

**WARRANT FOR THE SPECIAL TOWN MEETING
OF THE
TOWN OF OGUNQUIT
Tuesday, November 7, 2006**

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

GREETINGS:

In the name of the State of Maine, you are hereby requested to notify and warn the Town of Ogunquit, qualified by law to vote in Town affairs, to meet in the Dunaway Center in said Town on Tuesday, **the seventh day of November, 2006 A.D.** at nine o'clock in the morning until eight o'clock in the evening to vote by secret ballot on **Articles 1-4.**

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

ARTICLE 2: To elect six (6) Members to the Ogunquit Charter Revision Commission. [**Note:** Three (3) members will be appointed by the Board of Selectmen following the election. Commission is to submit its final report to voters for approval within twelve (12) months of its election].

ARTICLE 3: Shall the Town vote to transfer the balance of \$20,000, appropriated for the Fire Station floor drains, to the Building Maintenance Account? [**Note:** To cover the added costs for installation of the Station's emergency generator].

Board of Selectmen Recommends: YES (4-0)

Budget Review Committee Recommends: YES (5-0)

ARTICLE 4: Shall an ordinance entitled "An Ordinance to Amend Title X, (Ogunquit Zoning Ordinance) to Implement the Comprehensive Plan", Draft 7 dated September 5, 2006, in the form posted and previously made available in the Town Clerk's Office for inspection, use and examination by the public be adopted? [**Note:** Attached and made a part of this Warrant].

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. A voter who is not enrolled in a political party may not vote in a primary election.

Given under our hands this **20th day of September 2006, A.D.** in Ogunquit, Maine.

**TOWN OF OGUNQUIT
BOARD OF SELECTMEN**

NOT PRESENT

John F. Miller, Chairman



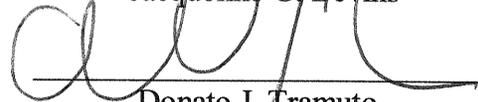
John J. Abbott, Vice-Chair



Jonathan O. Speers



Jacqueline G. Bevins



Donato J. Tramuto

OGUNQUIT

Beautiful Place by the Sea

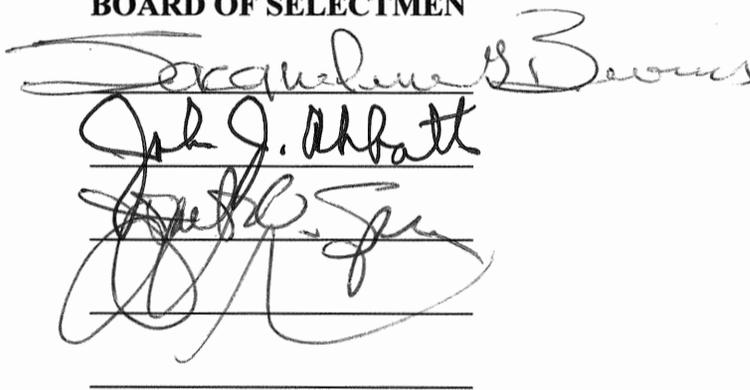
To the Town Clerk of Ogunquit:

We hereby certify that the document to which we have affixed this Certificate is a true copy of the official text of an Ordinance entitled "An Ordinance to Amend Title X, **(Ogunquit Zoning Ordinance)** to Implement the Comprehensive Plan". These amendments will be presented to voters by referendum ballot, for their consideration at a Special Town Meeting to be held on November 7, 2006.

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

DATED: 9.20.06

**OGUNQUIT
BOARD OF SELECTMEN**



A TRUE COPY, ATTEST:

Judy Shaw-Kagiliery, Town Clerk

DATED:

Original
Article 4

An Ordinance to Amend the Ogunquit Zoning Ordinance to Implement the Comprehensive Plan,
By Promoting the Following Strategies:

1. To Prohibit the Expansion of Motels and Hotels Outside of the GBD2 District;
2. To Modify Special Standards for Transient Accommodations (Lodging);
3. To Limit the Floor Area Ratio of Buildings in Various Districts
4. To Provide Affordable Housing;
5. To Promote Cluster Developments and Preserve Open Space;
6. To Encourage and Clarify Standards for Home Occupations;
7. To Increase the Tidal Resource Protection Districts to Accommodate Sea Level Rise;
8. To Protect Vernal Pools and Significant Wildlife Habitats;
9. To Require Better Stormwater Management;
10. To Control Timber Harvesting Outside the Shoreland Overlay District;
11. To Require Visual Impact Assessments for Large Projects;
12. To Protect Potential Archaeological Resources;
13. To Encourage Alternative Energy Use; and
14. To Completely Remove Campground Standards

Draft 7 – 2 PM - 5 September 2006

Reviewed by Town Attorney, With Additional Corrections as per Chairman

(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 1 – GENERAL

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1.3 District Boundary Locations: Zoning Map

The location and boundaries of the above districts are hereby established as shown on the map entitled, “Shoreland and Zoning Map, Ogunquit, Maine”, dated April 22, 1991, prepared by the Ogunquit Planning Board and filed in the office of the Town Clerk. Said map, with all explanatory matter thereon, shall be deemed to be, and is hereby made part of this Ordinance. When uncertainty exists with respect to district boundaries as shown upon such map, the following rules shall apply:

- A. Unless otherwise indicated, district boundary lines are the center lines, plotted at the time of adoption of this Ordinance, of streets, alleys, parkways, waterways, or separate rights-of-way of public utilities and railroads or such lines extended. Where the boundary is indicated by a paved street or highway, the center line of the paved or traveled portion of the actual street or highway shall be used as the boundary rather than the center line of the of the right-of-way of the street or highway as shown in the deed(s), survey(s) or other relevant legal description(s).
- B. Other district boundary lines which are not listed in the preceding paragraph shall be considered as lines paralleling a street as indicated by the official zoning map on file

in the office of the Town Clerk. In the absence of a written dimension, the graphic scale on the official zoning map shall be used.

- C. Where a question arises in regard to the limits of the Resource Protection District or the Shoreland Overlay District as they affect an existing or proposed land use, the applicant shall obtain a topographic land survey from a registered land surveyor based on the nearest U.S.G.S. benchmarks.
- D. In non-tidal shoreland areas, the Resource Protection District shall be defined as being the land area within seventy-five feet of the normal high water line, measured horizontally, of any freshwater wetland, river or stream. In tidal shoreland areas adjacent to the Perkins Cove Limited Business District and the Perkins Cove Residential District, the Resource Protection District shall be defined as being the upland land area within 50 feet of a contour line at an elevation ~~10.0~~ 11.0 feet above mean sea level as determined by a land surveyor based on the nearest USGS benchmark. In any other tidal shoreland areas and coastal wetlands adjacent to any other Districts, the Resource Protection District shall be defined as being the upland land area within 75 feet of a contour line at an elevation ~~10.0~~ 11.0 feet above mean sea level as determined by a land surveyor based on the nearest U.S.G.S. benchmark. (Amended 4/5/05-ATM)
- E. Outside of shoreland areas, the Resource Protection District shall be defined as any significant wildlife habitat, including significant vernal pools, as defined in the Department of Environmental Protection, Chapter 335, Rules on Significant Wildlife Habitats.
- E.F. The Shoreland Overlay District shall be defined as being the land area located within 250 feet, horizontal distance, of the normal high water line of any river or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within 75 feet of the normal high water line of a stream.
- F.G. The Shoreland Overlay District is an overlay district. The provisions of the underlying district shall continue to apply. In addition, the performance standards of Section 9.15 shall apply, where appropriate. Where the dimensional requirements of the Shoreland Overlay District conflict with the dimensional requirements in an underlying zone the more restrictive requirements shall apply.
- G.H. The depiction of the Resource Protection District on the Zoning Map of the Town of Ogunquit, and the depiction of the Shoreland Overlay District on the Shoreland Overlay District Map are merely illustrative of their general location. The boundaries of these districts shall be determined by measurement of the distance indicated on the maps from the normal high water line of the water body or the upland edge wetland vegetation, regardless of the location of the boundary shown on the maps.
- I. Vernal Pools may be located inside or outside of the Resource Protection District or Shoreland Overlay District. In no event shall any vegetation clearing or land disturbance occur, or structure be placed or erected in a vernal pool, or within 75 feet of its upland edge. Activities in or near vernal pools classified as significant vernal pools shall be governed by the rules of the Department of Environmental Protection, Chapter 335, and may be subject to additional setbacks and other required mitigation measures.

1.4 Conformity

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

* * * * *

ARTICLE 2 – DEFINITIONS

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Affordable Housing:

Decent, safe and sanitary dwelling units that can be afforded by households with annual incomes no greater than 80% of the median household income in non-metropolitan York County, as established by the U.S. Department of Housing and Urban Development. A renter-occupied unit is affordable to such households if the unit's monthly housing costs, including rent and basic utility costs (the costs of heating and of supplying electricity to the unit plus the cost, if any, of supplying public water and public wastewater disposal service to the unit), do not exceed 30% of gross monthly income. An owner-occupied unit is affordable to such households if its price results in monthly housing costs that do not exceed 28% of gross monthly income for principal, interest, insurance, and real estate taxes. Estimates of mortgage payments are to be based on down payments and rates of interest generally available in the area to low and moderate income households.

Affordable Housing Covenant:

Any agreement among one or more owners, one or more tenants of residential real estate and one or more qualified holders, or between one or more owners and one or more qualified holders, or between one or more tenants and one or more qualified holders, that permits a qualified holder to control, either directly or indirectly, the purchase price of residential housing for the primary purpose of providing that the housing remains affordable to lower income and moderate-income households. See also the definition of "qualified holder" in this Article.

* * * * *

Basal Area

The area of cross section of a tree stem at diameter breast height (4.5 feet above the ground) and includes bark.

Basal Area, Residual

The total of the basal area of trees remaining on a harvest area.

Basement

An area below the first floor having part but not more than one-half of its height above average finished grade, as defined by this Ordinance. ~~A basement shall not be used as a sole living quarters within a dwelling.~~ A basement shall be counted as a story for the purpose of height measurement or the calculation of floor area ratio, if used for as an individual dwelling unit, or in the case of a non-residential use, as an area intended for use by clients or customers of the principal use. or for business purposes; accessory use is permitted; (refer to definition of a “story”). (Amended 4/01/06 ATM)

* * * * *

Building Coverage

The sum of the area of the footprints of all existing or new buildings, as defined by this ordinance, compared to the total area of the lot on which the buildings are located, expressed as a percentage. The computation of building coverage includes all principal and accessory buildings, such as sheds and garages located on the lot. If the lot is located in more than one zoning district, the lot area within each zoning district shall be calculated, and the building coverage shall be computed separately for those building footprints located on each portion of the lot within each zoning district. Zoning district lines may be adjusted for the purposes of making calculations of building coverage, pursuant to section 1.4.D of this Ordinance.

* * * * *

Floor Area Ratio (FAR)

The sum of the area of all floors of all stories and half stories, as defined by this Ordinance, of existing or new buildings or structures, compared to the total area of the lot on which the structures are located, expressed as a percentage. The computation of floor area ratio includes all stories and half stories of all principal and accessory buildings and structure(s), such as sheds and garages located on the lot. Unfinished attics, open decks and patios, are not included in the computation. If the lot is located in more than one zoning district, the lot area within each zoning district shall be calculated, and the floor area ratio shall be computed separately for those floor areas of structures located on each portion of the lot within each zoning district. Zoning district lines may be adjusted for the purposes of making calculations of FAR, pursuant to section 1.4.D of this Ordinance.

* * * * *

Front Lot Line

The Any lot line separating the lot from the a public or private street right-of-way. ~~On a corner or through lot which fronts on two streets, the line separating the lot from the street which is the address of the lot.~~

* * * * *

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), and shall be included in the calculation of floor area ratio. (Amended 4/01/06 ATM)

* * * * *

Height of Building

The height of a building is the vertical building measurement from the structure's highest point to the 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, photo-voltaic cells, solar water heaters, or similar non-habitable appurtenances. (Amended 4/01/06 ATM)

* * * * *

Motel

~~A building or group of buildings in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building. Motel includes such terms as tourist cabins and tourist court. Any transient accommodations which does not meet the definitions of Bed and Breakfast, Hotel or Inn shall be deemed to be a motel for the purposes of this ordinance.~~

[Note: Motel uses will be covered by transient accommodation definitions adopted April 1, 2006]

Net Residential Area

As of the April 2, 2005 effective date of this provision, the net residential area of a lot or lots subject to subdivision review shall be calculated by taking the total area of the lot and subtracting, in order, the following areas not suitable for development:

1. Land within street rights-of-way, or below low, medium or high volume driveways
2. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot.
3. Portions of the lot shown to be in a 100-year floodplain as defined by the most recent Federal Emergency Management Agency Flood Insurance Rate Maps.

4. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - a. slopes greater than 33%.
 - b. organic soils.
 - c. wetland soils.
 - d. coastal sand dunes.
5. Portions of the lot subject to any other rights of way, if the use of the land for development is restricted.
6. Portions of the lot located in the resource protection zone.
7. Portions of the lot covered by surface waters, or vernal pools.
8. Portions of the lot utilized for storm water management facilities.

For a lot or lots not contained within or constituting a subdivision, the net residential area shall equal the lot area for lots not created by a subdivision, as defined by this ordinance.
(Added 4/5/05 ATM)

* * * * *

Qualified Holder:

A governmental entity empowered to hold an interest in real property under the laws of Maine or the United States or a nonprofit organization whose purposes include the provision of affordable housing or the increasing of affordable housing opportunities for lower income or moderate-income households, including governmental or quasi-governmental entities such as public housing authorities, community action agencies, or other similar nonprofit or governmental entities committed to providing opportunities for lower income or moderate income households to obtain affordable housing.

* * * * *

Story

That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between such floor and ceiling next above it. A basement shall be counted as a story for the purpose of height measurement or the calculation of floor area ratio, if used for as an individual dwelling unit, or in the case of a non-residential use, as an area intended for use by clients or customers of the principal use. ~~or for business purposes; accessory use is permitted;~~ (refer to definition of basement).

* * * * *

Structure

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

* * * * *

Vernal Pool

A vernal pool, also referred to as a seasonal forest pool, is a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer. Vernal pools have no permanent inlet and no viable populations of predatory fish. A vernal pool may provide the primary breeding habitat for wood frogs (*Rana sylvatica*), spotted salamanders (*Ambystoma maculatum*), blue-spotted salamanders (*Ambystoma laterale*), and fairy shrimp (*Eubbranchipus* sp.), as well as valuable habitat for other plants and wildlife, including several rare, threatened, and endangered species. A vernal pool intentionally created for the purposes of compensatory mitigation is included in this definition.

Vernal Pool, Significant

A vernal pool, meeting the criteria for significance as set forth in DEP Rules, Chapter 335, Significant Wildlife Habitat.

* * * * *

Wind Energy System, Small

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

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ARTICLE 3 – NONCONFORMANCE

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3.5 — Nonconforming Hotels and Motels

~~With the rapid expansion of transient housing in recent years, hotels and motels now take up a disproportionate share of the town’s land area. To promote the health, safety and welfare of Ogunquit citizens, to comply with the last, adopted Comprehensive Plan, to mitigate parking, traffic and congestion problems, and to preserve 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 General Business District 2 (GBD2), to the General Performance Standards of Article 8 of this Ordinance and to Article 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.~~

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ARTICLE 6 – PLANNING BOARD

6.6 Procedures for Site Plan Review (Amended 4/01/06 ATM)

* * * * *

C. Application Procedure.

* * * * *

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 4 below, all plans for 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. 4 below:

* * * * *

I. The location of all wetlands, rivers, streams, brooks, vernal pools and other water bodies within or adjacent to the proposed site plan, as well as any other prominent natural features.

* * * * *

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, or as a significant vernal pool or other wildlife habitat governed by DEP Chapter 335 Rules, the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.

W. Historic or Archaeological 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 ~~sueh~~ archaeological 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.

* * * * *

Y. A storm water management plan, prepared by a registered professional engineer in accordance with the ~~Stormwater Management for~~ Maine Stormwater Best Management Practices Manual, published by the

Maine Department of Environmental Protection (1995 2006). 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.

6.7 Standards Applicable to Site Plan Reviews. (Amended 4/01/06 ATM)

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:

* * * * *

13. will be constructed with adequate landscaping in compliance with this Ordinance, and provision for a storm water drainage system in compliance with the Ogunquit Subdivision Regulations this Ordinance;

* * * * *

ARTICLE 7 – DISTRICT REGULATIONS

* * * * *

TABLE 702.1 – LAND USES PERMITTED IN ZONING DISTRICTS

* * * * *

Footnotes

- * 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. (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 noneonforming hotels/motels in all zoning districts in which new hotels/motels are prohibited shall meet all the dimensional requirements of zones in which they are located according to Table 703.1, as well as the standards of Article 9.8.~~
(reserved)
- 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 (Amended 4/5/05, 4/1/06 ATM)

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	<u>OBBD</u> <u>D</u>	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	N/A	0%	20%	20% ¹³

MAXIMUM FLOOR AREA RATIO (FAR)

	<u>OFRD</u>	<u>RD</u>	<u>RRD1</u>	<u>RRD2</u>	<u>PCRD</u>	<u>DBD</u>	<u>GBD1</u>	<u>GBD2</u>	<u>LBD</u>	<u>PCLBD</u>	<u>OBBD</u>	<u>RPD</u>	<u>FD</u>	<u>SOD</u>
<u>With public sewer & water</u>	50%	50%	40%	40%	50%	NONE	50%	50%	50%	NONE	NONE	0%	N/A	40%
<u>Without public sewer/water</u>	40%	40%	20%	20%	40%	N/A	N/A	50%	N/A	N/A	N/A	0%	40%	40%

MAXIMUM BUILDING HEIGHT ¹⁴ (Amended 4-01-06 ATM)

	<u>OFRD</u>	<u>RD</u>	<u>RRD1</u>	<u>RRD2</u>	<u>PCRD</u>	<u>DBD</u>	<u>GBD1</u>	<u>GBD2</u>	<u>LBD</u>	<u>PCLBD</u>	<u>OBBD</u>	<u>RPD</u>	<u>FD</u>	<u>SOD</u>
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	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. (Amended 4-01-06 ATM)
- 8 The minimum front setback for a structure existing on the effective date of this Section shall be fifty (50) feet or the existing structure's front setback. (Amended 4-01-06 ATM)
- 9 The side and rear setbacks for a structure abutting a residential use shall be fifteen (15) feet. The minimum side and rear yards for a structure existing on the effective date of this Section shall be the setback indicated above or the existing structure's setback, whichever is less. (Amended 4-01-06 ATM)

- 10** The side and rear setbacks for a structure abutting a residential use shall be twenty-five (25) feet. The minimum side and rear yards for a structure existing on the effective date of this Section shall be the setback indicated above or the existing structure's setback, whichever is less. (Amended 4-01-06 ATM)
- 11** The side and rear setbacks for a structure abutting a residential use shall be fifteen (15) feet.
- 12** There shall be a natural buffer of seventy-five (75) feet maintained between the Ogunquit River and any structure and tilling.
- 13** In the Shoreland Overlay District, 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. (Amended 4/5/05 ATM)
- 14** No structure shall contain more than two and one half (2 ½) stories or the indicated height.

ARTICLE 9– STANDARDS FOR SPECIFIC LAND USES

9.1 Accessory Affordable Apartments

As an accessory use ~~in~~ to a single family dwelling, the creation and renting of a single apartment within the dwelling, at an affordable rent, shall be permitted in a dwelling existing prior to 1930 provided all of the following conditions are all satisfied. met:

- A. There shall be no new external construction to increase the size of the structure to accommodate the accessory apartment, except as may be required by life safety codes. However, there may be construction within the home to accommodate the accessory apartment.
- B. The water and sewage facilities shall meet all existing laws and codes.
- C. The building is owner-occupied.
- D. The building is located on a conforming lot for a single family dwelling in the district in which it is located, or is located on a nonconforming lot as defined in Article 2 of this Ordinance.
- E. One off-street parking space is provided for the accessory apartment, in accordance with the dimensional and design requirements of this Ordinance. This parking space shall be in addition to the parking required for the single family dwelling.
- F. All required permits are obtained for construction of the accessory apartment and a certificate of occupancy is obtained prior to the apartment being rented.
- G. The accessory apartment is no larger than 40% of the total area of the single family dwelling, or 800 square feet, whichever is smaller.
- H. The rent for the accessory apartment is affordable, as defined by this Ordinance in the definition of affordable housing (renter-occupied units) in Article 2.
- ~~DI.~~ Any apartment created under this section need not meet any of the dimensional or area requirements for dwelling units or multi-family housing contained in Section 9.12, nor the density requirements of Table 703.1 or other sections of this Ordinance. If any one or more provisions A through H of this section can not be met, an additional apartment may only be created if all applicable density or other requirements for an additional dwelling unit can be met.

9.4 Bed & Breakfast and Inn – Transient Accommodation Types 2 & 3 (TA-2, TA-3)

- A. The application for approval shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
- B. There shall be no less than one parking space for each rental room in addition to the spaces required for the dwelling unit.
- C. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.

- D. Each rental room shall have not less than ten by twelve feet horizontal dimensions.
- E. Each rental room shall be equipped with an approved smoke detector.

9.5 Campgrounds [Reserved]

[Note: Remove sections 9.5.A.2 through 9.5.B.9, as follows:]

* * * * *

- ~~2. Each application for a permit or a renewal thereof shall be accompanied by a fee as established by the Board of Selectmen for a campground designed for the accommodation of no more than 10 recreational vehicles or tent sites, and an additional fee as established by the Board of Selectmen for each additional recreational vehicle or tent site in excess thereof. Each permit shall expire on the first day of April following the date of issuance. Before any permit shall be renewed, the premises shall be subject to inspection by the Health Officer and Code Enforcement Officer. If they shall find all requirements of this and other Town and State Ordinances and Laws have been complied with, they shall certify the same and renew the permit.~~
- ~~3. Such permits shall be conspicuously posted on the premises at all times and shall not be transferable.~~
- ~~4. The Board of Selectmen is hereby authorized to revoke any permit issued pursuant to the terms of this Ordinance if, after due investigation and public hearing, they determine the holder thereof has violated any of the provisions of this or any applicable code, law or statute.~~

~~B. Design Requirements.~~

~~In any district where campgrounds are permitted under the terms of this Ordinance, the following regulations and minimum standards shall apply:~~

- ~~1. A time limit is placed on the occupancy of any one camping site on a continuing basis as follows: 12 weeks for the period of May 15 to September 15 of each year, and two weeks for all other times. No trailers or homes other than recreational vehicles shall be permitted within any campground, temporarily or otherwise;~~
- ~~2. A campground may not be constructed on less than five acres of land;~~
- ~~3. Each tent site must be provided with a masonry or metal fireplace approved by the Fire Chief;~~
- ~~4. Space in campgrounds may be used by travel trailers, equivalent facilities constructed in or on auto vehicles, tents or other short-term shelter devices;~~
- ~~5. A campground shall provide water and sewage systems, sanitary stations and convenience facilities in accordance with the regulations of the Maine Subsurface Wastewater Disposal Rules and the Maine Plumbing Rules. In no case shall less than one toilet, lavatory and shower be provided for each sex for every 10 camping and tent sites;~~
- ~~6. Each camping or tent site within a campground shall contain a minimum of 4,200 square feet and have a minimum frontage along the traveled way of 70 feet exclusive of drives and aisles;~~

~~Within the Shoreland Overlay District, each site shall contain a minimum of 5,000 square feet of land, not including roads and driveways. Land supporting wetland vegetation, and land below the normal high water line of a water body shall not be included in calculating land area per site.~~

- ~~7. Recreational Vehicles shall be so parked in spaces that:
 - a. There shall be a minimum of 15 feet between vehicles;
 - b. There shall be a minimum of 15 feet between all recreational vehicles and exterior boundary of the campground;
 - c. There will be a minimum of 25 feet between all trailers and all public rights-of-way located inside the boundaries of the campground. Setbacks from the roads outside the campground will be a minimum of 150 feet;
 - d. No camping unit or structure shall be located less than 100 feet from any residence;
 - e. Buffering, planting, landscaping, disposition and form of buildings and other improvements, fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development.
 - f. The areas intended for placement of a vehicle, tent or shelter, and utility service buildings shall be set back a minimum of 75 feet from the normal high water line of rivers, streams, salt water bodies, tributary streams, or the upland edge of a wetland.~~
- ~~8. The storage, collection and disposal of refuse shall not create health hazards, rodent harborage, insect breeding areas, accident hazards, air pollution and the like.~~
- ~~9. No unoccupied camping unit shall be stored or exhibited for sale for commercial purposes within the campground.~~

9.6 Clustered or Planned Unit Residential Development

A. Standards

Notwithstanding other provisions of this Ordinance relating to space and bulk, the Planning Board, in reviewing and approving proposed residential developments and other projects located in the Town, may modify said provisions related to space and bulk to permit innovative approaches to housing and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve hardship. Effective [insert date of Town Meeting] , all subdivisions, containing five (5) or more dwelling units or lots, created on the west side of Route 1, shall be designed as clustered or planned unit developments, according to the standards of this Ordinance. Subdivisions created on the east side of Route 1 may be designed either utilizing the clustered or planned unit development approach, or by the traditional subdivision method without common open space.

1. There shall be compliance with all other applicable provisions of State and local law;
2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures shall be considered;

3. Calculations and Density Bonus. For the purposes of conserving open space, minimizing land disturbance, and to protect wildlife habitat, a density bonus shall be provided for clustered or planned unit residential development. The maximum number of dwelling units in a clustered or planned unit residential development shall be calculated as follows: ~~There shall be no approval of any proposed development which does not provide at least the minimum net residential area, as defined by this Ordinance, for each dwelling unit proposed, for the district in which it is to be located, according to Table 703.1. The maximum number of dwelling units shall be calculated by dividing~~
 - a. Divide the minimum net residential area per dwelling unit proposed, according to Table 703.1, into the net residential area of the entire parcel or tract. The term “Net Residential Area” shall be as defined by this Ordinance in Article 2.
 - b. Multiply the result by 1.2, and round to the nearest whole number.
4. Within a cluster development or planned unit residential development, if multiple lots are proposed, an individual lot may contain less than the minimum net residential area per dwelling unit, or less than the minimum lot area, as long as the overall ~~net residential area per dwelling unit density, as calculated in subsection 3 above, is met~~ for the entire parcel or tract ~~is met~~.
5. At least fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road rights of way, streets, drives, or parking. No more than fifty percent (50%) of the common open space shall contain wetlands of any size. Residual Common open space shall be usable for recreational or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life, wildlife cover and the like. The use of any open space shall be further limited or controlled at the time of final approval where necessary to protect adjacent properties or uses. Residual Common open space shall be dedicated to the recreational amenity and environmental enhancement of the development and shall be recorded as such. There shall be no further subdivision of this land or buildings constructed upon it which would cause the net residential density to exceed the density permitted in that district. Such dedications shall include private covenants or arrangements to preserve the integrity of open spaces or their use for agricultural or conservation purposes.
6. The developer shall take into consideration the following points, and shall illustrate the treatment of spaces, paths, roads, service and parking areas and other features required in his proposal:
 - a. Orientation: buildings and other improvements shall respect scenic vistas and natural features;
 - b. Drainage: adequate provision shall be made for storm waters, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means;
 - c. Water Supply: the primary source of water shall be the public water system;

- d. Utilities: utilities shall be installed underground whenever possible. Transformer Boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public;
 - e. Recreation: facilities shall be provided consistent with the development proposal;
 - f. Buffering: planting, landscaping, disposition and form of building and other improvements, fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development;
 - g. Buildings: disposition of buildings shall recognize the need for natural light and ventilation.
7. For purposes of this section, the tract or parcel of land involved must be either in single ownership, or the subject of an application filed jointly by the owners of all the property included.
 8. ~~Common open space shall be dedicated before approval of the project.~~ There shall be no further subdivision of this land or buildings constructed upon it which would cause the ~~net residential~~ overall density to exceed the density maximum permitted in that district, as calculated in subsection 3 above.
 9. Within 30 days of recording the approved plan, title to the common open space shall be transferred either to:
 - a. The Town of Ogunquit;
 - b. A nonprofit organization whose primary purpose is the conservation of land; or
 - c. The neighborhood association established in accordance with Section 9.6.A.10 below.
 10. If the common open space is transferred to either the Town or to a nonprofit organization as set forth in subsections 9a. or 9b. above, A a conservation easement, prepared in accordance with 33 MRSA, §476, naming the town or a the nonprofit organization whose primary purpose is conservation of land as the holder, shall be recorded limiting development of the open space in accordance with the provisions of this Section and the terms of the approved plan. The common space(s) shall be shown on the development plan with appropriate notation to indicate that:
 - a. it shall not be used for future building lots; and
 - b. it shall be subject to a conservation easement; and
 - ~~bc. the applicant may choose to dedicate a part or all of the common open space may, at the option of the Town, be dedicated~~ for acceptance by the Town for operation as a municipal recreation facility.
 11. If any or all of the common open space is to be reserved in common ownership by the residents as set forth in subsection 9c. above, the formation and incorporation by the developer of a neighborhood association shall be required. Bylaws of the proposed neighborhood association shall specify maintenance responsibilities and shall be

submitted to the Planning Board prior to approval. The association shall be incorporated within 30 days of Planning Board approval.

12. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be reviewed by the Planning Board and must be included in the deed for each lot or unit.
13. This neighborhood association shall have the responsibility of maintaining the common open space(s), and other common facilities until accepted by the town.
14. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of common open space, neighborhood recreational facilities and Town assessments.
15. The developer or subdivider shall be responsible for the maintenance of the common open space and the other common facilities, until development sufficient to support the neighborhood association has taken place, ~~or, alternatively, the objectives of clustering have been met. Such determination shall be made~~ The transfer of responsibility shall occur only after review and approval by the Planning Board, upon request by the neighborhood association or the developer or subdivider.
16. ~~No dwelling unit of fewer than 650 square feet of habitable floor space shall be permitted.~~

9.7 Home Occupations

Where permitted by Table 702.1, home occupations shall be permitted only in compliance with all of the requirements of this Section:

- A. The occupation or profession shall be carried on wholly within the a principal or accessory building or within a building or other structure accessory thereto.
- B. Not more than ~~one~~ two employees who are not residents of the dwelling unit ~~person outside the family~~ shall be employed in the home occupation.
- C. There shall be no exterior display, no exterior sign (~~except as expressly permitted by Section 8.12~~) larger than 2 square feet, no exterior storage of materials and no other exterior indication of the home occupation, ~~or variation from the residential character of the principal building.~~ A home occupation may not alter the residential character of the dwelling or change the character of the lot from its principal use as a residence.
- D. No unreasonable nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking shall be generated. If additional parking spaces are provided, they shall be located to the rear or side of the principal structure but not within the required yard setbacks.
- E. A home occupation may involve the provision of professional, technical or business services, individual or small group private instruction, or the sale of products. However, the sale of products shall be limited to:
 1. those products which are crafted, assembled, or substantially altered on the premises, or
 2. ~~to~~ catalog items ordered off the premises by retail customers, or and to
 3. retail items which are accessory and incidental to a service which is provided on the premises.

- F. A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than 20 vehicle trips/day.
- G. Automobile storage, sales or repairs shall not be permitted to be established as home occupations.

9.8 Transient Accommodation Type 4 - ~~Hotels, Motels~~ Motel/Hotel (TA-4)

For traffic safety on and immediately adjoining each motel or hotel, 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 type 4 (TA-4) as defined by this ordinance:

- 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~~ one hundred and eighty (180) square feet of habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each individual guest accommodation ~~rental sleeping room~~ shall have at least one room with not be less than minimum interior dimensions of twelve by fifteen feet, and horizontal dimensions, exclusive of bath. Each ~~rental unit~~ shall also include additional 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.~~

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9.18 Small Wind Energy Systems [Note: Renumber subsequent sections.]

Small Wind Energy Systems, as defined in Article 2 of this Ordinance, shall be considered as a permitted accessory use in all districts, except Resource Protection, and shall be subject to the following requirements:

- A. No part of the small wind energy system, including any guy wire anchors, shall be located within any required structure setbacks.
- B. Tower Height. The base of the tower supporting the wind turbine shall be set back from any property line at a minimum distance equal to 110% of the height of the tower, or equal to the required structure setback, whichever is greater. When calculating the height of the tower, the wind turbine and blades shall not be included in the measurement of tower height. In no event shall the tower height of a small wind energy system exceed 80 feet.
- C. Noise. Small wind energy systems shall comply with the noise standards of section 8.9 of this Ordinance. These standards, however, may be temporarily exceeded during short term events, such as wind storms or power outages.

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9.20 Affordable Housing Provisions

- A. Mandatory Minimum Set-Aside of 10 Percent of Dwelling Units for Affordable Housing
All subdivisions, with ten or more lots or dwelling units created within a five year period, shall set aside at least ten percent (10%) of the lots or dwelling units in the project as affordable housing as defined by this Ordinance. Assurance of continued affordability shall be provided as set forth below.
- B. Density Bonus Calculation for Projects with at least 25 Percent Affordable Lots or Units
 - 1. The Planning Board may decrease the minimum lot area and/or minimum net residential area per dwelling unit in any district, as listed in Table 703.1, by up to 25%, if at least 25% of the lots or units in any residential subdivision are set aside for affordable housing, as defined by this Ordinance, and the project is designed as a clustered or planned unit development, pursuant to section 9.6 of this Ordinance.
 - 2. This affordable housing density bonus shall not apply to mobile home parks or to conventional subdivisions.
 - 3. Calculation of Bonus for Clustered or Planned Unit Developments with Affordable Housing. If a clustered or planned unit residential development is proposed with at least 25% of the lots or units set aside for affordable housing, as defined by this Ordinance, the maximum number of dwelling units shall be calculated as follows:
 - a. Multiply the minimum net residential area per dwelling unit listed in Table 703.1, by 0.75;
 - b. Divide the result above into the net residential area of the entire parcel or tract. The term "Net Residential Area" shall be as defined by this Ordinance in Article 2.

c. Multiply the result by 1.2, and round to the nearest whole number.

C. Assurance of Affordability

1. An application for a subdivision that includes affordable housing under this Section shall demonstrate to the satisfaction of the Planning Board that, either by means of the terms of a mortgage held by a governmental agency whose purposes include the provision of affordable housing, or by means of an affordable housing covenant to be conveyed to a qualified holder, along with a signed statement by the qualified holder that it will serve as the holder of the affordable housing covenant, the designated share of units will remain affordable, as defined by this Ordinance:

(a) for at least 30 years from the date of first occupancy, in the case of units to be occupied by renters, whether or not the units are subsequently sold for owner-occupancy; and

(b) for at least 10 years from the date of first occupancy, in the case of units to be occupied by the owners of the units.

The affordable housing covenant shall provide, further, that the units will be rented or sold during the designated period of time only to persons whose incomes meet the guideline for affordability, as defined in this Ordinance.

The terms "affordable housing covenant" and "qualified holder" shall have the meaning as set forth in Article 2, Definitions, of this Ordinance. Nothing in this paragraph shall preclude a qualified holder itself from being the applicant for the development of an affordable housing project, provided that it demonstrates to the satisfaction of the Planning Board that, by means of deed restrictions, financial agreements, or other appropriate legal and binding instruments, the designated share of units will remain affordable for the required period of time.

2. An application for a subdivision that includes affordable housing under this Section shall include a written statement on the subdivision plat indicating the share of dwelling units set aside as affordable, and, in the case of dwelling units to be sold to others individually, the actual units (or the lots that will accommodate such units) set aside as affordable.

3. An application for a subdivision comprised of rental units that includes a request for affordable housing under this Section shall include as part of the affordable housing covenant a written description of the mechanism by which the subdivider and his successors shall document annually to the qualified holder and to the Planning Board that the designated share of units to be rented have remained priced and, if occupied, actually rented at affordable levels and have been rented to households within the guidelines of affordability, as defined by this Ordinance. Failure to make such annual documentation shall constitute a violation of the subdivision approval.

4. Any dwelling unit that is set aside for affordability and is to be sold shall include a restriction in its deed that requires:

(a) any buyer within a 10-year period from the date of first occupancy to be within the guideline of affordability, as defined by this ordinance; and

(b) the price of the dwelling unit not to be increased by a percentage greater than the percentage increase in the median household income in nonmetropolitan York

County, as reported by the U.S. Department of Housing and Urban Development, between the date of purchase of the dwelling and the date of sale of the dwelling. A copy of the deed restriction shall be included as part of the subdivision application and the deed restriction shall reference the book and page number at which the subdivision plat is recorded in the York County Registry of Deeds.

D. Timing and Phasing. Affordable housing lots or dwelling units shall be constructed and completed at least concurrently with the remainder of the project. In developments where the applicant or its agents, or its successors or assigns shall construct at least fifty percent (50%) of the units, the approved affordable housing units shall be constructed in proportion to the market rate units. Proportionality shall be determined by dividing the total number of units in the development by the total number of affordable units. No building permit shall be issued for a market rate unit in excess of the proportion of affordable housing units for which a certificate of occupancy has been issued. For example, in a development of 20 units (total) with 2 affordable units, the proportional number of total units to affordable units is 10 total units to 1 affordable unit. If one building permit is issued for an affordable unit, then up to 9 building permits for market rate units can be issued. No additional market rate unit building permit can be issued until the first affordable unit is built and a certificate of occupancy for that unit is issued. An additional 9 market rate unit building permits can then be issued before the second affordable unit has been issued a certificate of occupancy. When calculating proportionality, any fractional sum shall be rounded down to the nearest whole building unit. For example, in a development of 20 units with 3 affordable units, the proportional number of units to affordable units would be 6 units to 1 affordable unit.

9.21 Timber Harvesting Outside of the Shoreland Overlay District

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

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

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

9.22 Archaeological Sites

The following provisions are intended to prevent the disturbance of sites with potential or identified archaeological significance until their importance is documented.

A. Identified Sites

No activity which disturbs the ground such as trenching, grading, or excavating shall be commenced and no municipal permit or approval shall be issued within any of the following archaeological resource potential areas until the Maine Historic Preservation Commission has been notified of the nature of the proposed activity in writing by the owner of the property, a copy of the notice is provided to the Code Enforcement Officer, and a reconnaissance level archaeological survey is conducted, unless the Maine Historic Preservation Commission notifies the owner in writing that such a survey will not be needed.

The survey requirement will be deemed satisfied if the Maine Historic Preservation Commission has not carried out a survey or responded to the owner in writing within six (6) months or if the owner of the property has a reconnaissance level survey completed by a competent professional and provides a copy of the survey to the Maine Historic Preservation Commission and the Code Enforcement Officer.

The archaeological resource potential areas as identified in the Comprehensive Plan are:

1. Four sites identified by the Maine Historic Preservation Commission along the banks of the Ogunquit River, designed as sites numbered 4.2, 4.4, 4.5, and 4.6.
2. Any area within 250 feet of the normal high water mark of the entire Ogunquit River.
3. Any area within 250 feet of the normal high water mark of the Atlantic Ocean.

B. Other Areas Not Yet Identified

If an artifact is uncovered during ground-disturbing activities in other areas not identified above as archaeological resource potential areas, the activities shall be halted and not recommenced until the Maine Historic Preservation Commission has been notified in writing of the find by the owner of the property, a copy of the notice provided to the

Code Enforcement Officer, and a written response received from the Commission. If no response is received within forty-five (45) days from the date notification was provided to the Commission, the Code Enforcement Officer shall authorize recommencement of the activity.

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ARTICLE 11 – DESIGN REVIEW

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11.5 Action of Applications for Design Certificate (Amended 4-01-06 ATM)

- A. The application for a Design Certificate shall be made in the Land Use Office 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 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.
 4. Estimates of the construction cost for proposed new buildings or proposed new building additions.
 5. For proposed new buildings or proposed new building additions with a value of construction estimated to be \$2,000,000 or greater, a visual impact assessment. An applicant's visual impact assessment should visualize the proposed activity and evaluate potential adverse impacts of that activity on existing scenic and aesthetic uses, and determine effective mitigation strategies, if appropriate. If required, a visual impact assessment must be prepared by a design professional trained in visual assessment procedures, in the following manner:
 - a. In all visual impact assessments, scenic resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described. The assessment must be completed following standard professional practices to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures. The radius of the impact area to be analyzed must be based on the relative size and scope of the proposed activity given the specific location. Areas of the scenic resource from which the activity will be visible, including representative and worst-case viewpoints, must be identified. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real or imagined, that the eye follows from a specific point to another point when viewing the landscape. For activities with more sensitive conditions, photo-simulations and computer-generated graphics may be required.

- b. A visual impact assessment must also include narratives to describe the significance of any potential impacts, the level of use and viewer expectations, measures taken to avoid and minimize visual impacts, and steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources.

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

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12.6. Single Family Dwellings (Amended 4-01-06 ATM)

Every application for a permit under the Ogunquit 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 exist, such as:
 - i) complex curves in the property lines, or
 - ii) the presence of wetlands, vernal pools, wildlife habitat areas, or other natural features requiring special setbacks or net residential area deductions under the Ogunquit Shoreland Zoning Ordinance; or
 - iii) 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 (Amended 4-01-06 ATM)

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

3. 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 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 (Amended 4-01-06 ATM)

- a) Lots Improved Before Effective Date – Every application for a permit under the Ogunquit Zoning Ordinance for the construction of a minor accessory structure, as defined in Section 12.10 below 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 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.
- c) In the case of a minor accessory structure, the location of the foundation or base of the structure need not be set or pinned by a professional land surveyor.

12.9. Major Accessory Structures (Amended 4-01-06 ATM)

Every application for a permit under the Ogunquit Zoning Ordinance for the construction of a major accessory structure, as defined in Section 12.10 below 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 exist, such as:
1. complex curves in the property lines, or
 2. the presence of wetlands, vernal pools, wildlife habitat areas, or other natural features requiring special setbacks or net residential area deductions under the Ogunquit Shoreland Zoning Ordinance; or
 3. 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)~~ two hundred and fifty (250) 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.

(l) Creativity, innovation and long-range goal setting are strongly encouraged!

II.4 The Town Manager shall submit a recommended 5 Year Capital Improvement Plan to the Board of Selectmen and Budget Review Committee on or about November 1 of every year. Plan details shall include all requests and an annual estimate of all tax dollars and non-tax dollars as revenue sources.

II.5 The Board of Selectmen and Budget Review Committee may jointly meet with the Town Manager, Department Heads and other persons who have submitted capital budget requests for the purpose of obtaining whatever additional information is deemed necessary in order to develop the final 5 Year Capital Improvement Plan. The Board of Selectmen shall adopt such a plan prior to December 31 of every year taking into account the various requests, the recommendations of the Town Manager and Budget Review Committee, public input and the ability of taxpayers to fund such items. In addition, it shall be expressly understood that the Board of Selectmen may amend the 5 Year Capital Improvement Plan at anytime leading up to the printing deadline of the Annual Town Report. A copy of the plan shall be included in the Town Report.

II.6 The Annual Town Meeting Warrant shall include an article or articles requesting appropriations for the funding of capital budget items for the ensuing fiscal year as taken from the 5 Year Capital Improvement Plan as may be determined solely by the Board of Selectmen (unless otherwise submitted by petition), to include the recommendation(s) of the Budget Review Committee. Nothing herein is intended to prohibit the Board of Selectmen or anyone else from seeking to amend the warrant article(s) on the floor of the Town Meeting as otherwise allowed by law.

II.7 Nothing herein is intended to prohibit the Board of Selectmen or anyone else from submitting supplemental capital budget requests for consideration at a Special Town Meeting as otherwise allowed by law.

II.8 It shall be expressly understood that an appropriation of funds for capital purposes by Town Meeting shall not exempt any Town Official from compliance with any applicable federal or state laws or any purchasing policies that are otherwise applicable as may be adopted by the Board of Selectmen, nor any other constraints that may be put in place by the Town Manager.

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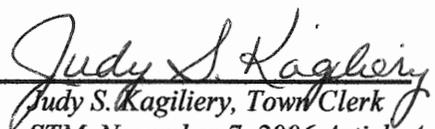
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ATTEST:
A TRUE COPY



Judy S. Kagliery, Town Clerk
STM, November 7, 2006 Article 4,
Pages 1 -27

Dated:

November 8, 2006