

**TOWN OF OLD ORCHARD BEACH
TOWN COUNCIL SPECIAL MEETING
Tuesday, July 19, 2016
TOWN HALL CHAMBERS
Following the Town Council Meeting**

A Town Council Workshop of the Old Orchard Beach Town Council was held on Tuesday, July 19, 2016. Chair O’Neill opened the workshop at 8:00 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
Police Chief Dana Kelley
Code Enforcement Officer Dan Feeney**

The purpose of the evening workshop was to discuss possible changes to the Ordinances including Outside displays; outside solicitation of sales, temporary signs, permitting signs in all directions, performance standards for signs in all districts, performance standards for signs in residential districts, and general exemptions. Below are the two documents which were discussed at the Workshop.

Sec. 50-245. - Outside displays.

(a)

No person shall cause or permit any outside display to exist, except as authorized by subsection (b) of this section.

(b)

If a building is set back 35 feet or more from the edge of the blacktopped portion of the street adjacent to the front property line of the lot where located and upon issuance of a license by the town council pursuant to article II of [chapter 18](#) and upon compliance with other applicable laws and ordinances, including [chapter 78](#) pertaining to zoning, outside displays may be located within five feet, measured at right angles, of the front wall of the building, but no closer than five feet, measured parallel to the building, from either side of the building entrance. No parking of vehicles shall be permitted within five feet of any outside display permitted by this subsection.

(Ord. of 2-5-1991, §§ 3, 4; Ord. of 5-4-1993)

Sec. 50-246. - Outside solicitation of sales.

No person shall engage in the solicitation, sale or rental of any goods, wares or merchandise outside the enclosed portion of a building.

(Ord. of 2-5-1991, § 5)

The following sections are in the Zoning Ordinance and must be vetted through the Planning Board first before any changes can be made. I just added these in case there was discussion.

- **Sec. 78-1627. - Temporary signs.**

The following temporary signs may be permitted and exempt from the size and dimensional requirements of the zoning district, provided that the signage does not pose a safety hazard and meets all relevant conditions prescribed:

- (1) *Window posters.* Temporary signage placed inside of building windows announcing community events, provided the signage is removed within five days following the event.
- (2) *Business holiday displays.* Temporary holiday lighting, outdoor displays and other decoration of buildings or structures during holiday seasons when such decoration is customary.
- (3) *Real estate signs.* Real estate signs advertising the sale of a property on no illuminated signs not exceeding an aggregate total of eight square feet in residential districts and 15 square feet in business districts. All signs shall be removed from the premises within two days following the transfer of the property.
- (4) *Community festivals, carnivals, events at the ballpark, and special events.* Any signage erected by a business, charitable organization, or public organization directly associated with a public festival, carnival, events at the ballpark or special community event approved by the town council.
- (5) *Yard sales/garage sales.* Nonilluminated signs advertising a yard sale/garage sale only on a residential property provided all signage is removed within 48 hours of the termination of the yard sale.
- (6) *Project signs.* Nonilluminated signs announcing an approved and impending land development project and listing the consultants and contractors involved in the project. Project signs shall be limited to one sign per site and shall not exceed 32 square feet in sign area. Sign duration is a limit of two years.

(Ord. of 9-18-2001, § 5.4.6; Ord. of 10-16-2012(3))

- **Sec. 78-1628. - Permitted signs in all districts.**

Permitted signs in all districts are as follows:

- (1) Signage not to exceed an aggregate of four square feet painted on mailboxes or attached to the principal structure identifying the occupants of a residential property.
- (2) Temporary signage specified in [section 78-1627](#).
- (3)

Outdoor letterboard signs. The square footage of such letterboard shall be deducted from the allowable square footage of signage for the property.

(4)

Off-premises farm signs erected between May 1 and December 31 by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premises. A producer that grows, produces and sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to that highway. Signs must be directional in nature and may advertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the sign is no longer available. A sign may not exceed 8 square feet in size and must be located within one mile of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than two signs pursuant to this paragraph.

(Ord. of 9-18-2001, § 5.4.7; Ord. of 10-21-2008)

- **Sec. 78-1629. - Performance standards for signs in all districts.**

The following performance standards for signs are applicable to all districts of this chapter:

(1)

All proposed signs shall be sited on the same parcel as the principal building and may be freestanding, located in windows, attached to the building wall at any location below the roof eave or on projecting awnings.

(2)

No signage may be located in a public street, sidewalk, or within any sidewalk or entrance used by the public.

(3)

Any business owner with signage protruding over a town way, path, or sidewalk shall file with the town clerk a certificate of insurance showing that the owner is covered by a minimum of \$250,000.00 of liability insurance and that the town is a named insured with respect to any injury to person or property caused by the protruding sign.

(4)

Open banners. Flags or banners manufactured with the generic word "open" shall be permitted for display on any licensed business property or storefront located in any of the business districts. Such banners and flags shall be exempt from aggregate sign area and dimension requirements specified in the zoning district, provided no advertisement of a business or product is contained thereon and the banner or flag is removed at the close of the business day.

(5)

No illumination source for any sign shall be located within a public right-of-way or on public lands except for municipal uses and community events licensed by the town council.

(6)

Permitted sign area is not transferable between sides of the building located on a corner lot.

(Ord. of 9-18-2001, § 5.4.8)

- **Sec. 78-1630. - Performance standards for signs in residential districts.**

- (a) *Subdivision/multifamily signage.* Signage identifying subdivision projects, multifamily developments, or institutional uses in any residential district shall be limited to a maximum of 40 square feet of sign area with no single sign to exceed 25 square feet in sign area. Signs shall be illuminated only by shielded white illumination emanating from fixtures attached to the sign, building, or ground. Freestanding signs shall not exceed ten feet in height.
- (b) *Nonconforming nonresidential uses.* Nonconforming nonresidential uses located in a residential district shall conform to the standards of [section 78-871\(d\)](#).
(Ord. of 9-18-2001, § 5.4.9)

- **Sec. 78-1631. - General exemptions.**

- (a) *Municipal and state signs.* Signs or signage installed by or at the direction of the town or the state are fully exempt from this division.
- (b) *Designated landmark signage.* Signs receiving special designation from the planning board as landmark signage shall be exempt from [section 78-1624](#). In designating an existing sign as landmark signage, the planning board shall require the applicant to meet three of the following four criteria:
 - (1) The sign is an outstanding example of signage and graphic communication from a specific architectural and design period.
 - (2) The sign has been located on the same premises or business for at least 40 years.
 - (3) The sign is a distinctive example of graphic communication that is unique and recognized by the general public as a landmark within the town.
 - (4) The signage is compatible with and complements the architectural quality of the principal structure.
- (c) *Cornerstones and plaques.* Memorial signs, names of historic buildings and commemorative plaques, and cornerstone dates are exempt from the standards of this division, provided that such signage is permanently affixed to or engraved into the building or freestanding, as long as the signage does not exceed four square feet.
(Ord. of 9-18-2001, § 5.4.10)

Sec. 50-241. - 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:

Building entrance means any exterior door, doorway, entryway, portal, portico, threshold, vestibule, foyer or lobby and includes any recessed area adjacent to the doorway.

Enclosed means inside the walls, including windows of the building, and on the interior side of any exterior doors which open inward.

Front means the side of a building or lot in which the building entrance is located. Where a building has entrances facing more than one street, each side on which a building entrance is located shall be considered a front.

Outside display means any deposit, pile, placement, storage or display, outside the enclosed portions of a building, of any goods, wares or merchandise that are offered or available for sale, rental or distribution either inside or outside the building. For the purposes of this article, materials placed in the building entrance as defined in this section, shall be included as an outside display.

Sidewalk cafe means the establishment of tables and chairs on the public or privately owned sidewalk directly in front of, and accessory to a licensed victualer. Outdoor dining on private property, other than a sidewalk is not regulated by this article, but is regulated by chapter 78. For the purposes of this article, a sidewalk cafe is not considered an outside display.

Violator means and includes any person who commits, causes or creates a violation of this article; any owner of a business which employs a person who commits, causes or creates a violation of this article on the premises of that business; and any owner of property who permits or allows a violation to occur on that property.

(Ord. of 2-5-1991, § 2; Ord. of 8-16-1994; Ord. Of 4-6-2004; Ord. of 6-22-2011(1))

Cross reference— Definitions generally, § 1-2.

Sec. 50-242. - Purpose.

This article is intended to facilitate pedestrian traffic across the public sidewalks and in areas adjacent to the sidewalks and streets in order to promote the safety of pedestrians in the town and to improve the appearance of the town, particularly in the downtown area.

(Ord. of 2-5-1991, § 1)

Sec. 50-243. - Enforcement.

Any officer of the police department shall investigate any alleged violation of this article. Upon verification of the alleged violation, any officer of the police department may issue a citation for a civil violation. Service of the citation may be made upon any violator, as defined in section 50-241 and service on an employee or agent of a violator shall constitute service upon the violator.

(Ord. of 2-5-1991, § 8; Ord. of 2-5-1991; Ord. of 4-6-2004; Ord. of 6-22-2011(1))

Sec. 50-244. - Exemptions.

(a) Sections 50-245 and 50-246 do not apply to the following:

- (1) The otherwise lawful outside storage, display or sale of new or used motor vehicles, boats or other machinery or equipment customarily stored in a yard or display lot;
- (2) The otherwise lawful storage, display or sale of supplies incidental to the rendering of a service at the point of sale, such as motor oil to be dispensed at the gasoline pump island of an automobile service station;
- (3) The otherwise lawful nonalcoholic beverage machines and/or ice machines; or
- (4) The otherwise lawful, temporary, noncommercial yard sales, garage sales or charitable fundraising events.

(b) Also exempt is a retail sidewalk sale as authorized by the town council. Mobile ice cream trucks shall also be exempt from this article and shall be governed by article VII of chapter 18 pertaining to ice cream trucks.

(Ord. of 2-5-1991, § 10; Ord. of 8-3-1993; Ord. of 8-16-1994; Ord. of 6-15-1999)

Sec. 50-245. - Outside displays.

(a) No person shall cause or permit any outside display to exist, except as authorized by subsection (b) of this section.

(b)

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(Ord. of 2-5-1991, §§ 3, 4; Ord. of 5-4-1993)

Sec. 50-246. - Outside solicitation of sales.

No person shall engage in the solicitation, sale or rental of any goods, wares or merchandise outside the enclosed portion of a building.

(Ord. of 2-5-1991, § 5)

Sec. 50-247. - Obstruction of public passage.

No person shall hinder or impede the free and uninterrupted passage of pedestrians on, upon, across, or over any sidewalk, walkway, pathway or any other area, public or private, which is customarily used by the public for access to or passage by any business, public place or public building.

(Ord. of 2-5-1991, § 6; Ord. of 4-6-2004)

Sec. 50-248. - Placement of posters.

No person shall place or cause to be placed any advertising poster or notice on any utility pole or other pole or on any tree located on town property or on any public way, unless such poster or notice is expressly permitted by statute or ordinance.

(Ord. of 2-5-1991, § 7)

Sec. 78-1627. - Temporary signs.

The following temporary signs may be permitted and exempt from the size and dimensional requirements of the zoning district, provided that the signage does not pose a safety hazard and meets all relevant conditions prescribed:

- (1) *Window posters.* Temporary signage placed inside of building windows announcing community events, provided the signage is removed within five days following the event.
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(Ord. of 9-18-2001, § 5.4.6; Ord. of 10-16-2012(3))

It should be noted that this workshop was requested by Council because of recent summons which were served on some local business establishment for issue relative to the ordinance and the Council wished to address what could be done to make this a more favorable and positive ordinance as it relates to business. The area relatively speaking was the Saco Avenue area; Staples to Union; or some other specific area defined. Some of the issues related to perpetual garage and yard sales and displaying of sale items on the lawn or sidewalk area of the businesses. There was an extensive discussion of setback areas. Currently it is 35 feet from the edge of the road to the structure; five feet from the building; a five foot buffer.

It was hoped that the discussion this evening would allow the Council to inform staff of their intent including defining the particular area to be considered and placing limits so that would remove clutter issues; allow safety to be a consideration; and allow the ability to enforce. Chief Kelley explained that the ordinance has to be clearly defined to that the Police know what the ordinance requires and they can act accordingly and there has to be a sense of fairness to all concerned. Main concerns also include public safety, appearance, and fairness. Also to be considered is the concentration of traffic in a busy area. There was also discussion about yard sales and the need to in some way restrict the duration and also regulate signage including consideration of utility poles and where signage is placed.

Some of the limitations suggested were a five foot area from the sidewalk and limiting square footage (example – 15 feet long, 100 square feet.) Parking also was a consideration. The need and rules for enforcement is an important issue as well. It was indicated that in Section 50-245 – there are defining rules of five feet from the pavement; five feet from parking and five feet from the building.

The Town Manager indicated that staff would do some investigating of outside displays and look at the 3 feet and 5 feet setbacks from sidewalks as well as the limits on square footage of about 100 square feet and will identify what that means for the known properties in the designated area.

The Town Council workshop ended at 8:50 p.m.

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 nine (9) pages is a copy of the original Minutes of the Town Council Workshop of July 19, 2016.

V. Louise Reid