the study and improvement of housing conditions.

(Ord. of 4-2-1991, § 33)

Sec. 34-62. - Inspections.

- (a) Conduct of inspections. The code enforcement officer is authorized to conduct inspections of all premises within the scope of this article.
- (b) Investigation of complaints. The code enforcement officer shall investigate all complaints of alleged housing violations.
- (c) Right of entry. The code enforcement officer in the performance of his duties shall have the right of access to any premises at reasonable hours, upon giving proper identification, for the purpose of inspecting the premises in order to determine compliance

with this article and for the purpose of examining and inspecting any work performed under this article.

(d) **Access.** Owners, agents, operators and occupants shall provide access to all parts of the premises within their control to the code enforcement officer acting in the performance of his duties. A refusal to provide such access shall be a violation of this article.

(Ord. of 4-2-1991, § 34)

Sec. 34-63. - Enforcement.

(a) **Orders and hearings.** Procedures for orders and hearings under this article are as follows:

(1) Whenever the code enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any section of this article, he shall give notice of such violation to the person responsible therefor as provided in this section. Such notice shall:

a. Be in writing.

b. Include a statement of the reason why the notice is being issued.

c. Allow a reasonable time for the performance of any act it requires.

d. Be served upon the owner or his agent or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon such owner or agent or upon such occupant if a copy thereof is served upon him personally, if a copy thereof is sent by registered mail to his last known address, if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice, or if he is served with such notice by any other method authorized or required under state laws.

Such notice may contain an outline of remedial action which, if taken, will effect compliance with this article.

(2) Any person affected by any notice which has been issued in connection with the enforcement of any section of this article may request and shall be granted a hearing on the matter before the code enforcement officer by filing a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within ten days after the day the notice was served. Upon receipt of such petition, the code enforcement officer shall set a time and place for such hearing and shall give the petitioner notice thereof in the matter prescribed in subsection (a)(1)d of this section. Such hearing shall be commenced not later than ten days after the day on which the petition was filed, provided that, upon application of the petitioner, the code enforcement officer may postpone the date of the hearing for a reasonable time beyond such ten-day period.

(3) If any violation of this article is not cured to the satisfaction of the code enforcement officer after notice and hearing is provided in accordance with this section, and after the expiration of the time for compliance set forth in the notice, the town manager or town council is authorized to commence legal proceedings to enforce this article and to recover appropriate penalties and costs.

(b) **Posting of unfit dwelling.** Where violations of this article exist and pose an immediate hazard and danger to the health, safety or welfare of building occupants or of the public, the code enforcement officer may declare the premises unfit for human habitation and order the evacuation of all occupants. The premises shall be posted with notices of such order prominently displayed at every entrance. Any person affected by such declaration and evacuation order may request a hearing as provided in subsection (a) of this section.

(c) **Removal of notice prohibited.** It shall be unlawful to deface or remove the placard from any premises which have been condemned as unfit for human habitation and posted as such.

(d) **Use of posted premises for human habitation.** No premises which have been condemned and posted as unfit for human habitation shall again be used for human habitation until written approval is secured from and such notice is removed by the code enforcement officer. The code enforcement officer shall remove such notice whenever the defect upon which the condemnation order was based has been eliminated.

(Ord. of 4-2-1991, § 35)

Sec. 34-64. - Appeals procedure.

(a) The zoning board of appeals is empowered to review decisions of the code enforcement officer pursuant to this article. Within 30 days of a written determination, an appeal may be filed. The zoning board of appeals is authorized to hear the following two types of appeals:

(1) **Administrative review.** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the code enforcement officer in the enforcement of this article.

(2) **Variances.** To authorize upon appeal in specific cases, such as a variance from the terms of this article, as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this article will, in an individual case, result in unnecessary hardship, so that the spirit of this article shall be observed, public safety and welfare security and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship upon a finding of the board of appeals that:

a. The application of this article to this particular piece of property would create an unnecessary hardship;

b. The conditions giving rise to the variance request are peculiar to the particular piece of property involved; and

c. The relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this article.

(b) The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the code enforcement officer or to decide in favor of the applicant of any matter on which it is required to pass under this article or to effect any variation in the application of this article. The board will notify, in writing, the applicant within seven working days of its decision under review. Appeals from decisions of the board of appeals must be directed to the superior court within 30 days of the decision.

(Ord. of 4-2-1991, §§ 38, 39)

Secs. 34-65—34-90. - Reserved.

DIVISION 3. - SPACE AND OCCUPANCY

FOOTNOTE(S):

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Cross reference— Retention of proposed public sites and open spaces, § 74-269. (Back)

Sec. 34-91. - Occupancy requirements.

(a) **Generally.** No person shall occupy as owner-occupant or shall let to another for occupancy any dwelling, dwelling unit, or rooming unit which does not comply with the minimum standards for space and occupancy in this section. Any motel, hotel, guest cottage, cabin, sporting camp or similar facility must comply with these space and occupancy standards when an occupant stays in one or more units for a continuous period in excess of 30 days.

(b) **Dwelling and rooming units.** Every dwelling, dwelling unit and rooming unit shall contain at least 200 square feet of floor area of habitable space for the first occupant and at least 150 square feet of additional area of habitable space for each additional occupant. A child under the age of one shall not be counted as an occupant for the purposes of this section.

(c) **Students traveling with a J-1 cultural exchange work visa, clubs, dormitories, sorority and fraternity houses INTERNATIONAL GUEST WORKER** shall comply with the following from April 1 through November 1, **WITHIN EXISTING STRUCTURES** Where sleeping quarters are furnished for persons in a club, dormitory or sorority or fraternity house or students traveling with a J-1 cultural exchange work visa, the number of occupants in any habitable room occupied for sleeping purposes shall be limited to the number determined on

the basis of the floor area, in square feet, of the habitable space divided by 75 square feet per occupant.

Every dwelling unit shall contain habitable space of at least a kitchen, or kitchenette, bathroom, and living room of not less than 120 square feet of habitable area

Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.

(d) Posting of notice of permitted occupancy. Notice shall be posted in each unit offered for rent stating the maximum number of occupants allowed under this article.

(e) Notice of permitted occupancy required. When a person lets to another for occupancy any dwelling, dwelling unit, or rooming unit, he shall notify the occupant in writing of the maximum number of persons permitted to occupy the premises by this section.

(Ord. of 4-2-1991, § 4; Ord. of 4-7-2009(1))

Sec. 34-92. - Prohibited uses.

(a) Sleeping. No kitchen, uninhabitable space, or public space shall be used for sleeping purposes in a residential premises.

(b) Meal preparation. Meals shall not be prepared in any room other than a kitchen or kitchenette.

(c) Basement. No basement space shall be used as a habitable space unit unless the floors and walls are free from chronic dampness and protected from surface runoff and the space otherwise complies with the requirements of this article.

(Ord. of 4-2-1991, § 5)

Sec. 34-93. - Habitable space requirements.

(a) Minimum ceiling height. Fifty percent of the floor area of a residential premises shall have a minimum ceiling height of seven six inches, and any floor area where the ceiling height is less than five feet shall not be considered in computing floor area.

(b) Minimum size of rooms. With the exception of sec34-91 (b) (c) J-1 housing every dwelling unit shall contain at least one habitable room having a minimum of 150 square feet of floor area with no horizontal dimension of less than ten feet. Every other habitable space, except kitchens, shall contain not less than 80 square feet of floor area and shall have no horizontal dimension of less than seven feet.

(c) Alcove considered part of habitable room. Every alcove having less than 80 square feet in area, except a kitchenette or foyer, shall be deemed part of an adjacent room. The area of the opening in the dividing partition between any alcove having less than 80 square feet and the adjacent room shall be at least 80 percent of the wall area of such partition, measured on the alcove side, but in no case less than 40 square feet. The floor area of the alcove shall be added to the floor area of the adjacent room in determining space, light and ventilation requirements for the room. Any alcove with an area of more than 80 square feet shall be separately lighted and ventilated as required for habitable space.

(d) Light and ventilation. Light and ventilation shall be provided as follows:

SHALL COMPLY WITH THE NATIONAL ELECTRICAL CODE, MAINE UNIFORM PLUMBING CODES, MAINE SUBSURFACE WASTEWATER, AND MUBEC FAMILY OF BUILDING CODES AS ADOPTED IN CHAPTER 66 AND STATE OF MAINE

(1) Every habitable room shall be provided with natural light through one or more windows, skylights, transparent or translucent panels, or any combination thereof that open directly to the outdoors, at least six inches above the adjoining finished grade, or are above a roof. The amount of light shall be equivalent to that transmitted through clear glass equal in area to at least ten percent of the floor area of the room.

(2) Every habitable room shall contain at least two separate duplex convenience outlets or at least one duplex convenience outlet and one ceiling-type or wall-type electric light fixture.

(3) Every habitable room shall be provided with natural ventilation through windows or other openings in exterior walls that face directly out-of-doors above the adjoining finished

grade or above a roof, or through skylights, providing total clear ventilation area that is equal to not less than five percent of the total floor area of each habitable space.

(4) Habitable rooms also may be provided with mechanical ventilation, but this may not be substituted for natural ventilation.

(e) Separation of rooming units. Rooming units shall be separated from each other and from other spaces outside the rooming units.

(f) Access to communal kitchen or dining room in rooming house. A communal kitchen or dining room in a rooming house shall be accessible to the occupants sharing such kitchen or dining room without going through a dwelling unit or rooming unit of another occupant.

(Ord. of 4-2-1991, § 6)

Sec. 34-94. - Public space.

SHALL COMPLY WITH THE NATIONAL ELECTRICAL CODE, MAINE UNIFORM PLUMBING CODES, MAINE SUBSURFACE WASTEWATER, AND MUBEC FAMILY OF BUILDING CODES AS ADOPTED IN CHAPTER 66 AND STATE OF MAINE

(a) Height. Public space in a residential premises shall have a minimum height of seven feet six inches measured from finished floor to finished ceiling.

(b) Light and ventilation. Light and ventilation in a residential premises shall be provided as follows:

(1) Public spaces shall be provided with electric lighting.

(2) In public stairs, stairways, and passageways, electric lighting shall be available at all times so as to afford safe visible passage for occupants and users. Such lighting shall conform to the following:

a. A sufficient number of fixtures shall be provided so that the distance between fixtures is not more than 30 feet, and so that no wall is more than 15 feet distant from a fixture.

b. Incandescent lighting shall be based on not less than one-fourth watt per square foot of floor area, except that no fixture shall have a lamp with less than 25 watts.

c. Fluorescent lighting shall be based on not less than one-tenth watt per square foot of floor area, except that no fixture shall have a lamp with less than 15 watts.

d. Where under these formulae the calculated wattage does not correspond to that of a standard lamp, the next larger standard size shall be used.

(3) Public spaces shall be provided with either natural ventilation, conforming to the requirements for habitable space, or with mechanical ventilation.

(Ord. of 4-2-1991, § 7)

Sec. 34-95. - Accessory rooms.

SHALL COMPLY WITH THE NATIONAL ELECTRICAL CODE, MAINE UNIFORM PLUMBING CODES, MAINE SUBSURFACE WASTEWATER, AND MUBEC FAMILY OF BUILDING CODES AS ADOPTED IN CHAPTER 66 AND STATE OF MAINE

(a) Toilet rooms and bathrooms. Standards for toilet rooms and bathrooms in residential premises shall be as follows:

(1) Toilet rooms and bathrooms in one- and two-family dwellings shall have provisions for privacy.

(2) Toilet rooms and bathrooms for dwelling units in multiple dwellings shall be located within each dwelling unit and shall be accessible from any sleeping room without passing through any other sleeping room.

(3) Rooming houses shall include at least one toilet room and bathroom or combination toilet room/bathroom for every three rooming units, and such toilet and bathroom facility shall be located no more than one floor away from the rooming unit and shall be accessible from every rooming unit utilizing the facility without passing through any other rooming unit or dwelling unit.

- (4) In one- and two-family dwellings, bathrooms and toilet rooms shall be provided with floors of moisture-resistant material.
- (5) In multiple dwellings, floors of bathrooms, toilet rooms and similar spaces shall be waterproof; such waterproofing shall extend six inches or more up on adjacent walls, except at doors, so that floors can be flushed or washed without leaking.
- (b) Light and ventilation. Light and ventilation shall be provided as follows:
- (1) Kitchenettes, bathrooms and toilet rooms shall be provided with artificial light appropriate for the use of such rooms.
- (2) Laundry rooms, furnace rooms, and similar spaces shall be provided with artificial light appropriate for the intended use of such rooms.
- (3) Kitchenettes shall be provided with ventilation in accordance with either of the following:
- a. Natural ventilation as required for habitable space, except that such openable areas shall be not less than three square feet.
- b. Mechanical ventilation exhausting not less than 100 cubic feet per minute.
- (4) Bathrooms and toilet rooms shall be provided with ventilation in accordance with either of the following:
- a. Natural ventilation as required for habitable space, except that such openable areas shall be not less than 1½ square feet.
- b. Mechanical ventilation exhausting not less than 25 cubic feet per minute.
- (5) Spaces in multiple dwellings which contain central heating, air conditioning and similar equipment shall be ventilated to the outer air, and air from these spaces shall not be recirculated to other parts of the building.
- (6) Natural ventilation shall be provided in unheated attics, spaces below flat roofs and crawl spaces. Ventilation location and net areas of openings shall be such as to minimize deterioration from condensation or other causes, in conformity with generally accepted standards.
- (Ord. of 4-2-1991, § 8)

Sec. 34-96. - Access and vertical travel between stories.

SHALL COMPLY WITH THE NATIONAL ELECTRICAL CODE, MAINE UNIFORM PLUMBING CODES, MAINE SUBSURFACE WASTEWATER, AND MUBEC FAMILY OF BUILDING CODES AS ADOPTED IN CHAPTER 66 AND STATE OF MAINE

(a) **Stairs.** Stairs in residential premises must comply with sections 8.17.3 through and including 8.17.6 of the building code adopted in section 66-26

(b) **Railings.** Hand railings shall be provided on all portions of stairs, balconies, landings and stairwells.

(Ord. of 4-2-1991, § 9)

Sec. 34-97. - Exits.

Exits in a residential premises must comply with section 809 of the building code adopted in section 66-26.

(Ord. of 4-2-1991, § 10)

Secs. 34-98—34-125. - Reserved.

DIVISION 4. - STRUCTURAL REQUIREMENTS

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 66. (Back)

Sec. 34-126. - General requirements.

SHALL COMPLY WITH THE NATIONAL ELECTRICAL CODE, MAINE UNIFORM PLUMBING CODES, MAINE SUBSURFACE WASTEWATER, AND MUBEC FAMILY OF BUILDING CODES AS ADOPTED IN CHAPTER 66 AND STATE OF MAINE

- **Loads.** Residential buildings and parts thereof shall be maintained so as to be capable of sustaining safely their own weight and the loads to which they may be subject.
- **Loads transmitted to soil.** Buildings shall be maintained so that loads are transmitted to the soil without undue differential settlement, unsafe deformation or movement of the building or of any structural part.
- **Protection of structural members.** All structural members shall be protected against freezing and thawing, dampness, corrosion, wetting and drying, termites and other destructive insects and all similar causes of deterioration.
- **Water penetration into basements and cellars.** A building built in soil which is water-bearing at any season of the year shall be maintained so that groundwater and surface water will not penetrate into habitable spaces, basements and cellars.
- (Ord. of 4-2-1991, § 11)
- **Sec. 34-127. - Exterior protection.**
- **Foundation walls.** Foundation walls in residential premises shall be maintained so as to be structurally sound and to prevent entrance of moisture, termites and vermin by shoring where necessary, installing subsoil drains at footings, grouting of masonry cracks, waterproofing of walls and joists, and other suitable means.
- **Exterior walls.** Exterior wall components shall be maintained so as to prevent deterioration due to the elements and destructive insects by painting, installing or repairing termite shields; by poison treatment of soil; or other suitable means.
- **Roofs.** Roofing shall be maintained in a watertight condition so as to prevent leakage into the building by repairs to roofing, flashings, waterproof coatings, or other suitable means.
- (Ord. of 4-2-1991, § 12)
- **Sec. 34-128. - Interior protection.**
- **Subterranean crawl space.** Crawl spaces in residential premises shall be maintained free of moisture, and the flow of air from such spaces into walls above shall be effectively barred so as to prevent deterioration of structural members or the spread of fire. Foundation walls shall have openings to provide adequate circulation of air in any subterranean crawl space. The ground in the crawl space shall be covered with a moisture barrier. Drains shall be installed outside the structure if the crawl space is below the surrounding grade. Openings shall be blocked in stud walls to prevent flow of air and moisture into walls. Termite tubes from the soil to wood floor members above shall be kept destroyed. The soil shall be poison treated when necessary.
- **Structural members.** Structural members shall be maintained so as to be structurally sound by shoring, reinforcement or repair when necessary; destruction of termite's tubes; and other appropriate maintenance.
- **Chimneys and flues.** Chimneys and flues shall be maintained so as to be structurally sound and to prevent leakage of gases into the structure. Flue stoppages shall be cleared, open joists sealed, and masonry repaired where necessary.
- **Ceilings and walls.** Ceilings and walls shall be maintained so that parts which become loose or defective shall be removed and replaced so as to not constitute a hazard to occupants.
- (Ord. of 4-2-1991, § 13)
- **Secs. 34-129—34-155. - Reserved.**
- **DIVISION 5. - EQUIPMENT**
- **Sec. 34-156. - Installation, location and maintenance.**
- **Plumbing, heating, electrical, ventilating, air conditioning, refrigerating, cooking, radiation-producing equipment, elevators, dumbwaiters, escalators and other mechanical additions, installations or systems for the use of the residential building shall be installed, located and maintained so that under normal conditions of use such equipment and systems will not be a danger to health or welfare, a danger because of structural defects or a source of ignition or a radiation hazard and will not create excessive noise or otherwise become a**

nuisance. Equipment and systems include but are not limited to apparatus, devices, fixtures, piping, pipe hangers, pipe covering, wiring, fittings, and materials used as part of or in connection with such installations.

- (Ord. of 4-2-1991, § 14(I))
- Sec. 34-157. - Protection from freezing.
- In a residential premises, equipment and systems subject to damage from freezing shall be adequately protected against freezing.
- (Ord. of 4-2-1991, § 14(II))
- Sec. 34-158. - Safeguarding of moving parts.
- Moving parts of equipment in a residential premises which may be a potential hazard shall be safeguarded to protect against accidental physical contact.
- (Ord. of 4-2-1991, § 14(III))
- Sec. 34-159. - Plumbing.
- Generally. All plumbing and sewage disposal shall be in strict conformance with the state plumbing code and the town sewer regulations in article III of chapter 58
- Storm drainage. Roofs and paved areas, including yards and courts, shall be drained in a method as provided for in article III of chapter 58
- Sanitary fixtures. There shall be provided within each dwelling unit not less than one water closet, one bathtub or shower, one lavatory, and one kitchen sink, all of an approved type pursuant to the state plumbing code, with piped cold water to all fixtures and piped hot water to all fixtures but the water closet. Hot water shall be heated to a minimum of 110 degrees Fahrenheit.
- (Ord. of 4-2-1991, § 15)

Sec. 34-160. - Fuel gas.

- (a) General requirements. General requirements for fuel gas in a residential premises shall be as follows:
 - (1) Fuel gas piping systems shall be installed and maintained so as to remain gastight, safe, and operative under all conditions of use.
 - (2) Fuel gas piping systems shall provide a supply of gas sufficient to meet the maximum expected demand of the installed gas-burning appliances connected thereto.
- (b) Shutoff valves. Shutoff valves shall be provided as follows:
 - (1) Gas piping systems shall have at least one accessible means for shutting off all gas supply, and such means shall be maintained in good operating condition.
 - (2) An easily accessible shutoff valve or cock shall be provided in the piping in close proximity to and ahead of every outlet for gas appliances.
- (c) Service equipment for gas supplied from utility mains. Gas services, gas meters, and gas pressure regulators from utility mains shall be located so that they are protected from damage.
- (d) Gas refrigerators and ranges. Gas refrigerators and ranges shall be installed with clearance for ventilation and shall be maintained in good operating condition.
- (e) Liquefied petroleum gas. Standards for liquefied petroleum gas shall be as follows:
 - (1) Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in buildings.
 - (2) Liquefied petroleum gas shall not be vaporized by devices utilizing open flame or open electrical coil.
 - (3) Where two or more containers are installed, connection shall be arranged so that containers can be replaced without shutting off the flow of gas to equipment.
 - (4) Containers shall be designed, stored, and located so as not to be a hazard to the premises served or to the surrounding property.
 - (5) Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.

- (6) Systems shall have at least one accessible external means for shutting off the gas. Such means shall be located outside the building and shall be maintained in good operating condition.
- (f) High pressure gas (optional). Any service connection supplying gas at a pressure in excess of one psi gauge shall be provided with a device to reduce such pressure to not more than one-half psi gauge prior to entering the meter, except where such service supplies equipment using gas at high pressures.
(Ord. of 4-2-1991, § 16)
Sec. 34-161. - Heating.
- (a) General requirements. Residential buildings occupied between September 15 and May 15 shall be provided with heating equipment designed to maintain a temperature of not less than 68 degree Fahrenheit at a distance of three feet or more from exterior walls and at a level of five feet above the floor in habitable rooms, kitchens, kitchenettes, bathrooms and toilet rooms. The capability of the heating equipment to maintain such indoor temperatures shall be based on outside temperatures of -20 degrees Fahrenheit.
- (b) Smoke control. Fuel-burning heat-producing equipment shall be installed and maintained so that the emission or discharge into the atmosphere of smoke, dust particles, odors or other products of combustion will not create a nuisance or be detrimental to the health, comfort, safety, or property of any person.
- (c) Warm air heating. Ducts and other air handling equipment used for heating shall conform to the requirements of such equipment used for ventilating purposes as provided in M.403.1 of the 1990 BOCA Mechanical Code.
- (d) Prohibited locations for heat-producing equipment. Fuel-burning water heaters shall not be located in sleeping rooms, bathrooms, or toilet rooms.
- (e) Fuel supply connection. Heat-producing fuel-burning equipment shall be permanently fastened and connected in place. Any liquid fuel supply connected to such equipment shall be made with pipe or tubing of solid metal.
- (f) Installation and clearance. Where heat-producing equipment is installed on or adjacent to combustible materials, the location, insulation, clearance, and the control of the equipment shall be such that the temperature on the surface of the combustible materials will not exceed a safe temperature as provided in M.403.1 of the 1990 BOCA Mechanical Code.
- (g) Air supply. Air shall be supplied in accordance with the following:
- (1) Direct-fired heat-producing equipment and the enclosure in which it is located shall be provided with a supply of air adequate both for complete combustion at the rated gross output of the equipment and for the ventilation of the enclosure to prevent the accumulation of heat or gases.
- (2) Rooms containing fuel-burning equipment shall have such air supply provided by means of one or more openings to the exterior.
- (h) Removal of products of combustion. Products of combustion shall be removed as follows:
- (1) Equipment for burning solid or liquid fuels shall be connected to suitable chimneys or flues and shall not be connected to gas vents. Unvented heaters burning liquid fuels are prohibited.
- (2) Fuel-burning space heaters shall be connected to a suitable chimney or flue.
- (3) Gas-fired equipment shall be connected to a suitable chimney, flue or gas vent.
- (i) Safety devices. Safety devices shall be provided as follows:
- (1) Equipment capable of developing hazardous pressures or temperatures shall be provided with means to relieve safely such pressures and temperatures.
- (2) Controls for the safe operation of automatically operated heat-producing equipment shall be provided to function as follows:
- a. When failure or interruption of flame or ignition occurs, the fuel supply shall be cut off.

- b. When a predetermined temperature or pressure is exceeded, the input of additional heat shall be prevented or reduced to a safe rate.
- c. When the water in a steam boiler drops below a predetermined level, the fuel supply shall be cut off.
- d. When failure or interruption of the pilot light or main burner of liquefied petroleum gas equipment occurs, the fuel supply to each pilot light and main burner shall be cut off.
- (j) Heating of garages. Fuel-burning equipment for garages shall be installed to operate in a safe manner.

(Ord. of 4-2-1991, § 17)

Sec. 34-162. - Electrical.

All buildings used for residential purposes shall be wired for electricity in conformity with the electrical code adopted in section 66-56.

(Ord. of 4-2-1991, § 18)

Cross reference— Utilities, Ch. 58.

Sec. 34-163. - Cooking and refrigeration.

(a) Each dwelling unit shall be provided with appropriate cooking and refrigeration equipment.

(b) Cooking and refrigeration equipment shall be maintained in good operating condition.

(c) Fuel-burning cooking equipment shall be properly vented.

(Ord. of 4-2-1991, § 19)

Sec. 34-164. - Fuel oil.

(a) General requirements. Fuel oil used in residential premises shall be received, stored and conveyed by means of fixed liquid tight equipment.

(b) Storage tanks. Storage tanks shall be in compliance with the following:

(1) Tanks shall be provided with means for venting.

(2) Tanks shall be installed and maintained so as not to be a hazard to the premises served or the surrounding property.

(c) Automatic operation. The operation shall be in accordance with the following:

(1) Boilers and furnaces using fuel oil shall be provided with remote control to stop the flow of oil during fire or other emergency.

(2) Filling, emptying, and venting of tanks shall be by means of fixed piping. Pipes to underground tanks shall be pitched toward tanks. Terminals of fill and vent pipes shall be located outside buildings at a safe distance from building openings.

(Ord. of 4-2-1991, § 20)

Secs. 34-165—34-190. - Reserved.

DIVISION 6. - FIRE SAFETY

FOOTNOTE(S):

--- (5) ---

Cross reference— Fire prevention and protection, ch. 30. (Back)

Sec. 34-191. - Prohibited accumulations and storage.

No paints, volatile oils, cleaning fluids, or similar flammable or explosive matter and no wastepaper, boxes, rags or similar matter liable to spontaneous combustion shall be stored on residential premises except in a safe and well-ventilated location.

(Ord. of 4-2-1991, § 21)

Sec. 34-192. - Prevention of spread of fire.

(a) Walls and ceilings maintained free from cracks. Walls and ceilings in residential premises shall be maintained free from cracks and openings which would permit flames or excessive heat to enter the concealed space.

(b) Fire separation of buildings of mixed occupancy. In buildings of mixed occupancy, nonresidential space shall be separated from residential space by approved separations which will retard the spread of fire pursuant to table 313.1.2 of the building code adopted in section 66-26

(Ord. of 4-2-1991, § 22)

Sec. 34-193. - Interior finishes; trim and decorative materials.

Interior finish materials for acoustical correction, surface insulation and decorative treatment on the surfaces of walls and ceilings and interior trim in a residential premises shall be made of materials that will not, in burning, give off excessive amounts of smoke or toxic gases.

(Ord. of 4-2-1991, § 23)

Sec. 34-194. - Fireplaces.

Fireplaces in a residential premises must comply with sections 2400 through 2402.7 of the building code adopted in section 66-26.

(Ord. of 4-2-1991, § 24)

Sec. 34-195. - Portable extinguishers required in multiple dwellings.

Each oil burner for a boiler, furnace or central hot water heater in a multiple dwelling shall be provided with an approved hand fire extinguisher or two pails of at least ten-quart capacity filled with sand. Portable extinguishers shall be in accessible locations and in a condition which will permit efficient operation without delay.

(Ord. of 4-2-1991, § 25)

Sec. 34-196. - Smoke detectors.

(a) As used in this section, the term "smoke detector" means any device which, when activated by the presence of smoke, provides an audible alarm suitable to warn the occupants within the individual dwelling unit or rooming unit in which it is attached, which has been approved for use in this state by the state fire marshal.

(b) The owner shall install and maintain in good working order not less than one approved smoke detector upon or near the ceiling in areas within or giving access to bedrooms in every dwelling, dwelling unit or rooming unit.

(c) In every multiple dwelling or rooming house, not less than one approved smoke detector shall also be installed in each corridor and hallway on each floor.

(Ord. of 4-2-1991, § 25A)

Secs. 34-197—34-225. - Reserved.

DIVISION 7. - PROPERTY MAINTENANCE

Sec. 34-226. - Open areas.

(a) **Surface and subsurface drainage.** Surface and subsurface water shall be drained to protect residential buildings and structures and to prevent development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, stormwater sewers, approved combination storm and sanitary sewers, or other satisfactory drainage systems shall be used where deemed necessary.

(b) **Fences.** Fences and other minor structures shall be maintained in safe and substantial condition.

(c) **Paved areas.** Steps, walks, driveways, parking spaces, and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions.

(d) **Yards and courts.** Yards and courts shall be kept clean and free of physical hazards and the accumulation of debris and trash.

(e) **Noxious undergrowth.** Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health shall be eliminated.

(Ord. of 4-2-1991, § 26)

Sec. 34-227. - Buildings and structures.

(a) **Exterior wood surfaces.** Exterior wood surfaces of residential buildings and structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative.

(b) **Floors, walls, ceilings, etc.** Floors, walls, ceilings, furnishings and fixtures of residential buildings shall be maintained in clean and sanitary condition.

(c) **Accessory structures.** Accessory structures shall be maintained so as to be free of conditions detrimental to safety or health.

(Ord. of 4-2-1991, § 27)

Sec. 34-228. - Infestation and screening.

(a) **Grounds, buildings and structures.** Residential grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and other infestation. Methods used for exterminating insects, vermin, and rodents shall conform with generally accepted practices.

(b) **Screening of cellar and basement windows and openings.** Windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials to prevent ingress of insects, rodents and other vermin.

(c) **Screening of windows and doors during certain months.** From May 1 to October 1, entrances to residential buildings shall be provided with self-closing type screens, and windows and other openings used for ventilation shall be appropriately screened.

(Ord. of 4-2-1991, § 28)

Sec. 34-229. - Garbage and refuse.

(a) **Storage, handling and disposal.** Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in a residential premises.

(b) **Storing refuse in public halls prohibited.** In multiple dwellings garbage and refuse shall not be stored or allowed to accumulate in public halls or stairways.

(Ord. of 4-2-1991, § 29)

Secs. 34-230—34-255. - Reserved.

ARTICLE III. - CONVERSION OF SEASONAL STRUCTURES TO YEARROUND DWELLINGS

DIVISION 1. - GENERALLY

Sec. 34-256. - 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:

Conversion means the making of any physical alteration to a structure or to the land on which it is situated, including but not limited to the addition of any cooking device or refrigerator, heating unit, water supply, electrical modification, or sewage treatment system, which, either individually or in conjunction with other such changes, renders the structure suitable for use as a year-round dwelling or the change in use of a structure or any portion thereof previously used as a seasonal structure to a year-round dwelling.

Land use regulations means any and all zoning regulations, subdivision regulations, building codes, safety codes, electrical codes, or environmental regulations promulgated by the town, the state, or the United States.

Seasonal structure means any structure, including but not limited to hotel or motel units, private cottages, and guest or tourist cottages, or any portion thereof that, because of inadequate heating, water supply, sewage treatment, electricity, cooking facilities, or any other factor relating to the structure or to the land on which it is situated, could not prior to conversion be legally or safely used as a residence continuously during the calendar year.

Year-round dwelling means any structure or any portion thereof used or capable of being used as a residence for one or more persons, which possesses the minimum amount of utilities and services, including but not limited to heating, water supply, sewage treatment, electricity, and cooking facilities, to permit the structure to be used continuously as a residence during the entire calendar year.

(Ord. of 6-3-1986, § III)

Sec. 34-257. - Purpose.

The purpose of this article is to regulate the conversion of motels, hotels, private cottages, tourist or guest cottages, and other seasonally occupied structures into dwellings designed, intended to be used or actually used as year-round dwellings. Structures originally designed or constructed for seasonal occupancy often do not meet the land use, building code, safety and environmental standards applicable to dwellings. While such nonconformance may be tolerable in structures that are used only periodically or by transient visitors, the public

health, safety, and welfare require that such structures be upgraded if they are to be used as dwellings on a year-round basis. Therefore, prior to converting a seasonal structure to a year-round dwelling, the person desiring to convert a seasonal structure must first obtain a seasonal structure conversion permit from the building inspector.
(Ord. of 6-3-1986, § II)

Sec. 34-258. - Enforcement.

This article shall be enforced by the building inspector, who shall have the power to inspect premises with the consent of the owner or after obtaining an administrative warrant.
(Ord. of 6-3-1986, § V(4))

Sec. 34-259. - Violations.

It shall be a violation of this article for any person to convert a seasonal structure to a year-round dwelling without first having obtained a conversion permit from the building inspector. If a dwelling has been converted without a conversion permit, it shall also be a violation for any person to occupy or convey such dwelling.

(Ord. of 6-3-1986, § VII(1))

Sec. 34-260. - Appeals

Appeals from decisions of the building inspector under this article shall be to the board of appeals according to the procedures specified in division 2 of article II of chapter 78. Appeals shall be taken within 30 days of the decision complained of.

(Ord. of 6-3-1986, § VI(5))

Secs. 34-261—34-285. - Reserved.

DIVISION 2. - PERMIT

Sec. 34-286. - Required; criteria for issuance.

(a) No seasonal structure may be converted to a year-round dwelling until the owner or the person converting the seasonal structure obtains from the building inspector a seasonal structure conversion permit.

(b) The building inspector shall issue a seasonal structure conversion permit only upon making a written determination that the dwelling, after conversion, will conform to all land use regulations applicable to residential dwellings in the zoning district where the dwelling is located at the time of conversion. Where a lot or structure is lawfully nonconforming with respect to dimensional standards of chapter 78, such nonconformity shall not prevent conversion otherwise permitted under this article, except that the dwelling, after conversion, must comply with the parking space per dwelling unit requirements of chapter 78

(c) A seasonal structure conversion permit shall specify the alterations permitted or required to be completed prior to the issuance of a certificate of occupancy.

(Ord. of 6-3-1986, § IV; Ord. of 4-7-2009(1))

Sec. 34-287. - Application.

An application for a conversion permit shall be submitted in writing to the building inspector on a form designated by him for that purpose, which shall include all information required in an application for a building permit.

(Ord. of 6-3-1986, § V(1))

Sec. 34-288. - Expiration.

Every permit issued pursuant to this article shall expire after one year, unless conversion activities on the site have commenced, and shall expire after two years if the conversion is not then substantially completed. Conversion permits are not renewable, except that after a conversion permit expires a new application for another permit may be submitted to the building inspector. Any new conversion permit shall comply with all the requirements of this article and other land use regulations in effect at the time of the new application.

(Ord. of 6-3-1986, § V(2))

Sec. 34-289. - Transferability.

Conversion permits shall be site-specific and shall be valid only for the alterations specified in the application. If the lot or structure is sold after the conversion permit is issued, all rights, limitations and duties under the permit are automatically transferred to the new owner.

- # 6516 Discussion with Action: Authorize the Town Manager to execute an Agreement with the Maine Department of Transportation (DOT) for paving of Old Orchard Street in 2016 or 2017 at the local cost estimated to be approximately \$104,574.

BACKGROUND:

This is an agreement between the State of Maine Department of Transportation, the Municipality of Old Orchard Beach, Maine and the Portland Area Comprehensive Transportation System (PACTS). The Town Manager has provided information over the past several months of his meetings with PACTS and the moving forward of this project and he is now asking the Town Council to authorize him to execute this important Agreement.

MOTION: Councilor Blow motioned and Vice Chair Thornton seconded to Authorize the Town Manager to execute an Agreement with the Maine Department of Transportation (DOT) for paving of Old Orchard Street in 2016 or 2017 at the local cost estimated to be approximately \$104,574.

VOTE: Unanimous.

- # 6517 Discussion with Action: Accept the bid of \$15,000 from Prime Ford for a used 2011 Cargo Van to be used by Animal Control, from Account Number 52002- 50849 – Capital Improvement Vehicle Expense, with a balance of \$22,180.56.

BACKGROUND:

The Police Department personnel visited several automobile dealerships and also went on Craig's list to see what used vehicle with acceptable mileage was out there. The purchase from Prime Ford of the used 2011 Cargo Van to be used by Animal Control, in the amount of \$15,000 was the best purchase. This will come from Account Number 52002- 50849 – Capital Improvement Vehicle Expense, with a balance of \$22,180.56 and was approved during the budget process.

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Accept the bid of \$15,000 from Prime Ford for a used 2011 Cargo Van to be used by Animal Control, from Account Number 52002- 50849 – Capital Improvement Vehicle Expense, with a balance of \$22,180.56.

VOTE: Unanimous.

- # 6518 Discussion with Action: Approve the Liquor License for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, m-s-v in a Restaurant/Lounge.

MOTION: Councilor Blow motioned and Councilor Kelley seconded to Approve the Liquor License for HFY Enterprises Inc. dba/Oceanside Grille at the Brunswick (310-6-1), 39 West Grand Avenue, m-s-v in a Restaurant/Lounge.

VOTE: Unanimous.

GOOD AND WELFARE

There being no Good and Welfare comments, the Chair moved on to the next agenda.

6519 Executive Session: Performance Evaluation of Town Manager (discussion will occur in Executive Session) Pursuant to 1 M.R.S.A. Section 405(6)(A).

MOTION: Councilor Tousignant motioned and Councilor Kelley seconded to Enter into Executive Session: Performance Evaluation of Town Manager (discussion will occur in Executive Session) Pursuant to 1 M.R.S.A. Section 405(6)(A).

VOTE: Unanimous.

MOTION: Councilor Kelley motioned and Councilor Blow seconded to Exit the Executive Session: Performance Evaluation of Town Manager (discussion will occur in Executive Session) Pursuant to 1 M.R.S.A. Section 405(6)(A).

VOTE: Unanimous.

ADJOURNMENT:

MOTION: Councilor Tousignant motioned and Councilor Blow seconded to Adjourn the meeting at 8:45 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-eight (28) pages is a copy of the Town Council Meeting Minutes held on October 6, 2015.