

QUESTION 1 - ARTICLE 3

PROPOSED REFERENDUM QUESTION - FENCES
TO BE VOTED ON AT THE APRIL 1, 2000 MUNICIPAL ELECTION

8.6 FENCES

Fences shall meet the following standards:

- A. Fences shall be made of wood, stone or wrought-iron only; only be made of natural, stained or painted wood, stone or metal, or wrought iron excluding chain link, within the following districts: Limited Business District, Downtown Business District, General Business Districts, Perkins Cove Limited Business District and the Ogunquit Beach Business District and those portions of the Shoreland Overlay Districts that overlay said districts.
- B. In the One-Family Residential District, Residential Districts, Farm District, Resource Protection District and those portions of the Shoreland Overlay District that overlay said districts fences may be made of wood stone, brick or other concrete type blocks, metal, vinyl or other plastics and vinyl-covered or other plastic-covered wood or metal.
- C. The Planning Board may approve alternative materials when, for technical or other unique circumstances, the above materials would impose adverse impact on safety or aesthetics.

QUESTION 2 - ARTICLE 4

PROPOSED REFERENDUM QUESTION - DOG ORDINANCE

TO BE VOTED ON AT THE APRIL 1, 2000, MUNICIPAL ELECTION

Title VII - CHAPTER 2

Chapter 2, Section 202:
Running at Large

The owner of any pet or other animal shall not permit that pet or animal to run at large, except when used for hunting; or upon private property ~~without~~ except with the consent of the owner. Dogs or other animals shall not be allowed to run at large on any public beach in Town except in the designated area from the Footbridge Beach walkway to the Moody Beach Town Line on the ocean side between October 1 and May 15. The first offense to this Section shall merit a warning from an officer of the Town. A second offense, once determined by the Town, shall merit a \$50 fine. The third or additional offense(s), as determined by the Town, shall merit a \$200 fine for each separate offense. The Town may take all equitable and appropriate steps under Maine law to enforce this Section including revoking an owner's dog license and impounding the dog at the owner's expense until all back fines have been paid in full.

Chapter 2, Section 203: QUESTION 3 - ARTICLE 5
Animal Offal

Except for property belonging to the owner, the owner of any pet or animal shall remove from private or public property any animal offal which that pet or animal excretes. The first offense to this Section shall merit a warning from an officer of the Town. A second offense, once determined by the Town, shall merit a \$50 fine. The third or additional offense(s) as determined by the Town, shall merit a \$200 fine for each separate offense. The Town may take all equitable and appropriate steps under Maine law to enforce this Section including revoking an owner's dog license and impounding the dog at the owner's expense until all back fines have been paid in full.

Chapter 2, Section 206.1: QUESTION 4 - ARTICLE 6

206.1 Ogunquit Beach

206.1.1 Dogs are permitted within the Ogunquit Beach area from October 1 to May 15. if on a leash, cord or chain. Dogs may be at large as noted in Section 202. Dogs are not permitted within the Ogunquit-Beach area entire Ogunquit Beach area from the Main Beach to the Moody Beach Town Line from May 15 to October 1.

Annual Town Meeting

April 3, 2000

Proposed Draft Ordinance – Article 7

OGUNQUIT HISTORIC PRESERVATION ORDINANCE

OGUNQUIT HISTORIC PRESERVATION ORDINANCE

TABLE OF CONTENTS

Chapter 1 Title, Purpose, Authority and Definitions

101 Title.....	1
102 Purpose.....	1
103 Authority.....	1
104 Definitions.....	2

Chapter 2 Historic Preservation Commission

201 Members.....	3
202 Election of Officers.....	4
203 Officers.....	4
204 Duties, Functions and Powers of the Historic Preservation Commission.....	4

Chapter 3 Historic Sites, Historic Landmarks and Historic Structures

301 Criteria for Designation.....	6
302 Designation of Historic Sites, Historic Landmarks and Historic Structures.....	7
303 Historic Sites, Landmarks and Structures Designated.....	9
304 Amendment and Rescission of Designation.....	9
305 Addition to, or Removal From, Shoreland and Zoning Map.....	9

Chapter 4 Historic Preservation Commission Review

401 Application of Zoning Ordinances.....	9
402 Improvements Not Requiring Historic Preservation Commission Review.....	9
403 Improvements Requiring Historic Preservation Commission Review.....	10
404 Applications for Certificates of Appropriateness or Demolition.....	10

405	Qualifications of Applicant	10
406	Application Procedure.....	11
407	Application Contents.....	11

Chapter 5 Meetings, Hearing and Application Review

501	Meetings of Commission.....	13
502	Open Meetings.....	13
503	Notice to Applicant	13
504	Notice to Owner.....	13
505	Action by Commission.....	14
506	Quorum.....	14
507	Conflict of Interest	14
508	Approval of Certificates	14
509	View of Premises	14
510	Public Hearing	14
511	Approval.....	15
512	Disapproval.....	15
513	Term of Certificates of Appropriateness and Certificates of Demolition	15
514	Other Permits and Approvals.....	15

Chapter 6 Standards of Review

601	In General	16
602	Reconstruction, Renovation and Alterations	16
603	Construction of New Structures or Additions to Existing Structures	16
604	Demolition or Removal of Existing Historic Sites, Landmarks or Structures	17

605 Visual Compatibility Factors..... 18

Chapter 7 Miscellaneous Provisions

701 Appeal to Planning Board 19

702 Enforcement..... 20

703 Fines for Violation 20

704 Other Remedies..... 20

705 Severability..... 20

TOWN OF OGUNQUIT

TITLE XI – HISTORIC PRESERVATION ORDINANCE

Chapter 1 Title, Purpose, Authority and Definitions

101 Title

This Title shall be known as the “Ogunquit Historic Preservation Ordinance” and may be referred to herein as the “Ordinance.”

102 Purpose

The purposes of this Ordinance are:

102.1 To provide a legal framework within which the residents of the Town of Ogunquit can protect the historic, architectural, and cultural heritage of historically significant sites, landmarks and structures in the community, while accepting as appropriate, compatible new construction;

102.2 To prevent the loss of architectural history which serves to give beauty and pleasure to residents, attract visitors and new residents, give the Town a particular character, and educate the community about its past;

102.3 To protect the outward appearance and architectural features of designated sites, landmarks and structures within the Town;

102.4 To prevent the demolition or removal of designated sites, landmarks and structures within the Town;

102.5 To preserve the essential character of the Town by protecting relationships of groups of buildings and structures; and

102.6 To accept new buildings and structures in the Town of Ogunquit, which are designed and built in a manner that is in compliance with the character of the Town.

103 Authority

Town authority to enact this Ordinance is found generally in Title 30-A of the Maine Revised Statutes Annotated, the police power to enact ordinances.

Definitions

As used in this Ordinance, unless the context otherwise indicates, the following words shall have the following meanings:

Building: Any structure having a rigid roof supported by columns or walls. Each portion of a building on separate lots and separated from other portions by a fire wall, or a common wall, shall be considered a separate structure.

Certificate of Appropriateness: The certificate issued by the Historic Preservation Commission approving exterior alteration, rehabilitation, restoration, construction, reconstruction or demolition of a historic site, historic landmark or historic structure.

Certificate of Demolition: The certificate issued by the Historic Preservation Commission approving the demolition or removal of a historic site, historic landmark or historic structure.

Commission: The Historic Preservation Commission of the Town of Ogunquit.

Construction: The act of either building, erecting, enlarging, installing or moving.

Demolition: Any act or process that partially or totally destroys a structure or building.

Exterior Architectural Feature: The architectural style and general arrangement of the exterior of a site, building or structure, including, but not limited to, (a) the kind, color, and texture of the building materials, (b) the type and style of all windows, doors, lights, dormers, gable cornices, porches, decorative trim, etc., and (c) the location and treatment of any vehicular access or parking space.

Historic Landmark: A property, site or structure determined by the Commission to be historically, archaeologically, architecturally, or culturally significant, and which has been designated and approved as a historic landmark under this Ordinance.

Historic Site: Any improvement parcel of parcels which contain a historic structure or which has historic significance due to identification with historic personages, with important events in the history of the Town, state or nation, or has substantial value in tracing the history or prehistory of man; and which has been designated and approved as a historic site under this Ordinance.

Historic Structure: Any improvement which has a special character, historic interest, aesthetic interest, or other significant value which reflects the Town's cultural, social, economic, political, engineering or architectural history, and

which has been designated and approved as a historic structure under this Ordinance. Where the context requires, the word “structure” shall mean building.

Improvement: Any place, structure, building, fixture, object, landscape, or topographic feature, which in whole or in part constitutes an exterior betterment, adornment, or enhancement of any real property.

Material: A substance or substances out of which a building or structure is constructed.

Structure: Any object which requires location on the ground, which utilizes ground area, or which is attached to something having location to the ground, including buildings, commercial park rides and games, satellite receiving dishes, antennae, carports, decks, and other building features, but not including fences, lampposts, sidewalks, patios, driveways and signs.

Chapter 2 Historic Preservation Commission

201 Members

201.1 Number of Members. The Historic Preservation Commission shall consist of five (5) regular members, and two alternate members. The members shall be appointed by the Selectmen and shall be ~~year-round~~ residents of the Town of Ogunquit.

201.2 Regular Members: Two (2) members of the Historic Preservation Commission shall be initially appointed to serve terms of three (3) years; two (2) shall initially be appointed to serve terms of two (2) years, and the remaining member shall be appointed to serve a term of one (1) year. All appointments thereafter shall be for a term of three (3) years except in those instances where the appointment is made to fill a vacancy in an unexpired term, in which case the appointment shall be made for the remainder of the unexpired term. The Selectmen shall act within sixty (60) days to fill a vacancy, including expired terms. **Appointments will be made in accordance with the Town Charter.**

201.3 Alternate Members: Alternate members shall serve until replaced or appointed as a regular member. They shall participate in all hearings and discussions. They shall vote only if the Chairman appoints an alternate to act in place of a regular member who is absent or has been disqualified from participation because of a conflict of interest. Once appointed, the alternate shall act as a voting member until the application has been approved or denied.

201.4 Advisory or Consultant Members. In addition to regular and alternate members, the Selectmen may appoint other persons, not necessarily

residents of the Town of Ogunquit, who shall serve in an advisory or consultant basis to assist members of the Historic Preservation Commission in the performance of their duties. Advisory or consultant members shall participate in all hearings and discussions, but they shall not be voting members. They shall serve during the pleasure of the Historic Preservation Commission.

201.5 Removal for Cause. Any regular or alternate member may be removed for cause by the Selectmen upon written charges and after a public hearing.

201.6 Compensation; Continuity in Office. Regular and alternate members shall serve without compensation. Members shall continue in office after expiration of their terms until their successors have been duly appointed and qualified.

202 Election of Officers

The Historic Preservation Commission shall annually elect a chairman, vice-chairman, and secretary from among its membership. They shall be elected by the Commission, shall serve a term of one (1) year, and shall be eligible for re-election to an unlimited number of terms. The annual organizational meeting shall be the first regular meeting of the calendar year. **after annual commission appointments by the Board of Selectmen.**

203 Officers

203.1 The Chairman shall preside at all meetings and hearings of the Historic Preservation Commission, and have authority to appoint committees, call work sessions and preside over executive sessions.

203.2 The Vice-Chairman shall act for the Chairman in his or her absence.

203.3 The Secretary shall keep complete and accurate minutes and records of Historic Preservation Commission meetings; prepare agendas for meetings with the Chairman; provide notice of meetings to members; arrange proper and legal notice of hearings; attend to all correspondence of the Historic Preservation Commission and to other duties normally carried out by a Secretary. The Secretary shall keep a complete and accurate record of all resolutions, transactions, correspondence, findings and determinations of the Historic Preservation Commission and shall maintain attendance records, resumes of Historic Preservation Commission Members, and appointments of Historic Preservation Commission Members. All records shall be deemed public and may be inspected at reasonable times.

204 Duties, Functions, and Powers of the Historic Preservation Commission

The Historic Preservation Commission shall have the following duties, functions and powers:

- 204.1 To assist, advise and educate owners of historic sites, landmarks and structures, and various departments of the Town of Ogunquit, on physical and financial aspects of preservation, renovation, rehabilitation, and reuse.
- 204.2 To assist, advise and educate owners on compliance with requirements of this Ordinance to the extent possible with any funding that may be available to the Historic Preservation Commission.
- 204.3 To provide continuing education on historic preservation issues to local citizens.
- 204.4 To process applications for Certificates of Appropriateness and Certificates of Demolition.
- 204.5 To serve an advisory role to local government officials regarding local historical and cultural resources, and act as liaison between local government and those persons and organizations connected with historic preservation.
- 204.6 To make recommendations to the Selectmen in accordance with the procedures set forth in Chapter 3 hereof, for establishing or revising historic sites, historic landmarks, and historic structures.
- 204.7 To review all proposed National Register nominations for properties within the Town of Ogunquit.
- 204.8 To review all areas, sites, landmarks and structures listed on the National Register of Historic Places and make recommendations to the Selectmen for the adoption of ordinances designating them as historic sites, historic landmarks or historic structures.
- 204.9 To conduct or initiate a survey to identify historically, culturally, architecturally and archaeologically significant areas, sites, landmarks and structures in accordance with Maine Historic Preservation Commission guidelines.
- 204.10 To keep a register of all sites, landmarks and structures that have been designated as historic sites, historic landmarks or historic structures, including all information required in support of each designation.
- 204.11 To establish a schedule of reasonable fees for applicants based on notification costs, reviewing costs, and costs of construction **which will be forwarded to the Board of Selectmen for final approval.**

- 204.12 To receive fees, to accept grants, appropriations and gifts of money and services, and to use its financial resources to employ clerical and technical assistance, publish educational materials, conduct surveys of properties, all to assist in the performance of its duties.
- 204.13 To request reports and recommendations from Town departments and agencies and from other organizations and sources, who may have information or can advise on an application or its impact on the Town.
- 204.14 To appoint citizens' committees, and testify before other Town boards whenever appropriate.
- 204.15 To adopt bylaws or additional operating procedures and policy statements consistent with the intention of this Ordinance and State enabling legislation.
- 204.16 To waive any procedural rule adopted by the Historic Preservation Commission by majority vote upon good cause shown.
- 204.17 To take any action necessary or appropriate to implement the purposes of this Ordinance.

Chapter 3 Historic Sites, Historic Landmarks and Historic Structures

301 Criteria for Designation

The historic sites, historic landmarks and historic structures established in accordance with this Ordinance shall meet one or more of the following criteria, without limitation as to cultural or chronological period:

- 301.1 Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social, or sociological history of the Town of Ogunquit, the State of Maine or the nation, including sites, structures and buildings at which visitors may gain insight or see examples either of particular items or of larger patterns in the North American heritage.
- 301.2 Structures or sites associated with historic personages, great ideas or ideals.
- 301.3 Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period, style, or method of building construction, of community organization and living, or

of landscaping; or a notable structure or site representing the work of a master builder, designer, architect or landscape architect.

301.4 Structures contributing to the visual continuity of the Town.

301.5 Those sites or areas on or eligible for listing on the National Register of Historic Places or as a National Historic Landmark.

302 Designation of Historic Sites, Historic Landmarks and Historic Structures

302.1 Contents of Application. Historic sites, historic landmarks and historic structures shall be established and designated pursuant to Section 303 of this Ordinance. Any application for the designation of a historic site, landmark or structure shall be in writing, directed to the Chairman of the Historic Preservation Commission, and shall include the following:

- a. A description of the physical elements, qualities, architectural style, period and historical significance represented by the proposed site, landmark or structure, including a consideration of scale, materials, workmanship and spatial qualities as relevant.
- b. A statement of how the proposed site, landmark or structure meets the qualifications of Section 301.
- c. A map showing the proposed boundaries, and a written justification of the boundaries.
- d. Photographs of the proposed site, landmark or structure illustrating the significant detail(s) described in Section 302.1(a).

The Historic Preservation Commission may require such additional documentation or evidence as it may determine to be necessary, including plans, drawings and elevations and, notwithstanding any time limit for any action or decision in this Ordinance, it may continue a proceeding for such additional time as it may reasonably take for the applicant or any other party to comply with the request for additional documentation.

302.2 Initiation of Application. An application for the establishment or designation of a historic site, historic landmark or historic structure shall be initiated by the Selectmen, the Planning Board, the local historical society, the Historic Preservation Commission, or by petition of one hundred (100) or more residents of the Town of Ogunquit. **only by the owner of the property or a qualified agent. An owner is anyone with 51% or more ownership of a property.**

302.3

Review of Application for the Designation of Historic Sites, Historic Landmarks or Historic Structures

The Historic Preservation Commission shall review the applications for designation of historic sites, historic landmarks and historic structures. Before making the Historic Preservation Commission's recommendations to the Secretary, the Historic Preservation Commission shall conduct studies and research on the proposal. The Historic Preservation Commission may appoint individuals or organizations to assist in the study. The Historic Preservation Commission shall forward a draft of the application to the Planning Board and the Maine Historic Preservation Commission for review and comment.

302.4

Public Hearing

- a. A public hearing shall be held within sixty (60) days of receipt of a completed application for designation. Written notice of the application shall be given by certified mail, return receipt requested, thirty (30) days prior to the hearing date to the applicant(s), the owner of the property that is the subject of the proposed designation, owners of all property within one hundred (100) feet of the boundaries of the proposed historic site, landmark or structure, and all other persons found by the Historic Preservation Commission to have special interest in the application, including any historical organizations in the Town.
- b. Failure of any property owner to accept or receive notice of the hearing shall not constitute grounds for objection by such property owner, and shall not invalidate any recommendations made by the Historic Preservation Commission.
- c. Notice of the hearing shall be included in a newspaper of general circulation at least ten (10) days prior to the hearing date.
- d. At the public hearing, the Historic Preservation Commission may call witnesses, including experts, as it deems necessary. The Commission may view the parcels at issue and direct the conduct of an independent investigation into the proposed designation.

302.5

Final Report

Within sixty (60) days after the public hearing, the Historic Preservation Commission shall report its findings on the application, including the views of affected and interested parties, and give its recommendations to the Selectmen.

302.6 Designation by Town Meeting

The designation of historic sites, historic landmarks and historic structures shall be enacted by Town Meeting conducted in accordance with State and Municipal laws.

303 Historic Sites, Landmarks and Structures Designated

The following described structure in the Town of Ogunquit is hereby designated a historic structure:

Perkins Cove Bridge
Winn House

304 Amendment and Rescission of Designation

Amendment or rescission of any designation shall be upon the request of a person or persons authorized to designate the property or structure affected, or upon request of the Selectmen, and shall follow the procedure set forth in Section ~~301~~ 302 for designation. The designation may only be amended or rescinded by action taken at Town Meeting.

305 Addition to, or Removal From, Shoreland and Zoning Map

All approvals of the designation of a historic site, historic landmark or historic structure, amendments to such designations, or rescissions of such designations shall be designated as such on, or removed from, the Ogunquit Shoreland and Zoning Map.

Chapter 4 Historic Preservation Commission Review

401 Application of Zoning Ordinances

Uses permitted in or on historic sites, landmarks or structures shall be those set forth in the provisions of the Ogunquit Zoning Ordinance for the zone in which such site, landmark or structure is located.

402 Improvements Not Requiring Historic Preservation Commission Review

402.1 Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any historic site, historic landmark or historic structure where such repair does not involve a change in design, material, or appearance.

402.2 Nothing in this Ordinance shall restrict impermanent or easily reversible alterations such as storm windows, storm doors, window air conditioners, shutters, paint, or signs.

402.3 Nothing in this Ordinance shall prevent the construction, reconstruction, alteration, or demolition of any building or structure where construction is in accordance with a valid building permit issued prior to the date of adoption of this Ordinance.

403 Improvements Requiring Historic Preservation Commission Review

A Certificate of Appropriateness or a Certificate of Demolition issued by the Historic Preservation Commission shall be required for:

403.1 A physical change in the exterior of building or structure in or on any historic site, historic landmark or historic structure, by addition, reconstruction, alteration, or restoration, whether or not a building permit is required.

403.2 Construction of a new principal or accessory structure in or on a historic site or historic landmark.

403.3 Construction of an addition to or alteration of a historic site or historic structure.

403.4 The moving or relocation of any historic site, historic landmark or historic structure, or of any building or structure thereon.

403.5 Public improvement projects including lighting, sidewalk, paving, utility distribution, street beautification, curbing, where such improvement(s) are in, on or immediately adjacent to any historic site, historic landmark or historic structure.

403.6 Cleaning the exterior surfaces of historic sites or historic structures by chemical or physical means which may cause physical damage to the structure.

404 Applications for Certificates of Appropriateness or Demolition

Applications for a Certificate of Appropriateness or a Certificate of Demolition shall be obtained from the Code Enforcement Officer.

405 Qualifications of Applicant

Applications for a Certificate of Appropriateness or a Certificate of Demolition may only be submitted by the owner or any other party showing sufficient right,

title or interest in the property. Further, the applicant shall demonstrate adequate technical capacity and financial capacity to complete any change proposed to be undertaken under the Certificate of Appropriateness or Certificate of Demolition. The Historic Preservation Commission may impose reasonable conditions, including the provision of adequate financial security, to ensure that actions taken under the Certificate of Appropriateness or Certificate of Demolition will be successfully prosecuted to completion in a timely and workmanlike manner.

406 Application Procedure

406.1 Written application for the Certificate of Appropriateness or a Certificate of Demolition shall be submitted with the required exhibits and the required fee as per Section 407 of this Ordinance.

406.2 The Code Enforcement Officer shall date the application, all exhibits, and fees, and promptly submit the application to the Chairman of the Historic Preservation Commission.

406.3 The Chairman shall forward fees to the Town Treasurer.

406.4 A completed application, received seven (7) days prior to a scheduled meeting, shall be placed on the agenda for the meeting following the scheduled meeting. The applicant shall be notified of the meeting date.

407 Application Contents

407.1 Types and kinds of improvements to be considered minor shall be:

- a. Application or use of exterior materials of a different kind, type, color or texture than those already in use.
- b. All improvements, alterations, and renovations which can be accomplished without obtaining a building permit.
- c. **Landscaping**

407.2 Applications for improvements considered minor shall contain:

- a. The applicant's name, mailing address, and interest in the subject property.
- b. The owner's name and mailing address, if different from the applicant's.
- c. The address or location of the subject property.

- d. A location or vicinity map clearly showing the location of the project.
- e. A description of the improvement requiring the issuance of a Certificate of Appropriateness.
- e. Current photographs of the property showing the property's current condition, which accurately represents the existing materials, textures and colors.
- f. Current photographs of all adjacent sites, buildings, structures, and other improvements clearly showing the style and character of the area.
- g. The Historic Preservation Commission may request a drawing or drawings of the exterior elevations, drawn to scale, showing complete architectural details, including all exterior equipment and appurtenances located on the roof, in the walls, and on the ground. All existing and proposed materials and finishes shall be identified and noted on the elevation. Professional drawings shall not be required except as the Commission may otherwise determine.
- h. The application fee.

407.3

Types and kinds of improvements to be considered major shall be:

- a. Construction of a new principal or accessory structure in or on a historic site or historic landmark.
- b. Any addition to or alteration of a historic site or historic structure which increases the square footage in that building or otherwise alters its size, height, contour, or outline.
- c. Alteration of a roof line.
- d. Cleaning the exterior surfaces of historic sites or historic structures by chemical or physical means which may cause physical damage to the structure.
- e. **Landscaping-**

407.4

Applications for improvements considered major shall contain:

- a. The applicant's name, mailing address, and interest in the subject property.

- b. The owner's name, mailing address, if different from the applicant's.
- c. The address, or location of the subject property.
- d. A location or vicinity map clearly showing the location of the project.
- e. A description of the project which shall include a statement why the structure or building to be demolished does not contribute to the site, landmark or structure.
- f. Current photographs of the property, showing its condition, and accurately representing the existing materials, textures, and colors. All photographs shall be labeled to indicate the direction of viewing.
- g. Current photographs of all adjacent sites, buildings, structures, and other improvements clearly showing the style and character of the area. All photographs shall be labeled to indicate the direction of viewing.
- h. A completed application with required exhibits for a Certificate of Appropriateness for any new construction proposed for the site.
- i. The application fee.

Chapter 5 Meetings, Hearings and Application Review

501 Meetings of Commission

The Historic Preservation Commission shall hold meetings at the call of the Chair or at the call of any three members, provided that public notice shall be given as provided for elections. In the event of emergency meetings, local representatives of the media shall be notified. Notification shall include the time, date and location of the meeting.

502 Open Meetings

All meetings of the Historic Preservation Commission shall be open to the public, except for executive sessions held under the Maine Freedom of Access Act, Title 1 M.R.S.A. Section 405, as the same may be amended or replaced.

503 Notice to Applicant

Prior to issuance of a Certificate of Appropriateness or Certificate for Demolition, the Historic Preservation Commission shall notify the applicant of consideration of his or her application.

504 Notice to Owner

No final action shall be taken by the Historic Preservation Commission which could in any manner deprive or restrict the owner of a property in its use, alteration, maintenance, disposition or demolition, until such owner either has knowledge of the proceeding or is sent a notice by certified mail, return receipt requested, offering an opportunity to be heard.

505 Action by Commission

If the application is judged complete by the Historic Preservation Commission, the Commission shall:

505.1 Vote on the application; or

505.2 Postpone action on the application for no more than thirty-five (35) days;
or

505.3 Schedule a public hearing within thirty-five (35) days thereof unless the applicant agrees in writing to a later date.

506 Quorum

A quorum shall consist of three (3) voting members.

507 Conflict of Interest

No member of the Historic Preservation Commission shall participate in the hearing or disposition of any matter in which he or she has a direct or indirect pecuniary interest, or any interest that would create the appearance of a conflict of interest.

508 Approval of Certificates

Certificates must be approved by majority vote. A tie vote shall result in denial of the application.

509 View of Premises

The Historic Preservation Commission, in its discretion, and with the owner's consent, shall view the premises and obtain additional facts concerning the application before arriving at a decision.

510 Public Hearing

At the request of the applicant, or where the Historic Preservation Commission deems it necessary, a public hearing shall be scheduled and the following procedures shall be followed:

510.1 Notice of the hearing shall be mailed to the Code Enforcement Officer, the Planning Board, the applicant, the owner of the property if different from the applicant, owners of property within one hundred (100) feet of the boundaries of the historic site, landmark or structure, and any consultants and professional advisors of the Historic Preservation Commission.

510.2 The time, date and place of the hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the hearing.

510.3 The hearing shall be continued only for good cause shown.

510.4 The Historic Preservation Commission shall act on the application within twenty (20) days of the hearing date, unless the applicant shall agree in writing to an extension.

510.5 Failure to render a decision within the specified time shall be deemed to constitute disapproval by the Historic Preservation Commission.

511 Approval

If the application is approved or deemed approved by the Historic Preservation Commission, the Commission shall issue a certificate signed by the members which may include any changes, conditions, or stipulations necessary to fulfill the intent of this Ordinance. The approval shall include sufficient written or graphic material to be strictly enforceable. The decision shall be dated and forwarded to the Code Enforcement Officer for issuance of any necessary permits.

512 Disapproval

If the Historic Preservation Commission determines that a Certificate of Appropriateness or Demolition should not be issued, it shall place upon the record the reasons for denial. The Historic Preservation Commission shall notify the applicant of such determination, furnishing him or her with an attested copy of the reasons for denial, as appearing in the records of the Historic Preservation Commission. A copy shall be sent to the Code Enforcement Officer.

513 Term of Certificates of Appropriateness and Certificates of Demolition

Certificates of Appropriateness and Certificates of Demolition shall be valid for a period of one year from the date of issuance.

514 Other Permits and Approvals

The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the Ogunquit Zoning Ordinance, by the Ogunquit Municipal Codes or by state or federal law.

Chapter 6 Standards of Review

601 In General

The standards and requirements contained in this section and in the United States Secretary of the Interior's Standards for Rehabilitation set forth at 36 C.F.R. § 67.7, as the same may be amended or replaced, shall be used to review applications for Certificates of Appropriateness for major and minor improvements, and Certificates of Demolition for the demolition of any historic structure.

602 Reconstruction, Renovation, and Alterations

602.1 A building or structure classified as a historic site, landmark or structure, or an appurtenance related to such sites, landmarks or structures, including but not limited to walls, fences, light fixtures, steps, paving, etc., shall not be altered, renovated or reconstructed, and no Certificate of Appropriateness shall be issued for such action, unless they will preserve or enhance the historical and architectural character of the building or structure, and are visually compatible with the area within the Town of Ogunquit.

602.2 Rehabilitation work shall not destroy distinguishing qualities or characteristics of a building, structure, or its setting. Distinctive stylistic features such as molding, brackets, windows, doorways, porches, etc., which characterize historic structures shall be preserved wherever possible.

602.3 Deteriorated architectural features, such as balustrades, brackets, windows, etc., shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new feature shall match the feature being replaced. Replacement of missing architectural features shall be based on physical or pictorial evidence to the extent available.

602.4 The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used.

603 Construction of New Structures or Additions to Existing Structures

603.1 The construction of a new principal or accessory structure, or the construction of an addition to a historic site or historic structure, shall be of such design, form, proportion, mass, configuration, building material, texture, and location on a lot as will be compatible with the existing structure in scale, architectural design and texture, and with streets and open spaces to which it is visually related.

603.2 The Historic Preservation Commission shall review such elements as screening, fencing, off-street parking, entrances, lighting, and landscaping to protect the area's visual character.

604 Demolition or Removal of Existing Historic Sites, Landmarks or Structures

604.1 Standards for Demolition or Removal. In reviewing an application for demolition or removal of an existing historic site, landmark or structure, the Historic Preservation Commission shall initially determine:

- a. whether the building or structure is of such historic significance that its demolition would be detrimental to the public interest;
- b. whether the demolition of the building or structure would be contrary to the purpose and intent of this Ordinance;
- c. whether the building or structure is of such old, unusual or uncommon design, texture or material that it could not be reproduced or could be reproduced only with great difficulty or expense; and
- d. whether the retention of the structure would encourage the study of the Town's history, architecture and design or develop an understanding of the Town's culture and heritage.

Any of the above factors shall mitigate against demolition or removal.

Notwithstanding the above, approval of the application for demolition or removal shall be appropriate when either of the following factors exist:

- a. The structure is in such deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner,

which is self-created or the result of any failure to maintain the structure in good repair, cannot qualify as a basis for the issuance of a Certificate of Demolition.

- b. The denial of the application would deny the owner of the structure all economically viable use of the property.

604.2 Structures Deemed a Nuisance or Dangerous. Nothing contained in this Ordinance shall prohibit the issuance of orders, citations or other enforcement action relative to any historic site, historic landmark or historic structure that has been determined a nuisance or dangerous by the Selectmen or a court in accordance with Title 17 M.R.S.A. Section 2851, as the same may be amended or replaced. In such case, the Selectmen shall order the Historic Preservation Commission to approve the application for demolition.

604.3 Damaged Structure. When repair or reconstruction of a damaged structure would cost more than 50% of the fair market value of the structure before the damage occurred, the structure may be restored to its original design, or demolished and replaced with new construction which meets the requirements of this Ordinance.

604.4 Decayed Structure. When repair or reconstruction is necessitated by the decay of a structure, which decay is not the result of any failure of the owner to maintain it in good repair, the structure may be restored to its original design, or demolished and replaced with new construction which meets the requirements of this Ordinance.

605 Visual Compatibility Factors

605.1 In General

New construction of a principal or accessory structure to, or addition to, or the alteration of, existing historic sites, historic landmarks or historic structures shall be visually compatible with the existing structure and with other buildings, structures, streets and open spaces within the area. Applications for Certificates of Appropriateness and Demolition shall be reviewed in terms of the following:

- a. Height. The height of proposed buildings or structures shall be compatible with the existing buildings or structures.
- b. Proportion of Buildings Front Façade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures, and open spaces within the area.

- c. Proportion of Opening with the Façade. The relationship of the width of the windows to height of windows and doors in a building shall be visually compatible with those of windows and doors of buildings within the area.
- d. Rhythm of Solids to Voids in Front Facades. The relationship of solids to voids in the front façade shall be visually compatible with that of the buildings within the area.
- e. Rhythm of Spacing of Buildings or Structures on Streets. The relationship of buildings or structures to the open space between them and adjoining buildings or structures shall be compatible with those of buildings or structures in the area.
- f. Rhythm of Entrance and/or Porch Projection. The relationship of entrance and porch projections to the street shall be compatible with those of buildings in the area.
- g. Relationship of Materials, Textures, and Color. The relationship of materials, textures, and color of buildings or structures shall be compatible with those materials used in the buildings or structures to which they are visually related.
- h. Roof Shapes. The roof shape of a building shall be compatible with that of buildings to which it is visually related.
- i. Scale of Buildings. The size of the building, the building mass in relation to open spaces, the window and door openings, porches and balconies shall be compatible with those characteristics of buildings or structures and spaces to which they are related.
- j. Orientation. A building or structure shall be compatible with the building or structure to which it is visually related in its directional character, whether this be vertical, horizontal or non-directional in character.

Chapter 7 Miscellaneous Provisions

701 Appeal to Planning Board

The applicant or any person who has participated in opposition to the application and has demonstrated a particularized harm may, within thirty (30) days of the decision of the Historic Preservation Commission to approve or disapprove a Certificate of Appropriateness or Certificate of Demolition, file an appeal with the Planning Board. If a timely appeal is received, the appeal shall be placed on the

agenda of the Planning Board. Review by the Planning Board shall be appellate in nature. The Planning Board shall deny the appeal unless it finds that the action of the Commission was arbitrary or capricious or was not based on substantial evidence. Except where the Planning Board determines that injustice would result, the Planning Board shall determine the appeal without considering any facts or arguments which were not presented to the Commission. Where the Planning Board finds it necessary to consider new evidence in order to do substantial justice, it shall remand the matter to the Commission for further consideration, unless it determines that the resulting delay would likely result in undue hardship to the applicant.

702 Enforcement

The Code Enforcement Officer shall, from time to time, inspect those historic sites, historic landmarks and historic structures for which a Certificate of Appropriateness or Certificate of Demolition has been issued to ensure compliance with the terms of the Certificate and to otherwise ensure compliance with this Ordinance.

703 Fines for Violation

Failure to perform any act required by this Ordinance, or the performance of any act prohibited by this Ordinance or of any conditions or any certificate issued hereunder, shall constitute a violation and be subject to fine as provided in Title 30-A M.R.S.A. Section 4452, as the same may be amended or replaced. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

704 Other Remedies

Notwithstanding the provisions of Sections 702 and 703 of this Ordinance, the Town may institute appropriate proceedings at law or in equity to prevent or remedy any violation of this Ordinance.

705 Severability

If any provision of this Ordinance is held invalid, the validity of the remainder of this Ordinance shall not be affected thereby.

Annual Town Meeting

April 3, 2000

Proposed Planning Board Ordinance Amendments – Articles 9 –13

OGUNQUIT ZONING ORDINANCE

&

SUBDIVISION & OTHER PROJECTS ORDINANCE

Proposed Amendments to the Zoning Ordinance for the 2000 Town Meeting

Proposed amendments are underlined. Proposed strikeouts are crossed out.

ARTICLE 2 DEFINITIONS

Arbor - A shady garden shelter or bower, often made of rustic work or latticework on which vines, roses or other climbing plants may be grown.

Fence - An artificially constructed barrier of any material or combination of materials erected to enclose or screen an area of land. Arbors may be part of fences, fence gates, other gateways or may stand alone.

Structure - Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground, including buildings, commercial park rides and games, satellite receiving dishes, carports, decks and other building features, but not including signs, sidewalks, walkways, fences, walls, arbors, flagpoles less than 35 feet in height, patios, driveways and parking lots including accessory bumpers and wheelstops.

3.5 NONCONFORMING HOTELS AND MOTELS

With the rapid expansion of transient housing in recent years, hotels and motels now take up a disproportionate share of the town's land area. To promote the health, safety and welfare of Ogunquit citizens, to comply with the last adopted Comprehensive Plan, to mitigate parking, traffic and congestion problems and to preserve community quality, hotels and motels are no longer permitted uses except in the General Business District-2 (GBD2). Any hotel or motel legally existing at the time of the adoption of this Ordinance which does not conform to the use requirements of this Ordinance or its amendments may continue and shall be permitted to expand, be reconstructed or be structurally altered within the owner's lot of record or contiguous lots of record as of the date of adoption of this Ordinance. With respect to legal non-conforming hotels and motels, whenever this section (Article 3.5) conflicts with any other provision of Article 3, Article 9, or any other provisions of this Ordinance, Article 3.5 shall prevail. The expansion, reconstruction or structural alteration must conform to all standards for permitted uses in the General Business District-2 (GBD2) and to the General Performance Standards of Article 8 of this Ordinance. The plans for any such expansion, reconstruction or alteration must be reviewed by the Planning Board for conformance with these standards. The Planning Board shall approve, deny or approve with conditions.

Proposed Amendments to the Subdivision Ordinance for the 2000 Town Meeting

Proposed amendments are underlined

7.4. Final Approval and Filing

7.4.1. Upon completion of the requirements in Article 7 above, the notation to that effect upon the Plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board and shall be filed by the applicant with the Ogunquit Tax Assessor. The Plan shall then be filed with the York County Registry of Deeds (YCRD). The applicant shall return to the Ogunquit Planning Office a paper copy of the Plan filed at the YCRD that shows the YCRD recording marks and the YCRD book and page number. Any subdivision not so filed or recorded within ninety (90) days of the date upon which such Plan is approved and signed by the Planning Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of ninety (90) days.

9.12.5. Surface Drainage and Stormwater Management

9.12.5.2. The developer shall provide a statement from a civil engineer, registered in the State of Maine, that the proposed subdivision or site plan will not create erosion, drainage or runoff problems either in the subdivision or site plan or in other properties. The developer shall submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements. Adequate provisions shall be made to manage any stormwater flows generated by a development. All development subject to Subdivision and/or site plan review shall meet the following standards for stormwater management.

- (1) Stormwater shall be detained on the site using the natural features of the site to the greatest extent possible.
- (2) The rate of stormwater flows from the site after development shall not exceed the predevelopment rate of stormwater flow from the site unless the applicant can demonstrate through engineering studies that no negative impact on downgradient drainage facilities due to increased stormwater runoff rates from a site will result.
- (3) The quality of the stormwater flows off site shall be addressed. Retention of the first one-half inch of runoff from a storm event for 24 hours or other stormwater quality improvement measures shall be necessary to minimize or eliminate sediments and other contaminants, including but not limited to domesticated animal offal, from the stormwater leaving the site.

(4) In addition to any other applicable requirements of this ordinance, any development which would require a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 MRSA 420-D shall comply with rules adopted by DEP pursuant to the Statute.

ARTICLE 10 STREET DESIGN AND CONSTRUCTION STANDARDS

10.6 Storm Drainage Construction Standards

10.6.1. All material used for storm drainage construction shall be in conformity with State of Maine **Specifications for Highways and Bridges**, most recent revision. In addition, the quality of stormwater flows off the street shall be addressed. Retention of the first half-inch from a storm event for 24 hours by an oil and gas separator catch basin (properly maintained) or other stormwater quality improvement measures may be necessary, as determined by the Planning Board, to minimize or eliminate sediments, hydrocarbons or other contaminants from the stormwater leaving the right of way.

Annual Town Meeting

April 3, 2000

Proposed Draft Ordinance – Articles 14 & 15

OGUNQUIT HARBOR & WATERCRAFT ORDINANCE

AMENDMENTS TO OGUNQUIT ORDINANCE
TITLE VIII – HARBOR AND WATERCRAFT ORDINANCE

Section 103 Definitions to be amended to read as follows:

103.1 ~~Commercial Watercraft: Shall mean a watercraft defined as a commercial vessel under the State of Maine watercraft excise tax laws. Any watercraft used for, or engaged in, any type of commercial activity, including, but not limited to, commercial fishing or the carrying of cargo and/or passengers for hire.~~

103.1 **Commercial Fishing: Shall mean watercraft used in (a) attempting to catch fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels, or (b) charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds; and shall exclude watercraft used for subsistence fishing for personal use and watercraft used for personal or non-commercial sport fishing. Commercial fishing shall include only those watercraft that work at least 60 calendar days per year out of Perkins Cove.**

103.1.a **Commercial Tours: Shall mean watercraft used for sightseeing and recreational tours and shall include whale watching, sunset cruises, cocktail cruises and day trips for sailing, provided, however, that all such watercraft shall work at least 60 calendar days per year out of Perkins Cove.**

Section 701 Mooring Regulations to be amended to read as follows:

701.11 As a means of defraying costs for the administration of this Ordinance, and the maintenance of floats, bulkheads, pilings, and other public structures in, around and associated with Perkins Cove, each mooring holder shall be charged an annual fee based upon the length of the moored watercraft in linear feet, each fraction of a foot, to be rounded to up to the next foot. It is the responsibility of the mooring holders to provide proof of ownership of a watercraft assigned to a specific mooring. ~~Ownership is defined as no less than a fifty-one percent (51%) financial interest in a vessel which~~ must be proved at the time of application for a Mooring Permit. (BOS 5/06/97). Such fees shall be set from time-to-time by the municipal officers and shall be attached as an Appendix to this Ordinance.

ADD

701.11.a **Holder or Owner of Mooring Assignment. The holder of each mooring assignment shall be a single individual, irrespective of whether title to or ownership in the watercraft is held in joint names or in a corporate name. In the event that title to or ownership in watercraft is held by a corporation, partnership or limited liability company, the holder of the mooring assignment shall be an individual who shall have no less than a fifty-one (51%) ownership interest in the corporation, partnership or limited liability company, as the case may be.**

701.11.b

Transfer of Commercial Mooring Assignment - Watercraft Used Exclusively for Commercial Fishing or Commercial Tours. In the event of the death, retirement or at the request of a mooring assignment holder for watercraft used for commercial fishing or commercial tours, as defined, the mooring assignment may be transferred only to a member of the holder's family and only if the watercraft will continue to be used for commercial fishing or commercial tours, subject to the one-year grace period limitation. The term "member of the holder's family" shall mean a holder's spouse, parent, child or sibling, by birth or by adoption, including a relation of the half blood.