

**WARRANT
FOR THE
2006 ANNUAL TOWN MEETING
OF THE
TOWN OF OGUNQUIT**

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

GREETINGS: In the name of the State of Maine, you are hereby required to notify and warn the inhabitants of the Town of Ogunquit in said county and state, qualified by law to vote in town affairs, to meet at the Dunaway Community Center in said Town on **Saturday, the first (1st) day of April, 2006**, A.D. at nine o'clock in the morning (9:00 a.m.) until six o'clock in the evening (6:00 p.m.) to vote by secret ballot on the following warrant articles; to wit:

Article 1: To elect a Moderator to preside at said meeting. [**Note:** this question is not intended to be acted upon as part of the official secret ballot at the Annual Town Meeting.]

Article 2: To elect two (2) Selectmen for three (3) year terms to commence at the conclusion of the 2006 Annual Town Meeting.

Article 3: To elect a Wells-Ogunquit Community School District Trustee for a three (3) year term to commence on July 1, 2006.

Article 4: To elect a Kennebunk, Kennebunkport & Wells Water District Trustee for a three (3) year term to commence on July 1, 2006.

Article 5: Shall the Town vote to approve the proposed Charter amendment printed below?

Section 802.1 Appointment and Terms: A Budget Review Committee shall consist of five (5) Full-time Members and two (2) Alternate Members who shall be appointed by a majority vote of the Board of Selectmen at its first scheduled meeting following the Annual Town Meeting or as soon as thereafter practicable. The term of office for the Member of the Budget Review Committee shall be for three (3) years (first two (2) appointed will be for three (3) years, next two (2) for two (2) years and the last one for one (1) year. All full-time member appointments thereafter shall be for the three (3) year terms. Alternate member appointments shall be for one (1) year. [**NOTE:** Proposed amendment is underlined.]

Article 6: Shall the Town authorize the Board of Selectmen to enter into and adopt the ECO Maine Interlocal Solid Waste Agreement, substantially in the form presented to this Town Meeting and has been on file in the Town Clerk's Office, a copy of which is incorporated herein by reference, with such modifications and changes to the dates, terms and other details as the Board of Selectmen shall determine.

Article 7: Shall the Town authorize the Board of Selectmen to form, together with one or more other municipalities, a public waste disposal corporation pursuant to Title 38, Chapter 13, Section 1304-B (5) of the Maine Revised Statutes, the name of such corporation to be "ECO Maine," to operate a regional waste management system pursuant to the provisions of the said ECO Maine Interlocal Solid Waste Agreement.

Article 8: Shall the Town authorize the Board of Selectmen to enter into and adopt the Waste Handling Agreement with ECO Maine, substantially in the form presented to this Town Meeting and has been on file in the Town Clerk's Office, a copy of which is incorporated herein by reference, with such modifications and changes to the dates, terms and other details as the Board of Selectmen shall determine.

Article 9: Shall an ordinance entitled, "An Ordinance to Amend the Ogunquit Zoning Ordinance to "Ban Formula Restaurants - Draft 4", and dated January 9, 2006, be adopted? [Note: Copies of these amendments are on file with the Town Clerk and are available for inspection, use and examination by the public in both the Town Clerk and Land Use Offices.]

Article 10: Shall an ordinance entitled "An Ordinance to Amend the Ogunquit Zoning Ordinance - Draft 5 [excluding Section 3.5, Nonconforming Hotels and Motels and Section 9.8, Hotels and Motels]", and dated January 10, 2006, be adopted? [Note: Copies of these amendments are on file with the Town Clerk and are available for inspection, use and examination by the public in both the Town Clerk and Land Use Offices.]

Article 11: Shall the existing ordinance entitled "Harbor and Watercraft Ordinance", more specifically referenced as Title VIII, Chapter 3, of the Ogunquit Municipal Code, Section 301.7, be amended as set forth herein?

Amend Section 301.7 to read: "~~Trawling~~ Trolling for fish within the confines of the inner harbor and above the drawbridge is prohibited?"

Article 12: Shall the Town vote to accept the donation of a "love seat", constructed entirely of recycled materials, from Mr. Patrick Corcoran of Corcoran Environmental Services Incorporated, to be placed on display in one of the Town owned facilities?

Article 13: Shall the Town vote to raise and appropriate the sum of **\$556,600** for **General Government** expenditures? (Note: If this article is defeated, the appropriation for General Government will default to \$569,104 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 14: Shall the Town vote to raise and appropriate the sum of **\$349,828** for **Land Use Department** expenditures? (Note: If this article is defeated, the appropriation for the Land Use Department will default to \$365,058 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 15: Shall the Town vote to raise and appropriate the sum of **\$1,465,810** for **Police Department** expenditures? (Note: If this article is defeated, the appropriation for the Police Department will default to \$1,438,041 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "NO" vote (5-0).

Article 16: Shall the Town vote to raise and appropriate the sum of **\$1,101,162** for **Fire-Rescue Department** expenditures? (Note: If this article is defeated, the appropriation for the Fire-Rescue Department will default to \$1,116,813 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 17: Shall the Town vote to raise and appropriate the sum of **\$831,280** for **Public Works Department** expenditures? (Note: If this article is defeated, the appropriation for the Public Works Department will default to \$789,274 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "NO" vote (5-0).

Article 18: Shall the Town vote to raise and appropriate the sum of **\$449,688** for **Transfer Station** expenditures? (Note: If this article is defeated, the appropriation for the Transfer Station will default to \$453,177 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 19: Shall the Town vote to raise and appropriate the sum of **\$63,577** for **Harbormaster** expenditures? (Note: If this article is defeated, the appropriation for the Harbormaster will default to \$71,613 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 20: Shall the Town vote to raise and appropriate the sum of **\$5,100** for **General Assistance** expenditures? (Note: If this article is defeated, the appropriation for General Assistance will default to \$6,300 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 21: Shall the Town vote to raise and appropriate the sum of **\$69,243** for **Insurance** expenditures? (Note: If this article is defeated, the appropriation for Insurances will default to \$55,125 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 22: Shall the Town vote to raise and appropriate the sum of **\$252,114** for **Administrative Services Department** expenditures? (Note: If this article is defeated, the appropriation for the Administrative Services Department will default to \$251,557 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 23: Shall the Town vote to raise and appropriate the sum of **\$18,050** for **Conservation** expenditures? (Note: If this article is defeated, the appropriation for Conservation will default to \$23,845 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 24: Shall the Town vote to raise and appropriate the sum of **\$45,828** for **Information Services** expenditures? (Note: If this article is defeated, the appropriation for the Information Services Department will default to \$43,003 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 25: Shall the Town vote to raise and appropriate the sum of **\$20,145** for **Civic Organizations** expenditures? (Note: If this article is defeated, the appropriation for Civic Organizations will default to \$20,895 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 26: Shall the Town vote to raise and appropriate the sum of **\$438,389** for **Debt Management** expenditures? (Note: If this article is defeated, the appropriation for Debt Management will default to \$410,111 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 27: Shall the Town vote to raise and appropriate the sum of **\$37,000** for a new **Police Vehicle**? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 28: Shall the Town vote to raise and appropriate the sum of **\$17,000** for the purchase of a new Jet Ski and ATV for **Fire Rescue**? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 29: Shall the Town vote to raise and appropriate the sum of **\$23,000** for the last payment installment on the SCBA Lease? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 30: Shall the Town vote to raise and appropriate the sum of **\$25,000** for the installation of Department of Environmental Protection (DEP) required floor drains in the Ogunquit Fire Station? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 31: Shall the Town vote to raise and appropriate the sum of **\$8,000** for the installation of new siding of the Ogunquit Fire Station? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 32: Shall the Town vote to raise and appropriate the sum of **\$3,000** for an upgrade of the Ogunquit Fire Station electrical system? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 33: Shall the Town vote to raise and appropriate the sum of **\$20,000** for the Computer Reserve Account (established STM 11/8/05)? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 34: Shall the Town vote to raise and appropriate the sum of **\$7,000** for the replacement of the fuel dock ramps and floats in Perkins Cove? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 35: Shall the Town vote to approve the expenditures of anticipated monies from FEMA for the purpose of rebuilding the Perkins Cove bulkhead? [Note: Repairs to be made as a result of damage experienced by the spring storms of 2005]

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 36: Shall the Town vote to raise and appropriate the sum of **\$20,000** to be paid to Attar Engineering for costs associated with the reconstruction of the Perkins Cove bulkhead? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 37: Shall the Town vote to raise and appropriate the sum of **\$10,300** for an engineering study to be completed by the engineering firm, Woodward & Curran for the Ogunquit Village School? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 38: Shall the Town vote to raise and appropriate the sum of **\$10,000** for the construction of an addition to the Land Use Offices located on Route One? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 39: Shall the Town vote to raise and appropriate the sum of **\$10,000** for the installation of lighting on the pathways of Dorothea Grant Common? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).
Budget Review Committee recommends a "YES" vote (5-0).

Article 40: Shall the Town vote to raise and appropriate the sum of **\$50,000** for erosion repairs to the Marginal Way? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 41: Shall the Town vote to raise and appropriate the sum of **\$30,000** for a new ticket dispenser and cash register at the Main Beach Parking Lot? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 42: Shall the Town vote to raise and appropriate the sum of **\$15,500** for the final installment of the lease payment for the Public Works Backhoe? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 43: Shall the Town vote to raise and appropriate the sum of **\$25,000** for the Public Works Department for sidewalk and paving improvements? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 44: Shall the Town vote to raise and appropriate the sum of **\$25,000** for the Public Works Department for road and paving improvements? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 45: Shall the Town vote to raise and appropriate the sum of **\$25,000** for the Public Works Department for renovations to the Israel Head Road sidewalks? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 46: Shall the Town vote to raise and appropriate the sum of **\$25,000** to be deposited into the previously established **Land Conservation Reserve Fund**? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 47: Shall the Town (a) approve a capital improvement project consisting of the construction and equipping of a new municipal waste transfer facility on town owned land located on Berwick Road in Ogunquit; and (b) appropriate a sum not to exceed **\$2,400,000** to provide for the costs of this new project; and (c) to fund said appropriation, authorize the Treasurer and Chairman of the Board of Selectmen to issue general obligation securities of the Town of Ogunquit, Maine (including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to

exceed \$2,400,000; and (d) delegate to the Treasurer and the Chairman of the Board of Selectmen the authority to fix the date(s), maturity(ies), interest rate(s), call(s) for redemption, place(s) of payment, form, and other details of said securities, including execution and delivery of said securities on behalf of the Town of Ogunquit, and to provide for the sale thereof?

EXPLANATION AND RECOMMENDATIONS:

The purpose of this Article is to approve the construction of the proposed new waste transfer facility and to provide for the permanent funding of its costs. The Board of Selectmen and the Budget Committee recommend approval of this Article.

FINANCIAL STATEMENT

1. Total Indebtedness

A. Bonds outstanding and unpaid:	\$1,921,174
B. Bonds authorized and unissued:	\$ 0
C. Bonds to be issued if this Article is approved	\$2,400,000

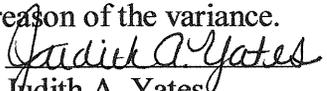
2. Costs

At an estimated maximum interest rate of 5% for a twenty (20) year maturity, the estimated costs of this bond issue will be:

Principal:	\$2,400,000
Interest:	\$1,254,771
Total Debt Service:	\$3,654,771

3. Validity:

The validity of the bonds and of the voters' ratification of the bonds may not be affected by any errors in the above estimates. If the actual amount of the total debt service for the bond issue varies from the estimate, the ratification by the electors is nevertheless conclusive and the validity of the bond issue is not affected by reason of the variance.


Judith A. Yates
Town Treasurer

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 48: Shall the Town vote to raise and appropriate the sum of **\$10,000** for Unemployment Benefits? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 49: Shall the Town vote to raise and appropriate the sum of **\$30,000** for Accrued Liabilities? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

Article 50: Shall the Town vote to raise and appropriate the sum of **\$5,000** for new flooring at the Captain Winn House Museum? (Note: If this article is defeated, the appropriation for this item shall be \$0 pursuant to Section 503 of the Town Charter.)

Board of Selectmen recommends a "YES" vote (5-0).

Budget Review Committee recommends a "YES" vote (5-0).

- Article 51:** Shall the Town vote to correct the wording of Article 2 (Referendum Question #7) of the Special Town Meeting of July 26, 2005, as it relates to the use of expenditures from the "Natural Disaster Emergency Repair Fund" as printed below?
- "any expenditures made, from principal, during the year to be replenished at the next Annual Town Meeting." [Note: Proposed change is underlined and is for clarification purposes only]
- Article 52:** Shall the Town vote to increase the property tax levy limit established for Ogunquit by State law in the event that the municipal budget approved under the preceding articles will result in a tax commitment that is greater than the property tax levy limit?
- Article 53:** Shall the Town vote to allow the Highway Department to plow and sand private roads on which the Town holds a recorded public easement during the upcoming winter season as otherwise allowed by Title 23 M.R.S.A. §3105 and previously authorized by a vote on Article 3 of a Special Town Meeting held on November 5, 2002, provided that any necessary expenses pertaining thereto must fall within existing appropriations?
- Article 54:** Shall the Town authorize the Board of Selectmen to apply for and accept grant funds, donations and gifts; and authorize the Selectmen to spend such funds for the purposes intended as allowed by law?
- Article 55:** Shall the Town vote to authorize the Board of Selectmen to expend an amount of money, not to exceed one third (1/3) of the 2006 annual budget during the period from January 1, 2007 to the completion of the 2007 Annual Town Meeting; excepting such costs associated with winter road maintenance and general assistance which may, of necessity, exceed such limits?
- Article 56:** Shall the Town vote to fix the date when 2006 property taxes shall be due and payable as that date occurring 45 days after the date of tax commitment; and further, that interest at the rate of 11% per annum shall accrue from and after that date as allowed by law?
- Article 57:** Shall the Town vote to pay no more than 7% per annum to taxpayers who pay taxes in excess of the amounts finally assessed, and to authorize such interest paid or abatements granted to be charged against the Town's annual overlay, or if necessary, against the Town's undesignated surplus fund balance?
- Article 58:** Shall the Town vote to authorize the Board of Selectmen to sell and convey tax acquired property as they shall deem to be necessary and/or in the best interests of the Town; provided, however, that a delinquent taxpayer shall be given a thirty (30) day grace period after approval of this warrant article in which to redeem his/her property upon payment of all taxes, liens, interest and other applicable costs; and furthermore, shall the Town vote to authorize the Board of Selectmen to execute and deliver quit claim deeds, without covenant, for the conveyance of such property and/or the removal of tax liens from public records as justice may require?
- Article 59:** Shall the Town vote to authorize the Board of Selectmen to dispose of town-owned surplus property upon such terms and conditions as the Selectmen may deem to be in the best interests of the Town as otherwise allowed by law?
- Article 60:** Shall the Town vote to continue using the secret ballot method of conducting Town Meetings and approving all budget appropriations? (Note: A "NO" vote may result in a future warrant article to repeal the amendment to the Town Charter enacted by vote on Article 2 at a Special Town Meeting held on June 8, 2004.) [Non-Binding Referendum]

Article 61: Shall the town vote to accept the roads, in accordance with 23 M.R.S.A§3025, in the Windward Development consisting of:

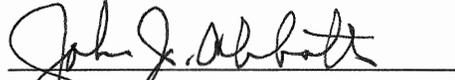
Windward Way
Young's Crossing North
Young's Crossing South
Russell Way
Windward Walk

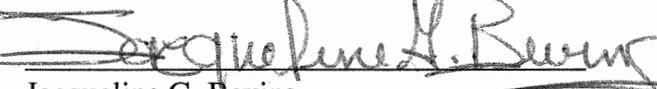
as Town Roads which are part of an offer of dedication from the Windward Ogunquit LLC, its sole member, Robert Young, a limited liability company, who is the owner of these private roads on a plan entitled "Final Plan of Windward, Glen Avenue, Ogunquit, Maine, dated November 17, 1998 by Easterly Survey, recorded in the York County Registry of Deeds in Plan Book 236, pages 43 and 44.

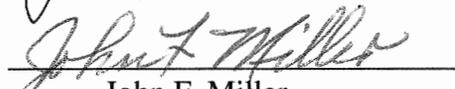
Given under our hands this **14th day of February 2006**, A.D. in Ogunquit, Maine, by the Board of Selectmen, acting in their capacity as the municipal officers. ATTEST:

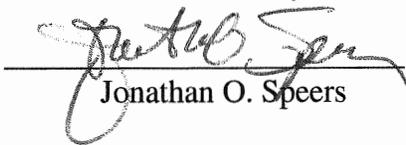
OGUNQUIT BOARD OF SELECTMEN


Charles L. Waite, III, Chairman


John J. Abbott, Vice-Chairman


Jacqueline G. Bevins


John F. Miller

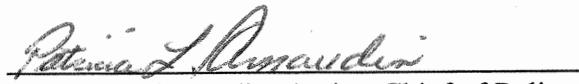

Jonathan O. Speers

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

RETURN OF WARRANT CERTIFICATION

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

Pursuant to the foregoing Warrant to me as directed, I have notified and warned the Inhabitants of the Town of Ogunquit therein named to meet at the time and place for the purpose therein stated by posting upon the 15th day of February, 2006, A.D., a copy of said Warrant at the Dunaway Community Center, Ogunquit Memorial Library, and the Ogunquit Post Office, those being three (3) conspicuous and public places in said Town.


Patricia L. Arnaudin, Acting Chief of Police
Town of Ogunquit

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

Office of the Town Clerk

Article _
An Ordinance to Amend the Ogunquit Zoning Ordinance
 DRAFT 4- 9 January 2006

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

Amend ARTICLE 2 – DEFINITIONS, by adding the following definition:

* * * * *

Restaurant, Type 6 - Formula Restaurant

Formula Restaurant shall mean a restaurant that stands alone as a principal use or with another use as an accessory use, and which prepares food or beverages on site for sale to the public, and which is required by contractual or other arrangements to maintain any one or more of the following standardized features, which causes it to be substantially identical to other restaurants, regardless of the ownership or location of those other restaurants: name, menu, food preparation and presentation format; decor, employee uniforms, architectural design, signage; or any other similar standardized features.

* * * * *

Amend TABLE 702.1 – LAND USES PERMITTED IN ZONING DISTRICTS, by adding the following restaurant type, alphabetically:

COMMERCIAL USES	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD
<u>Type 6 Restaurant, Formula*</u>	<u>NP</u>												

[Note: “NP” means “Not Permitted.”]

NOTE: Sections 3.5, Nonconforming Hotels and Motels and Section 9.8, Hotels and Motels, referenced in this Draft #5 have been excluded from the official Warrant Article #10 for the April 1, 2006 Municipal Election.

Article _

An Ordinance to Amend the Ogunquit Zoning Ordinance
DRAFT 5 – 10 January 2006

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

ARTICLE 2 - DEFINITIONS

* * * * *

Average Finished Grade

The average of the finished ground level elevations of the points located at each exterior corner of a building.

Basement

An area below the first floor having part but not more than one-half of its height above average ~~mean~~ finished grade, as defined by this Ordinance of the immediately adjoining building ground. A basement shall not be used as a sole living quarters within a dwelling. A basement shall be counted as a story for the purpose of height measurement, if used for a dwelling unit or for business purposes; accessory use is permitted; (refer to definition of a “story”).

~~Bed & Breakfast~~

~~A single family dwelling in which lodging is offered to the general public for compensation and meals are offered to lodgers only, offering no more than eight bedrooms for lodging purposes.~~

Boardinghouse

Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two weeks, and where a family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room. Lodging accommodations in a building or buildings where a family lives on the premises acting as proprietor or owner, with the maximum number of guest accommodations limited by applicable dimensional requirements of this Ordinance, and the size of the site. Meals may be offered to overnight guests only in a common area, with only partial cooking facilities, as defined by this Ordinance, in any individual guest accommodation. The minimum stay shall be two (2) weeks, with no maximum stay.

* * * * *

~~Condominium, Residential~~

~~An individually owned apartment or cottage in a multi-unit building(s) or set of buildings.~~

* * * * *

Dwelling Unit

Original

Article _

An Ordinance to Amend the Ogunquit Zoning Ordinance
DRAFT 5 – 10 January 2006

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

ARTICLE 2 - DEFINITIONS

* * * * *

Average Finished Grade

The average of the finished ground level elevations of the points located at each exterior corner of a building.

Basement

An area below the first floor having part but not more than one-half of its height above average ~~mean~~ finished grade, as defined by this Ordinance of the immediately adjoining building ground. A basement shall not be used as a sole living quarters within a dwelling. A basement shall be counted as a story for the purpose of height measurement, if used for a dwelling unit or for business purposes; accessory use is permitted; (refer to definition of a “story”).

~~Bed & Breakfast~~

~~A single family dwelling in which lodging is offered to the general public for compensation and meals are offered to lodgers only, offering no more than eight bedrooms for lodging purposes.~~

Boardinghouse

Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two weeks, and where a family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room. Lodging accommodations in a building or buildings where a family lives on the premises acting as proprietor or owner, with the maximum number of guest accommodations limited by applicable dimensional requirements of this Ordinance, and the size of the site. Meals may be offered to overnight guests only in a common area, with only partial cooking facilities, as defined by this Ordinance, in any individual guest accommodation. The minimum stay shall be two (2) weeks, with no maximum stay.

* * * * *

~~Condominium, Residential~~

~~An individually owned apartment or cottage in a multi-unit building(s) or set of buildings.~~

* * * * *

Dwelling Unit

A room or group of rooms used, designed to be used or capable of being 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 shall contain a minimum of 650 square feet of habitable floor space. Measurement shall be made using interior room dimensions. Any individual guest accommodation within a "transient accommodation," as defined in this Article, which contains A dwelling unit provides at least 650 square feet or more of habitable floor space, as measured from the interior side of walls shall be considered a dwelling unit for the purposes of this Ordinance, regardless of whether or not cooking facilities are provided. (Revised November 6, 2001) The maximum number of persons in a family permitted to reside in a dwelling unit shall be determined by dividing the habitable floor space in square feet by the rate of 200 square feet per person.

* * * * *

Family

~~An individual, or two or more persons, related by blood, marriage, or adoption, living together as a single household unit, or a group of not more than four persons who are not related by blood, marriage or adoption, living together as a single housekeeping unit, except community living facility as defined by 30 A MRSA, §4357.~~

One or more persons occupying a dwelling unit and living together as a single housekeeping unit where all occupants have common use and access to all living and eating areas, bathrooms, and food preparation and serving areas.

* * * * *

Half Story

A half story is the top of a building which: has habitable floor space not exceeding one half of the habitable contiguous floor space of the story immediately 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). (Adopted November 6, 2001)

* * * * *

Height of Building

The height of a building is the vertical building measurement from the structure's highest point to the ~~arithmetic average of the original ground level on all four sides~~ average finished grade, as defined by this Ordinance. This height shall not include features of the building or structure such as chimneys, decorative cupolas, towers or spires, or similar non-habitable appurtenances.

* * * * *

Hotel

~~A building in which lodging or meals and lodging is offered to the public for compensation and in which ingress and egress to and from rooms are made primarily through a common entrance or lobby or office. The hotel may contain such accessory services and facilities as news stands, personal grooming facilities and restaurants.~~

* * * * *

Inn

~~A building, which contains a dwelling unit occupied by an owner or resident manager, in which up to nine lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house and tourist house.~~

* * * * *

Partial Cooking Facilities

Partial Cooking Facilities in a transient accommodation shall be limited only to the provision of one or more of the following items: Microwave Oven, Under-the-counter refrigerator, Coffee-maker, Kitchen Sink, Counter-top Hot Plate, Counter-top Toaster Oven.

* * * * *

Restaurant, Type 1

An establishment where meals are prepared and served to the public for consumption, which meets all of the following characteristics:

~~on the premises at indoor seating; and where no~~

- (1) food or beverages (either alcoholic or nonalcoholic) are served to persons ~~not~~ seated only at indoor seating on the premises;
- (2) where food or beverages are not served to pedestrians from an exterior opening or counter, and
- (3) where the design of the facilities, advertising, signage or packaging procedures does not promote the consumption of food or beverages outside the enclosed building.

Restaurant, Type 2

An establishment where meals are prepared and served to the public for consumption, which meets all of the following characteristics:

~~on the premises at seating either indoor or outdoors; and where no~~

- (1) food or beverages (either alcoholic or nonalcoholic) are served to persons ~~not~~ seated at either indoor or outdoor seating on the premises;
- (2) where food or beverages are not served to pedestrians from an exterior opening or counter, and
- (3) where the design of the facilities advertising, signage or packaging procedures do not promote the consumption of food or beverages off the premises.

Restaurant, Type 3

An establishment where food and/or non-alcoholic beverages (either alcoholic or nonalcoholic) are prepared and served to the public, which meets all of the following characteristics:

- (1) where food and/or beverages are served for consumption on or for takeout off the premises,
- (2) where food and/or beverages are not served to pedestrians from an exterior opening or counter, nor to occupants in motor vehicles;
- (3) where exterior loudspeakers are not used; and
- (4) where alcoholic beverages may be served only within an enclosed area for on-premise consumption.

Restaurant, Type 4

An establishment where food and/or only non-alcoholic beverages are prepared and served to the public, which meets all of the following characteristics:

- (1) where food and/or only non-alcoholic beverages are served for consumption on or for takeout off the premises; and
- (2) where food or beverages may be served to pedestrians from an exterior opening or counter.

Restaurant, Type 5

An establishment where food and/or only non-alcoholic beverages are prepared and served to the public, which meets all of the following characteristics:

- (1) where food and/or only non-alcoholic beverages are served for consumption on or for takeout off the premises;
- (2) where food or beverages may be served to pedestrians from an exterior opening or counter and to occupants in motor vehicles whether parked or in a drive-thru lane or similar arrangement; and
- (3) where exterior loudspeakers may be used.

* * * * *

Setback

~~An open area adjacent to the front, side or rear lot line, as defined by this Ordinance, which shall not be occupied by structures, as defined by this Ordinance, including any roof eaves, soffits or overhangs.~~

* * * * *

Special Exception

~~A use permitted only after review and approval by the Planning Board. A special exception is a use that would not be appropriate generally or without restriction but which is permitted provided that all performance standards and other requirements of this ordinance are met. Such uses may be permitted in such districts as special exceptions, if specific provision for such special exceptions is made in Article 7 this Ordinance.~~

* * * * *

Transient —

A person visiting the community, and staying at a place that does not constitute his or her permanent residence or usual dwelling unit. The term “transient” shall not include seasonal workers who are staying at a place while employed in the area.

Transient Accommodation –

An establishment providing temporary lodging for transients, as defined by this Ordinance. The maximum area of individual guest accommodations shall be less than 650 square feet, and measurement shall be made using interior room dimensions. Any individual guest accommodations containing 650 square feet or more, regardless of whether or not cooking facilities are provided, shall be considered as a dwelling unit for the purposes of this Ordinance, and subject to all applicable dimensional and net residential area per dwelling unit requirements. Transient Accommodation shall be divided into the following categories for the purposes of this Ordinance:

Transient Accommodation Type 1 (TA-1) – Weekly Private Home Rental:

Lodging accommodations in a dwelling unit, which is rented to a family for its exclusive use when the usual owners or tenants are not present. The minimum stay shall be seven (7) days.

Transient Accommodation Type 2 (TA-2) — Bed-and-Breakfast:

Lodging accommodations in the year-round single family dwelling unit of the family who lives on the premises acting as proprietors or owners, with one (1) to eight (8) guest accommodations. Breakfast shall be the only meal offered and shall be offered to overnight guests only, with provision of only partial cooking facilities, as defined by this Ordinance, in any individual guest accommodation. The minimum stay shall be one night, and the maximum stay shall be twenty-eight (28) days.

Transient Accommodation Type 3 (TA-3) — Inn:

Lodging accommodations in a building or buildings where a family lives on the premises acting as proprietors or owners, with one (1) to nine (9) guest accommodations. The provision of only partial cooking facilities, as defined by this Ordinance, shall be permitted in any individual guest accommodation. Entrance to individual guest accommodations shall be made through a lobby or other common room. An onsite restaurant type 1 or 2, as defined by this ordinance, may be permitted, subject to meeting all applicable standards in addition to those required for a TA-3 Inn. The minimum stay shall be one (1) night, and the maximum stay shall be twenty-eight (28) days.

Transient Accommodation Type 4 (TA-4) — Motel/Hotel:

Lodging accommodations in a building or buildings where a family may live on the premises acting as proprietor or owner, along with staff, with the maximum number of guest rooms limited by applicable dimensional requirements of this Ordinance, and the size of the site. The provision of only partial cooking facilities, as defined by this Ordinance, shall be permitted in any individual guest accommodation. Entrance to individual guest accommodations may be made through a lobby or other common room or directly from the outside of the building or buildings. An onsite restaurant type 1 or 2, as defined by this ordinance, may be permitted, subject to meeting all applicable standards in addition to those required for a TA-4 motel/hotel. Accessory services and facilities may be permitted onsite, including, but not limited to, news stands, gift shops, or personal grooming facilities. The minimum stay shall be one (1) night, and the maximum stay shall be twenty-eight (28) days.

* * * * *

Undue Hardship

As defined in Title 30-A MRSA §4353, as amended.

~~The words “undue hardship” as used in this Ordinance mean:~~

- ~~a. That the land in question cannot yield a reasonable return unless a variance is granted;~~
- ~~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;~~
- ~~c. That the granting of the 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.~~

~~NOTE: Taken from 30-A MRSA, §4353. Hardship is not, therefore, a condition experienced by an individual. It is a characteristic of the property itself. Moreover, when a variance is granted, it attaches to the property and can be transferred to subsequent owners.~~

~~As used in this Ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishments or expansions of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming uses in the particular district or adjoining district.~~

Variance

As defined in Title 30-A MRSA §4353, as amended.

~~A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal interpretation or enforcement of this Ordinance will result in undue hardship as defined herein.~~

* * * * *

ARTICLE 3 - NONCONFORMANCE

3.5 Nonconforming Hotels and Motels

With the rapid expansion of transient ~~housing~~ accommodations 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 a 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. The expansion, reconstruction or structural alteration of non-conforming hotels or motels in non-GBD2 Zones must conform to all standards for permitted uses in the zone in which it is located, ~~General Business District 2 (GBD2)~~, to the General Performance Standards of Article 8 of this Ordinance and to Article 9.8. ~~9.8E (but not to the other Standards of Article 9.8)~~. The plans for any such expansion, reconstruction or alteration of any nonconforming hotels or motels in non-GBD2 Zones must be reviewed by the Planning Board for conformance with these standards. The Planning Board shall approve, deny or approve with conditions.

3.6-Vested Rights

Nonconforming use rights cannot arise by the mere filing of a notice of intent to build, an application for Planning Board subdivision, site plan review, or design review approval, an application for required building permits, or an application for required state permits and approvals. Such rights arise only when a complete application for a building permit has been filed with the Code Enforcement Officer, or in the case of an application pending before the Planning Board, the Board has found the application complete. ~~actual construction has begun. Such construction must be legal at the time it is commenced and the landowner must be in the possession of and in compliance with all validly issued permits, both state and local.~~

* * * * *

ARTICLE 6 – PLANNING BOARD

* * * * *

6.4. Powers and Duties

The Planning Board shall have the powers and duties outlined in this Article 6.4. The Planning Board may call upon the Town Planner or a professional Planning Consultant and the Code Enforcement Officer, to assist it in the administration of its following powers and duties: ~~(Amended June 11, 2002)~~

- A. ~~Subdivisions and Other Projects:~~ To review and approve, approve with conditions, or deny subdivision plans ~~and other projects~~ in accordance with the criteria established in 30-A MRSA, §4404, the Town’s Zoning Ordinance, and the Planning Board’s Subdivision Regulations. ~~“Standards for Reviewing Land Subdivisions and Other Projects.” “Subdivisions and Other Projects” are defined in these Standards and shall include residential and commercial subdivisions, timesharing condominiums, and cluster type developments.~~
- B. ~~Special Exceptions:~~ Site Plan Reviews: To review and approve, approve with conditions, or deny site plan reviews in accordance with the Town’s Zoning Ordinance.
~~To hear and decide only those special exceptions which are authorized by Section 7.2.A and which are specifically listed as special exceptions; to decide such questions as are involved in determining whether such special exceptions should be granted; and to grant such special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny such special exceptions when not in conformance with the standards of this Ordinance.~~
- C. Design Certificates To review ~~building designs and issue applications for~~ Design Certificates in accordance with the provisions of Article 11 of this Ordinance.
- D. Ordinances: To write, revise and update the Zoning Ordinance, the zoning map, the Subdivision Regulations ~~Standards for Subdivisions and Other Projects Ordinance~~, the Flood Plain Management Ordinance and such other Ordinances or Regulations dealing with planning and land use as may be considered by the Town in the future, consistent with the Town’s Comprehensive Plan. ~~subject to consideration at public hearings and decision by the voters.~~

- E. Comprehensive Plan: To write, revise and update the Comprehensive Plan for consideration at public hearings and decision by the voters. As determined by the Board of Selectmen, the full Board, or a subcommittee of the Board in combination with other municipal officials and citizens, may act as a comprehensive planning committee, pursuant to as mandated by 30-A MRSA 4324 Chapter 187, Subchapter II, for consideration at public hearings and decision by the voters.
- F. Impact Fees: To assess impact fees on applications as specifically set forth in this Ordinance, in accordance with state law 30-A MRSA 4354.
- G. Long Range Planning: To initiate and direct ~~the specialized,~~ long range planning studies of the town, following the guidelines of consistent with the Comprehensive Plan, and to that will aid decision-making on specific issues. ~~protect and retain the integrity of the character, natural beauty and historic architecture of the town.~~
- H. Cooperation with other Boards or Departments: The Board may provide assistance and recommendations to any municipal department on matters affecting the Comprehensive Plan, Ordinances, or Regulations. Each officer and department of the town shall give all reasonable aid, cooperation and information to the Board.
- I. Review Fees: The Board of Selectmen shall have the authority to charge reasonable fees to applicants to cover the cost of reviewing applications. A schedule of fees shall be determined from time to time by the Board of Selectmen.
- ~~J. To hear and decide where it is alleged there is an error in any order, requirements, decision, or determination made, or not made, by the Code Enforcement Officer in the enforcement of Article 11 of this Ordinance. The action of the Code Enforcement Officer may be affirmed, modified or reversed by the Planning Board by vote of the Planning Board. In hearing such an appeal and making its determination the Planning Board shall follow the procedures required of the Board of Appeals in Section 5.3.~~

6.5. Administration and Enforcement

- A. Enforcement: Decisions of the Planning Board shall be enforced by the Code Enforcement Officer.
- B. Appeal of Planning Board Action: Any appeal from an action of the Planning Board in administering the provisions of this Ordinance shall be made to the Superior Court in accordance with state law.

6.6. Procedures for ~~Special Exceptions~~ Site Plan Review

- A. No permit for any new use or structure indicated as requiring a Site Plan Review in Table 702.1 shall be issued by the Code Enforcement Officer until a Site Plan Review approval is obtained from the Planning Board. ~~shall approve, deny or approve with conditions all applications for special exceptions.~~ The applicant shall have the burden of proving that its Site Plan Review application is in compliance with the requirements of this Ordinance. If the proposed use or structure requires Design Review by Section 11 of this Ordinance, the Design Review application may be reviewed concurrently with the Site Plan Review application.
- B. Changes to Existing Uses or Structures Requiring Site Plan Review - Special Exceptions. A use or structure ~~which existed prior to the effective date of this ordinance~~

which is listed as a ~~special exception~~ subject to site plan review in Table 702.1 may not be changed to another ~~special exception~~ use or structure requiring site plan review, nor may the use or structure be substantially expanded or altered unless a site plan approval is obtained from the Planning Board, ~~except in conformity with all regulations of this ordinance pertaining to special exceptions~~ Substantial ~~e~~Expansion shall be defined as:

1. Any increase in floor area or land area devoted to a use requiring Site Plan Review space increase of 25% or more; or
2. New materials or processes not previously associated with the existing use. In the case of a restaurant use, the addition to any indoor or outdoor seating capacity; or
3. In the case of a transient accommodation project classified other than TA-1, any additional rooms or units; or
4. Any additional parking spaces devoted to a use requiring Site Plan Review

No changes of any kind shall be made in any previously approved ~~special exception~~ Site Plan without approval of ~~the~~ such changes by the Planning Board.

C. Application Procedure. (~~Amended June 11, 2002~~)

1. Fees. A person informed by the Code Enforcement Officer or the Town Planner that a proposed use requires ~~special exception~~ Site Plan Review approval shall file an application for the permit with the Planning Board on forms provided for the purpose. The applicant shall be responsible for a filing fee, which covers administrative and legal advertisement costs, as well as a technical review fee, which covers review by the Town's planning, legal, and/or engineering consultants. Filing Fees for site plan review shall be set annually in a fee schedule adopted by the Board of Selectmen. In addition, the applicant shall pay a technical review fee of \$1500 to be deposited in a special account designated for that site plan application, to be used by the Board for hiring independent consulting services to review the application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$750 be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$750 be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the site plan review application by the Board shall be returned to the applicant.
2. Notification of Town Departments. The Land Use Office shall notify the director of public works, police chief, and fire chief of the proposed site plan application. The Board shall request that these officials review the application and comment upon the adequacy of their department's existing capital facilities to service the proposed development. The Land Use Office shall also notify the Conservation Commission of the application, request comments on whether the application meets the standards of the Town ordinances with respect to environmental matters, and invite the Commission to participate in any scheduled hearings.
3. Application Submission Requirements. Fifteen copies of all application materials shall be submitted to the Land Use Office no less than fourteen days prior to a regularly scheduled Planning Board meeting in order to be placed on the Board's agenda. Unless a submission waiver is granted, pursuant to Section _____ below, all plans for ~~special exception~~ Site Plan Review presented for approval under this

section shall be drawn at a scale of not smaller than one inch equals 20 feet and shall show or be accompanied by the following information, unless a submission waiver is granted, pursuant to procedure of sec below: unless the Planning Board waives these requirements:

- ~~1. The name and address of the applicant (or authorized agent) plus the name of the proposed development, and a copy of the deed or record of ownership, the assessor's map and lot number.~~
- ~~2. Total floor area, ground coverage, and location of each existing or proposed building, structure, or addition.~~
- ~~3. Perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage.~~
- ~~4. The appropriate fees.~~
- ~~5. The application shall be accompanied by a copy of the complete application for a permit submitted to the Code Enforcement officer.
 - A. A completed Site Plan Review Application Form, Site Plan Review Submissions Checklist, and the required filing and technical review fees.
 - B. A Site Plan Title Block and Legend, with the proposed name of the project, and the address of the owner and/or applicant, the name and address of the preparer of the site plan and the date the plan was prepared, north point, and graphic map scale.
 - C. The Assessor's Map and Lot numbers for the subject and adjoining properties.
 - D. Right, Title or Interest. Verification that the applicant has sufficient right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. A copy of the most recently recorded deed shall be provided with a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - E. Survey. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, dated, made and certified by a registered land surveyor licensed in Maine, showing total acreage.
 - F. Depiction of existing and proposed building footprints, parking lots, drives, walkways, roads, landscaping, and areas of proposed grading or clearing or areas to remain undisturbed.
 - G. The location and size of existing and proposed utilities, sewers, water mains, culverts, and stormwater management features on or adjacent to the site.
 - H. Existing and proposed topographic contours at an interval of 2 feet, in relation to Mean Sea Level,~~

- I. The location of all wetlands, rivers, streams, brooks and other water bodies within or adjacent to the proposed site plan, as well as any other prominent natural features.
- J. For undeveloped, vacant areas not served by public water or sewer, a high intensity soil survey by a Certified Soil Scientist.
- K. The zoning district in which the proposed site plan is located and the location of any zoning boundaries affecting the site plan.
- L. If any portion of the site is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- M. Proposed Deed Restrictions: A copy of any proposed deed restrictions intended to cover all or part of the subject property.
- N. An indication of the type of sewage disposal to be used at the site.
 - i. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district shall be submitted indicating that the district has the capacity to collect and treat the wastewater, and has reviewed and approved the sewerage system design.
 - ii. When sewage disposal is to be accomplished by subsurface waste water disposal systems, a septic system design, prepared by a Licensed Site Evaluator or Professional Engineer, shall be submitted.
- O. An indication of the type of water supply system(s) to be used at the site.
 - i. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
 - ii. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- P. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the site.
- Q. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the site.
- R. The location of any open space to be preserved and a description of proposed ownership, improvement and management.

- S. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the site is not served by public water and sewer and where site considerations or development design indicate greater potential of adverse impacts on ground water quality. Such considerations may include, but shall not be limited to, extensive areas of shallow to bedrock soils, or the proposed use of shared or common subsurface waste water disposal systems.
- T. Estimate of Traffic Generated. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- U. Traffic Impact Analysis. For proposed projects requiring 40 or more parking spaces or projected to generate more than 200 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- V. Wildlife Habitat Areas. Areas within or adjacent to the proposed site which have been identified as having a high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the site is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Program the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.
- W. Historic Sites. All areas within or adjacent to the proposed site which are either listed on or eligible to be listed on the National Register of Historic Places or the Ogunquit Historic Register, or have been identified in the comprehensive plan as sensitive or likely to contain such sites. If any such areas are located within or adjacent to the site, the applicant shall submit a copy of the site plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission and the Ogunquit Historic Preservation Commission and submit any agency comments to the Board.
- X. Parking, Driveway and Street plans, in sufficient detail to meeting the standards of this Ordinance.
- Y. A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may waive submission of the storm water management plan if the proposed site work will not involve

grading which changes drainage patterns, and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the site.

- Z. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may waive submission of the erosion and sedimentation control plan if the proposed site work will not involve grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the site.
- AA. If applicable, the location of any streets, public improvements, or open spaces shown in the Comprehensive Plan or capital improvements program, that fall within the boundaries of the proposed site.
- BB. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer to convey title shall be included.
- CC. The location and method of disposal for land clearing and construction debris.
- DD. The construction items for which cost estimates and performance guarantees will be required as a prerequisite to the approval of the final plan, pursuant to Section 4.8 of this Ordinance.
- EE. Permits from State or Federal Authorities. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant shall be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations. Upon written request of the applicant, the Board may consider accepting copies of permits granted by State or Federal authorities after the public hearing is held, but in no event shall any Site Plan Review be approved without such permits.
- i. Maine Department of Environmental Protection, under the Site Location of Development Act.
 - ii. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
 - iii. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 - iv. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.

- v. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 - vi. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit
4. Waivers of Submission Requirements for Site Plan Review. Where the Planning Board finds that strict compliance with the required application submissions would unduly burden the applicant or be excessive in light of the nature of the proposed structure or activity or where there are special circumstances of a particular plan, the Board may waive application submissions upon written request of the applicant, provided that such waivers will not have the effect of nullifying the intent and purpose of the Zoning Ordinance.
5. Completeness Review Procedure. The Planning Board shall review the application for completeness and note which submissions required by this section have been submitted and which are missing. The Planning Board shall not schedule a public hearing on the Site Plan Review application until:
- A. The application and supporting materials contain all of the submission requirements, or
 - B. The Planning Board has reviewed the written waiver requests that have been provided by the applicant for any missing submissions, and agrees that any missing submissions are either not applicable or necessary for the Site Plan Review. The applicant shall provide reasons and justifications for any requested waivers of submission requirements, so that the Board may make findings pursuant to section 4 above.

D. Public Hearing.

~~Following the filing of a complete application, and before taking action on any application,~~ The Planning Board shall hold a public hearing on the site plan review application within 30 days of determining the application is complete. The Board shall notify the Code Enforcement Officer and Board of Selectmen, and shall publish notice of the time, place and subject matter of the hearing at least 10 days in advance in a newspaper of general circulation in the area.

- 1. The Board shall notify by regular U.S. mail, first class, postage prepaid, the applicant and the owners of all property ~~within 200 feet of~~ abutting the property ~~involved~~ subject to the application, at least 10 days in advance of the hearing. ~~The notice shall state of the nature of the application and of the time and place of the public hearing.~~ For the purposes of this section, abutting property shall be any property contiguous with the subject property, as well as any property directly across a street, right-of-way, river, brook, or stream from the subject property.
- 2. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

3. The Code Enforcement Officer shall attend all hearings and may present all plans, photographs or other material deemed appropriate for an understanding of the application to the Planning Board.
4. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

E. Decision.

1. Within 30 days of the public hearing the Planning Board shall prepare a detailed finding of facts and conclusions and shall reach a decision on the application. Within seven days of the decision, the Planning Board shall inform the applicant, the Code Enforcement Officer and Board of Selectmen of its decision in writing. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Board, or deny a permit, provided the Code Enforcement Officer finds the permit application meets all provisions of this Ordinance.
2. Approval for a ~~special exception~~ Site Plan Review approval secured under the provisions of this ordinance by vote of the Planning Board shall expire if:
 - A. the work or change involved is not commenced within ~~two years~~ one year of the date on which the ~~special exception~~ Site Plan is authorized; or
 - B. the work or change involved is not substantially complete within two years of the date on which the Site Plan is authorized.
3. Any special exception permit issued prior to *[insert date of town meeting]* or use which received approval from the Planning Board under previous Section 405.6 shall lapse and become void ~~six months after the effective date of this paragraph~~ after one year from the date of issuance, if no substantial start has been made on the construction.
34. An appeal may be taken to Superior Court within 30 days after a decision is rendered to ~~Superior Court~~.

6.7. Standards Applicable to ~~Special Exceptions~~ Site Plan Reviews.

- A. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall not approve the application unless it makes written findings that the proposed use or structure:
 1. will ~~prevent~~ allow the orderly and reasonable use of adjacent properties ~~or of properties in adjacent use districts;~~
 2. ~~will prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located or in adjacent use districts;~~
 32. will not adversely affect the safety, the health and the welfare of the Town; ~~and~~

~~4. will be in conformance with and promote the general purposes and intent of this Ordinance.~~

~~B. The Board may not find that the above standards are satisfied unless it finds that the proposed use:~~

~~1. will conserve property values;~~

~~2.3. will not create an undue increase of vehicular traffic congestion on public streets or highways;~~

~~3.4. includes adequate and proper public or private facilities for the storage, treatment, handling, use of, removal, or discharge of sewage, refuse, hazardous material or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use;~~

~~4.5. or materials incidental thereto or produced thereby will not give off noxious gases, odors, smoke or soot;~~

~~5.6. will not cause disturbing emission of electrical discharges, dust, light, vibration or noise;~~

~~6.7. and the operations in pursuance of the use will not cause undue interference with the orderly enjoyment by the public of parking or recreation facilities, existing, or proposed by the Town or by other competent governmental agencies;~~

~~7.8. contains adequate, paved, off-street parking in compliance with this Ordinance;~~

~~8.9. does not create a hazard to life, limb or property because of fire, flood, erosion created by reason of use, or by the structures to be used therefore, or by the inaccessibility of the property or structures thereon for convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot;~~

~~9. the structure to be used therefore shall not cause an overcrowding of land;~~

~~10. will be sensitive to adjacent historic properties in compliance with Article 11.~~

~~10.11. has a plot area which is sufficient, appropriate and adequate for the proposed use and the reasonably anticipated operation and expansion thereof;~~

~~11.12. will be adequately screened and buffered from contiguous properties;~~

~~12.13. will be constructed with adequate landscaping and provision for a storm water drainage system capable of handling a 25 year storm without adverse impact on adjacent properties in compliance with this Ordinance;~~

~~13.14. will provide for adequate pedestrian circulation;~~

~~14.15. anticipates and eliminates mitigates potential nuisance created by its location; and~~

~~15.16. complies in a satisfactory manner with all applicable performance standards criteria contained in this Ordinance.~~

ARTICLE 7 – DISTRICT REGULATIONS

* * * * *

7.2 Land Use Controls

- A. All permitted uses and uses allowed as special exceptions, regardless of the reviewing authority, shall conform to the performance standards of Articles 8 and 9 of this Ordinance as applicable. Uses permitted and allowed as special exceptions in each district shall be only those uses designated in Table 702.1. No new permitted use shall be commenced, nor shall any existing use be changed to a different permitted use, until a permit or approval is received from the proper reviewing authority, according to Table 702.1. Uses omitted from Table 702.1 shall be prohibited.
- B. All new lots, new structures and additions to structures shall meet the minimum dimensional requirements for the district in which they are located as detailed in Table 703.1. For a lot or lots contained within or constituting a subdivision, the Planning Board shall require a high intensity soil survey to assure that the amount of net residential area has been calculated in compliance with the definition of net residential area, as set forth in Article 2 of this Ordinance. If more than one principal building is located on a lot, the buildings shall be separated by a distance equal to twice the minimum side setback for the district in which they are located. On lots owned by a condominium association with a number of principal buildings including, but not limited to, single-family dwellings, setbacks between the principal buildings must be at least twice the minimum side setback of the district. Except, clustered or planned unit developments that meet all the applicable requirements of Article 9.6 may deviate from the requirements of Article 7.2.B.
- C. Corner Clearances
- For the purposes of traffic safety in all districts, no structure other than public utility structures and traffic control devices may be erected and no vegetation other than shade trees, may be maintained at a height higher than three feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the traveled public ways for 20 feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.
- D. Additional Minimum Lot Standards for the Shoreland Overlay District
1. Residential uses. Adjacent to tidal areas the minimum lot area per dwelling unit is 30,000 square feet and minimum shore frontage per dwelling unit is 150 feet. Adjacent to non-tidal areas the minimum lot area of 40,000 square feet and the minimum shore frontage is 200 feet.
 2. Governmental, institutional, commercial or industrial uses. Adjacent to tidal areas the minimum lot area is 40,000 square feet and the minimum shore frontage is 200 feet. Adjacent to non-tidal areas the minimum lot area is 60,000 square feet and the minimum frontage is 300 feet.

3. Public and private recreational facilities. Adjacent to tidal and non-tidal areas the minimum lot area is 40,000 square feet and the minimum shore frontage 200 feet.
4. ~~The following standards apply to those areas of the Shoreland Overlay District that are residential areas which contain, on average, at least one residential structure per 100 feet of shore frontage over a distance of at least 1,000 square feet of shoreline. Within these areas only, the minimum lot area is 10,000 square feet for areas served by public sewer and water, and 20,000 square feet for those areas not served by public sewer and water. The minimum shore frontage is 100 feet.~~

E. Lots with both Residential and Other Uses.

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

F. Mixed Non-residential uses

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

G. Accessory Structures and Uses.

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

TABLE 702.1 – LAND USES PERMITTED IN ZONING DISTRICTS

KEY:

District

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

Reviewing Authority

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

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

OPEN SPACE AND RURAL USES	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD
Active Recreation	NP	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>
Agriculture*	NP	NP	<u>PC</u>	<u>PC</u>	NP	NP	NP	NP	NP	NP	NP	NP	<u>PC</u>
Animal husbandry for non-commercial purposes*	NP	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	NP	NP	NP	NP	NP	NP	NP	<u>PA</u>
Animal husbandry for commercial purposes*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	<u>PC</u>
Campground*	NP	NP	NP	SE <u>NP</u>	NP	NP	NP	NP	NP	NP	NP	NP	NP
Cemetery	NP	SE <u>SPR</u>	SE <u>SPR</u>	SE <u>SPR</u>	NP	NP	NP	NP	NP	NP	NP	NP	SE <u>SPR</u>
Golf Course	NP	NP	SE <u>SPR</u>	SE <u>SPR</u>	NP	NP	NP	NP	NP	NP	NP	NP	SE <u>SPR</u>
Individual private campsite*	NP	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	NP	NP	NP	NP	NP	NP	<u>PC</u>	<u>PC</u>
Mineral exploration*	NP	NP	<u>PC</u>	<u>PC</u>	NP	NP	NP	NP	NP	NP	NP	NP	<u>PC</u>
Mineral extraction*	NP	NP	SE <u>SPR</u>	SE <u>SPR</u>	NP	NP	NP	NP	NP	NP	NP	NP	SE <u>SPR</u>
Parking lot (See standards in Section 8.10)	NP	NP	NP	NP	NP	NP	SE <u>SPR</u>	SE <u>SPR</u>	NP	NP	SE <u>SPR</u>	NP	NP
Passive recreation	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>
Piers, docks, wharves, bridges & other structures extending over or below high water line or within a wetland*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SE <u>SPR</u>	NP
Timber harvesting*	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	NP	NP	NP	NP	NP	<u>PC</u>	<u>PC</u>

RESIDENTIAL USES	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD
Dwelling accessory to business; above ground floor	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	<u>PC</u>
Manufactured housing unit	NP	NP	<u>PC</u>	<u>PC</u>	NP	NP	NP	NP	NP	NP	NP	NP	<u>PC</u>
Mobile home park*	NP	NP	<u>P SPR</u>	<u>P SPR</u>	NP	NP	NP	NP	NP	NP	NP	NP	NP
Multi family dwelling*	NP	SE <u>SPR</u>	SE <u>SPR</u>	SE <u>SPR</u>	NP	NP	SE <u>SPR</u>	SE <u>SPR</u>	NP	NP	NP	NP	SE <u>SPR</u>
Single family dwelling, <i>other than manufactured housing unit mobile home</i>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	<u>PC</u>
Two family dwelling	NP	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	<u>PC</u>
<u>Clustered or Planned Unit Residential Development</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>
<u>Subdivision, as defined in the Ogunquit Subdivision Regulations</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>	<u>SUB</u>

COMMERCIAL USES	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD
Amusement center	NP	NP	NP	NP	NP	NP	SE-SPR	SE-SPR	NP	NP	NP	NP	NP
Bed and Breakfast*	NP	SE	SE	SE	SE	P	P	P	P	P	P	NP	P
Boarding house	NP	NP	NP	NP	NP	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	NP	NP
Business & professional office	NP	NP	NP	NP	NP	P-SPR	P-SPR	P-SPR	P-SPR	P-SPR	P-SPR	NP	NP
Commercial recreation	NP	NP	NP	NP	NP	SE-SPR	SE-SPR	SE-SPR	NP	NP	NP	NP	NP
Day care center	NP	NP	NP	NP	NP	NP	P-SPR	NP	P-SPR	NP	NP	NP	NP
Funeral home	NP	NP	NP	NP	NP	NP	SE-SPR	SE-SPR	NP	NP	NP	NP	NP
Greenhouse	NP	NP	SE-SPR	SE-SPR	NP	NP	P-SPR	P-SPR	NP	NP	NP	NP	P-SPR
Inn*	NP	NP	NP	NP	NP	NP	SE	SE	SE	NP	NP	NP	SE
Kennel, veterinary hospital*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	SE-SPR
Manufacturing	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Mechanized recreation	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Motel and hotel⁴	NP	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP
Nursing home	NP	NP	NP	NP	NP	NP	P-SPR	NP	P-SPR	NP	NP	NP	NP
Outdoor sales, services & storage areas including gasoline stations	NP	NP	NP	NP	NP	NP	NP	NP ⁵	NP	NP	NP	NP	NP
Public utility facility	NP	NP	SE-SPR	SE-SPR	NP	NP	SE-SPR	SE-SPR	NP	NP	NP	NP	SE-SPR
Retail establishments not elsewhere listed ¹	NP	NP	NP	NP	NP	P-SPR	P-SPR	P-SPR	P-SPR	P-SPR	P-SPR	NP	NP
Retail storage & sale of fuel for use on watercraft	NP	NP	NP	NP	NP	NP	NP	NP	NP	SE-SPR	NP	NP	NP
Service establishments not elsewhere listed ¹	NP	NP	NP	NP	NP	P-SPR	P-SPR	P-SPR	P-SPR	P-SPR	P-SPR	NP	NP
Slaughterhouse/meat packing facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Theatres	NP	NP	NP	NP	NP	P-SPR	SE-SPR	SE-SPR	NP	NP	NP	NP	NP

COMMERCIAL USES (Cont.)	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD
<u>Transient Accommodation Type 1 (TA-1) – Weekly Private Home Rental</u>	A	A	A	A	A	A	A	A	A	A	A	A	A
<u>Transient Accommodation Type 2 (TA-2) – Bed-and-Breakfast</u>	<u>NP</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>NP</u>	<u>SPR</u>
<u>Transient Accommodation Type 3 (TA-3) – Inn</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SPR</u>	<u>SPR</u>	<u>SPR</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SPR</u>
<u>Transient Accommodation Type 4 (TA-4) – Motel/Hotel⁴</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>SPR</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
Type 1 Restaurant*	NP	NP	NP	NP	NP	<u>P</u> <u>SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	<u>P</u> <u>SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	NP	NP
Type 2 Restaurant*	NP	NP	NP	NP	NP	<u>P</u> <u>SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	NP	<u>P-SPR</u>	<u>P-SPR</u>	NP	NP
Type 3 Restaurant*	NP	NP	NP	NP	NP	<u>P</u> <u>SPR</u>	<u>NPSPR</u>	<u>P-SPR</u>	NP	NP	<u>P-SPR</u>	NP	NP
Type 4 Restaurant*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	<u>P-SPR</u>	NP	NP
Type 5 Restaurant*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Wholesale business	NP	NP	NP	NP	NP	NP	NP	<u>P-SPR</u>	NP	NP	NP	NP	NP
Wireless communication facility:													
Communications tower*	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	<u>P</u> <u>SPR</u>
Antenna*	NP	NP	NP	NP	NP	<u>SE</u> <u>SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	<u>P</u> <u>SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	NP	<u>P</u> <u>SPR</u>

GOVERNMENTAL, INSTITUTIONAL USES	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD
Church or parish house <u>Houses of Worship</u>	NP	NP	<u>P-SPR</u>	<u>P-SPR</u>	NP	NP	<u>P-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	NP	NP	NP	<u>P-SPR</u>
Schools, commercial	NP	NP	SE	SE	NP	P	P	P	P ²	P ²	NP	NP	P
Schools, public & private	NP	NP	<u>P-SPR</u>	<u>P-SPR</u>	NP	<u>P-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	NP	NP	NP	NP	<u>P-SPR</u>
Library	NP	<u>P-SPR</u>	NP	NP	NP	NP	NP	NP	<u>P-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	NP	NP
Governmental structures & buildings <u>Public Building, Structure or Use</u>	<u>SE-SPR</u>	<u>SE-SPR</u>	<u>SE-SPR</u>	<u>SE-SPR</u>	<u>SE-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	<u>P-SPR</u>	<u>SE-SPR</u>	<u>SE-SPR</u>
Museum	<u>SE-SPR</u>	<u>SE-SPR</u>	<u>SE-SPR</u>	<u>SE-SPR</u>	<u>SE-SPR</u>								
Public use	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	NP	P

ACCESSORY USES & STRUCTURES, MISC. USES	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD
Fence meeting the standards of Section 8.6	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>
Fence not meeting the standards of Section 8.6	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR	SE-SPR
Ham Radio tower/antenna*	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	NP	<u>PC</u>
Home occupation*	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u> ³	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>	<u>PC</u> ³	<u>PC</u>	NP	<u>PC</u>
Structures accessory to permitted uses	P	P	P	P	P	P	P	P	P	P	P	P	P
Tenting	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	<u>PA</u>	NP	<u>PA</u>	<u>PA</u>	<u>PA</u>	NP	NP	NP	<u>PA</u>
Uses accessory to permitted uses	P	P	P	P	P	P	P	P	P	P	P	P	P
Uses not listed elsewhere which are similar to permitted uses	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Uses not listed elsewhere which are similar to special exceptions	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Uses not listed elsewhere which are similar to prohibited uses	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
<u>Yard Sale, as defined in Town Code</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

***These uses have specific performance standards in Article 9**

- 1 No retail sales or services may be offered or solicited except inside of the buildings in which the retail sales or service establishment are located.
- 2 ~~Limited to schools for the arts and marine related activities. (reserved)~~
- 3 Limited to storage of fishing and lobstering equipment, private tutoring of not more than two persons at any one time, home crafts, pursuit of the arts, activities or occupations which are conducted without customers or clients coming to the premises.
- 4 Expansions of legally nonconforming hotels/motels in all zoning districts in which new hotels/motels are prohibited shall meet all the ~~GBD2~~ dimensional requirements of zones in which they are located according to Table 703.1, as well as the standards of Article 9.8. ~~and Article 9.8.E. New hotels or motels or expansion of existing hotels or motels in the GBD2 zone are subject to all the requirements of Article 9.8 (Adopted April 9, 2001)~~
- 5 As an exception, the Ogunquit Playhouse may serve patrons beverages and snack food outdoors on the premises from one hour before, during and one hour after performances. (Adopted November 6, 2001)

TABLE 703.1 – DIMENSIONAL REQUIREMENTS OF EACH ZONING DISTRICT

MINIMUM LOT AREA (sq ft)

	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD	SOD
With public sewer & water	12,500	12,500	30,000	30,000	12,500	None	10,000 ¹	20,000	10,000 ¹	None	None ¹	30,000	N/A	²
Without public sewer/water	30,000	30,000	60,000	60,000	30,000	N/A	N/A	20,000 ³	N/A	N/A	N/A	none	200,000 ⁴	²

MINIMUM NET RESIDENTIAL AREA PER DWELLING UNIT (sq ft)

	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD	SOD
With public sewer & water	12,500	12,500	30,000	30,000	12,500	12,500	12,500	20,000	12,500	NONE	12,500	N/A	N/A	²
Without public sewer/water	30,000	30,000	60,000	60,000	30,000	N/A	N/A	40,000	N/A	N/A	N/A	N/A	80,000	²

MINIMUM STREET FRONTAGE (feet)

	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD	SOD
With public sewer & water	75	75	100	100	75	none ⁶	75	100	75	NONE	NONE ⁴	100	N/A	⁵
Without public sewer/water	100	100	100	100	100	N/A	N/A	100	N/A	N/A	N/A	100	250 ⁴	⁵

SETBACKS (feet)

	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD	SOD
Front	20	20	30	30	20	10 ⁷	20	30	20	15	10 ⁷	N/A	50 ⁸	⁵
Side and Rear	15	15	20	20	15	10 ⁹	10 ¹¹	15 ¹⁰	10 ¹¹	NONE	10 ⁹	N/A	20	⁵
From water bodies & wetlands	75	75	75	75	50	75	75	75	75	50	75	75	75 ¹²	⁵

MAXIMUM BUILDING COVERAGE

	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD	SOD
With public sewer & water	30%	30%	20%	20%	30%	NONE	30%	30%	30%	NONE	NONE	0%	N/A	20% ¹³
Without public sewer/water	20%	20%	10%	10%	20%	N/A	N/A	30%	N/A	N/A	N/A	0%	20%	20% ¹³

MAXIMUM BUILDING HEIGHT ¹⁴

	OFRD	RD	RRD1	RRD2	PCRD	DBD	GBD1	GBD2	LBD	PCLBD	OBBD	RPD	FD	SOD
Feet	35	35	35	35	35	35	35	35	35	27	35	N/A	35	35
Stories	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½ N/A	2 ½	2 ½

NOTES TO TABLE 703.1

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

* * * * *

8.10 Off Street Parking and Loading

A. General.

1. ~~A permitted use in any district~~ In all Districts, except the Downtown Business, Ogunquit Beach Business, and Perkins Cove Limited Business Districts, shall not be extended, and no structure or use shall be constructed, extended or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements:-
 - a. In the Downtown Business, Ogunquit Beach Business, and Perkins Cove Limited Business Districts only, all non-residential uses except transient accommodations, shall be exempted from the provision of minimum off street parking and loading requirements of section D.2 below.
 - ~~2.b.~~ Parking areas with more than two four parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.
 - ~~3.c.~~ Parking spaces shall be provided as required and made available for use prior to the issuance of the Certificate of Occupancy.

B. Parking Lot Layout

1. ~~All land uses shall be subject to requirements regarding the preparation and implementation of plans to eliminate visual and safety concerns associated with highway development. In its review of plans parking lot layouts, the Planning Board reviewing authority shall consult with the Road Commissioner and shall consider the following:~~
 - a. Sight distances along the public right-of-way;
 - b. Aesthetic and visual sighting from the public right-of-way;
 - c. Effects on adjacent public access points;
 - d. Overall traffic safety considerations;
 - e. Traffic signalization requirement;
 - f. Movement of vehicles related to use of the facility;
 - g. Snow removal.
 - h. Drainage

* * * * *

D. Off-Street Parking Standards

1. Off-street parking, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve uses located in any district.
2. The following minimum off-street parking and loading requirements shall be provided ~~(and maintained, in the case of new construction, or in the case of expansion, extension, or and changes of structures or uses at existing sites, which necessitate increased parking requirements.~~

“Floor area” and “floor space” as used in the statement of parking requirements for ~~“Retail Stores” and “Restaurants”~~, shall include all areas, whether inside or outside, which are available to

customers for eating or drinking. “Floor area” and “floor space” as used in the statement of parking requirements for “Retail Stores” shall include all areas ~~or~~ used for retail display or sales.

* * * * *

8. Except for transient accommodations and residential uses, tThe Planning Board may reduce the requirements of this Section for the number of parking spaces where it is shown that appropriate parking and loading spaces will be maintained sufficiently for the intended use based on the availability of public transit, the proximity of public parking lots, and the location of the proposed use in comparison to major pedestrian areas.

* * * * *

8.12 Signs

A. General

* * * * *

2. Exemptions

The following shall not be included in the application of this Section.

- a. One sign not exceeding one square foot in area and bearing only street number, property name, and/or the name of occupants residing at the premises.
- b. Signs erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.
- c. Signs directing and guiding traffic and parking on private property, not exceeding four square feet in area and bearing no commercial matter. Where confusion would occur, or to limit parking to patrons of an establishment, the name of the business may occur, but there shall be no graphics which otherwise identify the business.
- d. One sign advertising real estate for sale, lease or rent, not exceeding six square feet in area per lot or per dwelling unit, and located on the lot being advertised only. The sign shall be removed upon the closing of the sale or upon occupancy of rental property.
- e. Memorial signs or tablets, names of historic buildings and the date of erection when engraved in the surface of the building or constructed of permanent material.
- f. Civic group signs. One freestanding joint identification off-premise sign announcing the name of churches, social organizations and the time and place of meeting of civic clubs shall be permitted at the entrances of the Town along US Route One, provided that they shall be designed as an integrated unit and shall be landscaped. Such freestanding signs shall not exceed 32 square feet in total combined signboard area.
- g. Off-site, directional signs for non-profit museums, non-profit theaters, or houses of worship, located within the Town of Ogunquit.
- gh. Warning signs such as “Posted,” “No Trespassing,” “Beware of Dog,” and “Private Driveway” of no greater than two square feet in area.
- hi. Contractor signs. One sign, no larger than six square feet, identifying the name of a contractor or tradesman performing work on the premises, provided the sign is removed within five days of the completion of the work.

- ij. The Ogunquit Playhouse on U.S. Route One may maintain, repair or construct, subject to Design Review, the roadside billboard marquee that is in use at the time of the adoption of this ordinance and said marquee will not be subject to the sunset provision of this ordinance and will be permitted the use of changeable lettering for performance information.
- jk. Movie theaters currently existing and legally operating may maintain, repair or reconstruct any billboard marquee that is in use at the time of the adoption of this ordinance and said marquee will not be subject to the sunset provision of this ordinance and will be permitted the use of changeable lettering for show times and information.

9.5 ~~Campgrounds~~

A. ~~Application~~

~~No person, firm or corporation shall establish or maintain a campground within the Town without a permit issued in conformity with the provisions of this Ordinance. A campground in existence prior to the adoption of this Ordinance may be enlarged only if the extension complies with the Ordinance.~~

- ~~1. Application for a campground permit shall be filed with the Code Enforcement Officer who, shall, in turn, forward the application to the Planning Board for review as a special exception except that application for permit renewals are not subject to Planning Board review. The Planning Board shall review plans of the proposal and approve, approve with conditions, or deny approval of the proposal on the basis of standards contained herein and in accordance with the provisions of Section 6.6.~~

* * * * *

9.8 ~~Hotels, Motels~~ Transient Accommodations

For traffic safety on and immediately adjoining each ~~motel or hotel~~, transient accommodation, and to assure health, safety and welfare of occupants and of the neighborhood generally, the following ~~land, space, building, traffic, utility, and service design~~ requirements shall be complied with: by all transient accommodations as defined by this ordinance, except TA-1:

- A. Any individual guest accommodations containing 650 square feet or more, whether or not cooking facilities are provided, shall be considered as a dwelling unit for the purposes of this Ordinance, and subject to all applicable dimensional and net residential area per dwelling unit requirements.

~~The minimum lot size for any hotel or motel shall contain not less than three acres of total area. The minimum frontage shall be ten times the posted speed limit of the most traveled way serving the development but not less than two hundred feet lot width at the street and throughout the first two hundred feet of depth of the lot back from the street.~~

- ~~B. No part of any building shall be closer than sixty feet to the front lot line, rear lot line or either side line of the lot. A green space, not less than twenty feet wide, shall be maintained open and green with grass, bushes, flowers or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit driveways. The green space shall not be used for automobile parking.~~
- ~~C. Buildings shall not cover more than fifteen percent of the area of the lot.~~
- ~~D. If a stove for cooking is installed in rental, each rental unit shall be considered a dwelling unit and the facility shall be required to meet all the standards for multifamily developments in this ordinance including the residential density requirements of the appropriate district.~~

- E.B. Each ~~rental unit~~ individual guest accommodation shall contain not less than two hundred square feet of habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each ~~rental~~ sleeping room shall ~~not be less than~~ have minimum interior dimensions of twelve by fifteen feet ~~horizontal dimensions, exclusive of bath~~. Each rental unit shall include private bathroom facilities.
- F.C. On each lot, one apartment may be provided for a resident ~~owner, manager, or other responsible staff persons~~, which will not be considered as a dwelling unit for the purposes of this Ordinance.
- G.D. Building construction plans shall be reviewed and approved by the State Fire Marshall's Office.

* * * * *

9.10 Mineral Exploration and Extraction

- A. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. Within the Shoreland Overlay District, a permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitations. All excavations, including test pit sand holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety

Mineral Extraction is permitted only upon application for and receipt of a ~~Special Exception Permit~~ Site Plan Review approval for such removal and nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. The following standards and requirements shall be met:

- 1. In addition to the application for a ~~Special Exception~~ Site Plan Review as required by Section 6.6, the applicant shall submit to the Code Enforcement Officer plans of the proposed extraction site showing the property lines and names of all abutting owners and ways, indicating by not greater than five foot contour intervals related to U.S. Geodetic Survey data, the location and slope of the grades existing and as proposed upon completion of the extraction operation, and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits, together with a written statement of the proposed method, regularity, working hours and total proposed rehabilitation and restoration of the site upon completion of the operation.
- 2. The application, plans and statement shall promptly be submitted with the recommendations of the Code Enforcement Officer to the Planning Board for its consideration with respect to the effect of the proposed operation upon existing and foreseeable traffic patterns within the Town, upon existing or approved land uses which may be affected by the operation, and upon implementation of the Comprehensive Plan.
- B. The Planning Board shall impose such conditions upon any ~~Special Exception Permit~~ Site Plan Review as they deem necessary or desirable to assure compliance with the following requirements: (

* * * * *

- C. Issuance and Renewal of Permits. ~~Special Exception Permits~~ Site Plan Review approvals shall be issued in accordance with the foregoing provisions for a period not to exceed one year, and they shall be renewable only upon application by the owner, after a finding by the Planning Board that the conduct of the operation has been substantially in accordance with any and all conditions imposed or material representations made in connection with the original ~~Special Exception Permit~~ Site Plan

Review approval; and upon such additional and altered conditions as the Planning Board may deem necessary.

* * * * *

9.16 Wireless Communication Facilities and Communications Towers

- A. Communication towers are permitted only in the Farm District. Communications antennas shall be permitted ~~in the Farm District and by special exception~~ Site Plan Review in the zones indicated in Table 702.1 as an accessory use only and may be erected on or attached only to existing structures. The antenna and its associated equipment must be made to blend in with the existing structure to minimize its visual impact. In no case may an antenna in any district but the Farm District exceed the height of the building that is mounted on or adjacent to. In the Farm District the height of an antenna shall be included in the total height limitation as allowed for a communications tower.
- B. The placement of antennas and associated equipment onto an existing structure may be allowed in all districts indicated in Table 702.1 when they are designed to be incorporated into the architecture of new or existing buildings or into the fabric of other manmade or natural structures or features so as to be inconspicuous when viewed at any point beyond the limits of the host property. Where applicable the provisions of Article 11, Design Review, shall apply.
- C. The maximum height of a communication tower serving one company or carrier shall be 125 feet. For each additional company or carrier using the tower, the height may be increased 32 feet, up to a maximum of 190 feet.
- D. The tower shall be set back from all property lines a minimum of its height.
- E. The tower may not have any flashing lights.
- F. The tower shall remain unpainted galvanized steel or be painted gray or silver.
- G. At its base the tower shall be no wider than four feet. No individual member of the tower may have a diameter or thickness larger than four inches.
- H. Wireless communications facilities which have been abandoned or which have remained unused for a period of six months shall be removed. Prior to approval, the applicant shall submit a bond acceptable to the Town in an amount sufficient to pay for the cost of removal of the facility. The bond shall be made available to the town upon a finding, including adequate written notice to the applicant, that the facilities have not been used for a six-month period.

9.17 Ham Radio Tower/Antennae

- A. Private Ham radio towers/antennae are permitted in all districts except in the Resource Protection district, subject to the following height limitations. In the One Family Residential, Residential, Perkins Cove Residential, Downtown Business, Ogunquit Beach Business, and Perkins Cove Limited Business districts, the maximum height is 50 feet as measured from the ground to the top of the tower or antenna, whichever is higher. In the Rural Residential District 1, Rural Residential District 2, General Business District 1 and General Business District 2, the maximum height is 80 feet as measured from the ground to the top of the tower or antenna, whichever is higher. In the Farm District, the maximum height is 125 feet as measured from the ground to the top of the tower or antenna, whichever is higher. Additional height may be approved by the Planning Board on a proven need for additional height by the applicant following the procedures for a ~~special exception~~ Site Plan Review for hearing, notice and decision. Any costs associated with professional services which may be required by the Board in determining such need shall be borne by the applicant.

- B. A Ham Radio Tower/antenna shall be set back a minimum of 110% of the height of the structure from all property lines. Towers or antennae shall be located only to the sides, to the rear or on top of residences or other building and shall not be located between a building and public street.
- C. The tower shall remain unpainted galvanized steel or be painted gray or silver if constructed of another material.
- D. The tower may not have any flashing lights.
- E. At its base, the tower shall be no wider than four feet. No individual member of the tower shall have a diameter or thickness larger than four inches.
- F. Ham radio towers located on property where the original licensed operator no longer resides and no other licensed operator currently resides, must be removed.
- G. The lower six feet of any tower, when not located on top of a building, shall be bordered with landscaping so as to shield the structure from the road and any neighboring yard.
- H. The applicant shall provide the Code Enforcement Officer with a copy of a current license issued by the Federal Communications Commission to the applicant together with proof that all required state or federal permits have been obtained before construction of any tower.
- I. Any Ham radio tower legally existing at the time of adoption of this section may remain in place and be repaired, however, may not be replaced, enlarged or altered except in compliance with all requirements of this ordinance.

* * * * *

ARTICLE 11 – DESIGN REVIEW

11.1 Purpose

A. General Purpose

The Town of Ogunquit includes mixed residential and business uses consisting predominantly of buildings constructed before 1930. They include many significant historic buildings which contribute a variety of architectural styles, other buildings which contribute to the historic setting, and a number of contemporary buildings. The purpose of this Article is to promote educational, cultural, economic and general welfare of the Town of Ogunquit, to provide for the protection and preservation of buildings, structures and places of historic, architectural, cultural or neighborhood significance or value as defined below, all of which confer “historical significance,” and to promote design which is compatible with the present character of Ogunquit and consistent with the Ogunquit Historic Preservation Ordinance.

B. Specific Intent

It is the specific intent of this Article to:

1. encourage the continued use of existing historically or architecturally important buildings and those which contribute to the character of the District and discourage their demolition or removal,
2. prevent inappropriate alterations of buildings of historical significance in the appropriate districts,
3. assure that new buildings are designed and built in a manner compatible with the character of the District in terms of scale and visual effect, and

4. assure that changes to contemporary buildings and new construction in the district do not detract from adjacent buildings with historical significance.

11.2. Definitions

Notwithstanding the definitions in Article 2 of this Ordinance, for purposes of this Article the following terms shall have the following meanings:

Architectural Significance

A building or structure shall be deemed to have “architectural significance” if it embodies distinctive characteristics of a type, period, or method of construction, represents the work of a master architect or builder, or possesses high artistic value.

Board

Unless otherwise specified, “Board” shall mean the Planning Board.

Building

Wherever the word “building” is used, it also refers to all structures and places (i.e., cemeteries, parks, etc.) which may or may not have buildings located on them and which are classified under this Article.

District

In this Article, “District” refers to the Downtown Business District, the General Business Districts I and II, the Limited Business District, the Perkins Cove Limited Business District and the Ogunquit Beach Business District or the district in which a use, structure or building subject to the requirements of this Article lies.

Historical Significance

A building or structure shall be deemed to have “historical significance” if it is associated with events which have contributed to the formation and development of the Town of Ogunquit, if it is associated with the lives of people who have been important to the community, or if it is determined to have historical, architectural, cultural or neighborhood significance, or if it is listed in the National, Maine, or Ogunquit Historic Register.

Material Change

“Material Change” means a modification to the architectural style, general design and general arrangement of the exterior of a building or structure, including the kind and texture of the building materials and the type and style of all windows, doors, ~~light fixtures~~, other appurtenant fixtures and other features such as walks, ~~fences~~, driveways and parking areas. In addition, all activities that affect the exterior and require a building permit are also included in this definition.

Neighborhood Significance

A building shall be deemed to have “neighborhood significance” if it contributed to the creation of a physical setting representing a period important in the evolution of the Town. It is understood that the physical setting, which is composed of buildings, landscape features and open space, and other natural and architectural features, can transcend the sum of its parts in creating a sense of history. Some examples of situations in which a building would have neighborhood significance are: it is one of a group of similar buildings constructed and/or designed by an individual important in Ogunquit history; it is a compatible element in a group of buildings of similar or equally important significant architectural styles; its location (e.g., on a corner lot, on a rise of land, on a curve, on a large parcel of land, as the first building to visually

introduce an important group of buildings) makes it an important element in the neighborhood; its size gives it a dominant place in the neighborhood.

Public Street or Public Right-of-Way

A street or way for the passage of vehicles and/or pedestrians, either accepted by the municipal legislative body and owned by the Town of Ogunquit, or owned by the State or Federal governments. The term as used in this section shall not include public beaches, public parks or any other types of public properties or facilities.

Reconstruction

“Reconstruction” means the rebuilding, or constructing again, of a building or part of a building. The reconstruction may or may not be a return to the original design of the building.

Rehabilitation

“Rehabilitation” means the upgrading of a building, previously in a dilapidated or substandard condition, for human habitation or use. Rehabilitation does not necessarily retain the building’s original architectural features.

Restoration

“Restoration” means the replication or reconstruction of a building’s original architectural features. Restoration usually describes the technique of preserving historic buildings.

Violation

It shall be deemed a “violation” of this Article if an applicant fails to comply with the plans and conditions as approved by the Planning Board when it issued the Design Certificate, or if any activity listed in Section 11.3 is carried on without first obtaining a Design Certificate which permits the activity to proceed.

Visually Compatible and Complimentary

It is not the intent that all buildings in a neighborhood should look the same, but that a mix of styles, sizes, etc. that blend together well shall be allowed and that facade designs that pre-date 1930 be encouraged, although not necessarily required.

11.3. Design Certificate

In considering applications for permits, the Planning Board shall use the guidelines appearing in Section 11.6 of this Article. A Design Certificate, issued by the Planning Board, shall be required before a permit to proceed is issued for any of the following activities within the District, as defined by this article:

- A. any demolition of a building or portion thereof within the District; whether or not it is visible from a public street or public right-of-way;
- B. any moving or relocation of a building within the District; whether or not it is visible from a public street or public right-of-way;

- C. any material change in the exterior appearance of existing buildings, driveways or parking areas within the District by additions, reconstruction or other alteration, only if it is visible from a public street or public right-of-way. ~~except~~ However, the erection of signs, fences, and or awnings are subject only to Town Planner and/or Code Enforcement Officer review and approval in accordance with Article 8 of this Ordinance. ~~under Articles 8.6 and 8.12.B as applicable; (Revised November 6, 2001)~~
- D. any new construction of a building or accessory building or structure ~~subject to view from a public street or public right-of-way~~ within the District, only if it will be visible from a public street or public right-of-way;
- E. ~~any material change in existing walls, driveways and parking areas or construction of new walls, driveways and parking areas if subject to view from a public street or public right-of-way within the District; (Revised November 6, 2001)~~
- F. ~~any addition, removal, or material change of any type of lighting if subject to view from a public street or public right-of-way within the District; or~~
- G. ~~new signs, changes to existing signage or additional signage on buildings or sites within the District.~~

11.4. Planning Board Review

- A. The Board may, from time to time, issue publications describing design guidelines which further the purposes of this Article.
- B. The Board shall have the right to retain the services of professional help required in carrying out the purposes of this Article. Any expenses incurred in the retention of such professional assistance shall be borne by the applicant, not to exceed one percent of the cost of the project.
- C. The Board shall, at its regular meetings, review applications for Design Certificates. All meetings of the Board shall be open to the public and a public record shall be kept of the Board's resolutions and decisions. All owners of abutting property shall be notified by U.S. First Class Mail that an application for design review will be discussed, at least 10 days in advance of the meeting. ~~has been submitted, except for applications for the review of signs.~~ The Land Use Office shall also notify the Ogunquit Historic Preservation Commission (OHPC) of any application for activities required to obtain a Design Review Certificate under section 11.3, that affect buildings existing within the District in 1930. The OHPC shall be requested to comment on whether the application meets the standards of section 11.6 of this Ordinance and the Ogunquit Historic Preservation Ordinance. Members of the OHPC shall be invited to participate in any scheduled hearings or meetings on the application.
- D. The Board may hold a public hearing on an application. Notice requirements shall be as follows:
 1. If the Board decides to hold a public hearing prior to making a decision on a design review application, the Planning Board Chairman shall notify, by ~~Certified~~ U.S. First Class Mail, the applicant and the owners of all abutting properties, at least ten days in advance of the hearing. Abutting properties shall include those directly across a public right-of-way including waterways. Notification shall include the nature of the application, and the time and place of the public hearing. Notice of the hearing shall also be published in a newspaper of general circulation at least ten days in advance, and as well as be posted in at least three public places within the Town. ~~All notifications must precede the public hearing by at least seven business days.~~
 2. For the purpose of this Article, the owners of property should be considered to be the parties listed by the Tax Assessor of the Town as those against whom taxes are assessed. Failure of any property

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

3. The Code Enforcement Officer, Planning Consultant, or the Town Planner, shall attend all hearings, and shall present to the Board all plans, photographs or other material he deems appropriate for an understanding of the application. (Amended June 11, 2002)

11.5. Action of Applications for Design Certificate

- A. The application for a Design Certificate shall be made in the ~~Code Enforcement or Town Planner's Land Use Offices~~ on forms provided therefore, at least 14 days prior to the Planning Board meeting at which it will be reviewed. Each application shall be accompanied by:
 1. A site plan showing the subject property and its context;
 2. Elevations of each side of the proposed building to be constructed or altered, at a scale of at least 1/4" = 1 foot, and in the case of alterations, showing conditions before and after the proposed alteration;
 3. Photographs of the site and existing buildings; and
 4. Such additional sketches, drawings, photographs, descriptions or other information showing the proposed alterations, additions, changes or new construction as may be required for the Board to make a decision. (~~Amended June 11, 2002~~)
- B. The Code Enforcement Officer, Planning Consultant, or the Town Planner shall ~~transmit~~ place the application for a Design Certificate, ~~together with the supporting information and material, to~~ on the next Planning Board meeting agenda at its next meeting for scheduling. The Board shall act upon the application within ~~60~~ 30 days of ~~its receipt from the Code Enforcement Officer or the Town Planner finding the application complete,~~ making findings of fact and conclusions as to whether the design guidelines in Section 11.6 will be met by the proposed changes. If the Board does not act within ~~60~~ 30 days, the application is deemed to be not approved and a Design Certificate shall not be issued. If the activity which necessitates a Design Certificate is part of an activity which also requires a ~~special exception~~ Site Plan Review from the Planning Board, the Planning Board shall combine the two proceedings. (~~Amended June 11, 2002~~)
- C. Nothing herein shall prohibit an extension of time, by a formal action for a specific period of time, for review and approval of the application if the ~~parties~~ applicant and the Board have mutually agreed that more information or discussion is required. Unless the Board disapproves an application, a Design Certificate shall be issued to the applicant in written form.
- D. If an activity regulated by this Article also requires a building permit, the permit shall not be issued until the Design Certificate is granted.
- E. The Board may require an irrevocable letter of credit or performance bond prior to the issuance of a building permit.

11.6. Design Guidelines

- A. ~~Buildings~~ Activities Required to Obtain a Design Review Certificate under section 11.3, and Affecting Buildings Existing Within the District in 1930

1. Reconstructing, Altering or Maintaining Buildings Existing within the District in 1930.

Any building, or any part or appurtenance thereof, ~~including but not limited to walls, fences, light fixtures, steps, driveways, parking areas and paving~~ shall be reconstructed, altered or maintained only in a manner that will preserve its historical and architectural significance. When making that determination, recognition shall be given to the design and past relationship with surrounding buildings.

2. Demolition, Removal or Relocation of Buildings Existing within the District in 1930.

a. The Planning Board shall initially determine whether the building or structure is historically or architecturally significant in accordance with the definitions in this Article. If the building is judged insignificant or its location is judged not to contribute to its historical or architectural significance, the Board shall approve the Design Certificate to permit its demolition, removal or relocation.

b. If the Planning Board determines that the building or structure is historically or architecturally significant or derives its historical or architectural significance due to its location, it shall deny the application for the Design Certificate, and prohibit its demolition, removal or relocation. The applicant may appeal such a denial to the Board of Selectmen, within 30 days of the Planning Board Decision. The Board of Selectmen shall take one of the following actions, after making its own findings of fact and conclusions:

- 1 Uphold the Planning Board's decision to prohibit the demolition, removal or relocation, and deny the appeal; or
- 2 Uphold the Planning Board's decision to prohibit the demolition, removal or relocation, and deny the appeal, and recommend at a Special or Annual Town Meeting, for the Town to acquire a historic easement on the property, pursuant to section 11.9 of this Ordinance; or
- 3 Before reversing the Planning Board's decision to prohibit the demolition, removal or relocation, and approving the appeal, the Board of Selectmen shall require the applicant to wait 120 days until the Design Certificate is issued, so that the Ogunquit Historic Preservation Commission, Planning Board, and owners may have an opportunity to negotiate about alternative solutions to preserve the structure or site. If negotiations to preserve the structure or site are unsuccessful during the waiting period, after 120 days the Board of Selectmen shall reverse the Planning Board's decision, approve the appeal, and issue the Design Certificate to permit its demolition; or
4. Reverse the Planning Board's decision, and immediately approve the Design Certificate to permit its demolition, upon ~~it shall not be demolished, removed or relocated unless the Board of Selectmen finding that it~~ the building or structure is a nuisance or dangerous, in accordance with 17 MRSA, §2851 et. seq. ~~After a hearing before the Board of Selectmen at which the Planning Board is invited to participate, the Board of Selectmen shall either:~~
- ~~i. Recommend the building or structure for an historic easement pursuant to Section 11.9;~~
~~or~~
- ~~ii. If they find that the building or structure is a nuisance or dangerous, order the Planning Board to approve the Design Certificate for its demolition, removal or relocation.~~

- c. When repair or reconstruction of a ~~damaged~~ structure damaged by fire, accident, or an act of God, would cost more than 50% of the market value of the structure before the damage occurred, the building may be restored to its original design, or demolished and replaced with new construction, subject to a Design Certificate issued by the Planning Board in accordance with the provisions of this Article. Damage to a structure by neglect or deferred maintenance shall not be considered for the purposes of interpreting this section.

B. Activities Required to Obtain a Design Review Certificate under section 11.3, and Affecting Buildings Which Did Not Exist in 1930

The construction, reconstruction, alteration or moving of any building and its appurtenances built after 1930 shall be generally of such design, size, building material, texture, and location on the lot as will be compatible with other buildings in the District and particularly those in existence in 1930. The intent of this Article is not to require that a contemporary or post-1930 building be constructed or altered to meet a specific architectural style (i.e., colonial, federal, etc.). Rather, compatibility with other buildings shall be determined by factors such as: type and style of buildings previously on the parcel, historical design of the buildings and relationship with surrounding buildings.

C. Design Guidelines for all Buildings within the District Required to Obtain a Design Review Certificate under Section 11.3

Newly constructed buildings, reconstructed buildings and existing buildings, as well as their appurtenances which have been altered, repaired or moved, shall be visually compatible with the buildings, squares and places to which they are visually related, and particularly with nearby or adjacent buildings in existence in 1930, in terms of the following factors:

1. **Scale of the Building.** The scale of a building depends on its overall size, its mass in relationship to the open space around it, and the sizes of its doors, windows, porches and balconies. The scale gives a building "presence," that is, it makes it seem big or small, awkward or graceful, overpowering or unimportant. The scale of a building should be visually compatible with its site and neighborhood.
2. **Height.** A sudden dramatic change in building height can have a jarring effect on the streetscape, i.e., the way the whole street looks. For example, a tall building can shade its neighbors or the street. The height of a building should be visually compatible with the heights of the buildings in the neighborhood.
3. **Proportion of Building's Front Facade.** The "first impression" a building gives is that of its front facade, the side of the building which faces the most frequently used public way. The relationship of the width to the height of the front facade should be visually compatible with that of its neighbors.
4. **Relationship of Solids to Voids in Front Facades.** When one looks at any facade of a building, one sees openings such as doors or windows (voids) in the wall surface (solid). Usually the voids appear as dark areas, like holes, in the solid and are quite noticeable, setting up a pattern or rhythm. The pattern of solids and voids in the front facade of a new or altered building should be visually compatible with that of its neighbors.
5. **Proportions of Opening Within the Facade.** Windows and doors come in a variety of shapes and sizes; even rectangular window and door openings can appear quite different depending on their

dimensions. The relationship of the height of windows and doors to their width should be visually compatible with the architectural style of the building and with that of its neighbors.

6. **Roof Shapes.** A roof can have a dramatic effect on the appearance of a building. The shape and proportion of the roof should be visually compatible with the architectural style of the building and with those of neighboring buildings.
7. **Relationship of Facade Materials.** The facades of a building are what gives it character, and the character varies depending on the materials of which the facades are made and their textures. In Ogunquit, many different materials are used on facades: clapboards, shingles, patterned shingles, brick depending on the architectural style of the building. The facades of a building, particularly the front facade, should be visually compatible with those of other buildings around it.
8. **Relationships of Spaces to Buildings on Streets.** The building itself is not the only thing one sees when one looks at it; one is also aware of the space around the building. Looking along a street, the building and open spaces set up a rhythm. The rhythm of spaces to buildings should be considered when determining visual compatibility, whether it is between buildings or between a building and the street.
9. **Site Features.** The size, placement and materials of walls, fences, signs, driveways and parking areas may have a visual impact on a building. These features should be visually compatible with the building and neighboring buildings.
10. **Architectural, Historical or Neighborhood Significance.** These factors shall be considered with regard to buildings existing in 1930. The reconstruction, alteration, maintaining or moving of such buildings should be done in a manner as to preserve their architectural, historical or neighborhood significance. The construction, reconstruction, maintenance or moving of post-1930 buildings should be done in a manner which is visually compatible with the architectural, historical or neighborhood significance of buildings existing in 1930.

11.7. Appeals (of Design Review Decisions)

Appeals from a decision of the Code Enforcement Officer, Planning Consultant, or the Town Planner regarding the necessity for a Design Certificate may be taken to the Planning Board of Appeals as an administrative appeal, pursuant to Article 5 of this Ordinance. ~~within 30 calendar days of receipt of that written decision.~~ Appeals from a decision of the Planning Board regarding the issuance or denial of a Design Certificate shall be taken to the Maine Superior Court in accordance with Maine Law.

11.8. Article Review

On or about the second anniversary of the passage of the Design Review Article, the Planning Board shall conduct a review of its effectiveness and submit amendments or other changes, if appropriate. At that time, the Planning Board shall determine if it wishes to continue a biannual review of the Article.

11.9. Acquisition of Historic Easements

The Town may acquire, by purchase or donation, historic easements in any area within its jurisdiction wherever and to the extent that the Board of Selectmen, upon recommendation of the Board, determines that the acquisition will be in the public interest. For the purpose of this Article, the term "historic easement" means any easement, restriction, covenant or condition running with the land, designed to preserve, maintain or enhance all or part of the existing state of places of historic, architectural, or neighborhood significance.

11.10. Ordinary Maintenance Allowed: Public Safety

- A. Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior feature in the District which does not involve a change in design, material or outer appearance.
- B. Nothing in this Article shall prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which the Code Enforcement Officer shall certify is required by the public safety because of an unsafe or dangerous condition.

11.11. Enforcement

- A. The Code Enforcement Officer shall enforce the provisions of this Article, and may inspect, from time to time, those buildings, structures and any appurtenances for which a Design Certificate has been issued, to ensure compliance with the terms contained in the Certificate.
- B. A Design Certificate secured under the provisions of this Article shall expire if the work is not commenced within one year of the date on which it is granted or if the work is not completed within two years of the date on which the Certificate is granted. An extension of one year from either deadline may be granted by the Board.

11.12. Penalties

Any person who violates any provision of this Article shall be guilty of a misdemeanor and shall be punished in accordance with 30-A MRSA, §4452.

11.13. Injunctions

Wherever any person has engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of this Article, the Code Enforcement Officer shall make application to the District Court for an order enjoining such act or practice, or requiring such person to refrain from such prospective violation, or to remedy such violation by restoring the affected property to its previous condition. Upon a showing by the Code Enforcement Officer that such person has engaged or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order or other appropriate order shall be granted without bond.

11.14. Separability

If any provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of this Article and the application of such provisions to other persons or circumstances shall not be affected thereby.

11.15. Fees

All applications for design review approval shall be accompanied by a fee as prescribed by the Board of Selectmen.

ARTICLE 12 - SURVEY REQUIREMENTS OF LAND USE APPLICATION (Adopted 11/6/01)

12.1. 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 Ordinance 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.

12.2. Subdivisions

Every application for any approval required under the ~~Ordinance entitled Ogunquit Planning Board Standards for Reviewing Land Subdivision and Other Projects~~ Ogunquit Subdivision Regulations 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.

12.3. Site Plans

Every application of any approval required under a site plan review shall be accompanied by a Standard Boundary Survey, Category 1, Condition 3. However, the Town Planner or Planning Consultant 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'~~ 1" = 40', if the Planner or Planning Consultant 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.

12.4. 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.
- 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.

12.5. ~~Home Occupations & Group Day Care Homes~~ Day Care Centers

Every application to the Ogunquit Planning Board for ~~special exception~~ Site Plan Review approval of a ~~home occupation or a group day care home~~ Day Care Center 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.

12.6. 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.

12.7. 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 of ~~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.

12.8. 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 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.

12.9. Major Accessory Structures

Every application for a permit under the Ogunquit Zoning Ordinance ~~or the Ogunquit Shoreland~~ 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.

12.10. Definitions

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

Standard Boundary Survey, Category 1, Condition 3

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

A 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

Any accessory structure which is not a minor accessory structure.

Minor Accessory Structure

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

An engineer licensed by the State of Maine to practice in the State of Maine.

Professional Land Surveyor

A surveyor licensed by the State of Maine to practice in the State of Maine.

Related Changes to Ogunquit Subdivision Regulations – Town Meeting Approval Not Required (May be adopted after Planning Board Public Hearing.)

3.1.17 Subdivision

The word “Subdivision” shall be defined as in Title 30-A M.R.S.A. sec. 4401, subpart 4. (See Appendix for a copy of the Statutory Definition.), ~~with the following modifications of the definition, as authorized by subpart 4H 1. The word “subdivision” shall include the division of structures or land for multiple residential, commercial or industrial uses, whether the division is created by condominium ownership, leasehold, or by the collection of fees for lodging, including such uses as multi-family housing, apartments, condominiums, hotels, motels, inns, industrial developments or parks, restaurants and shopping centers.~~

~~When making a determination as to whether a subdivision has been created, the rules and methods for the counting of lots or dwelling units, as set forth in Title 30-A section 4401, shall apply to the counting of such leaseholds, condominium units, or lodging units.~~

For the purposes of this regulation, the word “subdivision” shall not include condominium conversions of existing projects pursuant to the Condominium Act, Title 33 M.R.S.A. sec. 1601-101, *et seq.*, or other such functional divisions of existing projects allowable under law.