

**WARRANT FOR THE SPECIAL TOWN MEETING
OF THE
TOWN OF OGUNQUIT
Tuesday, November 4, 2008**

TO: PATRICIA L. ARNAUDIN, Chief of Police in the Town of Ogunquit,
County of York and State of Maine:

GREETINGS: In the name of the State of Maine, you are hereby required to notify and warn the inhabitants of the Town of Ogunquit in said county and state, qualified by law to vote in town affairs, to meet at the Dunaway Community Center in said Town on the **4th day of November 2008, A.D.** at eight o'clock in the morning (8:00 a.m.) until eight o'clock in the evening (8:00 p.m.) to vote by secret ballot on the following warrant articles; to wit:

Article 1: To elect a Moderator to preside at said Meeting. [NOTE: This question is not intended to be acted upon as part of the official secret ballot at the Special Town Meeting].

Article 2: Shall the Town vote to approve the proposed Charter Amendment printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Section 204 Procedures

The Annual Town Meeting shall be held on the ~~first~~
Saturday of April second Tuesday of June.

Article 3: Shall the Town vote to approve the proposed Charter Amendment printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Section 303 Election and Term of Office

303.1 Select Board members shall be elected ~~to serve staggered~~
~~three year terms~~ for a term to run from July 1 to June 30.
Election shall be for a three year term, unless elected to fill
an unexpired term.

Article 4: Shall the Town vote to approve the proposed Charter Amendment printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Section 503 Budget Process

503.3 Prior to finalizing the budget, the Select Board shall hold a
public hearing on ~~the Town Manager's~~ its proposed budget
at least ~~forty-five (45)~~ thirty (30) days prior to the Annual
Town Meeting vote.

Article 5: Shall the Town vote to approve the proposed Charter Amendment printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Section 802 Budget Review Committee

802.1 Appointment and Terms

The Budget Review Committee consists of five (5) members who shall be elected at the Annual Town Meeting commencing ~~April~~ June 2009.

802.2.3 In the event of a tied election result, the ~~Independent Election Committee shall determine the outcome~~ Select Board shall schedule a special run-off election to be held within sixty(60) days pursuant to 30-A MRSA § 2528(10).

Article 6: Shall the Town vote to approve the proposed Charter Amendment printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Section 803 Planning Board

803.1 The Planning Board consists of five (5) members who shall be elected at the Annual Town Meeting commencing ~~April~~ June 2009.

803.3.3 In the event of a tied election result, the ~~Independent Election Committee shall determine the outcome~~ Select Board shall schedule a special run-off election to be held within sixty (60) days pursuant to 30-A MRSA § 2528(10).

Article 7: Shall an ordinance entitled “**An Ordinance to Amend the Organization of the Planning Board in the Ogunquit Zoning Ordinance (Title X) To Match the Town Charter Provisions**”, be enacted as printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Article 6 Planning Board

Section 6.3 Organization and Rules

A. The Board shall consist of five (5) elected full members and two appointed alternate members, pursuant to Section 803 of the Town Charter. ~~who shall be residents and registered voters of the Town of Ogunquit. They shall be appointed by the Board of Selectmen. The term of office of the five members of the Board shall be three years. The term of office of alternate members shall be one year. Vacancies on the Board shall be filled for the unexpired term only. Mid-term vacancies in the office of full members shall be filled first by the first alternate then by the second alternate. Each member's term of office shall expire on April 30 of the year in which the member's term ends; except that a member may continue to serve until reappointed or until a successor has been appointed to the position. When a member is unable to act because of conflict of interest, physical incapacity or otherwise unable to participate, the Chair shall designate an alternate to act in that member's stead. Any member of the Board may be removed for cause as determined by the Board of Selectmen upon written charges and after a public hearing for which at least 10 days notice shall be given in the same manner as the notice of the Town. The Board shall annually revise or render Bylaws setting forth procedural rules, regulations and guidelines governing the conduct of the Board, its members, employees and other interested parties who regularly appear before the Board. These Bylaws may~~

be amended from time to time throughout the year and may include such rules and regulations as the Board deems necessary to clarify its duties as set forth in this Ordinance.

Article 8: Shall an ordinance entitled “**An Ordinance to Amend the Ogunquit Zoning Ordinance (Title X) to Comply with New Minimum Shoreland Zoning Guidelines**”, dated 12 September 2008, be adopted with an effective date of April 1, 2009? [Note: Copies of this amendment are on file with the Town Clerk and are available for inspection, use and examination by the public in both the Town Clerk and Land Use Offices.]

Article 9: Shall an ordinance entitled “**An Ordinance to Amend the Ogunquit Zoning Ordinance (Title X) to Protect Additional Streams Beyond Those Required by Department of Environmental Protection Minimum Shoreland Zoning Guidelines**”, dated 24 June 2008, be adopted with an effective date of April 1, 2009, and to include adoption of the “Official Zoning Map Version “B” dated 10 June 2008? [Note: Copies of this amendment are on file with the Town Clerk and are available for inspection, use and examination by the public in both the Town Clerk and Land Use Offices.]

Article 10: Shall an ordinance entitled, “**An Ordinance to Amend Title IV of the Ogunquit Municipal Ordinance (Public and Conservation Ordinance) Chapter 1, Section 401.1.a – Definitions**”, be enacted? [Note: Proposed amendment is underlined.

401.1.a Ogunquit River Estuary – The land area described as follows:

Starting at the Ogunquit Sewer District pumping station (Lighthouse); then running northerly to the southeast side of the sand dunes; then running northerly on the easterly side of the sand dunes to the Wells-Ogunquit town line; then running westerly to the west side of the Ogunquit River including the Rachel Carson Preserve; then running southerly including private and public land(s) along the west side of the Ogunquit River, back to the Lighthouse. The estuary is to include the riverside beaches, river, sand dunes, clam flats and marshland, but does not include: the Ogunquit Beach Parking Lot, Footbridge Parking Lot, and North Beach Parking Lot (Moody Beach Parking Lot).

Article 11: Shall an ordinance entitled “**An Ordinance to Amend Title IV of the Ogunquit Municipal Code (Public and Conservation Ordinance) Chapter 4, Section 403.4.1 and 403.4.2** be enacted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

403.4.1 Dogs are permitted within the Ogunquit Beach area from October 1 to March 31, if on a cord, leash or chain. Dogs are not permitted within the entire Ogunquit Beach area from the Main Beach to the Moody Beach Town Line from April 1 to September 30. Dogs are not permitted in the Ogunquit River Estuary.

403.4.2 ~~No person shall lead or ride a pony within the Ogunquit Beach area from April 1 to September 30. Ponies or horses are not permitted on Ogunquit Beach, including the Ogunquit River Estuary, year-round.~~

Article 12: Shall an ordinance entitled “An Ordinance to Amend Title VII of the Ogunquit Municipal Code (Animal Control Ordinance) Chapter 2, Section 206.1.1 and 206.1.2 be enacted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

206.1.1 Ogunquit Beach

Dogs are permitted within the Ogunquit Beach area from October 1 to March 31, September 8 to May 15, if on a cord, leash or chain. Dogs are not permitted within the entire Ogunquit Beach area from the Main Beach to the Moody Beach Town Line from April 1 to September 30 May 16 to September 7. Dogs and other domesticated animals are never allowed on the dunes at Ogunquit Beach. Dogs are not permitted in the Ogunquit River Estuary.

206.1.2 No person shall lead or ride a pony within the Ogunquit Beach area from April 1 to September 30. Ponies or horses are not permitted on Ogunquit Beach, including the Ogunquit River Estuary, year-round.

Article 13: Shall an ordinance entitled “An Ordinance to Amend Title IV of the Ogunquit Municipal Code (Public Resources and Conservation) Chapter 2, Section 206.6 be amended to provide as follows? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

206.6 No person shall play or play a game in which a ball, Frisbee, or similar object is used on any public street or way in Ogunquit. No person shall play a game or participate in any like activity in which a ball, Frisbee, or other similar object is used, on U.S. Route One, Beach Street, Shore Road, River Road, Hoyt’s Lane or Berwick Road, and no such object, activity or game shall, otherwise or elsewhere, interfere with the orderly flow of vehicular and pedestrian traffic.

Article 14: Shall an ordinance entitled “An Ordinance to Amend Title VI of the Ogunquit Municipal Code (Bicycles and Pedestrians) Chapter 2, Section 204.3 and Chapter 3, Section 302.1 be amended to provide as follows? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

204.3 A person shall not park or secure a bicycle in or on any public property for a period exceeding twenty-four (24) hours. ride a bicycle on any lawful sidewalk or Marginal Way, on any private property without permission of the owner, on Ogunquit Beach from May 15 until September 15 of each year, or in a fashion which causes damage to any municipal property. A bicyclist is permitted to walk a bicycle over any grassy area, wooded trail, or any paved surface, including sidewalks, reserved for pedestrian use.

302.1 No person shall use, ride or operate, or attempt to upon any public highway, use, ride or operate a skateboard, as here and after defined, roller blades, or roller skates, on U.S. Route One, Shore Road, Beach Street, River Road, Hoyt’s Lane and Berwick Road or upon a lawful sidewalk, or upon private property without permission from the property owner. within the Town of Ogunquit. Skateboarding is permitted on public parking areas from October 1 to May 15. The operation of a skateboard and use of roller blades or

roller skates within public parking areas is permitted, if undertaken in a manner which does not interfere with the flow of traffic associated with vehicular parking and vehicular and pedestrian passage.

Article 15: Do you favor a prohibition on the sale of water by the Kennebunk, Kennebunkport & Wells Water District for resale as bottled water?

[**Note:** This Article was generated by the Select Board due to overwhelming public support to continue to provide high water quality for the citizens and future generations of the Town of Ogunquit].

Article 16: Shall the Town vote to adopt the following addition to Title I, Chapter 3, Departments, of the Ogunquit Municipal Code?

Add the following to the end of Section 301, "Informational Bureau":
Recreation Department Recreation Director
[**Note: Petitioned Article**]

Article 17: Shall an ordinance entitled "**An Ordinance to Amend Title VII of the Ogunquit Municipal Code (Animal Control) Chapter 1, Section 104.1 Definitions**" be amended to provide as follows? [**Note:** Proposed amendment is underlined.]

104.1 At large: Off the premises of the owner, unless controlled by a leash, cord, chain or unless within a vehicle, or under restraint in an open vehicle being driven or parked in any public area, or under voice control as demonstrated to, and accepted, by the Animal Control Officer.

[**Note:** This Article was generated by the Select Board to replace the question submitted by Petition to be included on a Town Warrant and to clarify any confusion caused by the language in the original Petition relative to the amendment of the definition "At Large" in the Animal Control Ordinance.]

Article 18: Shall the Town vote to raise and appropriate the sum of **\$369,179** for **General Government** expenditures? (**Note:** If this article is defeated, the appropriation for General Government will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$369,179
	FROM REVENUE	<u>\$201,075</u>
	NET FROM TAXES	\$168,104

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 19: Shall the Town vote to raise and appropriate the sum of **\$214,839** for **Land Use Department** expenditures? (**Note:** If this article is defeated, the, appropriation for the Land Use Department will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$214,839
	FROM REVENUE	<u>\$ 68,905</u>
	NET FROM TAXES	\$145,934

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 20: Shall the Town vote to raise and appropriate the sum of **\$722,015** for **Police Department** expenditures? (**Note:** If this article is defeated, the appropriation for the Police Department will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$722,015
	FROM REVENUE	\$148,050
	FROM UDFB *	<u>\$ 60,000</u>
	NET FROM TAXES	\$513,965

Select Board recommends: Yes (5-0)
 Budget Review Committee recommends: Yes (5-0)

Article 21: Shall the Town vote to raise and appropriate the sum of **\$531,313** for **Fire-Rescue Department** expenditures? (**Note:** If this article is defeated, the appropriation for the Fire-Rescue Department will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$531,313
	FROM REVENUE	\$ 65,550
	FROM UDFB*	<u>\$ 60,000</u>
	NET FROM TAXES	\$405,763

Select Board recommends: Yes (5-0)
 Budget Review Committee recommends: Yes (5-0)

*Undesignated Surplus Fund Balance

Article 22: Shall the Town vote to raise and appropriate the sum of **\$104,500** to provide for **Utilities** (Street Lights, Sewer Fees and Water Hydrants)? (**Note:** If this article is defeated, the appropriation for this item shall be one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$104,500
	FROM REVENUE	<u>\$ 0</u>
	NET FROM TAXES	\$104,500

Select Board recommends: Yes (5-0)
 Budget Review Committee recommends: Yes (5-0)

Article 23: Shall the Town vote to raise and appropriate the sum of **\$452,724** for **Public Works Department** expenditures? (**Note:** If this article is defeated, the appropriation for the Public Works Department will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$452,724
	FROM REVENUE	<u>\$ 26,200</u>
	NET FROM TAXES	\$426,524

Select Board recommends: Yes (5-0)
 Budget Review Committee recommends: Yes (5-0)

Article 24: Shall the Town vote to raise and appropriate the sum of **\$204,076** for **Transfer Station** expenditures? (**Note:** If this article is defeated, the appropriation for the Transfer Station will default to one-half (1/2) of the 2007 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$204,076
	FROM REVENUE	<u>\$ 57,300</u>
	NET FROM TAXES	\$146,776

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 25: Shall the Town vote to raise and appropriate the sum of **\$40,098** for **Harbormaster** expenditures? (**Note:** If this article is defeated, the appropriation for the Harbormaster will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$ 40,098
	FROM REVENUE	<u>\$ 28,650</u>
	NET FROM TAXES	\$ 11,448

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 26: Shall the Town vote to raise and appropriate the sum of **\$18,550** for **General Assistance** expenditures? (**Note:** If this article is defeated, the appropriation for General Assistance will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$ 18,550
	FROM REVENUE	<u>\$ 1,000</u>
	NET FROM TAXES	\$ 17,550

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 27: Shall the Town vote to raise and appropriate the sum of **\$95,555** for **Insurance** expenditures? (**Note:** If this article is defeated, the appropriation for Insurances will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$ 95,555
	FROM REVENUE	<u>\$ 2,700</u>
	NET FROM TAXES	\$ 92,855

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 28: Shall the Town vote to raise and appropriate the sum of **\$133,873** for **Administrative Services Department** expenditures? (**Note:** If this article is defeated, the appropriation for the Administrative Services Department will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$133,873
	FROM REVENUE	<u>\$ 17,367</u>
	NET FROM TAXES	\$116,506

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 29: Shall the Town vote to raise and appropriate the sum of **\$14,716** for **Conservation** expenditures? (**Note:** If this article is defeated, the appropriation for Conservation will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$ 14,716
	FROM REVENUE	<u>\$ 4,800</u>
	NET FROM TAXES	\$ 9,916

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 30: Shall the Town vote to raise and appropriate the sum of **\$25,888** for **Information Services** expenditures? (Note: If this article is defeated, the appropriation for the Information Services Department will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$ 25,888
	FROM REVENUE	\$ 20,020
	NET FROM TAXES	\$ 5,868

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 31: Shall the Town vote to raise and appropriate the sum of **\$119,436** for **Debt Management** expenditures? (Note: If this article is defeated, the appropriation for Debt Management will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	TOTAL EXPENSES	\$119,436
	FROM REVENUE	\$ 16,200
	FROM UDFB*	\$ 70,000
	NET FROM TAXES	\$ 33,236

Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

*Undesignated Surplus Fund Balance

Article 32: Shall the Town vote to raise and appropriate the sum of **\$5,500** for the **Parks Committee** expenditures? [Note: If this article is defeated, the appropriation for the Parks Committee will be \$0 pursuant to Section 503 of the Town Charter.]

Funding for this Article:	NET FROM TAXES	\$ 5,500
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Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 33: Shall the Town vote to raise and appropriate the sum of **\$3,500** for the **Performing Arts Committee** expenditures? [Note: If this article is defeated, the appropriation for Debt Management will default to one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	NET FROM TAXES	\$ 5,500
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Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (4-1)

Article 34: Shall the Town vote to raise and appropriate up to **\$12,000** for **Tax Anticipation Note Interest**? [Note: This is an annual appropriation for cash flow purposes. If this article is defeated, the appropriation for Tax Anticipation Note Interest shall be one-half (1/2) of the 2008 budget appropriation.)

Funding for this Article:	NET FROM TAXES	\$ 12,000
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Select Board recommends: Yes (5-0)
Budget Review Committee recommends: Yes (5-0)

Article 35: Shall the Town vote to expend up to \$190,000 from the undesignated surplus fund balance to offset the 2009 costs of operating the emergency services dispatch and other 2009 costs?

Select Board recommends: Yes (5-0)
 Budget Review Committee recommends: Yes (5-0)

Article 36: Shall the Town vote to transfer the sum of \$40,055 from Undesignated Surplus to cover the unanticipated costs of the **General Government Department** over the amounts previously budgeted for 2008?

Town Manager Search	\$ 4,500
Town Manager Salary & Benefits	\$ 19,830
Insurance & Retirement Benefits	\$ 3,475
Additional Expenses for Union Contracts	\$ 7,500
Additional Expenses for Zoning Issues	\$ 4,750

Select Board recommends: Yes (5-0)
 Budget Review Committee recommends: Yes (5-0)

Article 37: Shall the Town vote to transfer the sum of \$10,000 from undesignated surplus to cover the Town's share of a 2008 State Grant for Perkins Cove?

Fuel Ramp and Catwalk	\$ 7,500
Floats for Mooring of Boats	\$ 2,500

Select Board recommends: Yes (5-0)
 Budget Review Committee recommends: Yes (5-0)

Article 38: Shall the Town vote to increase the property tax levy limit established for Ogunquit by State law in the event that the municipal budget approved for fiscal year 2009 will result in a tax commitment that is greater than the property tax levy limit?

Article 39: Shall the Town vote to allow the Highway Department to plow and sand private roads on which the Town holds a recorded public easement during the upcoming winter season as otherwise allowed by Title 23 MRSA §3105 and previously authorized by a vote on Article 3 of a Special Town Meeting held on November 5, 2002, provided that any necessary expenses pertaining thereto must fall within existing appropriations?

Article 40: Shall the Town authorize the Board of Selectmen to apply for and accept grant funds, donations and gifts; and authorize the Selectmen to spend such funds for the purposes intended as allowed by law?

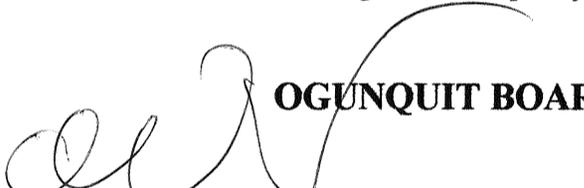
Article 41: Shall the Town vote to accept the categories of funds, listed herein, as provided by the Maine Legislature:

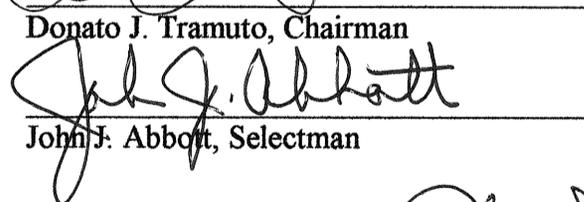
<u>ITEM</u>	<u>AMOUNT</u>
Homestead Reimbursement	\$Unknown
State Aid Road Grant	\$Unknown
Municipal Revenue Sharing	\$Unknown
State Education Tax Relief	\$Unknown
Emergency Management Funds	\$Unknown
General Assistance Rebate	\$Unknown
Snowmobile Registration	\$Unknown
Tree Growth Reimbursement	\$Unknown
Veteran's Exemption Rebate	\$Unknown
Public Library Aid	\$Unknown
Specialized State Grants/Funds	\$Unknown

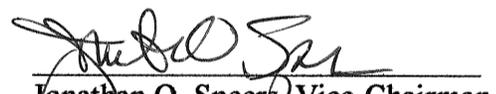
- Article 42:** Shall the Town vote to fix the date when 2009 property taxes shall be due and payable as that date occurring 45 days after the date of tax commitment; and further, that the interest charged per annum shall be the maximum rate of interest that can be charged as per 36 MRSA §505(4)?
- Article 43:** Shall the Town vote to pay interest to taxpayers who pay an amount in excess of the overpayment finally assessed, and to authorize such interest paid or abatements granted to be charged against the Town's annual overlay, or if necessary, against the Town's undesignated surplus fund balance at the maximum rate of interest that can be paid as per 36 MRSA §506-A?
- Article 44:** Shall the Town vote to authorize the Board of Selectmen to sell and convey tax acquired property as they shall deem to be necessary and/or in the best interests of the Town; provided, however, that a delinquent taxpayer shall be given a thirty (30) day grace period after approval of this warrant article in which to redeem his/her property upon payment of all taxes, liens, interest and other applicable costs; and furthermore, shall the Town vote to authorize the Board of Selectmen to execute and deliver quit claim deeds, without covenant, for the conveyance of such property and/or the removal of tax liens from public records as justice may require?
- Article 45:** Shall the Town vote to authorize the Board of Selectmen to dispose of town-owned surplus property upon such terms and conditions as the Selectmen may deem to be in the best interests of the Town as otherwise allowed by law?
- Article 46:** Shall the Town vote to continue using the secret ballot method of conducting Town Meetings and approving all budget appropriations? (Note: A "NO" vote may result in a future warrant article to repeal the amendment to the Town Charter enacted by vote on Article 2 at a Special Town Meeting held on June 8, 2004.) [**Non-Binding Referendum**]

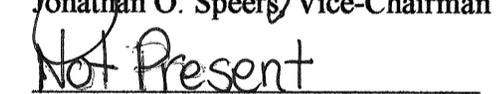
Given under our hands this 7th day of October 2008, A.D. in Ogunquit, Maine, by the Board of Selectmen, acting in their capacity as the municipal officers. ATTEST:

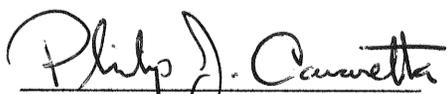
OGUNQUIT BOARD OF SELECTMEN


 Donato J. Tramuto, Chairman


 John J. Abbott, Selectman


 Jonathan O. Speers, Vice-Chairman


 Not Present
 Jacqueline G. Bevins, Selectman


 Philip J. Cavaretta, Selectman

VOTER INFORMATION: The Registrar of Voters will hold office hours while the polls are open to correct any error in or change a name or address on the voting list, to accept the registration of any person eligible to vote and to accept new enrollments. A person who is not registered to vote may not vote in any election.

RETURN OF WARRANT CERTIFICATION

In the Town of Ogunquit, County of York, State of Maine, ss.

Pursuant to the foregoing Warrant to me as directed, I have notified and warned the Inhabitants of the Town of Ogunquit herein named to meet at the time and place for the purpose herein stated by posting upon the 24th day of October, 2008, A.D. copy of said Warrant at the Dunaway Community Center, Ogunquit Post Office, and WOGT, those being three (3) conspicuous and public places in said Town.


Patricia L. Arnaudin, Chief of Police
Town of Ogunquit

UNDER SEAL OF THE TOWN, A True Copy: ATTEST:

OFFICE OF THE TOWN CLERK

OGUNQUIT

Beautiful Place by the Sea

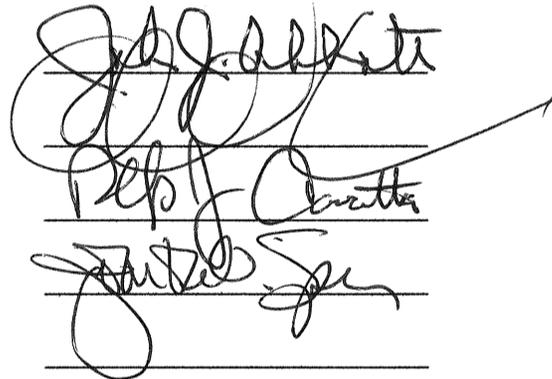
To the Town Clerk of Ogunquit:

We hereby certify that the document to which we have affixed this Certificate is a true copy of the official text of an Ordinance entitled "An Ordinance to Amend Title X, **(Ogunquit Zoning Ordinance)** to Comply with New Minimum Shoreland Zoning Guidelines". These amendments will be presented to voters by referendum ballot, for their consideration at a Special Town Meeting to be held on November 4, 2008.

Pursuant to 30-A, MRSA ss 3002(2), you will retain this copy of the complete text of the ordinance amendments as a public record and make other copies available for distribution to the voters, and you will ensure that these copies are available at the polling place on the day of the vote.

DATED: September 16, 2008

**OGUNQUIT
BOARD OF SELECTMEN**



A TRUE COPY, ATTEST:

Judy Shaw-Kagiliery, Town Clerk

DATED:

P:\Clerk\Certification.ZO.doc

Article 8

An Ordinance to Amend the Ogunquit Zoning Ordinance to Comply with New Minimum Shoreland Zoning Guidelines

12 September 2008

(Note: Language proposed to be inserted is indicated by underlining. Language proposed to be removed is indicated by a ~~strikeout line~~. All other portions of the ordinance are proposed to remain unchanged. The symbol “ * * *” indicates that a portion of the ordinance, which is not proposed to be changed, is not shown below, in order to save space.)*

1. *Repeal the adopted Official Zoning Map, adopted at this or any prior Town Meeting, and replace with the Official Zoning Map, Indicated as Version “A,” and dated 24 June 2008.*
2. *Change the Text of the Ogunquit Zoning Ordinance, as follows:*

ARTICLE 1 – GENERAL

1.1 Purpose

The purposes of this Ordinance are:

- A. to promote the general welfare of the Town, and to protect the health of its inhabitants; ;
- B. to encourage the most appropriate use of land within the Town, and to conserve the value of said land; ~~further it is designed~~
- C. to fulfill all the purposes of zoning embraced in Maine Revised Statutes and the Town of Ogunquit Charter and Comprehensive Plan; ;
- D. to prevent and control water pollution;
- E. to protect fish spawning grounds, aquatic life, bird and other wildlife habitat;
- F. to protect buildings and lands from flooding and accelerated erosion;
- G. to protect archaeological and historic resources;
- H. to protect commercial fishing and maritime industries;
- I. to protect freshwater and coastal wetlands;
- J. to control building sites, placement of structures and land uses;
- K. to conserve shore cover, and visual as well as actual points of access to inland and coastal waters;
- L. to conserve natural beauty and open space; and
- M. to anticipate and respond to the impacts of development in shoreland areas.

1.2 Establishment of Zones

To implement the provisions of this Ordinance, the Town of Ogunquit is hereby divided into the following zoning districts:

- A. One Family Residence District – ~~OFRD~~ OFR
- B. Residence District – ~~RD~~ R

- C. Rural Residential District 1 - ~~RRD1~~ RR1
- D. Rural Residential District 2 - ~~RRD2~~ RR2
- E. Perkins Cove Residential District - ~~PCRD~~ PCR
- F. Downtown Business District - ~~DBD~~ DB
- G. General Business District - ~~GBD1~~ GB1
- H. General Business District - ~~GBD2~~ GB2
- I. Limited Business District - ~~LBD~~ LB
- J. ~~Perkins Cove Limited Business District - PCLBD~~
- K. ~~Ogunquit Beach Business District - OBBB~~
- L. ~~Resource Protection District - RPD~~
- M. ~~Shoreland Overlay District - SOD~~
- N.J. Farm District - ~~FD~~ F

The following six districts are considered to be the Shoreland Zones, established pursuant to the Maine Department of Environmental Protection Shoreland Zoning Guidelines:

- K. Shoreland Limited Residential District - SLR
- L. Shoreland Limited Commercial District - SLC
- M. Shoreland General Development 1 - Ogunquit Beach - SG1
- N. Shoreland General Development 2 - Perkins Cove - SG2
- O. Stream Protection District -SP
- P. Resource Protection District -RP

The performance standards of Section 9.15 shall apply to any activities in these six Shoreland Zones.

1.3 District Boundary Locations: Zoning Map

The location and boundaries of the above districts are hereby established as shown on the map entitled, "~~Shoreland and Town of Ogunquit Official Zoning Map, Ogunquit, Maine~~", dated ~~April 22, 1991~~ [insert date of new map], prepared by under the direction of the Ogunquit Planning Board and filed in the office of the Town Clerk. The Official Zoning Map shall be drawn at a scale of not less than 1 inch equals 2000 feet, and shall be certified by the attested signature of the Municipal Clerk. Said map, with all explanatory matter thereon, shall be deemed to be, and is hereby made part of this Ordinance. When uncertainty exists with respect to district boundaries as shown upon such map, the following rules shall apply:

- A. Unless otherwise indicated, district boundary lines are the center lines, plotted at the time of adoption of this Ordinance, of streets, alleys, parkways, waterways, or separate rights-of-way of public utilities and railroads or such lines extended. Where the boundary is

indicated by a paved street or highway, the center line of the paved or traveled portion of the actual street or highway shall be used as the boundary rather than the center line of the of the right-of-way of the street or highway as shown in the deed(s), survey(s) or other relevant legal description(s).

- B. Other district boundary lines, which are not listed in the preceding paragraph, shall be considered as lines paralleling a street as indicated by the official zoning map on file in the office of the Town Clerk. In the absence of a written dimension, the graphic scale on the official zoning map shall be used.
- C. Where a question arises in regard to the limits of ~~the Resource Protection District or any~~ of the Shoreland Zoning Overlay Districts as they affect an existing or proposed land use, the applicant shall obtain a topographic land survey from a registered land surveyor based on the nearest U.S.G.S. benchmarks.

D The Shoreland Zones shall be defined as being the land areas located within 250 feet, horizontal distance, of the:

- 1. normal high water line of any great pond or river,
- 2. upland edge of a coastal wetland, including all areas affected by tidal action, or
- 3. upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high water line of a stream.

The jurisdiction of these zones shall also apply to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a freshwater or coastal wetland.

The Shoreland Zones shall be further divided into the following six distinct zones, as follows:

- 1. Shoreland Limited Residential District. The Shoreland Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Shoreland Limited Commercial District, or the Shoreland General Development Districts.
- 2. Shoreland Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the Shoreland Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.
- 3. Shoreland General Development Districts – Ogunquit Beach & Perkins Cove. The General Development Districts include the following types of existing, intensively developed areas:

- a. Areas of two or more contiguous acres devoted to commercial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (1) Areas devoted to lodging, restaurant, retail trade and service activities, or other commercial activities; and
 - (2) Areas devoted to intensive recreational development and activities, such as, but not limited to trails and public beaches.
 - b. Areas otherwise discernible as having patterns of intensive commercial, recreational uses.
4. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.
- D. 5. In non-tidal shoreland areas, †The Resource Protection District shall be defined as being include the following areas when they occur within the limits of any shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Shoreland Limited Commercial or Shoreland General Development need not be included within the Resource Protection District.
- a. In non-tidal shoreland areas, the land area within seventy-five feet of the normal below the upland edge or high water line, measured horizontally, of any freshwater wetland, river or stream. In tidal shoreland areas adjacent to the Perkins Cove Limited Business District and the Perkins Cove Residential District, the Resource Protection District shall be defined as being the upland land area within 50 feet of below a contour line at an elevation 11.0 feet above mean sea level as determined by a land surveyor based on the nearest USGS benchmark. In any other tidal shoreland areas and coastal wetlands adjacent to any other Districts, the Resource Protection District shall be defined as being the upland land area within 75 feet of a contour line at an elevation 11.0 feet above mean sea level as determined by a land surveyor based on the nearest U.S.G.S. benchmark. (Amended 4-7-07 ATM)
 - b. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a

great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

- c. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- d. Within the Shoreland Zones, areas of two or more contiguous acres with sustained slopes of 20% or greater.
- e. Within the Shoreland Zones, areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water. NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.
- f. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

~~E.g. Outside of shoreland areas, the Resource Protection District shall be defined as a~~Any significant wildlife habitat, including significant vernal pools, as defined in the Department of Environmental Protection, Chapter 335, Rules on Significant Wildlife Habitats, whether or not they are included on the official zoning map. The location of significant wildlife habitats shall be determined by field measurements, made at the expense of the landowner or applicant, pursuant to Article 12 of this Ordinance. (Amended 4-7-07 ATM)

~~F. The Shoreland Overlay District shall be defined as being the land area located within 250 feet, horizontal distance, of the normal high water line of any river or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within 75 feet of the normal high water line of a stream.~~

~~G. The Shoreland Overlay District is an overlay district. The provisions of the underlying district shall continue to apply. In addition, the performance standards of Section 9.15 shall apply, where appropriate. Where the dimensional requirements of the Shoreland Overlay District conflict with the dimensional requirements in an underlying zone the more restrictive requirements shall apply.~~

~~H.E. The depiction of the Resource Protection Shoreland Zoning Districts on the Official Zoning Map of the Town of Ogunquit, and the depiction of the Shoreland Overlay Districts on the Shoreland Overlay District Map are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement of the distance indicated on the maps from the normal high water line of the water body or the upland edge of wetland vegetation, regardless of the location of the boundary shown on the maps.~~

- I.F. The area below the normal high water line of any Significant Vernal Pools may be located inside or outside of shall be considered to be part of the Resource Protection District, regardless of whether or not the presence of the significant vernal pool is indicated on the Official Zoning Map, or Shoreland Overlay District. Vernal pools, which are not significant, shall not be considered to be part of the Resource Protection District. The normal high water line of any vernal pool shall be determined by field measurements, made at the expense of the landowner or applicant, pursuant to Article 12 of this Ordinance. In no event shall any vegetation clearing or land disturbance occur, or structure be placed or erected in a significant or non-significant vernal pool, or within 75 feet of its upland edge. Activities in or near vernal pools classified as significant vernal pools shall be governed by the rules of the Department of Environmental Protection, Chapter 335, and may be subject to additional setbacks and other required mitigation measures, beyond those required by the Town of Ogunquit. (Amended 4-7-07 ATM)
- G. The Code Enforcement Officer shall be the municipal official responsible for making determinations regarding the location of District boundaries and interpreting the Official Zoning Map. Decisions of the Code Enforcement Officer regarding the location of district boundaries may be appealed to the Board of Appeals, pursuant to section 5.2.A, Administrative Appeals. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

1.4 Conformity

- A. No building or structure shall be erected, altered, enlarged, rebuilt, moved or used, and no premises land shall be used, and no new lot shall be created, unless in conformity with the provisions of this Ordinance, except:
1. those existing at the time of adoption of this Ordinance, which by the provisions of this Ordinance become legally nonconforming-, or
 2. unless a variance is granted by the Board of Appeals.
- B. The regulations specified by this Ordinance for each type of district shall be minimum requirements and shall apply uniformly within each type of district and to each kind of structure and/or land.
- C. Land within the right of way lines of a street on which a lot abuts shall not be considered as part of such lot for the purposes of meeting the area requirements of this Ordinance notwithstanding the fact that the fee to such land may be in the owner of such lot.
- D. Where a zoning district boundary line divides a lot or parcel of land in the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the use regulations applicable to the less restricted portion of such lot may extend not more than 50 feet into the more restricted portion. This provision shall not, however, be applied when the more restrictive district is a Resource Protection District or the Shoreland Overlay District, nor when the less restricted portion lies within the Downtown Business District. The space and bulk regulations of the district shall apply to the land within those districts and are not subject to the 50-foot provision.

1.5 Conflict with Other Ordinances

Whenever ~~the~~ a provision requirements of this Ordinance is are in conflict with or is inconsistent with the requirements of any other lawfully adopted rules, regulations, statutes

or ordinances, or with any other provision within this Ordinance, the most restrictive or that imposing the higher standards shall govern.

1.6 **Separability-Severability**

In the event that any section, subsection or any portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be ~~separable~~ severable.

1.7 **Availability**

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

1.78 **Effective Date and Abrogation**

- A. Except as provided in Sect. 1.8.D, this ordinance becomes effective upon adoption by the legislative body of the Town of Ogunquit.
- B. The Ogunquit Zoning Ordinance adopted August 20, 1991 and subsequently amended is hereby repealed.

C. Automatic Repeal of Municipal Timber Harvesting Provisions.

The municipal regulation of timber harvesting in any Shoreland Zone is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the Shoreland Zone within the Town of Ogunquit. On the date established under 38 M.R.S.A. 438-A(5), the following provisions of this Chapter are repealed or amended as follows:

1. Table 702.1, Land Uses Permitted in Zoning Districts, delete the symbol "C" indicated in the Shoreland Limited Residential, Stream Protection, and Resource Protection Districts, next to the use "Timber Harvesting*," and replace with the symbol "BFP." Amend the table key under Reviewing Authority to indicate that "BFP" means "Permit Required from Maine Bureau of Forestry"

2. Section 9.15.L, Timber Harvesting, repeal in its entirety. However, section 9.21 shall remain in force.

3. Article 2 - Definitions, repeal definitions of the following terms:

Harvest area

Residual Stand

1.98 Amendments

- A. This Ordinance may be amended by a majority of a ~~quorum of the registered voters of the legislative body of the Town of Ogunquit present~~, either at a regular or special town meeting, ~~or by referendum vote, after being legally warned pursuant to the Town Charter and law~~, provided that a public hearing shall first be held. ~~For the purpose of this section, a quorum shall be considered to be not less than 15% of the registered voters of the town voting at the last gubernatorial election.~~
- B. The Planning Board must post notice of the public hearing required under §107.1 subsection A above, in the municipal office at least 14 days before the public hearing. The Planning Board must publish notice of the public hearing at least two times in a newspaper of general circulation in the municipality. The date of the first publication must be at least 14 days before the hearing and the date of the second publication must be at least seven days before the hearing.
- C. When a proposed amendment has the effect of either prohibiting all industrial, commercial or retail uses where any of these uses is permitted or permitting any industrial, commercial or retail uses where any of these uses is prohibited, the notice must contain a copy of a map indicating the portion of the municipality affected by the proposed amendment. For each parcel within the municipality that is in or abutting the portion of the municipality affected by the proposed amendment, the notice must be mailed by first class mail at least 14 days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. The Board of Selectmen shall prepare and file with the Town Clerk a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. Notice is not required under this paragraph for any zoning ordinance adopted under the laws contained in 30-A MRSA, §§43 12-4344, or the 38 MRSA, §§435-449.
- D. Within ten days of the adoption of any amendment to any provisions enacted pursuant to the Mandatory Shoreland Zoning Act (38 MRSA, § 435-449), the Town Clerk shall send a copy of the amendment to the Shoreland Zoning Coordinator within the Maine Department of Environmental Protection for review and approval by the Commissioner of the Department of Environmental Protection. Such an amendment shall not be effective until approved by the Commissioner or until 45 days from the date ~~sent~~ received by the Commissioner ~~Clerk~~, whichever shall come first. Any application for a permit submitted to the Code Enforcement Officer, Board of Appeals, or Planning Board within the 45-day period shall be governed by the terms of the proposed amendment, if the amendment is ultimately approved by the Commissioner of the Department of Environmental Protection, or if the Commissioner fails to take action.
- E. If amendments are made in the district boundaries or other matter portrayed on the Official Zoning Map requiring review and approval of the Commissioner of the Department of Environmental Protection, such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner.

~~E.F.~~ Contract or Conditional Zoning

* * * * *

ARTICLE 2 – DEFINITIONS

Definitions found in a standard Webster’s Dictionary of the current decade on file in the Code Enforcement Officer’s office will apply to all words not already defined in this Zoning Ordinance. Words used in the present tense include the future, and the plural includes the singular; the word “lot” includes the word “plot”; the word “building” includes the word “structure”; the word “shall” is always mandatory; “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used/occupied.”

Accessory Use

A use customarily incidental and subordinate to the principal ~~building or~~ use and located on the same lot with such principal ~~building or~~ use. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

Accessory Building or Structure

A subordinate building or structure, a portion of the main building, the use of which is incidental to that of the principal building or main portion thereof. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

* * * * *

Aggrieved party

An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture

The production, keeping or maintaining for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting or the sale of processed farm products, including, but not limited to, meat and poultry cuts, canned or preserved fruits and vegetables, and animal feed mixtures.

* * * * *

Aquaculture

The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

* * * * *

Basement

An area below the first floor with a floor-to-ceiling height of 6 feet or more and having part but not more than one-half of its volume height above average finished grade, as defined by this Ordinance. A basement shall not be used as a sole living quarters within a

dwelling. A basement shall be counted as a story for the purpose of height measurement, if used for a dwelling unit or for business purposes; accessory use is permitted; (refer to definition of a "story"). (Amended 4/01/06 ATM)

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Boat Launching Facility

A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

* * * * *

Bureau (as referred to in Shoreland Zoning provisions)

State of Maine Department of Conservation's Bureau of Forestry

Campground

Any area or tract of land used to accommodate two or more parties in temporary living quarters, including, but not limited to, tents, trailers recreational vehicles or other shelters camping outfits.

Canopy

The more or less continuous cover formed by tree crowns in a wooded area.

Coastal Wetland

All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action, all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat, and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level of elevation 11 feet above mean sea level as determined by a land surveyor based on the nearest USGS benchmark, as identified in tide tables published by the National Ocean Service defined by this Ordinance. Coastal wetlands include all areas affected by tidal action, not just those areas where salt marshes and salt meadows exist. Cobble and sand beaches, mudflats, and rocky ledges, below the maximum spring tide are all considered to be coastal wetlands. Coastal wetlands may include portions of coastal sand dunes.

* * * * *

Commercial use

The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Coverage

That percentage of the plot or lot area covered by the structure or structures.

Coverage, Building

Outside of any shoreland zone, the sum of the area of the footprints of all existing or new buildings, as defined by this ordinance, compared to the total area of the lot on which the buildings are located, expressed as a percentage. The computation of building coverage includes all principal and accessory buildings, such as sheds and garages located on the lot. If the lot is located in more than one zoning district, the lot area within each zoning

district shall be calculated, and the building coverage shall be computed separately for those building footprints located on each portion of the lot within each zoning district. Zoning district lines, other than Shoreland Zone boundaries, may be adjusted for the purposes of making calculations of building coverage, pursuant to section 1.4.D of this Ordinance.

Inside any shoreland zone, building coverage shall include, in addition to the areas indicated above, the total area of all other structures, parking lots and any other non-vegetated surfaces.

Cross-sectional area

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

DBH

The diameter of a standing tree measured 4.5 feet from ground level.

Deck

A flat-floored roofless and wall-less area adjoining a structure. An awning-covered deck shall not be construed as a porch (see also "Patio").

Development

A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements

Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability

Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity

The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway

A vehicular access-way serving not more than two lots containing dwelling units, or leading to the parking area of nonresidential uses on only one lot. Within any Shoreland Zones, driveways over five hundred (500) feet in length, or serving more than two dwellings, shall be regulated as roads, for the purposes of enforcing the provisions of section 9.15.

Dwelling

A building used, designed to be used or capable of being used for one or more dwelling units including but not limited to single family homes, duplexes, multi-family buildings, apartments, condominium, studios and efficiencies. Where this Ordinance permits “dwellings”, dwelling shall mean single family, detached buildings unless the Ordinance provides otherwise. “Dwellings” shall not include trailers or recreational vehicles.

Single-Family Dwelling

A building containing only one dwelling unit for occupation by not more than one family.

Two-Family Dwelling

A building containing only two dwelling units, for occupation by not more than two families.

Multi-Family Dwelling

A building containing three or more dwelling units, such buildings being designed for residential use and occupancy by three or more families living independently of one another.

* * * * *

Emergency operations

Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services

Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure

An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of Use

The addition of one or more months to a use's operating season; or the expansion of floor area or ground area devoted to a use.

* * * * *

Floodway

The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor Area, Gross

The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls, plus the horizontal area of any unenclosed portions of a building such as porches and decks.

Floor Area, Net

The total of all floor areas of all roofed portions of a building, in square feet, excluding the following: unenclosed porches, decks, stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading, and floors below the first or ground floor except when used for human occupation.

* * * * *

Forest management activities

Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland

A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand

A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation

The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including but not limited to basements, slabs, sills, piers, posts or frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater Wetland

Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. of 10 or more contiguous acres; or of fewer than 10 contiguous acres and which are adjacent to a surface water body, excluding any river, stream or brook, the combined surface areas of which are at least 10 acres; and
2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; ~~and which may nevertheless~~

3. Freshwater wetlands may contain small stream channels or inclusions of land which otherwise do not conform to the criteria of this definition.

* * * * *

Functionally water-dependent uses

Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

Great pond

Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA

Any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

* * * * *

Ground cover

Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

* * * * *

Harvest Area

The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of Building or Structure

Outside of the Shoreland Zone, the height of a building is defined as the vertical building measurement from the structure's highest point to the average finished mean original (prior to construction) grade, which shall be computed as the average of the original ground level at the points located at each exterior corner of the building, as defined by this Ordinance. This height shall not include features of the building or structure such as chimneys, decorative cupolas, towers or spires, photo-voltaic cells, solar water heaters, or similar non-habitable appurtenances that have no floor area.

Within the Shoreland Zone, the height of a building shall be defined as the vertical distance between the mean original (prior to construction) grade at the corners on the downhill side of the structure and the highest point of the structure. The highest point of the structure shall be measured in the same manner as in non-Shoreland Zones.

Home Occupation

An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit and which is clearly incidental and secondary to the use of the dwelling for residential purposes.

Increase in nonconformity of a structure

Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in property line, water body, tributary stream or wetland setback distances, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which meet the dimensional standards shall not be considered to increase nonconformity of a structure.

Individual Private Campsite

An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fireplaces or tent platforms.

* * * * *

Institutional

A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road

A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester

A forester licensed under 32 M.R.S.A. Chapter 76.

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Marina

A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market Value

An estimate of the price a property will bring in the open market and under prevailing market conditions in a sale involving an arm's length transaction between a willing seller and an informed buyer, both conversant with the property and with prevailing price levels.

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Native

Indigenous to the local forests.

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Nonconforming Development or Condition

A lot, structure, or use lawfully existing at the time of adoption or amendment of this Ordinance that does not meet all of the applicable performance standards, which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Nonconforming Lot

A lot which lawfully existed at the effective date of adoption or amendment of this Ordinance, and does not meet the area, frontage or width requirements of the district in which it is located.

Nonconforming Structure

A structure or portion thereof, lawfully existing at the time of adoption or amendment of this Ordinance, that does not conform to the setback, height, or lot coverage regulations of this Ordinance, which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Nonconforming Use

A use of land, building, premises, or structure or parts thereof, lawfully existing at the time of adoption or amendment of this Ordinance, that is not permitted in the district in which it is located, which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Normal High Water Line

That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, the normal high water line is the upland edge of the wetland and not the edge of the open water. In the case of land adjacent to tidal waters, the normal high water line shall be considered to be the contour line at an elevation 11.0 feet above mean sea level as determined by a land surveyor based on the nearest USGS benchmark.

Original Ground Level Grade

The elevation of the ground surface prior to the time at which the a permit application was submitted or construction or earth moving was commenced.

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Person

An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

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Public Use or Public Facility

Any building, facility, or use held, used or controlled exclusively for public purposes by any governmental body or department or branch of government, including, but not limited to: federal, state, county or municipal.

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Recent floodplain soils

The following soil series as described and identified by the National Cooperative Soil Survey:

<u>Fryeburg</u>	<u>Hadley</u>	<u>Limerick</u>
<u>Lovewell</u>	<u>Medomak</u>	<u>Ondawa</u>
<u>Alluvial</u>	<u>Cornish</u>	<u>Charles</u>
<u>Podunk</u>	<u>Rumney</u>	<u>Saco</u>
<u>Suncook</u>	<u>Sunday</u>	<u>Winooski</u>

Recreational facility

A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational Vehicle

A vehicle or an attachment to a vehicle designed to be towed behind a vehicle, and designed or intended for use as temporary sleeping or living quarters for one or more persons, including pick-up campers, travel trailers, tent trailers, camp trailers and motor homes. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

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Replacement system (wastewater)

A system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residual basal area

The average of the basal area of trees remaining on a harvested site.

Residual Stand

A stand of trees remaining in the forest following timber harvesting and related activities.

Riprap

Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River

The Ogunquit River and the Josias River, within the boundaries of the Town of Ogunquit. The portions of these rivers that are subject to tidal action shall be regulated as coastal wetlands.

Road

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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Salt marsh

Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow

Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas.

Service drop

Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback (from Water or Wetland)

The minimal horizontal distance from the normal high water ~~mark~~ line of a water body or tributary stream, or the upland edge of a wetland, to the nearest part of the structure, road, parking space or other regulated object or area.

Shore Frontage

The width of the lot as it fronts the shore of a water body or wetland, as measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water ~~mark~~ line.

Shoreland ~~Overlay~~ Zone

~~The land area located within 250 feet, horizontal distance, of the normal high water line of any river or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within 75 feet of the normal high water line of a stream.~~

The Shoreland Limited Residential District, the Shoreland Limited Commercial District, the Shoreland General Development Districts, the Stream Protection District, and the Resource Protection District

Shoreline

The normal high-water line, or upland edge of a freshwater or coastal wetland.

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Skid Road or Skid Trail

A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash

The residue, e.g., treetops and branches, left on the ground after a timber harvest.

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Stream

A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams, as depicted on the most recent edition of a United State Geological Survey 7.5 minute series topographic map, to the point where the body of water becomes a river.

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Structure

Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, satellite receiving dishes, small wind energy systems, carports, decks, arbors, pergolas, and other building features, ~~but not including~~ Outside of any Shoreland Zone, the following items shall be exempted from the definition of a structure: signs, sidewalks, walkways, fences, walls, flagpoles less than 35 feet in height, patios, driveways, and parking lots including accessory bumpers and wheel stops.

Within any Shoreland Zone only the following items shall be exempted from the definition of a structure: fences; poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. Within any shoreland zone, the term structure shall include structures temporarily or permanently located such as decks, patios, and satellite dishes.

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Substantial start

Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

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Sustained slope

A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tenting

The use of a tent or other similar temporary shelter, not designed for transport on wheels, by a property owner and/or the property owner's family members or house guests for the purpose of recreational shelter or overnight sleeping. This use shall not include any such tent or shelter that serves as a replacement for or alternative to non-recreational housing, nor any ground development as defined in "individual private campsite."

Tidal waters

All waters affected by tidal action during the maximum spring tide, defined as an elevation of 11 feet above mean sea level, as determined by a land surveyor based on the nearest USGS benchmark.

Timber Harvesting

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery, but not the construction or creation of roads nor the clearing of land for approved construction. The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 9.15.M, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities

Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

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Tributary Stream

A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of terrestrial, upland

vegetation or the presence of aquatic vegetation and a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the Shoreland Overlay District Zone of the receiving water body or wetland. Water setback requirements apply to tributary streams within the Shoreland Zones. Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

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Upland Edge of a wetland

The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, or the contour line with an elevation 11 feet above mean sea level as determined by a land surveyor, whichever is higher, based on the nearest USGS benchmark. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

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Vegetation

All live trees, shrubs, ground cover, and other plants without limitation, regardless of their diameter.

Velocity zone

An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure

The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

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Water Body

Any great pond, river, stream or tidal area.

Water Crossing

Any building, structure, device or object extending from one bank to the opposite bank of a river, ~~or stream,~~ tributary stream, or wetland, whether under, through or over the water course or wetland. Such projects includeing but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines and cables, as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland

A freshwater or coastal wetland.

Wind Energy System, Small

A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kilowatts and which is intended to primarily reduce onsite consumption of utility-provided electrical power. (Amended 4-7-07 ATM)

Windfirm

The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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Woody Vegetation

Live trees or woody, non-herbaceous shrubs.

ARTICLE 3 – NONCONFORMANCE

3.1 General

A. Continuance, Expansion, Reconstruction

It is the intent of this Ordinance to promote land use conformities. Any use of land, or any building, structure, or parts thereof, legally existing at the time of the adoption of this Ordinance, or at the time a zone or regulation is changed by amendment hereafter, which does not conform to the use requirements of this Ordinance or its amendments, may continue, but may not be expanded, reconstructed, ~~or~~ structurally altered, or permitted to become more non-conforming in any way, except as specified below.

B. Transfer of Ownership

Ownership of lots, structures and uses which remain lawful but become nonconforming by the adoption or amendment of this Ordinance may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.

C. Maintenance and Repairs

This ordinance allows the normal upkeep and maintenance of nonconforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the nonconforming use or structure ~~and the value of which is less than 25% of the market value of the structure before the repair is started;~~ and such other changes in a nonconforming use or structure as Federal, State, or Local building and safety codes may require.

3.2 Nonconforming Uses

A. Nonconforming Use Defined

A use of land, building, or structure lawfully existing at the time of adoption or amendment of this Ordinance, that is not permitted in the district in which it is located.

B. Resumption Prohibited

A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use, even if the owner has not intended to abandon the use, except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

C. Nonconforming Use of Part of a Building

A nonconforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use nonconforming.

D. A Structure Nonconforming as to Use

Except for single family dwellings, a structure, nonconforming as to use shall not be enlarged unless the nonconforming use is terminated. Within any Shoreland Zone, non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 3.3.H.1 below.

E. Nonconforming Use of Land

A nonconforming use of land may not be extended into any part of the remainder of a lot of land. A nonconforming use of land which is accessory to a nonconforming use of a building shall be discontinued at the same time the nonconforming use of the building is discontinued.

F. Change of Use

A legally existing nonconforming use may be changed to another nonconforming use provided that the proposed use ~~is equally or more appropriate to the district than the existing nonconforming use, and the impact on adjacent properties is less adverse~~ has no greater adverse impact on the subject and adjacent properties and resources, than the impact of the former use as determined by the Planning Board. The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards in Articles 8 and 9 of this ordinance shall apply to such requests to establish new nonconforming uses. In addition, within any Shoreland Zone, the determination of no greater adverse impact shall be made according to criteria listed in Section 3.3.H.4 below.

3.3 Nonconforming Structures

A. Nonconforming Structure Defined

A structure or portion thereof, lawfully existing at the time of adoption or amendment of this Ordinance, that does not conform to the setback, height, or lot coverage regulations of this Ordinance.

B. Maintenance Permitted

A nonconforming building or structure may be maintained or repaired but no alterations which alter the essential use, density, footprint or facade shall be made except those required or permitted by law or Ordinance.

C. Enlargements Controlled

A nonconforming structure shall not be added to or enlarged unless such addition or enlargement conforms to all the regulations of the zone in which it is located. The addition of an open patio with no structures elevated more than three inches above original ground level shall not constitute the expansion of a nonconforming structure as of January 28, 1991. The addition of steps or the enclosure of an existing porch shall not constitute the expansion of a nonconforming structure. But the addition of a deck does constitute the expansion of a nonconforming structure and therefore the deck shall meet all the dimensional requirements of this Ordinance. Construction or enlargement of a foundation under an existing dwelling shall not be considered an expansion provided that:

1. the construction or expansion does not expand the habitable space of the structure; and
2. the completed foundation does not extend beyond the exterior dimensions of the structure.

Construction or enlargement of a foundation shall be subject to the Municipal Plumbing Laws (30-A MRSA, Chapter 185, Subchapter III) requiring new soils documentation.

D. Relocation

A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and Rules.

E. Reconstruction

Any nonconforming structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or the owner's agent, may be restored or reconstructed, provided that the restoration or reconstruction shall not enlarge the overall floor space, or height of the building, or cause the building to become more nonconforming. A permit for such reconstruction must be obtained and actual reconstruction must be commenced within 12 months and completed within 24 months of the damage or destruction. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

F. Discontinuance

Discontinuance of the use of a legally existing non-conforming structure shall not constitute abandonment of the structure. Conforming uses of the structure may be revived at any time provided that the conforming uses comply with the requirements of Articles 8 and 9.

G. Nonconforming Structures, Lack of Required Parking or Loading Space

A structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered unless off street parking space is provided for the original structure sufficient to satisfy the requirements of this Ordinance and unless additional off street parking space is provided for such enlargement or alteration of the original structure sufficient to satisfy the requirements of this Ordinance. A structure which is nonconforming as to requirements for off-street loading space shall not be enlarged or altered unless off-street loading space is provided for the original structure or use sufficient to satisfy the requirements of this Ordinance and unless additional off-street loading space is provided for such enlargement or alteration of the original structure sufficient to satisfy the requirements of this Ordinance. Section 3.3.G shall not apply to changes in a permitted use that will not require additional parking nor to alterations that will not require additional parking.

H. Additional Requirements in the any Shoreland Zone Overlay District

1. Expansions

No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be extended toward the water body, tributary stream or wetland.

- a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 3.3.H.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
- 1b. The addition of a patio is considered the expansion of a nonconforming structure and a new patio or expansion of a patio may not expand the footprint of the structure, existing on January 1, 1989, by more than 30%.
- 2c. The addition of steps or the enclosure of an existing porch is considered the expansion of a nonconforming structure and the addition or enclosure shall not expand the floor area or volume of the structure existing on January 1, 1989 by more than 30%.
- 3d. Whenever a new, enlarged, or replacement foundation is constructed or placed beneath a structure which does not meet the setback requirements from a water body or a wetland, the structure and new foundation shall be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 3.3.H.2, Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 3.3.H.1.a above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

2. Relocation

- a. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the property can be connected to the public sewer, or that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.
- b. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, and (if not served by public sewer service) the location of the septic system and other on-site soils

suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

c. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(1) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(2) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

~~4. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be extended toward the water body, tributary stream or wetland.~~

3. Reconstruction or Replacement

5. a. ~~When a structure which is~~ Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or is damaged or destroyed, regardless of the cause, by more than 50% of its market value of the structure before such damage, or destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within 18 months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is shall be in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 3.3.H.1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be

replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 3.3.H.2 above.

b. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

c. In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in Section 3.3.1.3 above, the physical condition and type of foundation present, if any.

4. Change of Use of a Non-conforming Structure

6. a. The use of a structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

b. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

3.4 Nonconforming Lots

A. Nonconforming Lots Defined

A lot which lawfully existed at the effective date of adoption or amendment of this Ordinance, and does not meet the area, frontage or width requirements of the district in which it is located.

B. Vacant Lots

A nonconforming vacant lot may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except minimum lot area, minimum net residential area per dwelling unit, shore frontage, and street frontage can be met. Variance of yard or other requirements not involving minimum lot area, minimum net residential area per dwelling unit, shore frontage or street frontage shall be obtained only by action of the Zoning Board of Appeals. (Amended 4/5/05 ATM)

C. Built Lots

A legally nonconforming lot, which does not meet the lot area or street frontage requirements, or both, that was built upon prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions. The structure(s) or use(s) on such lots may be repaired, maintained, improved, enlarged, changed or relocated only in conformity with all other dimensional requirements of this Ordinance besides those requirements of lot area, or street frontage which made the lot nonconforming. If the proposed changes or enlargement of such structure(s) cannot meet the dimensional requirements of this Ordinance besides lot area or street frontage, a variance must be obtained from the Board of Appeals in accordance with Section 5.2.B, prior to any approval process. (Amended 4/5/05 ATM)

D. "Improved" Lots in Subdivisions

For purposes of this section, lots shown on a subdivision plan approved by the Planning Board and recorded in the Registry of Deeds shall not be treated as lots held in common ownership if the owner or his predecessor has substantially improved each lot by the paving of streets and the installation, where available, of public sewer and of utility services.

E. Contiguous Built Lots

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendments of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, ~~providing all state law and local ordinance requirements are complied with~~ provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and (if not served by public sewer) the State of Maine Subsurface Wastewater Disposal Rules are complied with.

F. Contiguous Lots: Vacant or Partially Built

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots is vacant or contains ~~only an accessory~~ no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements ~~standards except where the lots have frontage on parallel streets.~~ (Amended 4/5/05 ATM)

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

(b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

G. Functional Division of a Nonconforming Lot with Two or More Single-Family Dwellings (Adopted June 11, 2002)

If two or more year-round single-family houses existed on a single lot of record as of September 23, 1971, each may be sold on a separate lot, subject to review and approval by the Planning Board, provided that each resulting lot shall:

1. Be as conforming as possible to the dimensional requirements of this Ordinance;
2. Be at least 20,000 square feet if served by an on-site subsurface wastewater sewage disposal system; and
3. Be served by a public water supply system unless an on-site water well can meet all State and municipal requirements.

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ARTICLE 4 – ADMINISTRATION

4.1. Enforcement Officer

- A. There is hereby established the position of Code Enforcement Officer. The Code Enforcement Officer shall be appointed or reappointed by the Town Manager, annually by July 1st. The Town Manager may also appoint a deputy or assistant Code Enforcement Officer. Reference to the Code Enforcement Officer includes a deputy or assistant. It shall be the duty of the Code Enforcement Officer to administer and enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- B. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall investigate all instances of possible violations, with or without complaint, and shall take appropriate action if a violation exists.
- C. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- C. Cease and Desist Order.
Upon a finding that any of the provisions of this Ordinance are being violated, the Code Enforcement Officer shall immediately (within three business days) notify by Certified Mail the person(s) responsible for such violation(s), indicating the nature of the violation(s), and ordering the action necessary to correct it. The Code Enforcement Officer shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal activity; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
- D. Consulting Services
Where the Code Enforcement Officer cannot determine that a violation exists because of technical complexity or need to use equipment not available to the Town, the Code Enforcement Officer may, after consulting with the property owner and affording the property owner the opportunity to take action, consult with such independent experts or agencies as necessary to determine if a violation exists. If a violation exists, the Code Enforcement Officer shall notify the violator of such violation, order appropriate corrective action, and require the violator to reimburse the Town for any consulting services. If no violation exists, the Town shall pay for consulting services.

4.2. Legal Actions and Violations

A. Any violation of this Ordinance shall be deemed to be a nuisance. When a violation of any provision of this Ordinance is found to exist, the attorney for the Town, upon notice from the Town Manager or Code Enforcement Officer as directed by the Selectmen, is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary for the enforcement of the provisions of this Ordinance, the same to be brought in the name of the Town.

B. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4.3. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, firm or corporation being the owner of, or having control or use of any building or premise, who violates any provision or requirement of this Ordinance, on conviction thereof, shall be penalized fined pursuant to 30-A, MRSA, §4452.

4.4. Building Permit and Certificate Of Occupancy

The Code Enforcement Officer shall be consulted before any buildings or other structure is erected, demolished, moved, replaced, or additions are made. This includes work done internally or externally. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

A. Permit Required

1. An application shall be submitted to the Code Enforcement Officer for the following activities and these activities shall not commence without a permit being issued in accordance with this section.
 - a. Construction or alteration of a structure;
 - b. Construction of an addition or expansion to an existing structure;
 - c. Demolition of a structure;
 - d. A change in use; or establishment of a new use,
 - e. renewal of a discontinued nonconforming use, and
 - f. Installation of a drinking water well.
2. Only the following activities shall not require a permit:
 - a. repairs, replacement, and/or normal maintenance not requiring affecting structural elements, and
 - b. decorative changes in existing structures provided that the activity is not required to obtain Design Review approval pursuant to Article 11, and is in conformance with Federal, State or local laws and does not involve any other

- physical modifications or changes otherwise requiring a permit under this ordinance.
- c. archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
 - d. replacement of an existing road culvert as long as:
 - (1) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (2) The replacement culvert is not longer than 75 feet; and
 - (3) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

4.5. Permit Application

- A. All applications for building permits shall be accompanied by scaled site plans showing the actual dimensions and shape of the lot to be built upon; and the exact sizes, locations and dimensions of the proposed structure(s) or alterations and any existing structures. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with, and provide for the enforcement of, this Ordinance.
 - 1. All applications shall also include:
 - a. The name and address of the property owner.
 - b. The name, address and telephone number of the person, firm, or firms involved in the construction on the property.
 - c. The value of the proposed construction.
 - d. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.
 - e. Any other information the applicant wishes to furnish.
 - f. Any other information requested by the Code Enforcement Officer to make the application intelligible, and to determine whether the proposed construction will conform to this ordinance, other local ordinances and state law.
 - g. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.
 - 2. All applications shall be signed: by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
 - ~~a. by the person or firm to do the work; or~~
 - ~~b. by the owner of the property or other person authorizing the work.~~
 - 3. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date of its receipt.

- B. Wherever on-site subsurface disposal is contemplated, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal and shall be subject to prior issuance of a plumbing permit. Such evidence shall ~~be furnished~~ include a site evaluation in compliance with the Maine Subsurface Wastewater Disposal Rules.
- C. The installation of an on-site water supply shall require the approval of the Code Enforcement Officer and shall be subject to satisfactory evidence that the proposed drinking water well will be located no less than 100 feet horizontal distance from any existing subsurface wastewater disposal system on the same or an abutting lot.
- D. Within two business days of the receipt of a permit application the Code Enforcement Officer shall decide whether the information in the application is sufficient to determine whether, under the ordinance, the permit should be issued, or if the application is otherwise inadequate. If the Code Enforcement Officer feels the application is insufficient or inadequate, the Code Enforcement Officer shall at once notify the applicant in writing, indicating what necessary information is required to correct the application. If the application is not so corrected, it shall be denied. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.
1. When an application conforms to the provisions of this ordinance and other codes and ordinances of the town, upon payment of the required building permit fees, and any outstanding planning board or consultant review fees, the Code Enforcement Officer shall within 14 working days of its receipt issue the permit, stating any conditions of approval in writing. The Code Enforcement Officer shall notify the Tax Assessor and keep a copy of the application/permit in a permanent file in code enforcement office. (Amended 4/5/05 ATM)
 2. If the application does not conform, the Code Enforcement Officer shall, within 14 working days, deny the permit in writing, stating the reasons for such denial. In the event the proposed building or structure is so constructed or is of such usage as to require a review of the application by other authorities or boards, as determined by reference to the land-use regulation file, the Code Enforcement Officer shall refer the applicant to the appropriate authority or board for review, approval or denial. Upon receipt of the decision of the reviewing authority or board, in writing, and if such decision is an approval, the Code Enforcement Officer shall issue the permit with any conditions prescribed by the reviewing authority or board. The Code Enforcement Officer shall not issue any building permit if the Code Enforcement Officer has knowledge that a particular structure would be located in an unapproved subdivision, and/or if the Code Enforcement Officer has knowledge that the structure would be in violation of a particular State law for which the municipality has enforcement responsibilities, or local ordinance. In denying any permit under these circumstances, the Code Enforcement Officer shall state in writing the reasons for the denial.
No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.
- E. Additional Criteria for Construction or Activities in Any Shoreland Zone
After the submission of a complete application to the required reviewing authority, no permit or approval shall be issued for any construction or activities within the

Shoreland Zone unless the review authority makes a positive finding based on the information presented that the proposed use:

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

(3) Will adequately provide for the disposal of all wastewater;

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;

(8) Will avoid problems associated with floodplain development and use;

~~EF.~~ Following the issuance of a building permit if no substantial start is made on the construction within six months of the date of the permit, it shall lapse and become void. Thereafter no further work on such construction can be made until a new application has been made and approved. The fee for such permit shall be charged as a renewal fee. ~~Any permit issued prior to the effective date of this paragraph shall lapse and become void six months after the effective date of this paragraph if no substantial start has been made on the construction.~~

1. A permit shall expire ~~two years~~ six months after the date of issuance of the permit if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within six months of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire. unless a Certificate of Occupancy has been issued or an extension is issued in accordance with Section 4.5.E.2.

~~2.~~ The Code Enforcement Officer may grant a ninety-day extension if a written request for an extension is received prior to the expiration of the permit.

~~3.~~ Upon expiration of a permit, the property owner shall remove any incomplete structures for which Certificate of Occupancy have not been issued. Nothing shall prohibit the property owner from applying for a new permit, to be reviewed under the provision of this ordinance in place at the time of application.

~~FG.~~ Wherever an activity that consumes, generates, or handles hazardous wastes, as defined in 38 MRSA, § 1303, hazardous matter as defined in 38 MRSA, §13 17 or oil as defined in 38 MRSA, §542, or low-level radioactive waste storage or disposal as defined in 38 MRSA, § 1451 is contemplated, the applicant shall provide the Code Enforcement Officer and Planning Board with detailed information concerning the nature and extent of such activity. In addition to other action which the CEO may take pursuant to this Ordinance, the CEO may refer the hazardous activity to the appropriate local or state agency as he deems appropriate.

~~GH.~~ Any permit issued which is not in conformity with the provisions of this ordinance confers no rights and is void.

I. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been

issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

4.6 . Special Exceptions for Single Family Homes in Resource Protection

The Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

A. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

B. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

C. All proposed buildings, sewage disposal systems and other improvements are:

1. Located on natural ground slopes of less than 20%; and

2. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

D. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

E. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

4.6.4.7 Certificate of Occupancy Required

A. A certificate of occupancy issued by the Code Enforcement Officer is required in advance of the use or occupancy of:

1. Any lot, or change of the use thereof

2. A structure hereafter erected or a change in the use of an existing structure;

3. Any addition to an existing structure; or
 4. As the building code requires.
- B. No Certificate of Occupancy shall be issued unless the lot or building or structure complies with all the provisions of this ordinance. A record of all Certificates of Occupancy shall be kept on file in the Code Enforcement Office, and a copy shall be furnished, on request, to any person having a proprietary or tenancy interest in the structure or land involved. A duplicate copy shall be filed in the office of the Tax Assessor and the Certificate of Occupancy shall state specifically the uses which it permits.
 - C. The Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy.
 - D. Failure to obtain a Certificate of Occupancy shall be a violation of this Ordinance.

4.7-4.8 Fee

Application for a permit shall be accompanied by a fee which shall be established by the Board of Selectmen. If an activity which requires a permit is commenced prior to the issuance of a permit a penalty shall be added to the Building Permit Fee. (Amended April 8, 2002)

4.8-4.9 Performance Bond

Construction of any residence, commercial or industrial building or other structure requires the posting of a Performance Bond in an amount to be specified by the Town Manager. The Town Manager's determination shall be based upon consultation with the Road Commissioner, Police Chief, and Fire Chief. The Performance Bond amount shall be based on an estimate of the potential responsibility and/or liability affecting town property and town services and those aspects of the development which are anticipated to be open to the public.

ARTICLE 5 – APPEALS

5.1 Board of Appeals

- A. A Board of Appeals, hereafter in this section designated as the “Board” is hereby established. The Board shall consist of five full members and two associate members who shall be residents and registered voters of the Town of Ogunquit, and shall be appointed by the Board of Selectmen of the Town. The term of office of the members of the Board shall be three years, except that the five full members first appointed shall serve respectively for one term of one year, two terms of two years, and two terms of three years. The term of office of associate members shall be one year. The vacancy in the office of a member shall be filled for the unexpired term only. Mid-term vacancies in the office of full members shall be filled first by the first associate then by the second associate. Each member’s term of office shall expire at the first regular Selectmen’s meeting following the regular ATM of the year in which the member’s term ends, except that a member may continue to serve until reappointed or until a successor has been appointed to the position. When a member is unable to act because of conflict of interest, physical incapacity or otherwise unable to participate, the Chairman shall designate an associate to act in his stead. No business of the Board shall be transacted under this Ordinance unless three members thereof are present and participating. Any member of the Board may be removed for cause as determined by the Board of Selectmen upon written charges and after a public hearing, for which at least 10 days’ notice shall be given in the same manner as other public municipal meetings are noticed. The Board shall annually elect a Chairman and Secretary from its own membership, and shall adopt and annually revise or renew Bylaws setting forth procedural rules, regulations and guidelines governing the conduct of the Board, its members, employees and other interested parties who regularly appear before the Board. These Bylaws may be amended from time to time throughout the year and may include such rules and regulations as the Board deems necessary to clarify its duties set forth in this Ordinance.
- B. The Board shall keep minutes of its proceedings, and shall create a written decision of its findings and conclusions, including a recording the vote of each member upon each matter coming before the Board for vote, and indicating the absence or failure to vote, as the case may be, of any member. The minutes of the Board’s proceedings, decisions, application files, and all the writings required by this Ordinance to be made by the Board, shall be kept at its office, and shall be a public record.
- C. A municipal officer or spouse thereof shall not serve as a member.
- D. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a vote of the members, except the member who is being challenged.
- E. In no case may an appeal carry without at least three members voting in its favor. Members must vote on all issues unless excused for cause by the Board.

5.2 Powers and Duties

Appeals from the decision of the Code Enforcement Officer shall go to the Board and from the Board to the Superior Court in accordance with Maine Law. The Board shall have the following powers and duties:

- A. Administrative Appeals: To hear and decide administrative appeals on a de novo basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or not made failure to act by, the Code Enforcement Officer in the enforcement of his or her review of and action on a permit or other application under this Ordinance, except for the enforcement of Article 11. When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision. The action of the Code Enforcement Officer may be affirmed, modified or reversed by the Board by vote of the Board.

Any notice of violation, or any related order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals. Such enforcement actions are appealable only to the Courts as allowed by law and rules of civil procedure.

- B. Variance Appeals:

1. Standards Applicable to all Variance Appeals. Any of the following types of variances set forth below in subsection 2, may be permitted only under the following conditions:

- ~~1. Variances of lot area, lot coverage, frontage and setback requirements.~~

~~a.—~~

~~a. The board may grant a variance only from the standards dimensional requirements relating to lot area, lot coverage, frontage, height and setback requirements of this ordinance, subject to the specific limitations and restrictions found below in this section.~~

~~b. Establishments or expansions of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming uses in the particular district or adjoining district.~~

~~c. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.~~

~~d. For cases involving any shoreland zone, a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the Code Enforcement Officer to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.~~

2. Three Types of Variances Allowable and Standards for Each

The Board of Appeals may only grant three types of variances, as set forth below:

a. Relaxed Dimensional Standards Variance, Available Outside of

Shoreland Zones. For structures located outside of any Shoreland Zones, the Board may grant a variance only from those dimensional standards listed in subsection B.1.a. above, and only when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist. ~~In granting any variance, the Board shall prescribe conditions and safeguards as are appropriate under this Ordinance.~~

- i. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- ii. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- iii. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- iv. No other feasible alternative to a variance is available to the petitioner;
- v. The granting of a variance will not unreasonably adversely affect the natural environment; and
- vi. The property is not located in whole or in part within the shoreland zone.

~~b.—~~As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

~~2.—~~Other

b. Dimensional Standards Variances for Structures Located in Shoreland

Zones. ~~a.—~~For structures located in any Shoreland Zones, ~~the Board may grant a variance only from those dimensional standards listed in subsection B.1.a. above, and only when strict application of the terms of this Ordinance may grant a variance from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this code would result in undue hardship. In granting any variance, the Board shall prescribe conditions and safeguards as are appropriate under this Ordinance.~~

~~b.—~~The words "undue hardship" as used in this subsection, when evaluating a variance application for any structure in any Shoreland Zone, shall mean:

- i. That the land in question cannot yield a reasonable return unless a variance is granted;
- ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- iii. That the granting of the variance will not alter the essential character of the locality; and

iv. That the hardship is not the result of action taken by the applicant or a prior owner.

c. ~~Establishments or expansions of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming uses in the particular district or adjoining district.~~

3.—

c. Disability Variances. The board may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 MRSA, §4553 and the term “structures necessary for access to or egress from the dwelling” is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

~~C. Miscellaneous Appeals: To permit variations in nonconformance as prescribed in Article 3 of this Ordinance.~~

D. Written decisions shall be issued, including a statement of findings and conclusions, as well as the reasons or basis therefore.

5.3 Appeal Procedure

A. In all cases where the Code Enforcement Officer renders a written decision to a party, any ~~person~~ aggrieved ~~by that decision~~ party may file an administrative or variance appeal within 30 calendar days of receipt by certified mail of the date of the official written decision. ~~As to those parties who are not required to receive written notice from the Code Enforcement Officer, an aggrieved party may file an appeal within 60 days from the date on which the Code Enforcement Officer made his decision or refused to act.~~ The Board of Appeals may grant exceptions to this ~~60~~ 30-day rule only where, in its sole and exclusive judgment, extraordinary circumstances have been shown which would result in a flagrant miscarriage of justice unless the said ~~60~~ 30-day time period is extended. The appeal application shall be filed with the Board of Appeals on forms to be approved by the Board, and the ~~aggrieved person shall~~ specifically set forth on the form the grounds for the appeal application shall include:

a. A concise written statement indicating what relief is requested and why the administrative appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

B. Following the filing of a completed application for an administrative appeal or variance, the ~~Board of Appeals~~ Land Use Office shall notify the, Code Enforcement Officer, the Board of Selectmen, and the Planning Board, and shall transmit to the

Board of Appeals all of the papers constituting the record of the decision appealed from. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application with all supporting materials, unless this time period is extended with the consent of both the Board and the applicant. The appeal shall then be in order for a public hearing within 30 days of the filing date.

- C. The Board shall hold a public hearing prior to making a decision on an appeal. In all appeals, the Board of Appeals shall send a notice by first class mail at least ten (10) days prior to the hearing, to the appellant and to the owners of all abutting properties. Abutting properties shall include those directly across a public right of way, including waterways. Notification shall include the nature of the appeal, and the time and place of the public hearing. The Land Use Office shall prepare a written certification of the date, time, and location when and where notices were mailed. Notice of all appeals shall also be posted in at least three prominent public places within the Town at least ten (10) days prior to the hearing. A notice shall also be published twice in a newspaper of local circulation, with the first advertisement appearing at least seven (7) days prior to the hearing date.
- D. For the purpose of this section, the owners of property should be considered to be the parties listed by the Tax Assessor for the Town as those against whom taxes are assessed.

Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board.

- E. The Code Enforcement Officer shall attend all hearings, and shall present to the Board all plans, photographs or other material he deems appropriate for an understanding of the appeal.
- F. The appellant's case shall be heard first. The aggrieved party may appear by Agent or attorney. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. The person filing the appeal shall have the burden of proof. All persons at the hearing shall abide by the order of the Chairman. Hearings may be continued to other times.
- G. Within ~~30~~ 35 days of the close of the hearing, the Board of Appeals shall make findings of fact, and grant, grant with conditions, or deny the appeal. Written notice of the decision of the Board shall be sent to the appellant, the Code Enforcement Officer, the Planning Board, and the Board of Selectmen within seven days of the decision. For appeals or variances in any Shoreland Zone, the Board shall cause written notice to be mailed to the Department of Environmental Protection within seven days of the Boards' decision. Decisions shall be in writing, and shall contain a statement of findings and conclusions, as well as the reasons or basis therefor. Decisions shall be sent to the appellant via certified mail.
- H. If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the York County registry of deeds within 90 days of the date stated on the written approval or the

variance is void. The variance is not valid until recorded as provided in this subsection. Appeals granted under the provision of this Section by the Board shall expire if the work or change involved is not commenced within six months of the date on which the appeal is granted, and/or if the work or change is not substantially completed within one year of the date on which such appeal is granted, unless as otherwise provided for in the appeal.

- I. If the Board shall deny an appeal, another appeal of a similar nature shall not be brought before the Board within one year from the date of the denial, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts shall have been made.
- J. The appellant shall pay a fee to the Town of Ogunquit to cover the costs of notification and advertisements concerning an appeal. These fees are to be determined by the Board of Selectmen.
- K. Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- L. Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

ARTICLE 7 – DISTRICT REGULATIONS

7.1 Purpose of Districts

A. One-Family Residential District – ~~OFRD~~ OFR

To preserve the physical aesthetic and social quality of Ogunquit’s developed residential areas.

B. Residential District – ~~RD~~ R

To provide for areas within the Town of Ogunquit for future residential growth consistent with anticipated growth demands.

C. Rural Residential District 1 - ~~RRD1~~ RR1

To preserve the rural nature of large sections of the Town and to discourage large scale development from occurring in areas of the Town of Ogunquit that cannot be readily serviced by public utilities.

D. Rural Residential District 2 - ~~RRD2~~ RR2

To preserve the rural nature of large sections of the Town and to discourage large scale development from occurring in areas of the Town that cannot be readily serviced by public utilities.

E. Perkins Cove Residential District – ~~PCRD~~ PCR

To preserve the physical, aesthetic and social quality of the Perkins Cove residential area and to protect, encourage and restore the unhurried, quiet, seaside residential neighborhood which the area now enjoys.

F. Downtown Business District – ~~DBD~~ DB

To provide general retail sales, services and business space within the downtown area of the Town of Ogunquit in locations capable of conveniently servicing community wide and/or regional trade areas and oriented primarily to pedestrian access.

G. General Business District 1 - ~~GBD1~~ GB1

To preserve the architectural character inherent in the district and to provide general retail sales, services and business space within the Town of Ogunquit in locations capable of conveniently servicing community wide and/or regional trade areas and oriented to automobile and pedestrian access.

H. General Business District 2 - ~~GBD2~~ GB2

To provide general retail sales, services and business space within the Town of Ogunquit in locations capable of conveniently servicing community wide and/or regional trade areas and oriented primarily to automobile access.

I. Limited Business District – ~~LBD~~ LB

To preserve the architectural character inherent in the Limited Business District and thus to maintain the value of the property.

J. ~~Perkins Cove Limited Business District~~ PCLBD

~~To preserve the physical, aesthetic and social quality of the Perkins Cove commercial area; to protect, encourage and restore insofar as is possible, the picturesque, unhurried, quiet fishing village atmosphere of the area; to preserve, encourage and restore the homogeneous mixture of small shops, restaurants, pursuit of the arts and use of the sea which the area now enjoys; to encourage pedestrian traffic and discourage vehicular traffic within Perkins Cove; and more generally, to avoid and discourage the more noisome and objectionable aspects of modern life.~~

~~K. Ogunquit Beach Business District — OBBD~~

~~To preserve the physical and aesthetic quality of Ogunquit Beach and to protect this valuable resource while recognizing the needs of the public, and to provide for commercial use in this sensitive area in keeping with our village atmosphere insofar as possible.~~

~~L. Resource Protection District — RPD~~

~~To further the maintenance of safe and healthful conditions; prevent and control potential water pollution sources; protect spawning grounds; fish, aquatic life, bird and other wildlife habitat; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty. To this end, no structures will be permitted except as herein defined.~~

~~M.J. Farm District — FD F~~

~~To provide space for farming in the Town of Ogunquit in locations capable of conveniently servicing the needs of such establishments and preserving open space in rural areas of the community, without impacting negatively the established character of the Town or adjoining Zoning Districts.~~

The following six districts are considered to be the Shoreland Zones, established pursuant to the Maine Department of Environmental Protection Shoreland Zoning Guidelines. The purposes descriptions of the following Shoreland Zones may be found in section 1.3.D of this Ordinance.

K. Shoreland Limited Residential District - SLR

L. Shoreland Limited Commercial District - SLC

M. Shoreland General Development 1 — Ogunquit Beach — SG1

N. Shoreland General Development 2 — Perkins Cove — SG2

O. Stream Protection District - SP

P. Resource Protection District -RP

7.2 Land Use Controls

- A. All permitted uses, regardless of the reviewing authority, shall conform to the performance standards of Articles 8 and 9 of this Ordinance as applicable. No new permitted use shall be commenced, nor shall any existing use be changed to a different permitted use, until a permit or approval is received from the proper reviewing authority, according to Table 702.1. Uses omitted from Table 702.1 shall be prohibited. (Amended 4/01/06 ATM)
- B. All new lots, new structures and additions to structures shall meet the minimum dimensional requirements for the district in which they are located as detailed in Table 703.1. For a lot or lots contained within or constituting a subdivision, the Planning Board shall require a high intensity soil survey to assure that the amount of net residential area has been calculated in

compliance with the definition of net residential area, as set forth in Article 2 of this Ordinance. If more than one principal building is located on a lot, the buildings shall be separated by a distance equal to twice the minimum side setback for the district in which they are located. On lots owned by a condominium association with a number of principal buildings including, but not limited to, single-family dwellings, setbacks between the principal buildings must be at least twice the minimum side setback of the district. Except, clustered or planned unit developments that meet all the applicable requirements of Article 9.6 may deviate from the requirements of Article 7.2.B. (Amended 4/5/05 ATM)

C. Corner Clearances

For the purposes of traffic safety in all districts, no structure other than public utility structures and traffic control devices may be erected and no vegetation other than shade trees, may be maintained at a height higher than three feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the traveled public ways for 20 feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.

~~D. Additional Minimum Lot Standards for the Shoreland Overlay District Amended 4/1/06 ATM)~~

- ~~1. Residential uses. Adjacent to tidal areas the minimum lot area per dwelling unit is 30,000 square feet and minimum shore frontage per dwelling unit is 150 feet. Adjacent to non-tidal areas the minimum lot area of 40,000 square feet and the minimum shore frontage is 200 feet.~~
- ~~2. Governmental, institutional, commercial or industrial uses. Adjacent to tidal areas the minimum lot area is 40,000 square feet and the minimum shore frontage is 200 feet. Adjacent to non-tidal areas the minimum lot area is 60,000 square feet and the minimum frontage is 300 feet.~~
- ~~3. Public and private recreational facilities. Adjacent to tidal and non-tidal areas the minimum lot area is 40,000 square feet and the minimum shore frontage 200 feet.~~

E.D. Lots with both Residential and Other Uses.

When a lot contains or is proposed to contain both residential use and commercial, industrial or institutional use, the residential density shall be calculated after subtracting the land area dedicated for the commercial use (including building coverage, parking areas, and required buffers) or the minimum lot area required for the district, which ever is larger, from the lot area.

F.E. Mixed Non-residential uses (Amended 4/01/06 ATM)

No additional land area is required if a lot contains or is proposed to contain more than one principal non-residential use, either commercial, industrial, or institutional, as long as parking requirements, dimensional requirements, and all other requirements of this Ordinance are met by the collection of non-residential uses.

G.F. Accessory Structures and Uses. (Amended 4/01/06 ATM)

An accessory structure or use, as defined by this Ordinance, shall be permitted along with a principal structure or use, only in those zoning districts where the principal structure or use is permitted, according to Table 702.1. The review authority for an accessory structure or use

shall be the same as the review authority indicated in Table 702.1 for a permitted principal structure or use.

TABLE 702.1 – LAND USES PERMITTED IN ZONING DISTRICTS

KEY

(Amended 4/01/06-ATM):

District

OFRD –	<u>OFR</u>	One Family Residential District
RD –	<u>R</u>	Residential District
RRD1 –	<u>RR1</u>	Rural Residential District 1
RRD2 –	<u>RR2</u>	Rural Residential District 2
PCRD –	<u>PCR</u>	Perkins Cove Residential District
DBD –	<u>DB</u>	Downtown Business District
GBD1 –	<u>GB1</u>	General Business District 1
GBD2 –	<u>GB2</u>	General Business District 2
LBD –	<u>LB</u>	Limited Business District
PCLBD –	Perkins Cove Limited Business District	
OBBD –	Ogunquit Beach Business District	
RPD –	Resource Protection District	
FD –	<u>F</u>	Farm District
SOD –	Shoreland Overlay District (See Table 703.1)	

Shoreland Zones:

<u>SLR</u>	<u>Shoreland Limited Residential District</u>
<u>SLC</u>	<u>Shoreland Limited Commercial District</u>
<u>SG1</u>	<u>Shoreland General Development 1 – Ogunquit Beach</u>
<u>SG2</u>	<u>Shoreland General Development 2 – Perkins Cove</u>
<u>SP</u>	<u>Stream Protection District</u>
<u>RP</u>	<u>Resource Protection District</u>

Reviewing Authority

C –	Permitted use with permit from Code Enforcement Officer
SPR –	Permitted use after Site Plan Review approval from Planning Board
A –	Allowed without a permit
NA –	<u>Not Applicable</u>
NP –	Not permitted
SUB –	Permitted after Subdivision Review Approval by Planning Board under Ogunquit Subdivision Regulations

See Footnotes at end of Table. All uses are subject to the general standards of Article 8.

Land Uses	OFR D <u>OFR</u>	RD <u>RD</u>	RRD 1 <u>RR1</u>	RRD 2 <u>RR2</u>	PCR D <u>PCR</u>	DBD <u>DB</u>	GBD 1 <u>GB1</u>	GBD 2 <u>GB2</u>	LBD <u>LB</u>	FD <u>F</u>	Shoreland Zones					
											<u>SLR</u>	<u>SLC</u>	OBB D <u>SG1</u>	PCL BD <u>SG2</u>	<u>SP</u>	RPD <u>RP</u>
OPEN SPACE AND RURAL USES																
Active Recreation	NP	C	C	C	C	C	C	C	C	C	<u>C</u>	<u>C</u>	C	C	<u>C</u>	C
Agriculture*	NP	NP	C	C	NP	NP	NP	NP	NP	C	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Animal husbandry for non-commercial purposes*	NP	C	C	C	NP	NP	NP	NP	NP	A	<u>SPR</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Animal husbandry for commercial purposes*	NP	NP	NP	NP	NP	NP	NP	NP	NP	C	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
<u>Aquaculture</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
Campground	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Cemetery	NP	SPR	SPR	SPR	NP	NP	NP	NP	NP	SPR	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
<u>Clearing or removal of vegetation for activities other than timber harvesting</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones						
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP	
Emergency Operations	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Essential Services - Roadside distribution lines (34.5kV and lower)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	C	C
Essential Services – Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	C	C	C	C	SPR	SPR	
Essential Services – Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	SPR	SPR	SPR	SPR	SPR	SPR	
Essential Services – Other essential services – not included above	C	C	C	C	C	C	C	C	C	C	SPR	SPR	SPR	SPR	SPR	SPR	
Filling and Earthmoving of Less than 10 cubic yards	A	A	A	A	A	A	A	A	A	A	C	C	C	C	C	C	

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
Filling and Earthmoving of More than 10 cubic yards	C	C	C	C	C	C	C	C	C	C	C	C	C	C	SPR	SPR
Fire Prevention Activities	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Forest Management Activities	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Golf Course	NP	NP	SPR	SPR	NP	NP	NP	NP	NP	SPR	NP	SPR	NP	NP	NP	NP
Individual private campsite*	NP	C	C	C	NP	NP	NP	NP	NP	C	C	NP	NP	NP	C	C
Mineral exploration*	NP	NP	C	C	NP	NP	NP	NP	NP	C	NP	NP	NP	NP	NP	NP
Mineral extraction*	NP	NP	SPR	SPR	NP	NP	NP	NP	NP	SPR	NP	NP	NP	NP	NP	NP
Parking lot (See standards in Section 8.10)	NP	NP	NP	NP	NP	NP	SPR	SPR	NP	NP	NP	SPR	SPR	NP	NP	NP SPR ⁷
Passive recreation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
Piers, docks, wharves, bridges & other structures extending over or below high water line or within a wetland, <u>temporary or permanent*</u>	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SPR	SPR	NP SPR	NP SPR	SPR	SPR
<u>Service Drops, to allowed uses</u>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<u>Soil and Water Conservation Practices</u>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<u>Surveying and Resource Analysis</u>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Timber harvesting*	C	C	C	C	C	NP	NP	NP	NP	C	C	NP	NP	NP	C	C
<u>Wildlife Management Practices</u>	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
RESIDENTIAL USES																
Dwelling accessory to business; above ground floor	C	C	C	C	C	C	C	C	C	C	NP	C	C	C	NP	NP

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
Manufactured housing unit	NP	NP	C	C	NP	NP	NP	NP	NP	C	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Mobile home park*	NP	NP	SPR	SPR	NP	NP	NP	NP	NP	NP	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Multi family dwelling*	NP	SPR	SPR	SPR	NP	NP	SPR	SPR	NP	SPR	<u>NP</u>	<u>SPR</u>	NP	NP	<u>NP</u>	NP
Single family dwelling, <i>other than manufactured housing unit</i>	C	C	C	C	C	NP	C	C	C	C	<u>C</u>	<u>C</u>	C	C	<u>NP</u>	NP ⁸
Two family dwelling	NP	C	C	C	C	NP	C	C	C	C	<u>C</u>	<u>C</u>	C	C	<u>NP</u>	NP
Clustered or Planned Unit Residential Development*	SUB	SUB	SUB	SUB	SUB	SUB	SUB	SUB	SUB	SUB	<u>SUB</u>	<u>SUB</u>	SUB	SUB	<u>SUB</u>	SUB
Subdivision, as defined in the Ogunquit Subdivision Regulations	SUB	SUB	SUB	SUB	SUB	SUB	SUB	SUB	SUB	SUB	<u>SUB</u>	<u>SUB</u>	SUB	SUB	<u>SUB</u>	SUB

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
COMMERCIAL USES																
Amusement center	NP	NP	NP	NP	NP	NP	SPR	SPR	NP	NP	<u>NP</u>	<u>SPR</u>	NP	NP	<u>NP</u>	NP
Boarding house	NP	NP	NP	NP	NP	SPR	SPR	SPR	SPR	NP	<u>NP</u>	<u>SPR</u>	SPR	SPR	<u>NP</u>	NP
Business & professional office	NP	NP	NP	NP	NP	SPR	SPR	SPR	SPR	NP	<u>NP</u>	<u>SPR</u>	SPR	SPR	<u>NP</u>	NP
Commercial recreation	NP	NP	NP	NP	NP	SPR	SPR	SPR	NP	NP	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Day care center	NP	NP	NP	NP	NP	NP	SPR	NP	SPR	NP	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Funeral home	NP	NP	NP	NP	NP	NP	SPR	SPR	NP	NP	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Greenhouse	NP	NP	SPR	SPR	NP	NP	SPR	SPR	NP	SPR	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Kennel, veterinary hospital*	NP	NP	NP	NP	NP	NP	NP	NP	NP	SPR	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
Manufacturing	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
<u>Marina</u>	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SPR	NP	NP
Mechanized recreation	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Nursing home	NP	NP	NP	NP	NP	NP	SPR	NP	SPR	NP	NP	NP	NP	NP	NP	NP
Outdoor sales, services & storage areas including gasoline stations	NP	NP	NP	NP	NP	NP	NP	NP ⁵	NP	NP	NP	NP	NP	NP	NP	NP
Public utility facility, <u>other than Essential Services or Service Drops</u>	NP	NP	SPR	SPR	NP	NP	SPR	SPR	NP	SPR	NP	NP	NP	NP	NP	NP
Retail establishments not elsewhere listed ¹	NP	NP	NP	NP	NP	SPR	SPR	SPR	SPR	NP	NP	NP	SPR	SPR	SPR	NP
Retail storage & sale of fuel for use on watercraft	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SPR	NP	NP
Service establishments not elsewhere listed ¹	NP	NP	NP	NP	NP	SPR	SPR	SPR	SPR	NP	NP	NP	SPR	SPR	SPR	NP

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
Slaughterhouse/meat packing facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Theatres	NP	NP	NP	NP	NP	SPR	SPR	SPR	NP	NP	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Transient Accommodation Type 1 (TA-1) – Weekly Private Home Rental	A	A	A	A	A	A	A	A	A	A	<u>A</u>	<u>A</u>	A	A	<u>A</u>	A
Transient Accommodation Type 2 (TA-2) — Bed-and-Breakfast*	NP	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	<u>SPR</u>	<u>SPR</u>	SPR	SPR	<u>NP</u>	NP
Transient Accommodation Type 3 (TA-3) — Inn*	NP	NP	NP	NP	NP	NP	SPR	SPR	SPR	SPR	<u>NP</u>	<u>SPR</u>	NP	NP	<u>NP</u>	NP
Transient Accommodation Type 4 (TA-4) — Motel/Hotel ⁴ *	NP	NP	NP	NP	NP	NP	NP	SPR	NP	NP	<u>NP</u>	<u>SPR</u> ²	NP	NP	<u>NP</u>	NP
Type 1 Restaurant*	NP	NP	NP	NP	NP	SPR	SPR	SPR	SPR	NP	<u>NP</u>	<u>SPR</u>	SPR	SPR	<u>NP</u>	NP
Type 2 Restaurant*	NP	NP	NP	NP	NP	SPR	SPR	SPR	NP	NP	<u>NP</u>	<u>SPR</u> ⁶	SPR	SPR	<u>NP</u>	NP

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
Type 3 Restaurant*	NP	NP	NP	NP	NP	SPR	SPR	SPR	NP	NP	NP	SPR ⁶	SPR	NP	NP	NP
Type 4 Restaurant*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SPR	NP	NP	NP
Type 5 Restaurant*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Type 6 Restaurant*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Wholesale business	NP	NP	NP	NP	NP	NP	NP	SPR	NP	NP	NP	NP	NP	NP	NP	NP
Wireless Communications Facility - Communications tower*	NP	NP	NP	NP	NP	NP	NP	NP	NP	SPR	NP	NP	NP	NP	NP	NP
Wireless Communications Facility - Antenna*	NP	NP	NP	NP	NP	SPR	SPR	SPR	SPR	SPR	NP	SPR	SPR	SPR	NP	NP

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
GOVERNMENTAL, INSTITUTIONAL USES																
Houses of Worship	NP	NP	SPR	SPR	NP	NP	SPR	SPR	SPR	SPR	<u>NP</u>	<u>SPR</u>	NP	NP	<u>NP</u>	NP
Schools, public & private	NP	NP	SPR	SPR	NP	SPR	SPR	SPR	NP	SPR	<u>NP</u>	<u>NP</u>	NP	NP	<u>NP</u>	NP
Library	NP	SPR	NP	NP	NP	NP	NP	NP	SPR	NP	<u>NP</u>	<u>NP</u>	SPR	SPR	<u>NP</u>	NP
Public Building, Structure or Use	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	<u>SPR</u>	<u>SPR</u>	SPR	SPR	<u>NP</u>	SPR ¹
Museum	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	<u>SPR</u>	<u>SPR</u>	SPR	SPR	<u>SPR</u>	<u>SPR</u> <u>NP</u>
ACCESSORY USES & STRUCTURES, MISC. USES																
Fence meeting the standards of Section 8.6	C	C	C	C	C	C	C	C	C	C	<u>C</u>	<u>C</u>	C	C	<u>C</u>	C
Fence not meeting the standards of Section 8.6	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	SPR	<u>SPR</u>	<u>SPR</u>	SPR	SPR	<u>SPR</u>	SPR

Land Uses	OFR D OFR	RD RD	RRD 1 RR1	RRD 2 RR2	PCRD PCR	DBD DB	GBD 1 GB1	GBD 2 GB2	LBD LB	FD F	Shoreland Zones					
											SLR	SLC	OBB D SG1	PCL BD SG2	SP	RPD RP
Ham Radio tower/antenna*	C	C	C	C	C	C	C	C	C	C	<u>C</u>	<u>C</u>	C	C	<u>NP</u>	NP
Home occupation*	C	C	C	C	C ³	C	C	C	C	C	<u>SPR</u>	<u>C</u>	C	C ³	<u>NP</u>	NP
<u>Roads</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u> ⁹
<u>Roads, Land Management</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>SPR</u>
Tenting	A	A	A	A	A	NP	A	A	A	A	<u>A</u>	<u>NP</u>	NP	NP	<u>A</u>	NP
Yard Sale, as defined in Town Code	C	C	C	C	C	C	C	C	C	C	<u>C</u>	<u>C</u>	C	C	<u>C</u>	C

*These uses have specific performance standards in Article 9

Footnotes:

- 1 No retail sales or services may be offered or solicited except inside of the buildings in which the retail sales or service establishment are located.
- 2 ~~(reserved)-TA-4 is only allowed in those portions of the SLC District , immediately adjacent to the GB2 District.~~
- 3 Limited to storage of fishing and lobstering equipment, private tutoring of not more than two persons at any one time, home crafts, pursuit of the arts, activities or occupations which are conducted without customers or clients coming to the premises.
- 4 Expansions of legally nonconforming hotels/motels in all zoning districts in which new hotels/motels are prohibited shall meet all the-dimensional requirements of zones in which they are located according to Table 703.1, as well as the standards of Article 9.8.
- 5 As an exception, the Ogunquit Playhouse may serve patrons beverages and snack food outdoors on the premises from one hour before, during and one hour after performances.
- 6 Type 2 and 3 Restaurants shall not be permitted in those portions of the SLC Zone immediately adjacent to the LB Zone.
- 7 Only permitted with Site Plan Review in RP Beach as indicated on the Official Zoning Map. Not permitted in all other portions of the RP District..
- 8 Not permitted unless a special exception is granted pursuant to Article 4.6.
- 9 See special Shoreland standards in Article 9.

TABLE 703.1 – DIMENSIONAL REQUIREMENTS OF EACH ZONING DISTRICT

MINIMUM LOT AREA (sq. ft.)																	
DISTRICT	<u>OFRD</u> <u>OFR</u>	<u>RD</u> <u>R</u>	<u>RRD1</u> <u>RR1</u>	<u>RRD2</u> <u>RR2</u>	<u>PCRD</u> <u>PCR</u>	<u>DBD</u> <u>DB</u>	<u>GBD1</u> <u>GB1</u>	<u>GBD2</u> <u>GB2</u>	<u>LBD</u> <u>LB</u>	<u>FD</u> <u>F</u>	<u>SLR</u>	<u>SLC</u>	<u>OBBD</u> <u>SG1</u>	<u>PCLBD</u> <u>SG2</u>	<u>SP</u>	<u>RPD</u> <u>RP</u>	<u>SOD</u>
With public sewer & water	12,500	12,500	30,000	30,000	12,500	None	10,000 ¹	20,000	10,000 ¹	N/A	30,000-tidal 40,000-non-tidal	40,000	None ¹	None	NP	30,000 NP	²
Without public sewer & water	30,000	30,000	60,000	60,000	30,000	N/A	N/A	20,000 ³	N/A	200,000 ⁴	30,000-tidal 40,000-non-tidal	N/A	N/A	N/A	NP	None NP	²
MINIMUM NET RESIDENTIAL AREA PER DWELLING UNIT (sq. ft.)																	
DISTRICT	<u>OFRD</u> <u>OFR</u>	<u>RD</u> <u>R</u>	<u>RRD1</u> <u>RR1</u>	<u>RRD2</u> <u>RR2</u>	<u>PCRD</u> <u>PCR</u>	<u>DBD</u> <u>DB</u>	<u>GBD1</u> <u>GB1</u>	<u>GBD2</u> <u>GB2</u>	<u>LBD</u> <u>LB</u>	<u>FD</u> <u>F</u>	<u>SLR</u>	<u>SLC</u>	<u>OBBD</u> <u>SG1</u>	<u>PCLB</u> <u>D</u> <u>SG2</u>	<u>SP</u>	<u>RPD</u> <u>RP</u>	<u>SOD</u>
With public sewer & water	12,500	12,500	30,000	30,000	12,500	12,500	12,500	20,000	12,500	N/A	30,000-tidal 40,000-non-tidal	40,000	12,500	NONE	N/A	N/A	²
Without public sewer & water	30,000	30,000	60,000	60,000	30,000	N/A	N/A	40,000	N/A	80,000	30,000-tidal 40,000-non-tidal	N/A	N/A	N/A	N/A	N/A	²

MINIMUM STREET AND SHORE FRONTAGE (feet)																	
DISTRICT	<u>OFRD</u> <u>OFR</u>	<u>RD</u> <u>R</u>	<u>RRD1</u> <u>RR1</u>	<u>RRD2</u> <u>RR2</u>	<u>PCRD</u> <u>PCR</u>	<u>DBD</u> <u>DB</u>	<u>GBD1</u> <u>GB1</u>	<u>GBD2</u> <u>GB2</u>	<u>LBD</u> <u>LB</u>	<u>FD</u> <u>F</u>	<u>SLR</u>	<u>SLC</u>	<u>OBBD</u> <u>SG1</u>	<u>PCLB</u> <u>D</u> <u>SG2</u>	<u>SP</u>	<u>RPD</u> <u>RP</u>	<u>SOD</u>
With public sewer & water	75	75	100	100	75	none ⁶	75	100	75	N/A	<u>150-tidal</u> <u>200-non-tidal</u>	<u>200</u>	<u>NONE</u> ⁴ <u>100</u>	NONE	<u>N/A</u>	<u>100</u> <u>N/A</u>	⁵
Without public sewer & water	100	100	100	100	100	N/A	N/A	100	N/A	250 ⁴	<u>150-tidal</u> <u>200-non-tidal</u>	<u>N/A</u>	N/A	N/A	<u>N/A</u>	<u>100</u> <u>N/A</u>	⁵
SETBACKS (feet)																	
DISTRICT	<u>OFRD</u> <u>OFR</u>	<u>RD</u> <u>R</u>	<u>RRD1</u> <u>RR1</u>	<u>RRD2</u> <u>RR2</u>	<u>PCRD</u> <u>PCR</u>	<u>DBD</u> <u>DB</u>	<u>GBD1</u> <u>GB1</u>	<u>GBD2</u> <u>GB2</u>	<u>LBD</u> <u>LB</u>	<u>FD</u> <u>F</u>	<u>SLR</u>	<u>SLC</u>	<u>OBBD</u> <u>SG1</u>	<u>PCLB</u> <u>D</u> <u>SG2</u>	<u>SP</u>	<u>RPD</u> <u>RP</u>	<u>SOD</u>
Front	20	20	30	30	20	10 ⁷	20	30	20	50 ⁸	<u>30</u>		10 ⁷	15	<u>N/A</u>	N/A	⁵
Side and Rear	15	15	20	20	15	10 ⁹	10 ¹¹	15 ¹⁰	10 ¹¹	20	<u>20</u>		10 ⁹	NONE	<u>N/A</u>	N/A	⁵
From water bodies & wetlands	<u>75-N/A</u>	<u>75-N/A</u>	<u>75-N/A</u>	<u>75-N/A</u>	<u>50-N/A</u>	<u>75-N/A</u>	<u>75-N/A</u>	<u>75-N/A</u>	<u>75-N/A</u>	<u>75</u> ¹² <u>N/A</u>	<u>75</u>	<u>75</u>	<u>75-50</u>	50	<u>75</u>	75	⁵

MAXIMUM BUILDING COVERAGE																	
DISTRICT	<u>OFRD</u> <u>OFR</u>	<u>RD</u> <u>R</u>	<u>RRD1</u> <u>RR1</u>	<u>RRD2</u> <u>RR2</u>	<u>PCRD</u> <u>PCR</u>	<u>DBD</u> <u>DB</u>	<u>GBD1</u> <u>GB1</u>	<u>GBD2</u> <u>GB2</u>	<u>LBD</u> <u>LB</u>	<u>FD</u> <u>F</u>	<u>SLR</u>	<u>SLC</u>	<u>OBBD</u> <u>SG1</u>	<u>PCLBD</u> <u>SG2</u>	<u>SP</u>	<u>RPD</u> <u>RP</u>	<u>SOD</u>
With public sewer & water	30%	30%	20%	20%	30%	NONE	30%	30%	30%	N/A	20 ¹³	20 ¹³	NONE 20% ¹³	NONE 20% ¹³	0%	0%	20% ¹³
Without public sewer & water	20%	20%	10%	10%	20%	N/A	N/A	30%	N/A	20%	20 ¹³	N/A	N/A	N/A	0%	0%	20% ¹³
MAXIMUM BUILDING HEIGHT¹⁴																	
DISTRICT	<u>OFRD</u> <u>OFR</u>	<u>RD</u> <u>R</u>	<u>RRD1</u> <u>RR1</u>	<u>RRD2</u> <u>RR2</u>	<u>PCRD</u> <u>PCR</u>	<u>DBD</u> <u>DB</u>	<u>GBD1</u> <u>GB1</u>	<u>GBD2</u> <u>GB2</u>	<u>LBD</u> <u>LB</u>	<u>FD</u> <u>F</u>	<u>SLR</u>	<u>SLC</u>	<u>OBBD</u> <u>SG1</u>	<u>PCLBD</u> <u>SG2</u>	<u>SP</u>	<u>RPD</u> <u>RP</u>	<u>SOD</u>
Feet	35	35	35	35	35	35	35	35	35	35	35	35	35	27	N/A	N/A	35
Stories	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	N/A	N/A	2 ½

NOTES TO TABLE 703.1

- 1 For a residential use, the minimum lot area shall be 12,500 square feet.
- 2 ~~See Section 7.2.D regarding minimum lot area per dwelling unit and minimum shore frontage for lots in the Shoreland Overlay District. Reserved~~
- 3 For residential use, the minimum lot area shall be 30,000 square feet.
- 4 ~~For residential use, the minimum lot area shall be 60,000 square feet and the minimum street frontage shall be 100 feet. Reserved~~
- 5 As required by the underlying district.
- 6 Residential uses, except accessory dwelling units on the 2nd floor above a commercial use, shall require a minimum street front of 75 feet.
- 7 The minimum front setback for a structure existing on the effective date of this Section shall be ten (10) feet or the existing structure's front setback, whichever is less. (Amended 4-01-06 ATM)
- 8 The minimum front setback for a structure existing on the effective date of this Section shall be fifty (50) feet or the existing structure's front setback. (Amended 4-01-06 ATM)
- 9 The side and rear setbacks for a structure abutting a residential use shall be fifteen (15) feet. The minimum side and rear yards for a structure existing on the effective date of this Section shall be the setback indicated above or the existing structure's setback, whichever is less. (Amended 4-01-06 ATM)
- 10 The side and rear setbacks for a structure abutting a residential use shall be twenty-five (25) feet. The minimum side and rear yards for a structure existing on the effective date of this Section shall be the setback indicated above or the existing structure's setback, whichever is less. (Amended 4-01-06 ATM)
- 11 The side and rear setbacks for a structure abutting a residential use shall be fifteen (15) feet.
- 12 There shall be a natural buffer of seventy-five (75) feet maintained between the Ogunquit River and any structure and tilling.
- 13 ~~In the Shoreland Overlay District Zones, the total area of all buildings, structures, parking lots and any other non-vegetated surfaces shall be included in the computation of maximum building coverage, and shall not exceed twenty (20%) the indicated percentage of the lot area, or portion of the lot area thereof, located in the Shoreland Zone district, regardless of the maximum building coverage requirement in the underlying District. See definition of Building Coverage in Article 2.~~
- 14 No structure shall contain more than two and one half (2 ½) stories or the indicated height.

ARTICLE 9 – STANDARDS FOR SPECIFIC LAND USES

* * * * *

9.15 Shoreland Zone Standards Area Protection

Pursuant to 38 MRSA, § §435-449 and its Home Rule authority, the Town of Ogunquit places the following conditions, limitations and standards on any use, activity, or structure permitted in the Shoreland Zone Overlay District:

A. No Filling below High Water Mark

The excavation of channels and boat basins, wildlife management impoundments and other such excavations are subject to the condition that no fill or other material shall be placed below the high water mark except as may be necessary for bank stabilization allowable under the Department of Environmental Protection Rules, and as will not be an impediment to the natural flow of water even in time of flood.

B. General Requirements for Principal and Accessory Structures and Lots in the Shoreland Zone

1. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
2. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
3. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.
4. Clustered developments within the shoreland zone are permitted, pursuant to section 9.6 of this ordinance, provided that the overall dimensional requirements of the shoreland zone, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements of the shoreland zone are met, only land area within the shoreland zone shall be considered.
5. The water body, tributary stream, or wetland setback provisions of Article 7 shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
6. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
7. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In

those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

8. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- a. The site has been previously altered and an effective vegetated buffer does not exist;
 - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - d. The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath, not to exceed the standards in Section 9.15.M.2.a., may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

9. Notwithstanding the requirements of Section 7.2 or any standard above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four feet in width; that the structure does not extend below or over the normal high waterline of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 MRSA, §480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges, and Other Structures and Uses Extending Over or Beyond the Normal High Water Line of a Water Body or Within a Wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
5. No new structure shall be built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
7. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 MRSA, §480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

D. Individual Private Campsites.

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the Shoreland Overlay District, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 75 feet from the normal high water line of rivers, streams, salt water bodies, tributary streams, or the upland edge of a wetland.

3. Only one recreational vehicle shall be allowed on a campsite. The Rrecreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except a canopyies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local Plumbing Inspector Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a recreational vehicle, tent, or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

E. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone. If there is any conflict with the table of permitted uses in Article 7, the following prohibitions shall control:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

F. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the shoreland zone in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I & II Districts shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

E.G. Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features:

1. Roads and driveways shall be set back 75 feet, horizontal distance, from the normal high water line of rivers, streams, ~~salt~~ water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road or driveway setback requirements to no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and the effective use of additional ditch relief culverts and turnouts placed so as avoid sedimentation of the water body, tributary stream, or wetland.
2. On slopes of greater than 20 percent, the road and/or driveway setback shall be increased by 10 feet for each five percent increase in slope above 20 percent. This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to structures, and facilities located nearer to the shoreline due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this Section except for that portion of the road or driveway necessary for direct access to the structure.
3. Existing public roads may be expanded within the legal right-of-way regardless of their its setback from a water body, tributary stream or wetland.
4. New roads and driveways are prohibited ~~in the a~~ Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district., ~~or as~~ A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district., in which case When a road or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high water line of a water body, tributary stream, or upland edge of a wetland.
5. Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 8.5.
6. Road and driveway grades shall be no greater than 10 percent except for short segments of less than 200 feet.
7. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty ~~into~~ an unscarified buffer strip at least 50 feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high water line of a water body, tributary stream, or upland edge of a wetland. ~~Road-s~~ Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow ~~in the road or ditches~~ gains sufficient volume or head to erode the road, driveway or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at no greater than indicated in the following table:

Road Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the road-grade is 10 percent or less.
 - c. On road sections having slopes greater than 10 percent, ditch relief culverts shall be placed across the road at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 - d. Ditch relief culverts shall be sufficiently sized properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
9. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

H. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

I. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

J. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use

within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

F.K. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).

2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

14. There shall be no new tilling of soil within 75 feet, horizontal distance, of the normal high water line of any water bodies or coastal wetlands, nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

- ~~2. Agricultural practices shall be conducted to minimize soil erosion, sedimentation and contamination of ground and surface water. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland Overlay District shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.~~

- ~~3. Manure shall not be stored or stockpiled within 75 feet, horizontal distance, of any water body, tributary stream, or wetland.~~

- ~~4. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within seventy-five feet horizontal distance of water bodies; nor within 25 feet horizontal distance of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may~~

~~continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.~~

G.L. Timber Harvesting (in the Shoreland Zone) (Adopted November 6, 2001)

Timber harvesting in any shoreland zone shall conform with the following provisions:

1. Selective cutting of no more than 40 per cent of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any 10 year period is permitted. In addition:
 - a. Within seventy five (75) feet, horizontal distance, of the strip of land extending 75 feet inland from normal high water line of water bodies, tributary streams, or the upland edge of a wetland, timber harvesting may be conducted when the following conditions are met: there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - b. At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - ~~(1) The ground is frozen;~~
 - ~~(2) There is no resultant soil disturbance;~~
 - ~~(3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land.~~
 - ~~(4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured 4 1/2 feet above ground level, are cut in any 10 year period; and a well-distributed stand of trees and other vegetation remains; and~~
 - ~~(5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.~~
2. No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high water line of water body shall be removed.
3. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - a. Surface waters are frozen; and
 - b. The activity will not result in any ground disturbance.

4. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
5. Skid trail approaches to ~~W~~water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
6. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet, horizontal distance, in width for slopes up to 10 percent shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each 10 per cent increase in slope, the unscarified strip shall be increased by 20 feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet, horizontal distance, from the normal high water line of a water body or upland edge of a wetland.

H.M. Clearing or Removal of Vegetation for ~~Development~~ Activities other than Timber Harvesting

1. In any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
2. Except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed ~~four~~ six (6) feet in width as measured between tree trunks and/or shrub stems is ~~permitted~~ allowed provided that a cleared line of sight to the water through the buffer strip is not created.
 - b. Selective cutting of trees within the buffer strip is ~~permitted~~ allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section, a “well distributed stand of trees and other natural vegetation” shall be defined as maintaining a rating score of ~~8~~ 16 or more in any 25 foot by ~~25~~ 50 foot square (~~625 square feet~~) rectangular (1250 square feet) area as determined by the following rating system:

<u>Diameter of Tree at 4 1/2 feet Above Ground Level</u> (inches)	Points
2 - <u><4</u> in.	1
4 - 12 <u><8</u> in.	2
8 - <u><12</u> in.	4
<u>12 in. or greater</u>	<u>8</u>

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of subsection b above, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40 percent of the total volume of trees 4 inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any 10 year period.

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 9.15.M paragraphs (2) and (2)(a) above.

ed. Pruning of tree branches, on the bottom one-third of the tree is allowed ~~permitted~~.

de. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present. The provisions of this paragraph shall not apply to those portions of public recreational facilities adjacent to public swimming areas. ~~C as long as cleared areas, however, shall be~~ are limited to the minimum area necessary.

3. At distances greater than 75 feet, horizontal distance, from the normal high water line of any water body, tributary stream, or the upland edge of a wetland, ~~except to allow for the development of permitted uses,~~ there shall be permitted allowed on any lot, in any 10 year period, selective cutting of not more than 40 percent of the volume of trees 4 inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 percent calculations. For the purposes of these standards, volume may be considered to be equivalent to basal areas.

In no event shall cleared openings for any purpose development, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25 percent of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared developed. This provision shall not apply to any General Development Districts.

4. Legally existing nonconforming ~~Cleared openings legally in existence on the effective date of this Ordinance~~ may be maintained, but shall not be enlarged, except as permitted allowed by this Ordinance.

5. Fields and other cleared openings which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of this section.

N. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

O. Soils.

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and

other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

P. Water Quality.

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

Q. Archaeological Site.

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

* * * * *

9.21 Timber Harvesting Outside of the Shoreland Overlay District (Added 4-7-07 ATM)

Timber-harvesting operations outside of the Shoreland Overlay District shall meet the following standards:

- A. Outside of the Shoreland Overlay or Resource Protection Districts, no permit is required for timber harvesting involving the cutting and removal of up to 10 cords of wood for personal use in any calendar year. Any other timber harvesting shall either require a permit, or shall not be permitted, as indicated in Table 702.1.
- B. Within the Shoreland Overlay and Resource Protection Districts, the provisions of section 9.15.GL, of this Ordinance, as amended by section 1.8.C, shall apply to any timber harvesting.
- C. No slash or other debris shall remain on the ground within the right-of-way or within a distance of 50 feet from the nearest edge of the right-of-way of any public road for more than 15 days after accumulation.
- D. No slash or other debris shall remain on the ground within a distance of 25 feet from the boundary of land of another for more than 15 days after accumulation.
- E. No timber-harvesting operations or stockpiling will take place in the Town right-of-way.
- F. Within the public right-of-way of any new or proposed entrance onto a public way a culvert approved by the Road Commissioner may be required to ensure that the natural flow of drainage water will not be interrupted and to protect the shoulder of the public road.
- G. Where yarding and loading operations are conducted within 50 feet of the right-of-way, all debris remaining after such operations shall be removed and the ground restored to its original contour.
- H. Any timber harvesting operation which will create less than 50 square feet of residual basal area per acre is prohibited, unless a statement from a licensed professional forester is provided demonstrating that such a harvest is appropriate.

- I. Within 50 feet of any public road, timber harvesting shall be limited to selective cutting, which provides that cutting will be limited to 50% of the basal area which existed prior to the start of the operation.
- J. The timber harvester shall conduct the operations in such a way to minimize soil erosion and sedimentation of surface waters. Operations shall conform to guidelines outlined in the book, Best Management Practices for Forestry: Protecting Maine's Water Quality, 2004, prepared by the Maine Forest Service.
- ~~K. Timber harvesting operations in the Shoreland Overlay District must conform to those standards outlined in 9.15 of this Ordinance.~~
- L.K. Timber harvesting shall conform to all applicable state laws and regulations, unless local ordinances are more restrictive.

Version A
24 June 2008



1 inch equals 500 feet



Legend

- Roads - E911 Program
- Tax Parcels - April 2006
- Josias River
- Streams
- Ponds
- Rivers
- Tidal Waters
- NWI Wetlands Outside of Shoreland Zone
- FEMA Floodplains Outside of Shoreland Zones

Shoreland Zones

- Resource Protection - FEMA Floodplain (RP)
- Resource Protection - Steep Slopes (RP)
- Resource Protection - NWI Wetlands (RP)
- Resource Protection - Beach (RP)
- Shoreland General Development 1 - Ogunquit Beach (SG1)
- Shoreland General Development 2 - Perkins Cove (SG2)
- Shoreland Limited Commercial (SLC)
- Shoreland Limited Residential (SLR)

Non-Shoreland Zoning Districts

- Downtown Business (DB)
- General Business 1 - (GB1)
- General Business 2 - (GB2)
- Limited Business - (LB)
- One Family Residential - (OFR)
- Perkins Cove Residential - (PCR)
- Rural Residential 1 - (RR1)
- Rural Residential 2 - (RR2)
- Residence - (R)
- Farm - (F)



Official Zoning Map
Town of Ogunquit
DRAFT

OGUNQUIT

Beautiful Place by the Sea

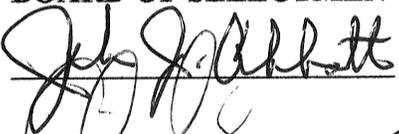
To the Town Clerk of Ogunquit:

We hereby certify that the document to which we have affixed this Certificate is a true copy of the official text of an Ordinance entitled "An Ordinance to Amend Title X, **(Ogunquit Zoning Ordinance)** to Protect Additional Streams Beyond Those Required by Department of Environmental Protection Minimum Shoreland Zoning Guidelines". These amendments will be presented to voters by referendum ballot, for their consideration at a Special Town Meeting to be held on November 4, 2008.

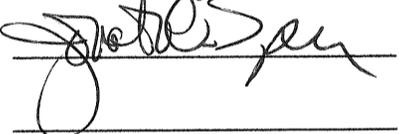
Pursuant to 30-A, MRSA ss 3002(2), you will retain this copy of the complete text of the ordinance amendments as a public record and make other copies available for distribution to the voters, and you will ensure that these copies are available at the polling place on the day of the vote.

DATED: September 16, 2008

**OGUNQUIT
BOARD OF SELECTMEN**







A TRUE COPY, ATTEST:

Judy Shaw-Kagiliery, Town Clerk

DATED:

P:\Clerk\Certification.ZO.doc

Article 9

An Ordinance to
Amend the Ogunquit Zoning Ordinance
to Protect Additional Streams Beyond Those Required
by Department of Environmental Protection Minimum Shoreland Zoning Guidelines

24 June 2008

1. *Change the Text of the Ogunquit Zoning Ordinance, as follows:*

(Note: Language proposed to be inserted is indicated by underlining. Language proposed to be removed is indicated by a ~~strikeout line~~. All other portions of the ordinance are proposed to remain unchanged. The symbol “ * * * *” indicates that a portion of the ordinance, which is not proposed to be changed, is not shown below, in order to save space.)*

* * * * *

ARTICLE 2 – DEFINITIONS

* * * * *

Stream

A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams, as depicted on the most recent edition of a United State Geological Survey 7.5 minute series topographic map, to the point where the body of water becomes a river. The following additional water bodies, or portions thereof, also shall be considered as “streams,” for the purposes of this Ordinance:

High Rock Stream – Those portions above ground, as depicted on the Official Zoning Map.

Josias Branch - as depicted on the Official Zoning Map.

Leavitt Stream – The upper portion beginning at the western boundary of Map 15 Lot 55B, and running westward up to its headwaters; as well as the lower portion where it emerges from underground at the Town’s lower beach parking lot; as depicted on the Official Zoning Map.

Ocean Meadows Stream - as depicted on the Official Zoning Map.

Moody Pond and Moody Pond Outlet - as depicted on the Official Zoning Map.

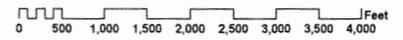
North Village Stream - as depicted on the Official Zoning Map.

Quarry Stream - as depicted on the Official Zoning Map.

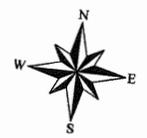
* * * * *

2. *Repeal any adopted Official Zoning Map, adopted at this or any prior Town Meeting, and replace with the Official Zoning Map, Indicated as Version “B,” and dated 10 June 2008.*

Version B
10 June 2008



1 inch equals 500 feet



Legend

- Roads - E911 Program
- Tax Parcels - April 2006
- Josias River
- Streams
- Ponds
- Rivers
- Tidal Waters
- NWI Wetlands Outside of Shoreland Zone
- FEMA Floodplains Outside of Shoreland Zones

Shoreland Zones

- Resource Protection - FEMA Floodplain (RP)
- Resource Protection - Steep Slopes (RP)
- Resource Protection - NWI Wetlands (RP)
- Resource Protection - Beach (RP)
- Shoreland General Development 1 - Ogunquit Beach (SG1)
- Shoreland General Development 2 - Perkins Cove (SG2)
- Shoreland Limited Commercial (SLC)
- Shoreland Limited Residential (SLR)
- Stream Protection (SP)

Non-Shoreland Zoning Districts

- Downtown Business (DB)
- General Business 1 - (GB1)
- General Business 2 - (GB2)
- Limited Business - (LB)
- One Family Residential - (OFR)
- Perkins Cove Residential - (PCR)
- Rural Residential 1 - (RR1)
- Rural Residential 2 - (RR2)
- Residence - (R)
- Farm - (F)



Official Zoning Map
Town of Ogunquit
DRAFT