

**WARRANT
FOR THE
NOVEMBER 4, 2014 SPECIAL TOWN MEETING
OF THE
TOWN OF OGUNQUIT**

TO: **PATRICIA L. ARNAUDIN**, Chief of Police of the Town of Ogunquit, in the County of York, 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 **Tuesday, the fourth (4th) day of November 2014**, 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 an Ordinance entitled “**An Act to Amend Title II of the Ogunquit Municipal Code; Health, Safety & Welfare as it Relates to Chapter 11 – Pesticide/Herbicide Usage**” be enacted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

CHAPTER 11 Pesticide/Herbicide Usages ~~on Town-Owned Lands~~

1101 Purpose

The purpose of this chapter is to safeguard the health and welfare of the residents of the Town of Ogunquit and to conserve and protect the town's ground water, estuarine, marine and other natural resources, while ensuring preservation ~~and enhancement of town-owned~~ of the land.

1102 Provisions

The following provisions shall be applicable to all turf, landscape and outdoor pest management activities ~~on town-owned~~ conducted within the Town of Ogunquit, on both public and private land.

(a) *Permitted:*

1102.1 Use or application of natural, organic land care protocols.

1102.2 All control products and soil amendments, including fertilizer and compost, used under the terms of this article shall be in keeping

with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products permitted by the Organic Materials Review Institute or the USDA National Organic Program.

1102.3 Use or application of sludge or sludge-derived products to the extent permitted by the Maine Hazardous Waste, Septage and Solid Waste Management Act 38 M.R.S.A. §§1301-1319-Y, the Protection of Natural Resources Act 38 M.R.S.A. §§ 480-A-480-Z, the Site Location of Development Act 38 M.R.S.A. § 481-490, and any rules related thereto, as amended from time to time.

(b) *Prohibited:*

1102.4 Use or application of chemical pesticides, other than pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25, and those products permitted by the Organic Materials Review Institute.

1102.5 Use or application of sludge or sludge-derived products not listed as permitted above.

1103 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Natural, organic land care: An extension of the principles and practices of organic agriculture to the care of turf and landscape.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

Sludge: Defined in 38 M.R.S.A. § 1303-C (28-A), as amended from time to time.

~~**Town-Owned Land:** All land owned or leased by the Town of Ogunquit and/or managed by the Town, including outdoor grounds such as parks, playing fields, the Marginal Way, or conservation and open space.~~

Pest: Any undesirable insect, plant, fungi, bacteria, virus or micro-organism.

1104

Exemptions

The following situations are exempt from the provisions of this Ordinance:

- a. Commercial agriculture;
- b. Pet supplies such as shampoos, tick and flea collars and dusts;
- c. Disinfectants, germicides, bactericides, and virucides;
- d. Insect repellents;
- e. Outdoor animal repellants;
- f. Swimming pool supplies;
- g. Aerosol products;
- h. General use paints, stains and wood preservatives and sealants;
and
- i. CMP, and other, routine vegetation maintenance programs on transmission sections that run through the Town of Ogunquit.

and ~~T~~the following processes are exempt: drinking water and wastewater treatment; indoor pesticide use; contained baits or traps for rodent control; use of pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25 or pesticides permitted by the Organic Materials Review Institute; management of town-owned land not used or used infrequently by the public (roadway medians, for example).

A specific exemption is made for poison ivy control on the Marginal Way, using the least toxic product in accordance with the US Environmental Protection Agency under 40 CFR 152.5, the Maine State Regulations Title 7 and Title 22: "Use of Pesticides", and the *Best Management Practices for the Application of Turf Pesticides and Fertilizers* of the Maine Board of Pesticide Control.

Restricted pesticides may also be applied for the following purposes:

1. **Noxious Growths** – The control of plants, including and not limited to, poison ivy (*Rhus radicans* or *Toxicodendron*

radicans), poison oak (Rhus toxicodendron or Toxicodendron quercifolium), and poison sumac (Rhus vernix or Toxicodendron vernix).

2. **Invasive Species** – The control of invasive species that may be detrimental to the environment.
3. **Mandatory Applications**- Use of pesticides mandated by state or federal law.
4. **Health and Safety** – The control of insects that are venomous or disease carrying.

1105 Emergency waiver

If an emergency situation warrants the use of non-exempt pesticides, the Code Enforcement Officer may, ~~upon written request to the Board of Selectmen,~~ grant a thirty (30) day temporary waiver. The waiver may be extended to a six (6) month total period. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency. The presence of weeds or common fungal diseases in the usual course of turf maintenance shall not constitute an emergency.

(a) Waiver determination shall be based on the following criteria:

- 1105.1** The pest situation presents a) an immediate threat to human health or environmental quality, or b) an immediate threat of substantial property damage or loss; and
- 1105.2** Viable alternatives consistent with this article do not exist. The Select Board shall request the Conservation Commission to review any waiver requests made under this section, and to recommend a course of action.

1106. Enforcement and permits

This article shall be enforced by the Code Enforcement Officer, according to the policies governing enforcement of municipal ordinances of the Town of Ogunquit.

1107. Conflict and invalidity

If a conflict or inconsistency is found between this article and other sections of the Zoning Ordinance or Town Charter, the terms of the stricter provisions shall prevail. The invalidity of a provision of this article shall not invalidate any other provision of this article.

1108. Authority

Pursuant to 30-A M.R.S.A. § 3001, municipalities may enact ordinances to protect the welfare of their inhabitants. Pursuant to 22 M.R.S.A. § 1471-U, Maine municipalities may enact ordinances that apply to pesticide storage, distribution, or use. Pursuant to 38 M.R.S.A., § 1310-U, municipalities may enact ordinances with respect to solid waste facilities with standards that are not more strict than those contained in the Maine Hazardous Waste, Septage and Solid Waste

Management Act 38 M.R.S.A. §§ 1301-1319-Y, the Protection of Natural Resources Act 38 M.R.S.A. §§ 480-A-480-Z, the Site Location of Development Act 38 M.R.S.A. § 481-490, and the rules adopted under those articles, as amended from time to time.¹

IN WITNESS WHEREOF, UNDER SEAL OF THE TOWN, this Ordinance as duly approved by the voters acting on Article 2 at a Special Town Meeting held on November 4, 2014.

Ordinance Change Effective January 1, 2015

Article 3: Shall an Ordinance entitled “**An Act to Amend Title III of the Ogunquit Municipal Code, Public Service, Chapter 3 – Sewer, Section 304 – Restoration of Excavated Areas**” be removed and included in Title XVI relative to Road Opening Requirements? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Chapter 3 Sewer

~~304~~ Restoration of Excavated Areas

Any person, individual, company or corporation or any agent, servant or employee of any such person, company or corporation who intends to cut open a public sidewalk or roadway within the Town of Ogunquit in order to connect into a sewer or other utility or for any other reason must first obtain a permit from the Town Manager. It will be the responsibility of the permit holder or his agent to restore the sidewalk or roadway to the same condition as it was prior to the excavation. In order to ensure that such restoration is completed, the Town Manager may require a bond or other guarantee as a condition to the granting of the permit which bond or other guarantee will be used by the Town to complete the restoration if it is not completed by the permit holder or by his agent. The bond or other guarantee (or any remaining portion of it) shall be returned to the permit holder or to his agent when the restoration has been completed to the satisfaction of the Town

~~**Manager and the Road Commissioner. The amount of the bond or other guarantee shall be determined by the Town Manager but it will be only large enough to reasonably ensure the ability of the Town to complete the restoration should it become necessary for the Town to do so. (12/17/85 STM)**~~

Replaced by Title XVI, Streets, Sidewalks and Other Public Places

Article 4: Shall an Ordinance entitled “**An Act to Amend Title IX of the Ogunquit Municipal Code, Business Ordinance, Chapter 3, Section 302.1.1 - Amusement Ordinance - To Extend the Filing Requirement from One (1) day to Fifteen (15) days**” be enacted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Chapter 3 Amusement Ordinance

302.1.1 Applications for Special Amusement License: Applications for a Special Amusement License shall be made on forms prescribed by the Municipal Officers and filed with the Town Clerk. Application shall be made at least ~~one (1) business day~~ **15 days** prior to the scheduled event. The application shall include the name and address of the sponsor of the event; the name and address of the facility at which the event will be held; the number of guests expected to attend; the type of entertainment to be provided; the starting time of the event; and the duration of the event.

Article 5: Shall an Ordinance entitled “**An Act Amend Title IX of the Ogunquit Municipal Code, Business Ordinance, Chapter 9 - Business Registration – Business Registration Requirements & Inspections**” be enacted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Chapter 9 Business Registration

901 Title, Purpose and Definition

901.3.2 Municipal Officers means the Town of Ogunquit ~~Board of Selectmen.~~ **Select Board.**

902 Registration Required

902.1 No business in Ogunquit shall conduct any enterprise unless the business has registered with the Town of Ogunquit **and obtained all required licenses with the State of Maine.**

905 Business Registration Inspections

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

905.12 Purpose

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

905.2 3 Businesses shall be divided into the following/groups:

- Group 1: All new businesses.
- Group 2: All existing lodging houses, guest houses, rental cabins, hotels, motels, or all transient housing.
- Group 3: All existing restaurants and retail businesses, which sell food or food products.
- Group 4: All other business not described in Groups 1, 2, and 3, including non-profit organizations.

905.3 ~~Time Compliance~~

~~The Code Enforcement Officer shall maintain the initial lists, by group, of all businesses. Compliance with this Ordinance shall be completed by the dates set forth below:~~

- ~~Groups 1 & 2 by May 31, 1989~~
- ~~Group 3 by May 31, 1990~~
- ~~Group 4 by May 31, 1991~~

Article 6: Shall an Ordinance entitled “**Title XVI of the Ogunquit Municipal Code, Streets, Sidewalks and Other Public Places Road Opening Requirements**” be adopted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

(The proposed Ordinance is on file and available in the Town Clerk’s Office.)

Article 7: Shall the Town vote to appropriate the sum of **Fifty-Thousand Dollars (\$50,000)** from Undesignated Fund Balance to fund an engineering study to define the degree of erosion at the Main Beach and the alternative solutions and related cost for corrective action?

Select Board recommends:	Yes	\$50,000	5-0
OR			
Budget Review Committee recommends:	Yes	\$0	4-1

Article 8: Shall the Town vote to amend the Building Maintenance Reserve Account, Article 48, which was approved by the voters at the June 10, 2014 Annual Town Meeting, to remove the word "Reserve"?

Article 9: Shall the Town vote to expend **Two Hundred Thousand (\$200,000)** from the Land Conservation Fund and **One Hundred Thousand (\$100,000)** from Undesignated Fund Balance and to delegate the Select Board, as Trustees of the Reserve Funds, to complete the purchase of 39.7 Acres (Ogunquit Tax Map 19-6 and 19-6-1) for conservation land?

Select Board Recommends:	\$300,000	Yes 4 No 1
Budget Review Committee Recommends:		

Given under our hands this **16th day of September, 2014**, A.D. in Ogunquit, Maine, by the Select Board, acting in their capacity as the Municipal Officers:

OGUNQUIT SELECT BOARD

Barbara Dailey, Chairperson



John M. Daley, Vice-Chairman



Gary S. Latulippe, Member



David F. Barton, Member



Robert N. Winn, Jr., Member

State of Maine
County of York, ss

A True Copy,
Attest:

Christine L. Murphy, Town Clerk
Town of Ogunquit, Maine

Dated: _____

Town of Ogunquit
Municipal Officers' Certification of Official Text of a
Proposed Ordinance [30-A M.R.S.A. § 3002(2)]

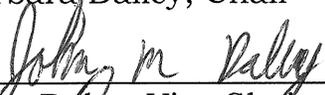
To the Town Clerk of the Town of Ogunquit:

We hereby certify to you that the documents to which we have affixed to this Certificate is a true copy of the official text of "**Proposed Amendments to the Ogunquit Municipal Code, Title II, Health, Safety & Welfare; Chapter 11 – Pesticide/Herbicide Usages**," which is to be presented to the voters for their consideration on November 4, 2014.

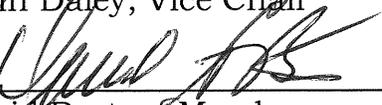
Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: September 2, 2014

Barbara Dailey, Chair



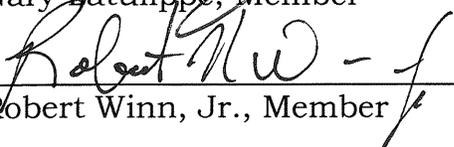
John Daley, Vice Chair



David Barton, Member



Gary Latulippe, Member



Robert Winn, Jr., Member

**TITLE II
OGUNQUIT MUNICIPAL CODE
HEALTH, SAFETY & WELFARE**

[Additions are underlined, deletions are ~~struck out~~]

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This article shall be enforced by the Code Enforcement Officer, according to the policies governing enforcement of municipal ordinances of the Town of Ogunquit.

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If a conflict or inconsistency is found between this article and other sections of the Zoning Ordinance or Town Charter, the terms of the stricter provisions shall prevail. The invalidity of a provision of this article shall not invalidate any other provision of this article.

1108. Authority

Pursuant to 30-A M.R.S.A. § 3001, municipalities may enact ordinances to protect the welfare of their inhabitants. Pursuant to 22 M.R.S.A. § 1471-U, Maine municipalities may enact ordinances that apply to pesticide storage, distribution, or use. Pursuant to 38 M.R.S.A., § 1310-U, municipalities may enact ordinances with respect to solid waste facilities with standards that are not more strict than those contained in the Maine Hazardous Waste, Septage and Solid Waste

Management Act 38 M.R.S.A. §§ 1301-1319-Y, the Protection of Natural Resources Act 38 M.R.S.A. §§ 480-A-480-Z, the Site Location of Development Act 38 M.R.S.A. § 481-490, and the rules adopted under those articles, as amended from time to time.¹

IN WITNESS WHEREOF, UNDER SEAL OF THE TOWN, this Ordinance as duly approved by the voters acting on Article _____ at a Special Town Meeting held on November 4, 2014.

Ordinance Change Effective January 1, 2015

Town of Ogunquit
Municipal Officers' Certification of Official Text of a
Proposed Ordinance [30-A M.R.S.A. § 3002(2)]

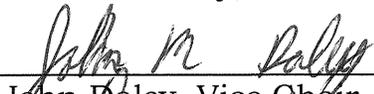
To the Town Clerk of the Town of Ogunquit:

We hereby certify to you that the documents to which we have affixed to this Certificate is a true copy of the official text of **“Proposed Amendments to Title III of the Ogunquit Municipal Code, Public Service, Chapter 3 – Sewer, Section 304 – Restoration of Excavated Areas”** which is to be presented to the voters for their consideration on November 4, 2014.

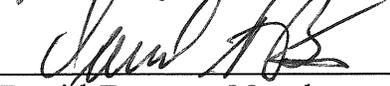
Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: September 2, 2014

Barbara Dailey, Chair



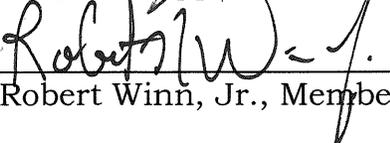
John Daley, Vice Chair



David Barton, Member



Gary Latulippe, Member



Robert Winn, Jr., Member

TITLE III - PUBLIC SERVICE

Chapter 3 Sewer

301 Sewer District

Sanitary waste disposal for Ogunquit is provided by a sewer district having separate statutory authority. Persons interested in the sewer district and its powers should contact it directly for more information. In addition to the Ogunquit Sewer District, the Town of Ogunquit has enacted ordinances pertaining to sanitary waste disposal. They are found in the remaining sections of this Chapter.

302 Sewer Connections

No person, individual, company or corporation or any agent, servant or employee of any such person, company or corporation shall at any time under any condition break open or disturb a public sewer pipe within the Ogunquit Sewer District for the purpose of connecting private pipe lines with said public sewer pipe, or for any purpose whatsoever, without first paying the Treasurer of said corporation all entrance fees due said corporation for any such entry, and obtaining a written permit from the Chairmen of the Trustees of said corporation and any connections made or work done as aforesaid shall be done strictly according to any directions contained in said permit.

303 Limitation on Drains

No person shall in the future connect any cellar drain or any other type of drain except sewage disposal to any sanitary sewer line, and no sewer line shall be connected or run into a water drain, and wherever possible such existing connections shall be transferred from storm sewer lines upon order of the Board of Trustees.

304 Restoration of Excavated Areas

~~Any person, individual, company or corporation or any agent, servant or employee of any such person, company or corporation who intends to cut open a public sidewalk or roadway within the Town of Ogunquit in order to connect into a sewer or other utility or for any other reason must first obtain a permit from the Town Manager. It will be the responsibility of the permit holder or his agent to restore the sidewalk or roadway to the same condition as it was prior to the excavation. In order to ensure that such restoration is completed, the Town Manager may require a bond or other guarantee as a condition to the granting of the permit which bond or other guarantee will be used by the Town to complete the restoration if it is not~~

~~completed by the permit holder or by his agent. The bond or other guarantee (or any remaining portion of it) shall be returned to the permit holder or to his agent when the restoration has been completed to the satisfaction of the Town Manager and the Road Commissioner. The amount of the bond or other guarantee shall be determined by the Town Manager but it will be only large enough to reasonably ensure the ability of the Town to complete the restoration should it become necessary for the Town to do so. (12/17/85 STM)~~
Replaced by Title XVI, Streets, Sidewalks and Other Public Places

305

Fines and Penalties

Any person violating any of the provisions of this ordinance shall be subject to a fine of not more than one hundred dollars (\$100).

Town of Ogunquit
Municipal Officers' Certification of Official Text of a
Proposed Ordinance [30-A M.R.S.A. § 3002(2)]

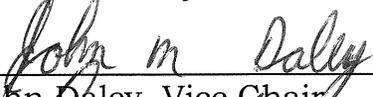
To the Town Clerk of the Town of Ogunquit:

We hereby certify to you that the documents to which we have affixed to this Certificate is a true copy of the official text of **“Proposed Amendments to Title IX of the Ogunquit Municipal Code, Business Ordinance, Chapter 3, Section 302.1.1 - Amusement Ordinance - To Extend the Filing Requirement from One (1) day to Fifteen (15) days”** which is to be presented to the voters for their consideration on November 4, 2014.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: September 2, 2014

Barbara Dailey, Chair



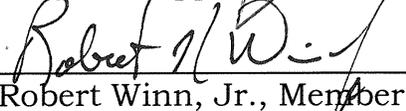
John Daley, Vice Chair



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**TITLE IX
BUSINESS ORDINANCE**

Chapter 3 Amusement Ordinance

302.1.1

Applications for Special Amusement License:

Applications for a Special Amusement License shall be made on forms prescribed by the Municipal Officers and filed with the Town Clerk. Application shall be made at least ~~one (1) business day~~ **15 days** prior to the scheduled event. The application shall include the name and address of the sponsor of the event; the name and address of the facility at which the event will be held; the number of guests expected to attend; the type of entertainment to be provided; the starting time of the event; and the duration of the event.

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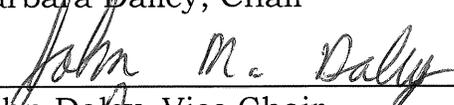
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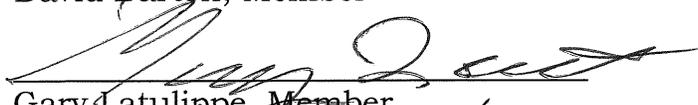
Barbara Dailey, Chair



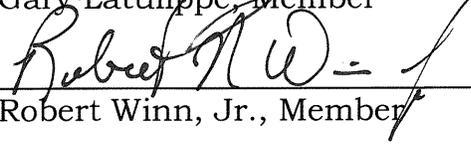
John Daley, Vice Chair



David Barton, Member



Gary Latulippe, Member



Robert Winn, Jr., Member

**TITLE IX
BUSINESS ORDINANCE**

Chapter 9 Business Registration

901 Title, Purpose and Definition

901.3.2 Municipal Officers means the Town of Ogunquit ~~Board of Selectmen.~~ Select Board.

902 Registration Required

902.1 No business in Ogunquit shall conduct any enterprise unless the business has registered with the Town of Ogunquit **and obtained all required licenses with the State of Maine.**

905 Business Registration Inspections

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

905.12 Purpose

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

905.2 3 Businesses shall be divided into the following/groups:

Group 1: All new businesses.

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

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

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

~~905.3~~ ~~Time Compliance~~

~~The Code Enforcement Officer shall maintain the initial lists, by group, of all businesses. Compliance with this Ordinance shall be completed by the dates set forth below:~~

~~Groups 1 & 2 by May 31, 1989~~

~~Group 3 by May 31, 1990~~

~~Group 4 by May 31, 1991~~

Town of Ogunquit
Municipal Officers' Certification of Official Text of a
Proposed Ordinance [30-A M.R.S.A. § 3002(2)]

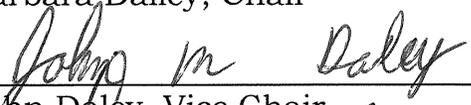
To the Town Clerk of the Town of Ogunquit:

We hereby certify to you that the documents to which we have affixed to this Certificate is a true copy of the official text of **“Proposed New Title XVI of the Ogunquit Municipal Code, Streets, Sidewalks and Other Public Places Road Opening Requirements”** which is to be presented to the voters for their consideration on November 4, 2014.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling places on the day of the vote.

Dated: September 2, 2014

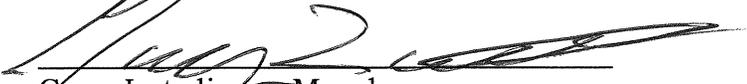
Barbara Dailey, Chair



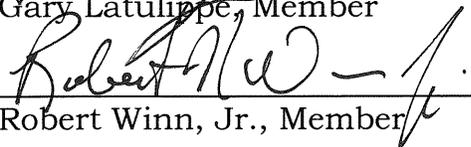
John Daley, Vice Chair



David Barton, Member



Gary Latulippe, Member



Robert Winn, Jr., Member

**TOWN OF OGUNQUIT
MUNICIPAL CODE
TITLE XVI
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

No person or utility shall make any excavation, modify, or fill any excavation excluding previously permitted locations in any public place without first obtaining a permit to do so from the Town except as otherwise provided for in this article or the rules and regulations. Any excavation within the town's streets, sidewalks, esplanades or other public rights-of-way shall only be permitted in accordance with this Code or the rules and regulations. The granting of such a permit shall cover all required activities to conform to this article and the rules and regulations.

Chapter 1 – Application

- 101** No street opening permit shall be issued unless a written application on a form provided by the Town for the issuance of a street opening permit is submitted to and approved by the Town. The written application shall contain such information as reasonably required by the Public Works Department and identified in the rules and regulations. Applications shall be submitted at least two (2) business days prior to the anticipated excavation. The permit shall expire thirty (30) days from the date of issuance.
- 102** In order to protect underground facilities and public safety all permit applications must provide the Town with documentation of the applicant's proper notification to the underground facilities damage prevention system. This will typically be provided by indicating the applicant's "Dig Safe" number on the application.
- 103** In order to obtain a permit, the applicant must be current on all of its financial obligations to the Town.
- 104** All applicants shall be required to post a eighteen (18) month bond, surety or appropriate security deposit in order to apply for any permits.

Chapter 2 - General Conditions

- 201** Permits shall be issued only after security acceptable to the Public Works Department has been given to the Town to insure the proper restoration and subsequent maintenance of the street, sidewalk, curb, esplanade, or other public right-of-way.
- 202** Permits shall be issued only to persons or utilities in possession of a current excavator license granted by the Public Works Department.
- 203** Permits shall be granted only if the applicant has properly notified all utilities, typically done by contacting "Dig-Safe," and obtaining an authorization number to proceed. Any conflicts with utilities shall be the sole responsibility of the applicant and shall be resolved to the utilities' satisfaction and per the town's technical and design standards and guidelines.

TOWN OF OGUNQUIT
MUNICIPAL CODE
TITLE XVI
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

204 Issuance of a street opening permit shall not imply a waiver of other town permit requirements such as sealed drains, sewer or storm drain connections, sign installation, or building permits.

205 The Public Works Director has the right to deny permit applications if the street has been newly constructed, reconstructed, or rehabilitated; if excavation is proposed between the dates of November 15 and April 15; if a significant public safety hazard could result; or for just cause.

206 Protective Measures and Routing Traffic

- A.** The Permittee shall, in general, maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public street, alley, or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least half of the sidewalk width shall be maintained along such sidewalk line.
- B.** It shall be the duty of every permittee cutting or making any excavation in or upon any public place, to place and maintain barriers and warning devices necessary for the safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian, and bicycle traffic shall be subject to Police Department review and approval.
- C.** Barriers, warning signs, lights, etc., shall conform to the latest edition of the Manual on Uniform Traffic Control Devices (UTCD). Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflector or reflecting material may be used to supplement, but not replace, light sources without prior written consent of the Public Works Director.
- D.** The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times to minimize inconvenience to the occupants of adjoining property and to the general public.
- E.** When traffic conditions permit, the Public Works Director or representative, with the approval of the Police Department, may, by written approval (or verbal approval in cases of emergency), permit the closing of streets and alleys to all traffic for a period of time prescribed by him/her, if in his/her opinion it is necessary. The written approval of the Public Works Director of the Town may require the Permittee to give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such

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MUNICIPAL CODE
TITLE XVI
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

notice is given. In case of emergency on weeknights, weekends, or holidays, the utility company having such emergency shall contact the Police Departments by phone before closing a street to traffic, except in a case of immediate hazard of loss of life or serious property damage, in which event prompt notice of closing shall be given.

- F. Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to channel traffic in accordance with the instructions of the Public Works Director, after his/her review of the proposed traffic control measures of the project.
- G. The permittee shall hereby be informed that the Public Works Director of the Town will require special Police protection at locations where the permittee, by his/her work, interferes with the general public's safety or locations where the Public Works Director or Police Department deem it necessary.
- H. The permittee is also informed that construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the Town except to the extent and under conditions approved by the Public Works Director or Police Department and the full roadway lane width shall be maintained.
- I. The permittee may shift traffic to the opposite side of the roadway to maintain the above required lane width. The permittee may only make such shift with the approval of the Public Works Director, following proper review of detour plans to ensure adequate, safe two-way traffic flow and proper number and placement of police officers if required.

Chapter 3 - Annual Work Program to be Submitted by Utilities

- 301 Each year on or before March thirty-first (31), each utility shall submit to the Public Works Department its planned work program for the ensuing year, which shall not include emergencies and normal house service lines. Thereafter, the Town shall have the right to deny permit applications for excavations not specifically contained within each utility's respective planned work program, except for emergencies and house service lines.

Chapter 4 - Issuance of Blanket Permits

- 401 The Town may issue an annual blanket permit to the Public Works Department for the purpose of placing, replacing or repairing any facility within a public place as long as the utilities are properly notified through "Dig-Safe" and a record of the completed work is submitted to the Town in a timely fashion.

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STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

Chapter 5 - Duration

- 501** Excavation work must be started no later than thirty (30) days from the date of issue of the street opening permit. After the expiration of this thirty-day (30) period, such permits shall become null and void and shall have to be renewed.

Chapter 6 - Fees and Charges

- | | | |
|------------|-------------------------------|----------|
| 601 | Driveway Permit: | \$15.00 |
| | Circular | \$30.00 |
| | Failure to get Permit: | \$100.00 |
| 602 | Street Opening Permit: | \$50.00 |

Surety Level and Limits: Purpose is to ensure proper closing of the street opening for an eighteen (18) month period in case of cracking, settling, and poor workmanship. The surety may be in the form of a bond or irrevocable letter of credit from a bank. The level of surety is as follows:

603 **Surety:**

One thousand dollars (\$1,000) for cross cut;
Five thousand dollars (\$5,000) for parallel openings in the asphalt or concrete not to exceed five hundred feet (500 ft.) and ten dollars (\$10) per foot in excess of five hundred feet (500 ft.).

* Parallel cuts in shoulders or gravel roads; seventy-five dollars (\$75) minimum and one dollar (\$1) per square yard over twenty-five square yards.

604 **Utility Companies:**

Street Opening Permit: \$15.00 each

Fee will be waived for Utilities in good standing with the Town.

Surety: Once a year a Utility may file a blanket surety letter with the Town to guarantee to fix or pay for the repair to an opening (within an eighteen (18) month period) as judged by the Public Works Director to be in need of repair. The Utility will either renew the blanket surety letter if there are outstanding permits or may post individual sureties for any outstanding permits. The Public Works Director may repair the opening only after notifying the Utility Company holding the permit and allowing them the chance to repair it within 30 calendar days from notification.

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The following are considered Utility Companies under this Ordinance:

Central Maine Power Company
Fairpoint Communications
Kennebunk, Kennebunkport & Wells Water District
Ogunquit Sewer District
Time Warner Cable Company

605 Excavator License:

Excavator License: \$100.00 Annually

A Town Excavator License shall be required in addition to any other fees to attain a permit that necessitates excavation of any Town owned property. A Town Excavator License will be valid from January 1st of each year and expire on December 31st of the same year. The permittee shall need to renew the Excavator License after January 1st and before a Street Opening Permit will be issued.

606 All fees, fines and charges shall be enacted annually by order of the Town Select Board. The Public Works Department shall notify currently licensed excavators in advance of annual fee revisions necessary to reflect costs of program administration, permanent pavement restoration, annual excavator's license fee, and other applicable charges.

607 Proof of Insurance

For opening permits, applicants shall supply to the Town of Ogunquit, Maine, a certificate of insurance listing the Town of Ogunquit, Maine as an additionally named insured. Coverage shall be for no less than the following amounts:

- General liability including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operation, contractual independent contractors, broad form property damage and personal:
 - \$1,000,000 Bodily Injury and Property Damage Each Occurrence.
 - \$2,000,000 Bodily Injury and Property Damage Aggregate.
 - \$1,000,000 Personal Injury Aggregate.
- Automobile liability including any auto, hired autos and non-owned autos:
 - \$1,000,000 Bodily Injury and Property Damage combined.
- Workers Compensation and Employers Liability:
 - \$1,000,000 Each Incident.
 - \$1,000,000 Disease-Policy Limit.
 - \$1,000,000 Disease-Each Employee.

608 Upon permit application, the administrative charge and estimated permanent pavement restoration charge shall be paid in the Land Use Office and held by the Town Treasurer unless waived by the Public Works Department as provided below. Utility applicants in

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STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

good standing may have permit fees waived. Permanent Pavement Restoration charges and all other fees and fines shall be paid before a permit is issued.

609 All fees and charges collected by the Public Works Department in the issuance of permits pursuant to this article shall be placed in a fund dedicated and utilized solely for the administration of this article and the rules and regulations, and the rehabilitation of town streets primarily due to excavations.

610 **Waiver of fees:**

To prevent untimely delays to construction activities within the limits of Town and/or Maine Department of Transportation (MDOT) planned reconstruction areas, the Town shall waive all street opening permit fees for utilities and individuals having work to do in such areas until the time reconstruction takes place. This waiver can only be applied if the applicant clearly indicates the nature and limits of work on their permit application.

610.1 The director may waive all permit fees in streets or sidewalk/driveway areas to contractors under contract to the Town or MDOT.

609.2 To promote the use of trenchless technologies and minimize pavement disturbance, the permanent restoration fee will not be assessed to any excavation area achieved by trenchless technologies which do not result in pavement damage.

609.3 No permanent pavement restoration fee will be assessed for excavations into streets classified with a Pavement Condition Index (POI) requiring total reconstruction per the city's pavement management and maintenance program.

609.4 The Town Manager may authorize special waivers of permit fees if special conditions exist, including public health issues and significant financial hardship to a homeowner, which can be supported by the director in writing.

Chapter 7 - Reserved

Chapter 8 – Bonds & Sureties

Bonds or sureties shall be required of all applicants in good standing under the rules and regulations in order to guarantee their performance. Bonds and sureties shall be posted for a minimum of eighteen (18) months. In lieu of a bond or surety, an applicant may substitute a deposit equal to the anticipated cost of excavation repair, as determined by the Town, for each application it seeks. Deposits shall be certified bank checks only. Such checks will be made payable to the Town of Ogunquit which will deposit the check into an account in the name of and under the control of the Town. The deposit will be refunded upon approved completion of all conditions of the permit, this article and the rules and regulations.

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Chapter 9 – Violations

- 901** Any person or utility failing to comply with or violating any provision of this article or the rules shall be served by the Public Works Department with written notice stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.
- 902** In order to ensure public safety, the Public Works Department shall have the right to verbally notify and require immediate corrective actions of any person or utility whose failure to comply with this article or the rules could cause a safety hazard.
- 903** Any person or utility who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this article or the rules shall be guilty of a violation of this article.
- 904** Any person or utility violating any of the provisions of this article or the rules shall be liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation. The Town may seek injunctive relief for the purposes of enforcing this article or the rules.
- 904.1** Any violation of this article which is also a violation of 35-A M.R.S.A. §2509 or 2511 or a violation of 23 M.R.S.A. §3353 or 3355 shall subject the permittee or party to a fine as provided in said statutes, as said statutes may be amended from time to time.
- 904.2** Any violation of this article other than the violations of state law prescribed in the preceding paragraph shall subject the permittee or party to a one hundred dollar fine per day for each day that a violation continues.
- 905** Any permittee or party who continues to violate any section of this article or the rules and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs as appropriate until such time as the Town is satisfied that the permittee or party shall have corrected all violations in compliance with the terms of this article and the rules and regulations.
- 906** The Town reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.

Chapter 10 - Failure to Obtain Permit

Any person or utility found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge of one hundred dollars (\$100.00) shall be required in

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addition to all applicable permit fees.

Chapter 11 - Appeals Process

- 1001** Whenever a person shall deem themselves aggrieved by an order made by the Public Works Department, the person may file an appeal to the Town Manager within ten (10) days of the date of the order, and the person shall be afforded a hearing on the matter before the Town Manager or a Designee, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.
- 1002** In cases of applicability or interpretation of the rules, the Town Manager may revoke such order made by the Public Works Department.
- 1003** In cases where compliance with such order made by the Public Works Department would cause undue hardship, the Town Manager may extend the time limit of such order, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of the rules, subject always to the rule that the Town Manager shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

Approved _____
Date



Ogunquit Public Works Department
 30 Salt Shed Drive
 Ogunquit, Maine 03907
 Phone: 207-646-5139
 Fax: 207-646-5920
www.townofogunquit.org

EXCAVATOR'S LICENSE APPLICATION

ANNUAL LICENSE
 RENEWALABLE JANUARY 1ST
 LICENSE FEE: \$100.00

#: _____

DATE: _____

1. COMPANY

Name: _____

Address: _____

Contact Name: _____

E-Mail Address: _____

Phone: _____

Fax: _____

Please read & Initial _____

Effective: January 1, 2013
 CONTRACTORS WORKIN IN SHORELAND ZONES MUST HAVE AN M.D.E.P.
 CERTIFIED EROSION CONTROL PERSON ON SITE *PER MAINE STATUTES,*
TITLE 38, §439-B

2. **INSURANCE (REQUIRED):** Please attach a certificate of Insurance (\$400,000.00 minimum) naming the Town of Ogunquit as additional insured.

3. **EQUIPMENT:** Do you have access to the proper excavating and compaction equipment to comply with Town of Ogunquit's Street Opening Ordinance?
 If yes, please sign here: X _____

4. **STREET OPENING ORDINANCE:** I have read and understand the Town of Ogunquit's Street Opening Ordinance and agree to comply with all of its contents and regulations.
 If yes, please sign here: X _____

5. CONTACTS (AVAILABLE 24 HOURS) IN CASE OF EMERGENCY:

Name:	Address:	Phone:
1.		
2.		
3.		

APPROVED BY: _____ DATE: _____

REJECTED BY: _____
 REASON: _____

Instructions

Print all pages of this application form - fill them out - bring them to the Code Enforcement Office or Fax/Email to maintenance@townofogunquit.org along with Certificate of Liability Insurance naming "Town of Ogunquit" as additional insured.

Over and above the \$50.00 Administrative Fee, the hourly Inspection Fee, and the Annual \$100.00 Excavator's License Fee, you are also responsible for repairing all street opening cuts in accordance with the Town of Ogunquit's "Street Opening Ordinance."



Signed: X _____ Date: _____

(Representative of the business and title)

Town of Ogunquit
 Public Works Department
 30 Salt Shed Drive
 Ogunquit, ME 03907
 Phone: (207) 646-5139
 Fax: (207) 646-5920



APPLICATION FOR
 SIDEWALK OPENING PERMIT
 Town Right-of-Way Construction

Applicant:		Beginning Work On:		
Address:		Completing Work On:		
		Emergency Permit?	Yes	
			No	
Telephone:		Fax:		
E-mail:				

Street to Open:			
Purpose:			
Property Owner:			
Address:		Telephone:	
		Fax:	
		E-mail:	
Map-Block:			

Contractor Name:			
Address:		Telephone:	
		Fax:	
		E-mail:	

Excavator Name:			
Address:		Telephone:	
		Fax:	
		E-mail:	

*** NOTICE ***

The Contractor must submit a Certificate of Insurance with the application, if not already on file at Public Works' Office.

The following utilities must be contacted (no exceptions) for locations, and Town Departments notified of proposed work:

Dig Safe (State Law to Notify)

1-888-344-7233

Permit Number: _____ Date Called: _____

Kennebunk, Kennebunkport & Wells Water District

207-985-3385

Contact Person: _____ Date Called: _____

Ogunquit Sewer District

207-646-2028

Contact Person: _____ Date Called: _____

The following entities must be notified of the proposed work if lane closure(s) or other traffic impacts are anticipated for the project:

Police/Fire Dispatch

207-646-9361

Contact Person: _____ Date Called: _____

Notes:

1. Street Right-of-Way openings shall conform to Article I, Chapter 600 of Ogunquit Municipal Code, Title XVI.
2. All individual plumbers and/or contractors must notify the Public Works Department and the Land Use Department before backfilling and/or sewer drain connections.
3. A 24-hour notification to the Public Works Department and Land Use Department is required for all sewer connections.
4. Attach a neat and precise diagram of the planned excavation in accordance with Section 600-4, Application for Permit.
5. Completed application, along with diagram and Certificate of Insurance (if not on file), shall be returned to the Land Use Office located at 23 School Street.

After review by the affected Town Departments, a Street Opening Permit will be issued to the applicant. Fees (see Section 600-5) shall be paid at the Ogunquit Town Office in the Town Clerks Office located at 23 School Street.

I have contacted all of the utilities required as well as all Town Departments and submitted all the required documents for the review of this application.

Signature: _____ Date: _____ Phone: _____

* * * FOR OFFICE USE ONLY * *

Permittee services required

Town services required

Emergency Repair

Estimated Street	_____ sq. yds.	@ \$ _____	\$ _____
Estimated Sidewalk	_____ sq. yds.	@ \$ _____	\$ _____
Estimated Curbing	_____ linear ft.	@ \$ _____	\$ _____
Driveway Apron	_____	@ \$ _____	\$ _____
Driveway Culvert	_____ diam/lin ft.	@ \$ _____	\$ _____
Other	_____	@ \$ _____	\$ _____
Inspections	_____	@ \$ _____	\$ _____
Permit Fee	_____	@ \$ _____	\$ _____

TOTAL PERMIT APPLICATION AMOUNT: \$ _____
(Paid at Town Hall, Clerks Office)

Reviewed and Authorized by: _____ Date: _____