

**TOWN OF OGUNQUIT
NOTICE OF CANDIDATE AND REFERENDUM ELECTION
Tuesday, November 6, 2001**

Municipality OGUNQUIT

Voting Place Name Dunaway Community Center

Polls Open at 9:00 AM Polls Close at 8:00 PM

A person may register to vote and/or enroll in a political party on or before election day. Pursuant to Title 21-A, Section 759(7), absentee ballots will be processed centrally/at the polls at the following times: 10AM, 12 Noon, 2PM, 4PM, 6PM, 8PM

Candidate Election: Office of Wells-Ogunquit CSD Trustee

LaFond, Leslie L.

Questions to be Voted On:

Question 1: Shall the municipality approve the charter revision recommended by the Charter Commission?

Question 2: Shall an ordinance entitled, "An Ordinance to Amend Title VII, (Animal Control Ordinance) of the Town of Ogunquit Municipal Code, as it relates to Chapter 2, Dogs - Running at Large" be enacted?

Question 3: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code, as it relates to Article 2, Definitions - Contiguous Lots" be enacted?

Question 4: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code, as it relates to Article 2, Definitions - Dwelling Units" be enacted?

Question 5: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 2, Definitions - Dumpster" be enacted?

Question 6: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 2 - Definitions - Frontage" be enacted?

Question 7: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 2 - Definitions - Frontage on Backlot" be enacted?

NOTICE OF ELECTION: Tuesday, November 6, 2001
Page 2

Question 8: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 2 - Definitions - Half Story" be enacted?

Question 9: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 2 - Definitions - Vending or Buyer Operated Retail Device" be enacted?

Question 10: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 8.6, Fences" be enacted?

Question 11: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 8.12B, Awnings" be enacted?

Question 12: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 8.16, Setbacks and Screening" be enacted?

Question 13: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 9.15G, Timber Harvesting (Shoreland Zone)" be enacted?

Question 14: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Article 8.12.D.4, Signs" be enacted?

Question 15: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code as it relates to Table 702.1, Land Uses Permitted in Zoning Districts (GBD2)" be enacted?

Question 16: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code adding Article 12, Survey Requirements for Land Use Application" be enacted?

Question 17: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code, as it relates to Article 11, Section 11.3.C (Design Review)" be enacted?

Question 18: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code, as it relates to Article 11, Section 11.3.E (Design Review)" be enacted?

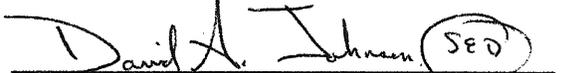
NOTICE OF ELECTION - Tuesday, November 6, 2001

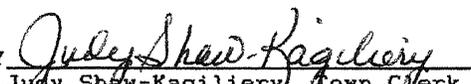
Page 3

Question 19: Shall an ordinance entitled, "An Ordinance to Amend Title X, (Zoning Ordinance) of the Town of Ogunquit Municipal Code, as it relates to Article 10, Section 10.7.4, (Street Designs and Construction Standards)" be enacted?

Question 20: Shall the Town vote to repeal the present Floodplain Management Ordinance and adopt the 2001 Floodplain Management Ordinance as cooperatively developed between Town, State and Federal agencies, which set forth policies and strategies to limit future flood-related damage in the Town of Ogunquit?

ss: Pursuant to Notice 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 29th day of October, 2001 A.D., a copy of the within Notice at the Dunaway Community Center, Village Food Market and the Ogunquit Post Office, those being three (3) conspicuous and public places in said Town.


David A. Johnson, Acting Police Chief

ATTEST:
A TRUE COPY 
Judy Shaw-Kagiliery, Town Clerk

Dated: October 29, 2001

PROPOSED AMENDMENTS

TO THE

OGUNQUIT ZONING ORDINANCE

**STANDARDS FOR REVIEWING
LAND SUBDIVISIONS AND OTHER PROJECTS**

AND

FLOODPLAIN MANAGEMENT ORDINANCE

**TO BE VOTED ON AT THE
SPECIAL TOWN MEETING, NOVEMBER 6, 2001**

Contiguous Lot - Passed Y-214 N-157

For purposes of this Ordinance, a lot shall be considered to be contiguous if either or both of the following conditions exist: the lots adjoin or are coterminous at any point or line or if two adjacent lots are separated at any point by a water body less than forty (40) feet wide. A lot line between adjacent lots that are, therefore, contiguous lots may be shown graphically as a solid line or as a dashed line or some other graphical representation.

Note: This definition, minus the last sentence, is already in the Subdivision Ordinance.

Dwelling Unit - Passed Y-232 N-141

A room or group of rooms used, designed to be used or capable to be used as a habitable unit for one family with facilities for living, bathing, sleeping, cooking and eating. Motel units or rooms with cooking facilities and hotel units or rooms with cooking facilities shall be considered dwelling units. A dwelling unit provides at least 650 square feet of habitable floor space as measured from the interior side of walls.

ARTICLE 2 - Definitions

DUMPSTER - A container used specifically for the storage of trash, garbage or other waste disposal articles or recyclables. Passed Y-252 N-125

Article 2 DEFINITIONS

Frontage - Passed Y-233 N-139

The portion of a lot nearest the public right-of-way and between the front lot line and the front setback line.

Frontage on Backlot Passed Y-222 N-144

On backlots so called, which do not have a lot line along a public street, frontage is the side of the lot that abuts on one or both sides of a deeded access road that passes through the backlot from one lot line to its opposing lot line (see Article 8.1). On backlots that have a deeded access road that ends either at an the edge of the lot (before entering the lot) or ends within the lot, frontage may be designated on any side of the lot that the owner may choose. Thereafter, if the owner of the lot wishes to change the frontage, there must be sufficient setback of all structures to meet the current front setback on the side being newly designated as the front side of the lot.

Half Story Passed Y-228 N-139

A half story is the top of a building which: has finished habitable floor space not exceeding one half of the habitable floor space of the second story below and which is located under a roof which pitches in two opposite directions, the rafters of which must touch the plates of the opposite sides of the floor below the half story or the shoe of the floor of the half story. Finished habitable floor space of a half story is measured within the real or imaginary knee walls of 4 feet or the actual walls (if they are higher than 4 feet).

ARTICLE 2 DEFINITIONS

Vending or Buyer Operated Retail Device - *Passed Y-233 N-135*

All coin operated or buyer operated devices including, but not limited to, soda vending machines, ice machines, gum ball dispensers, snack vending machines and the like. Buyer operated newspaper machines, pump sales at gasoline stations, automatic teller machines and pay telephones, are not included as a vending or buyer-operated retail device.

8.6 FENCES *Passed Y-213 N-149*

No fence may be erected, altered or relocated without issuance of a permit from the Town Planner and/or Code Enforcement Officer. Before issuing a permit the Town Planner and/or Code Enforcement Officer may submit the application to the Planning Board for review, interpretation and possible approval. The Code Enforcement Officer shall enforce Article 8.6 and all permits issued thereto.

Fences shall meet the following standards:

- A.
- B.
- C.
- D.
- E.
- F.
- G.

8.12.B. AWNINGS *Passed Y-225 N-131*

Awnings in the business districts (DBD, GBD1, GBD2, LBD, PCLBD, OBBD, and RPD and SOD as applicable) may be erected, altered or relocated with issuance of a permit from the Town Planner and/or Code Enforcement Officer. Before issuing a permit the Town Planner and/or Code Enforcement Officer may submit the application to the Planning Board for review, interpretation and possible approval. The Code Enforcement Officer shall enforce Article 8.12.B and all permits issued thereto.

No permit is required to erect, alter or relocate an awning within residential districts (OFRD, RD, RRD1, RRD2, PCRD and FD) so long as the free passage of pedestrians, bicyclists and motorists on public right-of-ways are not obstructed and public safety is maintained.

Notwithstanding the provisions of Section 8.12.A.1,

- 1.
- 2.
- 3.

ARTICLE 8.16 – SETBACKS & SCREENING *Passed Y-224 N-128*

- A. Exposed storage areas and dumpsters shall have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge six (6) feet or more in height) to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area.
- B. Dumpsters shall be located or screened so as not to be visible from the street or from the ordinary eye level of an individual standing on the ground from residential property or transient accommodations. In a residential district or a property abutting a residential district or on a property abutting a strictly residential only use, dumpsters shall meet the setback requirement for structures.
- C. The Planning Board may waive any or all portions of this Article with or without limitations, when, after a site review, it is determined that suitable conforming space is not available for the location of a dumpster on a subject property.

NOTE: New
Section

ARTICLE 9.15.G. Timber Harvesting (in the Shoreland Zone) *Passed 4/23/11 - N130*

EXISTING:

9.15.G. Timber Harvesting

Timber harvesting shall conform with the following provisions:

1. Selective cutting of no more than 40 percent of the total volume of trees four inches or more in diameter measured at 4½ feet above ground level on any lot in any 10 year period is permitted. In addition:
 - a. Within 75 feet, horizontal distance, of the normal high water line of water bodies, tributary streams or the upland edge of a wetland, there shall be no clearcut openings and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

PROPOSED:

9.15.G. Timber Harvesting

Timber harvesting shall conform with the following provisions:

1. Selective cutting of no more than 40 percent of the total volume of trees four inches or more in diameter measured at 4½ feet above ground level on any lot in any 10 year period is permitted. In addition:
 - a. Within the strip of land extending 75 feet inland from normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (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 4½ 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.

EXISTING:

9.15.G.1.b. At distances of greater than 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 clear openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clear cut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.

PROPOSED:

9.15.G.1.b. Beyond the 75 foot strip referred to in paragraph "a" above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees 4½ inches in diameter at 4½ feet above the ground be reduced to less than 30 square feet per acre.

Rationale: The amendments are from the State of Maine Guidelines for Municipal; Shoreland Zoning Ordinances, in response to changes to the Mandatory Shoreland Zoning and the Forest Practices Acts

PROPOSED AMENDMENT TO SELECTMEN'S FEE SCHEDULE:

Proposed:

Current penalties for infractions of the Shoreland Zoning Ordinance include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in the Resource Protection District the maximum penalty is increased to \$5000.

ARTICLE 8.12.4.D - Signs *Passed Y-237 N-128*

A residential neighborhood, development or subdivision with clearly defined geographical boundaries may have one (1) sign located at the primary entrance not to exceed twelve (12) square feet.

TABLE 702.1 LAND USES PERMITTED IN ZONING DISTRICTS

Outdoor sales, services and storage areas GBD2 *Passed Y-218 N-136*
Including gasoline stations NP²

NOTES TO TABLE 702.1 *Passed Y-224 N-128*

⁵ As an exception, the Ogunquit Playhouse may serve patrons beverages and snack food outdoors on the premises from one hour before, during, to one hour after performances.

Note: This is proposed as Note 5 on the Land Use Table on Page 46.

ARTICLE 11, Section 11.3.C. *Passed Y-207 N-134*

any material change in the exterior appearance of existing buildings within the District by additions, reconstruction or alteration, except fences and awnings are subject only to Town Planner and/or Code Enforcement Officer review and approval under Articles 8.6 and 8.12.B as applicable.

ARTICLE 11, Section 11.3.E. *Passed Y-208 N-134*

any material change in the existing walls, ~~fences~~, driveways and parking areas or construction of new walls, ~~fences~~, driveways and parking areas if subject to view from a public street or public right-of-way within the District.

SUBDIVISION ORDINANCE

ARTICLE 10, Section 10.7.4 - STREET DESIGNS AND CONSTRUCTION STANDARDS - *Passed Y-253 N-108*

A residential neighborhood, development or subdivision with clearly defined geographical boundaries may have one (1) sign located at the primary entrance not to exceed twelve (12) square feet.

TOWN OF OGUNQUIT
SURVEY REQUIREMENTS
FOR LAND USE APPLICATION

1. PURPOSE

The purpose of this Ordinance is to insure that the Municipal Officials and Boards required to decide applications for permits and approvals under the Town's Land Use Ordinances have accurate information upon which to base those decisions. To that end, this Ordinance establishes requirements for the types of survey information required to be provided with certain types of land use applications governed by the Town's Ordinances.

2. SUBDIVISIONS

Every application for any approval required under the Ordinance entitled Ogunquit Planning Board Standards for Reviewing Land Subdivisions and Other Projects shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3 which reflects the current conditions of the site. Plans showing engineering details submitted as part of the application shall be prepared by a professional engineer.

3. SITE PLANS

Every application for any approval required under a site plan review shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3. However, the Town Planner may waive the requirement of this Section and accept a plan of a lower classification, category or condition, provided the scale remains at 1' = 40', if the Planner determines that special characteristics of the site, such as a large parcel size (50 acres or greater) or large street frontage (500 feet or greater) or changes to only a specific location on a site plan so warrant. Plans showing engineering details submitted as part of the site plan application shall be prepared by a professional engineer.

4. VARIANCES

- a) **Lots Unimproved on Effective Date** - Every application to the Ogunquit Board of Appeals for a variance for a lot not containing buildings or structures before the effective

date of this Ordinance under the Ogunquit Zoning Ordinance or the Ogunquit Shoreland Zoning Ordinance shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3.

TOWN OF OGUNQUIT
SURVEY REQUIREMENTS
FOR LAND USE APPLICATION

- b) **Lots Improved on Effective Date** - Every application to the Ogunquit Board of Appeals for a variance for a lot containing buildings or structures constructed on or after the effective date of this Ordinance under the Ogunquit Zoning Ordinance or the Ogunquit Shoreland Zoning Ordinance shall be accompanied by a Mortgage Loan Inspection type survey with existing pins located sufficient to determine the dimensions for which the variance is sought.

5. **HOME OCCUPATIONS & GROUP DAY CARE HOMES**

Every application to the Ogunquit Planning Board for special exception approval of a home occupation or a group day care home under the Ogunquit Zoning Ordinance shall be accompanied by a Mortgage Loan Inspection type survey with existing pins located sufficient for the Board to determine compliance with the requirements of the Ogunquit Zoning Ordinance for the use sought.

6. **SINGLE FAMILY DWELLINGS**

Every application for a permit under the Ogunquit Zoning Ordinance or the Ogunquit Shoreland Zoning Ordinance for the construction of a new single family dwelling shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3. In addition, the location of the foundation shall be set and pinned by a professional land surveyor before the Code Enforcement Officer approves the footing inspection if:

- a) Any part of the proposed structure to be located closer than five (5) feet to the minimum front, side or rear yard

setbacks required by the applicable zoning district regulations;
or

- b) The Code Enforcement Officer determines that special conditions such as complex curves in the property lines, the presence of wetlands requiring setbacks under the Ogunquit Shoreland Zoning or other unusual features of lot shape or topography require that the foundation be set and pinned by a professional land surveyor.

TOWN OF OGUNQUIT
SURVEY REQUIREMENTS
FOR LAND USE APPLICATION

7. ADDITIONS TO SINGLE FAMILY DWELLINGS

- a) **Dwellings Constructed Before Effective Date** - Every application for a permit under the Ogunquit Zoning Ordinance or the Ogunquit Shoreland Zoning Ordinance for the construction or an addition to a single family dwelling which was constructed before the effective date of this Ordinance shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3. In addition, the location of the foundation shall be set and pinned by a professional land surveyor before the Code Enforcement Officer approves the footing inspection if:
- i) Any part of the addition is proposed to be located closer than five (5) feet to the minimum front, side or rear yard setbacks required by the applicable zoning district regulations; or
 - ii) The Code Enforcement Officer determines that special conditions such as complex curves in the property lines, the presence of wetlands requiring setbacks under the Ogunquit Shoreland Zoning Ordinance or other unusual features of lot shape or topography require that the foundation be set and pinned by a professional land surveyor.
- b) **Dwellings Constructed After Effective Date** - Every application for a permit under the Ogunquit Zoning Ordinance

or the Ogunquit Shoreland Zoning Ordinance for the construction of an addition to a single family dwelling which was constructed on or after the effective date of this Ordinance shall be accompanied by a Mortgage Loan Inspection type survey with all proposed yard dimensions and setbacks shown on the plan.

8. **MINOR ACCESSORY STRUCTURES**

- a) **Lots Improved Before Effective Date** - Every application for a permit under the Ogunquit Zoning Ordinance or the Ogunquit Shoreland Zoning Ordinance for the construction of a minor accessory structure, as defined in Section 10 of this Ordinance, on a lot where the principal structure was constructed before the effective date of this Ordinance shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3 if the Code Enforcement

TOWN OF OGUNQUIT
SURVEY REQUIREMENTS
FOR LAND USE APPLICATION

Officer determines that special conditions such as complex curves in the property lines, the presence of wetlands requiring setbacks under the Ogunquit Shoreland Zoning Ordinance or other unusual features of lot shape or topography require that the foundation be set and pinned by a professional land surveyor.

- b) **Lots Improved After Effective Date** - Every application for a permit under the Ogunquit Zoning Ordinance or the Ogunquit Shoreland Zoning Ordinance for the construction of a minor accessory structure as defined in Section 10 of this Ordinance, on a lot where the principal structure was constructed on or after the effective date of this Ordinance shall be accompanied by a Mortgage Loan Inspection type survey with all proposed yard dimensions and setbacks shown on the plan.

9. **MAJOR ACCESSORY STRUCTURES**

Every application for a permit under the Ogunquit Zoning Ordinance or the Ogunquit Shoreland Zoning Ordinance for the construction of a major accessory structure, as defined in Section 10 of this Ordinance, shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3. In addition, the location of the foundation shall be set and pinned by a professional land surveyor before the Code Enforcement Officer approves the footing inspection if:

- a) Any part of the structure is proposed to be located closer than five (5) feet to the minimum front, side or rear yard setbacks required by the applicable zoning district regulations; or
- b) The Code Enforcement Officer determines that special conditions such as complex curves in the property lines, the presence of wetlands requiring setbacks under the Ogunquit Shoreland Zoning Ordinance or other unusual features of lot shape or topography require that the foundation be set and pinned by a professional land surveyor.

10. DEFINITIONS

The following terms used in this Ordinance have the following meanings:

TOWN OF OGUNQUIT SURVEY REQUIREMENTS FOR LAND USE APPLICATION

Standard Boundary Survey, Category 1, Condition 3 means a survey performed by a professional land surveyor which conforms to the requirements of a Standard Boundary Survey Category 1, Condition 3 in accordance with the State rules and regulations of the Maine Board of Licensure for Professional Land Surveyors.

Mortgage Loan Inspection type survey shall be performed by a professional land surveyor in accordance with the State rules and regulations of the Maine Board of Licensure for Professional Land surveyors regarding Mortgage Loan Inspections.

Major Accessory Structure means any accessory structure which is not a minor accessory structure.

Minor Accessory Structure means a swimming pool, above ground or in-ground with associated decks and patios and any structure with a footprint of less than one hundred (100) square feet.

Professional Engineer means an engineer licensed by the State of Maine to practice in the State of Maine.

Professional Land Surveyor means a surveyor licensed by the State of Maine to practice in the State of Maine.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF OGUNQUIT, MAINE

ENACTED: November 6, 2001
Date

CERTIFIED BY: Judy S. Kagle
Name

Town Clerk
Title

Affix Seal

60.3 (e)
Printed 3/30/01

Passed Y-292 D-78

FLOODPLAIN MANAGEMENT ORDINANCE

CONTENTS

ARTICLE	PAGE
I. PURPOSE AND ESTABLISHMENT	2
II. PERMIT REQUIRED	2
III. APPLICATION FOR PERMIT	2
IV. APPLICATION FEE AND EXPERT'S FEE	4
V. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS	5
VI. DEVELOPMENT STANDARDS	6
VII. CONDITIONAL USE REVIEW	15
VIII. CERTIFICATE OF COMPLIANCE	16
IX. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS	16
X. APPEALS AND VARIANCES	17
XI. ENFORCEMENT AND PENALTIES	19
XII. VALIDITY AND SEVERABILITY	20
XIII. CONFLICT WITH OTHER ORDINANCES	20
XIV. DEFINITIONS	20
XV. ABROGATION	26

60.3 (e) Rev. 4/00

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Ogunquit, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Ogunquit, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Ogunquit, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Ogunquit has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Ogunquit having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Ogunquit, Maine.

The areas of special flood hazard, Zones A, A1-30, AO, and/or V1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Ogunquit, Maine, York County," dated January 5, 1983 with accompanying "Flood Insurance Rate Map" dated July 15, 1992 and "Flood Boundary and Floodway Map" dated July 5, 1983, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Ogunquit, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;

- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones A1-30, AO, and V1-30 from data contained in the "Flood Insurance Study - Town of Ogunquit, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from Federal, State, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and LX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 1. a Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone V1-30, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 4. a certified statement that bridges will meet the standards of Article VI.M.;
 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 for minor development or \$100.00 for new construction or substantial improvements shall be made out to the Town of Ogunquit and paid to the Code Enforcement Officer. A copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until

the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood data contained in the "Flood Insurance Study - Town of Ogunquit, Maine," as described in Article I.;
 2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the

Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;

3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential** - New construction or substantial improvement of any residential structure located within:
1. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified.
 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 5. Zone V1-30 shall meet the requirements of Article VI.P.
- G. Non Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zone A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; or,
 - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI.G.1.
 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
 5. Zone V1-30 shall meet the requirements of Article VI.P.
- H. **Manufactured Homes** - New or substantially improved manufactured homes located within:
1. Zone A1-30 shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. meet the anchoring requirements of Article VI.H. 1.c.
 4. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
 - b. meet the anchoring requirements of Article VI.H. 1.c.
 5. Zones VI-30 shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zone A1-30 shall either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.
2. Zone V1-30 shall meet the requirements of either Article VII.1.a. or b., or Article VI.P.

J. Accessory Structures - Accessory Structures, as defined in Article XIV, located within Zones A1-30, AO, and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zone A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Boundary and Floodway Map", unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not

result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones A1-30 and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
 3. In Zones A1-30 and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones A1-30, AO, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, pilcs, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
1. Enclosed areas are not "basements" as defined in Article XIV;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

- (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones A1-30, AO, A, and V1-30 shall be designed such that:
 1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:
 1. Zones A1-30, A, and V1-30 shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
 2. Zone AO shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.

3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. shall meet the requirements of Article VI.N.1.b. & c.

- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, AO, A, and V1-30, in and over water and seaward of the mean high tide if the following requirements are met:
 1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

- P. **Coastal Floodplains** -
 1. All new construction located within Zones A1-30, A, and V1-30 shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
 2. New construction or substantial improvement of any structure located within Zone V1-30 shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,

- (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
- c. require a registered professional engineer or architect to:
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/February, 1986); and,
 - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zone V1-30 is prohibited.
4. Human alteration of sand dunes within Zone V1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The enclosed areas may be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.

- c. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zone V1-30, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the required certificate(s) and the applicant's written notification; and,
 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.

- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Ogunquit may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

- b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article X and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may

have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. 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 days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Shallow Flooding - means a designated AO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see Structure.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Conditional Use - means a use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Development - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones A1-30, A, or AO, to have the top of the elevated floor, or in the case of a building in Zone V1-30, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, A, or AO, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VII.L. In the case of Zone V1-30, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - An official form (FEMA Form 81-31, 08/99, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a. 1. of this definition.

Flood Elevation Study - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see Flood Elevation Study.

Floodplain or Flood-prone Area - means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see Regulatory Floodway.

Floodway Encroachment Lines - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VII. of this Ordinance.

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures. (Ogunquit's initial floodplain management regulations were dated March 31, 1975.)

100-year flood - see **Base Flood**.

Recreational Vehicle - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must

be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

- b. when not designated on the community's Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see Area of Special Flood Hazard.

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any singular or successive reconstructions, repairs, rehabilitations, additions, or other improvements of a structure, the cumulative cost (value) of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the first improvement project following the effective date of _____. In determining whether a development project constitutes a substantial improvement the total cost (value) of all reconstructions, repairs, rehabilitations, additions, or other improvements shall be accrued over a period of 5 years from the time of the first permit application following the effective date of _____. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code

enforcement official and which are the minimum necessary to assure safe living conditions; or

- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). [The most previous floodplain management ordinance was dated 12/11/96]

60.3(e)