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TITLE IX

BUSINESS ORDINANCE

Chapter 1 Purpose and Authority

101 Purpose

The purpose of this Ordinance is to protect and promote public health, safety, and welfare through regulation of businesses generally and some business activity in particular.

102 Authority

Town authority to enact the various chapters of this Ordinance is found generally in Title 30 of the Maine Revised Statutes, in which the State of Maine authorizes municipalities to enact ordinances that promote public health, safety, and welfare. Title 28 of the Maine Revised Statutes authorizes municipalities to review liquor license and to issue special amusement licenses.

Chapter 2 Alcohol and Licensing Review

201 Application

In addition to the information required by Title 28 of the Maine Revised Statutes and the rules and Regulations of the State Liquor Commission of an applicant to the Board of Selectmen for a liquor license, applicants shall also provide the Selectmen with written reports from the Code Enforcement Office, Police Chief, and Fire Chief stating that the premises to be licensed are in compliance with all applicable rules, regulations and ordinances which such officials are responsible for enforcing. In addition, the application shall be accompanied by a drawing at a scale of one inch (1") to ten feet (10') depicting the size and nature of all areas of the premises open to the general public.

202 Fees

The annual fee to accompany each application shall be an amount determined by the Board of Selectmen and shall be submitted with the application. **(Amended Annual Town Meeting 04/05/2003)**

203 *Procedure*

Upon receipt of a completed application, the Town Manager shall schedule a public hearing by the Board of Selectmen at its next regular meeting but in any case within thirty (30) days of receipt of the completed application. The Town Manager shall cause notice of such hearing to be given to the applicant and the general public as required by the provisions of 28 M.R.S.A. sec. 252-A.

204 *Hearing*

At any hearing held hereunder, all interested persons shall have the right to offer verbal and written testimony.

205 *Decision*

The Board of Selectmen shall render a written decision within fifteen (15) days of the close of the hearing. If the Board grants a license, it may impose such conditions as are reasonably calculated to protect the public's health, safety and general welfare.

206 *Standard Conditions on Licensees*

The license issued must be posted on the licensed premises and shown to any Town Official upon request. In addition, the licensee must notify the Town Manager of the name, address and telephone of each person in charge of or responsible for the premises from time to time and must within ten (10) days of any change in responsibility so notify the Town Manager.

Chapter 3 Amusement Ordinance

301 *Title Purpose and Definition*

301.1 Title

This subchapter shall be known and may be cited as the "1989 Amusement Ordinance."

301.2 Findings and Purpose

Facilities offering entertainment tend to attract large numbers of people. Congregations of large numbers of people at such facilities, particularly at facilities licensed to sell liquor, can create problems involving noise, crowding, sanitation, traffic control, law

enforcement and other issues relating to the public's health, safety, and welfare and the right of citizens of and visitors to the Town to the quiet enjoyment of their lives and property. This Ordinance is required and intended to provide for the regulation of such facilities in all areas affecting the public's health, safety, and welfare which are not otherwise adequately provided for in other ordinances.

301.3 Authority

This Ordinance is enacted pursuant to the powers granted to the Town by 30-A M.R.S.A. 3001 and 28-A M.R.S.A. 1054. ***(Amended Special Town Meeting 08/20/1991)***

301.4 Definitions

As used in this Ordinance:

301.4.1 Bottle Club: Bottle Club means bottle clubs as defined in Title 28-A M.R.S.A. Section 2.

301.4.2 Municipal Officers: Municipal Officers means the Town of Ogunquit Board of Selectmen.

301.4.3 Commercial Facility: Commercial Facility means any place of for-profit business offering or providing or permitting entertainment to its patrons and includes bottle clubs.

301.4.4 Entertainment: Entertainment shall include dancing by or for patrons, any music, video games, devices, machines and any other amusement, performance, exhibition, diversion or other activity with an entertainment value, whether provided or used by patrons, independent contractors, employees or proprietors.

Entertainment shall not include televisions or radios nor shall it include "background music" meaning music not involving live performers and not used for dancing and which music is only incidental to the primary activity offered.

301.4.5 Licensee: Licensee shall include the person to

whom a license of any kind hereunder is issued, that person's agents, employees and servants.

301.4.6 Patron: Patron means any patron or customer of a commercial facility licensed or required to be licensed hereunder and any member of a bottle club.

301.4.7 Person: Person means any individual, partnership, corporation or other legal entity and their agents, employees and servants.

301.4.8 Video Games: Video games means those electrical or mechanical devices that the public may operate as a game, entertainment, or amusement, whether or not registering a score, whether or not there is a fee for use and includes pinball machines, and other devices known as such or similar in function.

302 *Licensing*

No person owning or operating a commercial facility shall permit or offer any entertainment in such facility unless the owner or operator thereof has first obtained an Amusement License for such facility from the Municipal Officers.

302.1 Special Amusement License: Special Amusement License is required for all outdoor entertainment events and for any commercial facilities which offer one (1) time entertainment events and which do not have a regular Amusement License. Each event shall require a separate license. The Municipal Officers or their designated agent shall issue each Special Amusement License.

302.1.1 Applications for Special Amusement License: Applications for a Special Amusement License shall be made on forms prescribed by the Municipal Officers and filed with the Town Clerk. Application shall be made at least fifteen days prior to the scheduled event. The application shall include the name and address of the sponsor of the event; the name and address of the facility at which the event will be held; the number of guests expected to attend; the type of entertainment to be provided;

the starting time of the event; and the duration of the event. STM 11/04/14

302.1.2 Issuance of Special Amusement License: Upon receipt of a completed Special Amusement License application, the Municipal Officers or their designated agent shall issue a Special Amusement License. A Special Amusement License shall be valid only for the date and time specified therein. The Municipal Officers or their designated agent shall not issue any Special Amusement License more than thirty (30) days in advance of the event.

The Municipal Officers or their designated agent may issue any number of Special Amusement Licenses. The Municipal Officers and their designated agent shall, however, have the right to refuse to issue more than three (3) Special Amusement Licenses to any single facility and may instead require a regular Amusement License. Recipients of a Special Amusement License shall comply with all other applicable provisions of this and other municipal ordinances; nothing in the Special Amusement License shall be construed to exempt the Licensee from complying with those ordinances.

303 *Restrictions and Conditions*

303.1 License Required

No commercial facility offering entertainment shall operate unless the owner or operator thereof holds a valid Amusement License for such facility issued by the Municipal Officers.

303.2 Noise

No licensee shall violate the provisions of any ordinance regulating noise. No licensee shall cause or permit his employees, agents, servants or performers providing entertainment to violate the provisions of any such ordinance, while they are on the licensed premises or upon the real estate of which the premises are a part. No licensee shall cause or permit his patrons or

customers to violate the provisions of any such ordinance while they are in the licensed premises. No licensee shall cause or permit his patrons or customers to violate the provisions of any such ordinance while they are upon the real estate of which the premises are a part, to the extent that he is able to prevent or interrupt such violation by the use of sound screening materials or by the use of supervisors or by other appropriate means.

303.3 Hours

No licensee shall offer entertainment except during the following hours:

303.3.1 Licensees not permitting or offering alcoholic beverages for consumption on the premises - 8:00 a.m. to 1:00 a.m., except to 2:00 a.m. on "New Years".

303.3.2 Licensees permitting or offering alcoholic beverages for consumption on the premises - 12:00 p.m. to 1:00 a.m., except to 2:00 a.m. on "New Years".

303.4 Number of Patrons

No licensee shall cause or permit the number of patrons at the licensed premises, at any time, to exceed the capacity or occupant load as determined by the Ogunquit Fire Chief pursuant to the National Fire Prevention Association Life/Safety Code, which capacity shall be set forth on the license itself. The occupant load for licensed premises wherein alcoholic beverages are served, including bottle clubs, shall be the occupant load permitted by the Code for dining.

303.5 Term of License

An Amusement License shall expire on May 31 of the year following its issuance.

303.6 Supervisors of Video Games

Operators of commercial facilities and/or Amusement Centers as defined in the Ogunquit Zoning Ordinance shall provide one (1) supervisor for between four (4) and ten (10) devices and two (2)

supervisors for between eleven (11) and twenty (20) devices with a maximum of twenty (20). The operator shall provide an exclusive floor area of sixty (60) square feet for each device. Operators of Amusement Centers shall not sell or vend or permit the sale, vending or consumption of food or drink on the licensed premises. A supervisor shall be an employee whose only duties shall be to provide direct supervision in accordance with the provisions of this Section.

303.7 Compliance with Other Municipal Ordinances or- Regulations and State Law

No license shall be issued if the licensed premises are in violation of any other municipal ordinance or regulation or state law regulations.

303.8 Additional Conditions

In granting any Amusement License, the Municipal Officers shall impose such further reasonable restrictions and conditions as are deemed appropriate in any particular case to best safeguard the public's health, safety, and welfare and the right of the citizens to quiet enjoyment of their life and property including but not limited to requiring bonds; requiring licensees to pay for the costs of noise level monitoring; and to require licensees to provide for and/or pay for an appropriate number of Town policemen or special employees to be present inside or outside the licensee's premises at designated times to ensure compliance with state law and Town ordinances and regulations.

304 *Application and Costs*

304.1 Application

Applications for Amusement Licenses shall be on forms prescribed by the Municipal Officers and filed with the Town Clerk.

Applications shall state the name of the applicant; all aliases; the applicant's residence address; the name of the business to be conducted; the business address; the precise location of the business; the nature of the business; the precise nature and form of the entertainment; whether the applicant has ever had a license to conduct that business either denied or revoked and, if so, the circumstances of such denial or revocation; whether the applicant, including all partners, directors, corporate officers and

stockholders of a closely held corporation, has ever been convicted of a felony and, if so, the circumstances of such conviction; and the occupant load as established by the Ogunquit Fire Chief. If the applicant is other than an individual, the applicant shall describe its legal structure and, in the case of a partnership, shall state, for each partner, all of the information required for individuals. If the applicant is a corporation, the applicant shall state the name, all aliases, and the residential and business addresses of all directors and officers. All closely held corporations must also include a list of all the stockholders in the corporation. All applications shall be accompanied by two (2) scale drawings at a scale of one inch (1") to ten feet (10') depicting the floors of the building in which the entertainment is to be located, all entrances and exits and all areas open to patrons, indicating in each area the use made by patrons and indicating the floors and areas for which the applicant seeks a license. Applicants for entertainment by video games shall present scale floor plans depicting the location and floor area of these devices and the location of supervisors. The applicant shall also list the machines by function and serial number. Applicants for entertainment, which includes patron dancing, shall present scale floor plans depicting the location and size of the dance floor.

304.1.1 Completed Application

Upon filing the application with the Town Clerk, together with the appropriate costs, the Clerk shall forward a Notice of Inspection to the Code Enforcement Officer/Fire Chief. The application shall be considered complete when the Town Clerk receives all information required above, all costs have been paid and the Municipal Officers have received written reports from the Code Enforcement Officer, Police Chief and Fire Chief stating that the premises are in compliance with all applicable codes and ordinances of the Town of Ogunquit. The applicant shall also provide any additional information as may be determined to be necessary by the Municipal Officers in processing and considering the application. All applications shall be signed by the principal proprietor of the business and by the property owner if the premises are not owned by the proprietor.

304.2 Costs

The applicant shall pay for all costs associated with the public hearing and advertisement thereof, which costs shall be determined by the Board of Selectmen. **(Amended Annual Town Meeting 04/05/2003)**

305 *Public Hearing, Decision and Reapplication*

305.1 Public Hearing

The Municipal Officers shall, prior to granting a license and after giving notice to the public and the applicant, hold a public hearing within fifteen (15) days of receipt of a completed application, at which the testimony of the applicant and that of any interested members of the public shall be taken. The Municipal Officers shall render a decision within fifteen (15) days of the closing of the hearing.

305.2 Decision

The applicant shall be notified, in writing; of the Municipal Officers' decision should the application be denied, no later than fifteen (15) days from the date of the decision. A denial shall contain the reasons for disapproving an application. The Municipal Officers shall deny a license if they find that issuance of the license shall be detrimental to the public health, safety, or welfare, or that the licensing or operation of the premises would or would be likely to violate a state law or Town ordinance or regulation or that the premises to be licensed are in violation of a state law or Town ordinance or regulation.

305.3 Reapplication

The applicant may not reapply for a license within thirty (30) days after the application has been denied.

306 *Inspections*

By applying for or accepting a license hereunder, the applicant and licensee thereby authorize any Town official to inspect the premises licensed or to be licensed for entertainment.

Inspection shall be for the purpose of determining the compliance with

state laws and all Town ordinances and regulations. Inspection may occur at any reasonable time.

It shall be a violation of this Ordinance if a licensee refuses or interferes with an inspection.

307 License Suspension or Revocation

After notice to interested parties and a public hearing, the Municipal Officers may suspend or revoke any Amusement License issued by authority of this ordinance. Grounds for such action shall include prior license suspension or revocation, misleading or falsification of information on applications or violations of state law or this or any other Town ordinance or regulation, so that the public health, safety, and welfare has been adversely affected by entertainment offered or permitted by a licensee. In revoking any permit the Municipal Officers may prohibit a licensee or its operators or its principals from reapplying for a new license for such term as they deem appropriate and is reasonable under the circumstances.

308 Appeal

Any applicant who has been denied a license or any licensee whose license has been suspended or revoked, may, within thirty (30) days of that denial, suspension, or revocation, appeal that decision. Appeals from the decision of the Code Enforcement Officer shall be to the Municipal Officers and appeals from the decision of the Municipal Officers shall be to the Zoning Board of Appeals in accordance with the provisions of 28A M.R.S.A. 1054 (8) and 30-A M.R.S.A. 2691 (4). **(Amended Special Town Meeting 08/20/1991)**

309 Other Regulations

The Municipal Officers are authorized, after public notice and hearing, to establish regulations governing the issuance of Amusement Licenses, classes of licenses, the entertainment permitted under each class and other limitations on these activities required to protect the public's health, safety and welfare. These regulations may specifically determine the location and size of licensed premises, the facilities that may be required for the permitted activities on these premises, the maximum number of people who may occupy those premises at one time, and the hours during which the activities are permitted.

The regulations shall be in addition to and no less stringent than this Ordinance.

310 *Enforcement*

The Town's regular and special police officers and Code Enforcement Officer are authorized to enforce the provisions of this Ordinance and regulations there under. Violators of this Ordinance shall be subject to civil penalties. Violators of the noise provisions of this Ordinance may also be subject to criminal penalties under Title II, Chapter 4.

311 *Penalties*

Whoever violates any of the provisions of this Ordinance shall be punished by a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each such violation. Each day of violation and each occurrence shall constitute a separate and distinct offense. Civil penalties shall inure to the benefit of the Town. Prosecutions for violation of this Ordinance shall not prevent prosecutions for violations of other ordinances.

312 *Severability*

The invalidity of any provision of this Ordinance shall not invalidate any other provisions.

313 *Effective Date*

This Ordinance shall become effective May 31, 1989.

314 *Effect on Other Ordinances*

This Ordinance shall repeal and replace the provisions of "Chapter 3A Amusement" and "Subchapter 3B 1982 Special Amusement Ordinance".

315 *Applicability to Existing Licenses*

The provisions of the Sections of this Ordinance shall apply to all persons currently licensed under Title IX, Subchapter 3B, 1982 Special Amusement Ordinance.

Chapter 4 Ordinance Prohibiting Obscenity for Commercial Gain

401 *Purpose*

Purpose of this Ordinance is to prohibit any commercial enterprise from presenting or engaging in any obscene exhibitions for profit. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression. The Town has enacted this Ordinance for the purpose of

promoting and protecting the general welfare, public safety, public order and morals.

402 *Definitions*

402.1 Commercial Enterprise means any business, corporation, association or natural person established for pecuniary gain other than a theater.

402.2 Theater means:

402.2.1 Any building or hall designed primarily for showing motion pictures, having a permanent movie screen and permanently fixed seats arranged in such fashion as to allow spectators an unobstructed view of the screen.

402.2.2 An open-air theater designed primarily for showing motion pictures, having a permanent movie screen and permanent devices for broadcasting movie sound tracks in motor vehicles.

402.2.3 Any playhouse, hall or similar structure designed primarily for legitimate artistic expression.

402.3 Present means to show, reveal, display or expose to any person.

402.4 Engage means to solicit, produce, direct, finance, physically partake in, compensate others for, further the interest of, or be otherwise involved with the proscribed conduct.

402.5 Obscene means any conduct of a sexual nature which:

402.5.1 To the average individual applying contemporary community standards, considered as a whole, appeals to the prurient interests;

402.5.2 Presents in a patently offensive manner actual or simulated ultimate sexual acts, sodomy, bestiality, excretory functions, masturbation, direct physical stimulation of unclothed genitals, flagellation or torture in context of ultimate sexual acts, lewd

exhibition of the human male or female genitals, pubic area, buttocks or the female breast below the top of the nipple;

402.5.3 Considered as whole lacks serious literary, artistic, political or scientific value.

402.6 Exhibition means any aural visual or tactile performance, dramatization, show or display which includes any amount of human, animal, or animated conduct whether presented live or by way of mechanical reproduction, sound recording, audio-visual cassette or tape, silhouette depiction or by any other means.

403 *Prohibition*

403.1 It shall be unlawful for any commercial enterprise to present for profit any obscene exhibition within the Town of Ogunquit.

403.2 It shall be unlawful for any commercial enterprise to engage in any obscene exhibitions for profit within the Town of Ogunquit.

403.3 It shall be unlawful for any commercial enterprise to solicit, permit, promote, or assist any commercial enterprise or person to present or engage in any obscene exhibitions within the Town of Ogunquit.

404 *Exceptions*

This Ordinance is not intended to regulate any conduct expressly regulated by existing State Statute.

405 *Penalty*

405.1 Any conduct made unlawful by this Ordinance and any violation of this Ordinance shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each offense. Each day that such unlawful act or violation continues shall be considered a separate offense. Fines collected for violation of this Ordinance shall be recovered for the use of the Town of Ogunquit.

405.2 In addition to any other penalty by law, the commission of acts prohibited by this Ordinance shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violations.

406 *Severability*

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance.

Chapter 5 Transient Business Ordinance

501 *Title*

This Chapter shall be known and may be cited as "Transient Business Ordinance of Ogunquit".

502 *Purpose*

The purpose of this Ordinance is to protect the public health, safety, and welfare by regulating transient business in Ogunquit. The necessity for regulating transient business is to protect the public from fraud or duress.

503 *Authority*

Authority to enact this Ordinance is found generally in Title 30 of the Maine Revised Statutes, in which the State of Maine authorizes municipalities to enact ordinances that promote public health, safety, and welfare.

504 *Definitions*

As used in this Ordinance, the words listed below shall have the following meanings:

504.1 A Transient Business is the sale of retail merchandise or services on a door-to-door basis or from a vehicle by any person, whether a resident or non-resident. The term includes activities commonly referred to as vending, hawking, and peddling.

504.2 Person applies to any individual, partnership, firm, association, corporation, or other legal entity, or any agent or employee of any individual, partnership, firm, association, corporation, or other legal entity.

505 *License Required*

505.1 Except as provided by Section 506, a person shall not conduct

transient business in Ogunquit unless that person shall have first obtained a transient business license from the Town of Ogunquit.

505.2 Applications for all transient business licenses shall be written, filed with the Town Clerk, and shall state the name of the applicant; his residence address, the name of the business to be conducted; his business address; the nature of his business; whether the applicant, including partners or superiors, has ever been convicted crimes other than traffic offenses, and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the Town Clerk in issuing the license.

505.3 The Town Clerk or other Town Official shall have a reasonable time, not to exceed three (3) working days, in which to investigate the application and background of the applicant.

506 Licensing Requirement Exceptions

506.1 The licensing requirement for transient business shall not apply to the following:

506.1.1 Non-profit civic, educational, or religious groups soliciting contributions as part of a fund-raising activity;

506.1.2 Sales or service personnel whom residents invite to their homes;

506.1.3 Sellers of the following products: fish, farm, orchard, dairy, baked goods, forest products and newspapers;

506.1.4 Sales or service personnel who service local businesses;

506.1.5 Political, religious, or other groups which are distributing free literature.

506.2 All other limitations, except as specifically noted, shall apply to any person conducting transient business, whether licensed or not.

507 *Licensing Fee*

The Board of Selectmen shall establish a reasonable fee for a transient business license.

508 *License Term and Conditions*

508.1 The Board of Selectmen shall determine the term and expiration of licenses.

508.2 The license holder shall carry and exhibit the license upon request of any person with whom the license holder is conducting business and to any Ogunquit police officer for purpose of inspection.

509 *Limitations*

509.1 The sale from a vehicle of food or drink for consumption or merchandise is prohibited in all public areas of Ogunquit.

509.2 Except for those persons servicing local businesses, sellers of merchandise, whether or not licensed, shall conduct business in residential areas only and not on public property in commercial areas.

509.3 A person, whether or not licensed, shall not conduct transient business between the hours of 8:00 p.m. and 8:00 a.m. This limitation shall not apply to sales or service personnel whom residents may call to their homes at other times.

510 *License Suspension or Revocation*

After giving notice to interested parties and holding a public hearing, the Board of Selectmen may suspend or revoke any transient business license issued by authority of this Ordinance. Grounds for action shall be misleading or falsification of information on transient business license applications, violation of any municipal ordinance or regulation or that public health, safety, and welfare have been adversely affected by action of a licensee.

511 *License and Appeal Procedures*

511.1 Any applicant who has applied for and has been denied a license or any licensee whose license has been suspended or revoked, may, within thirty (30) days of that denial, suspension, or

revocation, appeal that decision to the Ogunquit Board of Appeals. The Board of Appeals may grant or reinstate the license if it finds that the licensed activities would not adversely affect the public health, safety, and welfare, or that the denial, suspension, or revocation was arbitrary and capricious.

511.2 The appeal shall commence after the appellant has filed his appeal with the Town Clerk and has paid a reasonable fee as established by the Board of Selectmen.

512 *Enforcement*

Ogunquit police officers are authorized to enforce the provisions of this Ordinance.

513 *Penalties*

The penalty for violations of this Ordinance, except where specified, shall be a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), or by imprisonment for not more than thirty (30) days, or by both. Each day that a violation occurs or continues shall be considered a separate offense. Fines collected for violations of this Ordinance shall be recovered for the use of the Town of Ogunquit.

514 *Severability*

If any provision of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance.

515 *Effective Date*

This Ordinance shall become effective immediately. ***(Adopted by vote of the Ogunquit Village Corporation on June 2, 1980, Article 16 of the Warrant)***

Chapter 6 Yard or Garage Sales

601 *Definition*

601.1 A yard, garage, or similar sale is the sale from residential property of three (3) or more items of personal property. The sale may be conducted outdoors. Non-profit organization may hold sales on other than residential property provided that all proceeds go to

that organization. A non-profit organization is an organization qualified under the United States Internal Revenue Code, Section 501(s)(3) **(Amended Annual Town Meeting 04/07/1997)**

601.2 A yard, garage, or similar sale is different from a home occupation in that exterior display of items and advertising is permitted; and the sale may generate traffic, all of which are not permitted in a home occupation as defined in Title VIII, Zoning Ordinance.

601.3 Person means any individual, partnership, corporation or other legal entity and their agents and employees.

602 *Permit Required*

A person shall not conduct or allow his property to be used to conduct a yard, garage, or similar sale without first obtaining a permit from the Code Enforcement Officer. Each permit shall be valid for no more than three (3) consecutive days. The yard sale permit placard must be displayed in a location visible from the principal street frontage during the sale. **(Amended Annual Town Meeting 03/02/1985, Amended Annual Town Meeting 04/07/1997)**

603 *Permit Fee*

The fee for a yard, garage, or similar sale shall be five dollars (\$10). The Board of Selectmen is authorized to modify this fee. **(Select Board 06/01/2004)**

604 *Limitations*

604.1 A person shall not conduct or allow his property to be used to conduct more than three (3) yard, garage, or similar sales in any one-year period from January 1 to December 31.

604.2 A person conducting a sale shall display no more than two (2) signs on the property and no more than two (2) signs on the street where the sale is being conducted. The sign shall not be displayed either prior to or after a sale. **(Amended Annual Town Meeting 04/07/1997)**

605 *Penalties*

The penalty for violation of this Chapter shall be no less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100), or by imprisonment for no more than thirty (30) days, or by both, for each

violation. Each day that a violation occurs or continues shall be considered a separate offense. Fines collected for violation of this Ordinance shall be recovered for the use of the Town of Ogunquit.

606 *Effective Date*

This Ordinance shall become effective immediately. ***(Adopted by vote of the Ogunquit Village Corporation on June 2, 1980, Article 17 of the Warrant)***

Chapter 7 Bottle Clubs

701 *Definition*

Bottle Club means any establishment operating on a regular basis for social activities in which members or guests provide their own alcoholic beverages and where no alcoholic beverages are sold on the premises. Bottle Clubs, as used herein, shall not mean a club operating solely for objects of recreational, social, patriotic or fraternal purposes and not for pecuniary gain.

702 *Prohibition*

No person, partnership, corporation or other legal entity shall operate or cause to be operated or permit to be operated any bottle club, as defined herein, on premises owned or controlled by him or it.

703 *Violation*

Violation of this Ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each day of violation. Fines collected hereunder shall be recovered for the use of the Town of Ogunquit.

Any ordinances or portions thereof inconsistent herewith are hereby repealed.

Chapter 8 Hours of Retail Sales of Goods, Services, Food or Beverages

801 *Hours*

No person, partnership, corporation or other legal entity shall permit or engage in the retail sale of goods, services, food or beverages between the hours of 1:00 a.m. and 5:00 a.m.

802 *Violation*

Violation of this Ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) for each day of violation. Fines collected hereunder shall be recovered for the use of the Town of Ogunquit.

Chapter 9 Business Registration

901 *Title, Purpose and Definition*

901.1 This Chapter shall be known and may be cited as the 1989 Business Registration Ordinance of Ogunquit.

901.2 The purpose of this Ordinance is to provide for the public health, safety, and welfare by maintaining for public information a comprehensive list of businesses in Ogunquit and to ensure compliance with other municipal ordinances, regulations and life safety codes through annual inspections by the Code Enforcement Department and the Fire Department.

901.3 As used in this Ordinance, words shall retain their usual and customary definitions except as defined herein:

901.3.1 Business shall include all individuals, partnerships, corporations, and other entities, exclusive of employees of such entities, that provide services or merchandise whether for profit or not, having a place of operations within the municipal boundaries of Ogunquit and meeting one of the following criteria:

All businesses which the State of Maine requires to register for sales tax or as an employer; or Agricultural and fishing occupations; or Professions; or Home occupations.

901.3.2 Municipal Officers means the Town of Ogunquit Select Board. **(Amended Special Town Meeting 11/04/2014)**

902 *Registration Required*

902.1 No business in Ogunquit shall conduct any enterprise unless the

business has registered with the Town of Ogunquit and obtained all required licenses with the State of Maine. STM 11/04/14

902.2 Application

Applications for registration shall be on forms prescribed by the Municipal Officers and filed with the Town Clerk. Applications shall state the name of the applicant; all aliases; the applicant's residence address; the name of the business to be conducted; the business address; the precise location of the business; the nature of the business; whether the applicant has ever had a license to conduct business either denied or revoked and, if so, the circumstances of such denial or revocation. If the applicant is other than an individual, the applicant shall describe its legal structure and, in the case of a partnership, shall state, for each partner, all of the information required for the individuals. If the applicant is a corporation, the applicant shall state the name, all aliases, and the names and residential and business addresses of all directors and officers. The applicant shall also state the size of the business in terms required by the Municipal Officers, the age of the business, the maximum number of employees, and other information the Municipal Officers deem generally useful for administrative and planning purposes.

The applicant will certify that all personal property taxes assessed against the owner and/or business are paid in full, including any upcoming tax installments; and that a declaration of value was filed with the Tax Assessor for that years April 1 assessment date.
(Amended Annual Town Meeting 06/14/2016)

902.3 After a completed application is filed with the Clerk, together with the required non-refundable registration fee, the Clerk shall forward a Notice of Inspection to the Code Enforcement Officer or Harbormaster and the Fire Chief. The Tax Collector shall verify receipt of personal property tax payment and the Tax Assessor will verify the filing of the declaration of value. An inspection of the business premises shall be conducted by the Code Enforcement Officer and the Fire Chief and if these officials find the business and the business premises to be in compliance with all municipal ordinances, regulations and life safety codes, they shall issue a Certificate within thirty (30) days of receipt of the application. This certificate shall be displayed conspicuously within the business premises at all times. The certificate, so

issued, shall only be evidence of compliance with this Business Registration Ordinance and shall not prevent the Town or others from later asserting noncompliance with other municipal ordinances, regulations or life safety codes. **(Amended Annual Town Meeting 06/14/2016)**

902.4 A copy of the certificate, signed by either the Code Enforcement Officer or the Harbormaster and by the Fire Chief, shall be returned to the Clerk and filed with the original application as a permanent record of the Town.

902.5 The Harbormaster shall be the Inspection and Enforcement authority under this Section for all boats and fishing businesses afloat.

902.6 Businesses, which do not provide access to the public, and do not have any employees other than the owners are exempt from the inspection requirements of 902.3, but must register said business with the Clerk.

903 Registration Fee

The registration fee shall be one hundred fifty dollars (\$150). Non-profit civil, religious and municipal organizations shall pay no registration fee. The Municipal Officers are authorized to change this fee commensurate to costs of administration. **(Select Board 04/10/2012, Select Board 05/20/2014)**

903.1 If it is determined by the Code Enforcement Officer or Harbormaster or Fire Chief that the business or business premises does not comply with all municipal ordinances and regulations and life safety codes, then the applicant or business owner shall make all necessary changes, modifications or renovations that the Code Enforcement Officer or Fire Chief or Harbormaster may lawfully require in writing, within a specified time and date determined by the Code Enforcement Officer, Fire Chief or Harbormaster. If the applicant or business owner fails to comply with the lawful requirements of the Code Enforcement Officer, Fire Chief or Harbormaster by the time and date specified by such official, then the business shall be closed to both the public and the business's employees until such compliance. The Code

Enforcement Officer or Harbormaster may inspect the business premises at any time after issuance of the certificate to ensure compliance with this Ordinance. If at any time the premises are not in compliance, the certificate may be revoked and the business subject to all remedial actions described herein.

903.2 Businesses ordered closed under this section will be posted as closed by the Code Enforcement Officer or Fire Chief or Harbormaster, and requests for reinspection shall be treated as a new application.

904 Registration Term

All businesses shall register annually by May 31. New businesses shall register before the establishment is open to the public and thereafter by May 31. The Business Registration filing will cover the current calendar year. **(Amended Annual Town Meeting 06/14/2016)**

905 Business Registration Inspections

905.1 The Code Enforcement Officer, Fire Chief or his designee may, at any time, inspect every registered business for compliance with Fire Safety related laws, regulations and registration conditions. The business owner or representative shall permit access to the business premises for inspection upon request of the Code Enforcement Officer, Fire Chief or his designee. **(Amended Special Town Meeting 11/04/2014)**

905.2 Purpose

Because of the number of businesses in the Town of Ogunquit affected by this Ordinance, an orderly schedule of inspections must be provided.

905.3 Businesses shall be divided into the following/groups:

Group 1: All new businesses.

Group 2: All existing lodging houses, guest houses, rental cabins, hotels, motels, or all transient housing.

Group 3: All existing restaurants and retail businesses, which sell food or food products.

Group 4: All other business not described in Groups 1, 2, and 3, including non-profit organizations.

905.3 Time Compliance

Repealed at Special Town Meeting, November 4, 2014.

905.4 Appeals

Appeals from the decision of the Code Enforcement Officer or Fire Chief or Harbormaster shall be to the Municipal Officers and from the Municipal Officers to Superior Court in accordance with Maine law. The Municipal Officers shall have the following powers and duties:

To hear and decide where it is alleged that there is an error in the order, requirement, decision, or determinations made, or not made, by the Code Enforcement Officer or Fire Chief or Harbormaster in the administration or enforcement of this Ordinance. The action of the Code Enforcement Officer or Fire Chief or Harbormaster may be modified or reversed by the Municipal Officers by majority vote of those present and voting; however, there shall be no appeal to the Municipal Officers from any order or decision of the Code Enforcement Officer or Fire Chief which is required by the Life Safety Code and the State of Maine Plumbing Code.

906 *Enforcement*

The Clerk shall notify the Code Enforcement Officer, in writing, and by group, after May 31, but before the end of the last working day in June, each year, of the businesses described in Section 901.3.1 and 905.2 that are not in compliance with this Chapter.

The Code Enforcement Officer or Harbormaster shall issue citations for violations of this Chapter. If after thirty (30) days a business owner does not take action to sure the violation alleged by the citation, the Police Chief is authorized to summon the applicant or the business owner to court. Businesses, which have not complied with the provisions of this Ordinance, are subject to injunctions as well as monetary penalties.

907 *Penalties*

The penalty for violation of this Chapter shall be twenty-five dollars (\$25). Each day that a violation occurs or continues shall be considered a

separate offense. Fines may be paid directly to the Town or may be recovered through court action. All penalties accrue for the use of the Town.

908 Severability

If any provision of this Ordinance is held to be invalid such invalidity shall not affect the remaining portions of the Ordinance.

909 Effect on Other Ordinances

This Ordinance shall repeal and replace Chapter 9, "Business Registration Ordinance of Ogunquit" of the Town's ordinances.

910 Effective Date

This Ordinance shall become effective May 31, 1989.

Chapter 10 Public Transportation Ordinance
(Adopted after notice and hearing May 5, 1987, pursuant to 30 M.R.S.A. 2151 3B.) (Now 30-A M.R.S.A. 3009-F)

1001 Title, Purpose and Definitions

The title of this Ordinance shall be the "Ogunquit, Public Transportation Ordinance". It has been enacted by the Municipal Officers of the Town of Ogunquit pursuant to the authority granted by 30 M.R.S.A. 2151 (3B) in order to ensure the safety of the residents of Ogunquit and the many visitors to the community.

The purpose of this Ordinance is to license and control those persons, corporations or businesses who engage in the business of operating trolleys or busses over a fixed route on a regular basis for a fee within the Town of Ogunquit.

Another purpose of this Ordinance is to establish a fixed route of travel over which trolleys or busses shall operate, stopping points for the pickup and discharge of passengers, vehicle capacities, and hours of operation and insurance and safety inspection requirements.

1001 As used herein, the words listed below shall have the following definitions:

1001.1 Licensee shall include any person, individual, partnership,

firm, association, corporation, other legal entity, or any agent thereof issued a license by the Municipal Officers.

1001.2 License Required - No person shall transport persons for a fee over a fixed route on a regular basis within the Town of Ogunquit until he/she shall have first obtained a license to do so from the Municipal Officers.

1001.3 Municipal Officers shall be the Ogunquit Board of Selectmen.

1001.4 Public Transportation shall pertain to any trolley or bus used for the regular transportation of persons over a fixed route on a regular basis from points within the Town of Ogunquit to other points within the Town.

1002 Application

Applicants for a Public Transportation License shall submit a written application to the Town Clerk on forms approved by the Municipal Officers. The application shall include the applicant's name, the name of the business, the address of the business, the type and capacity of vehicle(s) to be used, and any additional information as may be required by the Municipal Officers to issue the license.

1003 License Fee

The Board of Selectmen shall establish a fee for a Public Transportation License to operate from points within the Town to other points within the Town and an additional fee for each trolley. **(Amended Annual Town Meeting 04/05/2003)**

1004 License Term and Conditions

A Public Transportation License shall be valid for a one year period from January 1 until December 31 regardless of the date of issuance unless suspended or revoked by the Municipal Officers.

1005 License Suspension

The Town Manager or Chief of Police may suspend the right to operate of any employee of a licensee found violating the provisions of this Ordinance or of the public laws relating to the operation of motor vehicles or the endangerment of the public health, safety, and welfare.

The licensee shall be notified and shall either immediately affirm the suspension and replace the employee or shall give notice of an appeal to the Municipal Officers.

1006 Appeal Procedure

Any licensee or employee of a licensee whose right to operate under this Ordinance has been suspended shall be afforded a right to appeal to the Municipal Officers. The Municipal Officers shall meet within ten (10) days after being notified of the appeal to consider it. The Municipal Officers, after notice and hearing, may confirm the suspension or may modify it as the circumstances may require or may vacate the suspension altogether. The length of any suspension shall be determined by the Municipal Officers.

1007 License Revocation

After repeated or serious violations of the provisions of this Ordinance or the laws of the state by a licensee or an employee thereof, and after notice and hearing, the Municipal Officers may revoke any license issued under the authority of this Ordinance.

1008 Routes of Travel

The Municipal Officers shall establish the official route map, which shall be attached to and made part of this Ordinance. It shall be a violation of this Ordinance to operate on any route other than those specified on the official route map. It shall also be a violation of this Ordinance for one trolley to pass another while traveling along the established routes while in regular service.

1009 Stopping Points

The Municipal Officers shall designate the stopping points on the official route map. It shall be a violation of this Ordinance to stop at any points other than the official stopping points, which shall be designated by a uniform system of signs.

1010 Vehicle Capacities

Vehicle capacities shall not exceed federal safety standards and shall be posted on the outside of the vehicle by the forward door and at the rear of the vehicle. In addition, the capacities shall be posted on the inside of

the vehicle near the forward door in a place clearly visible to the passengers. It shall be a violation of this Ordinance to carry more passengers than the posted capacities allow.

1011 Hours of Operation

The maximum hours of regular operation shall be from 7:00 a.m. to 12 midnight with posted hours of operation to be as follows:

Preseason: (weekend prior to Memorial Day to July 1) from 8:00 a.m. to 9:00 p.m. Season (July 1 to Labor Day) from 8:00 a.m. to 9:00 p.m.

Postseason: (Labor Day to Columbus Day) from 8:00 a.m. to 9:00 p.m. Each licensee shall be required to operate at least one (1) trolley during the hours of operation for the entire season as noted above. **(10/20/87)**

1012 Fare Adjustments

Any increases in fares charged must be approved by the Municipal Officers and must be the same for all operators. **(10/20/87)**

1013 Insurance Requirements

Insurance coverage on the vehicles shall be in the amount and of the type required by the State of Maine for vehicles for hire.

1014 Safety Inspection

Safety requirements for the vehicles shall be as required by the State of Maine and by any other applicable standards.

1015 Emergencies

In case of emergency situations, members of the Police or Fire Departments or other public safety officers are authorized to waive the requirements of this Ordinance on a temporary basis in order to meet the needs of the emergency situation.

1016 Enforcement

Ogunquit Police officers are authorized to enforce the provisions of this Ordinance.

1017 Penalties

Any licensee who is found to have violated or who has failed to comply

with any of the provisions of this Ordinance may have his license revoked as provided for in Section 1007. A licensee shall be responsible for the actions of his/her employees.

1018 Renewability

A Public Transportation License may be renewed each year subject to review of system's operations by the Board of Selectmen.

1018.1 Before issuance of Public Transportation License, the Board of Selectmen shall review Chapter 10 of the Public Transportation Ordinance.

1019 Severability

The invalidity of any part of this Ordinance shall not invalidate the other parts.

Chapter 11 Special Event Ordinance

(Adopted by voters at the April 4, 1988 Annual Town Meeting in Article 32, Amended Annual Town Meeting 04/03/1999)

1101 Title

This Chapter shall be known and may be cited as "Special Event Ordinance of Ogunquit".

1102 Purpose

The purpose of this Ordinance is to authorize Special Events on a limited basis, which events serve to promote the Town of Ogunquit and its businesses and to provide for the allowance of outdoor sales in areas where it is otherwise prohibited; the temporary use of municipal facilities: and for the temporary waiver of articles of Title X, The Zoning Ordinance, which shall not be waived in residential areas.

1103 Power of Board

The Board of Selectmen may authorize a Special Event, which will promote the Town of Ogunquit and its businesses.

1103.1 All permits must be approved by the Board of Selectmen prior to the following exceptions being allowed:

1103.1.a Outdoor sales in areas where such sales are

prohibited or restricted by special exception in the Town's Zoning Ordinance, and

- 1103.1.b The use of municipal facilities provided the Board finds that the event will not have an adverse effect on the safety, health and welfare of the Town, and
- 1103.1.c The waiver of Chapter 2, Article 3, "Signs" of the Zoning Ordinance provided that sign placement will not have an adverse effect on the safety, health and welfare of the Town and provided sign placement is limited to no more than four (4) weeks prior to the event and no more than one (1) week after the event.
- 1103.1.d The waiver of Permitted Uses in the District Standards of the Zoning Ordinance, Title X, Chapter 1, Article 7 through Article 18 provided that the Special Event does not have an adverse effect on the safety, health and welfare of the Zoning District(s) where the event is permitted temporarily.
- 1103.1.e Provided further that said event shall not exceed seven (7) days, and that no more than five (5) events shall be authorized per calendar year.

1104 Additional Conditions

In authorizing any "Special Event" the Board shall impose such further reasonable restrictions and conditions as are deemed appropriate to best safeguard the public's health, safety, and welfare and the right of the citizens to quiet enjoyment of their properties including but not limited to requiring applicants to provide for and pay for an appropriate number of policemen to be present during specified events.

- 1104.1 The application for a Special Event Permit and the coordination of activities during the event; providing liability insurance, if required; and any other coordination deemed appropriate by the Board of Selectmen, shall be one (1) non-profit organization. This Article is not to limit

the number of participating organization, but to provide a coordinated Town-wide Special Event rather than many unrelated events occurring at the same time, and

1104.2 A Special Event does not permit outdoor sales, or waiver of the Sign Ordinance, or waiver of the Zoning Ordinance, or waiver of other ordinances Town-wide during the event, but provides for only those activities, vendors and waivers specifically authorized by the Board of Selectmen.

1104.3 The Board may require liability insurance for the duration of the Special Event naming the Town of Ogunquit as additionally insured.

1105 Town Services

If the Board of Selectmen determines that additional services are required above and beyond those normally provided by the Town, the Board may require the Special Event sponsor to reimburse the Town for part or all of the additional services, while considering the overall benefit of the Special Event to the Town. The additional services required by the Board will be listed in the Special Event application along with the cost estimate.

1106 Bond

The Board, at its discretion, may require a bond to be posted by the sponsor of said event, naming the Town of Ogunquit as beneficiary, which can be used to compensate the Town for any damages to Town property; for the costs of any police and fire services rendered during said event; or to reimburse the Town for any expenses incurred as a result of a violation of any conditions of the permit issued.

1107 Other Regulations

This Ordinance shall be read in conjunction with all other ordinances of the Town.

1108 Severability

The invalidity of any provision of this Ordinance shall not invalidate any other part.

1109 Effective Date

This Ordinance shall become effective immediately upon affirmative vote of the registered voters of the Town of Ogunquit at the April 3, 1999 Annual Town Meeting.