

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

The Special Town Meeting was called to order by Town Clerk Christine Murphy with the Reading of the Call, Return and First Article. The polls were declared open at 8:00AM

Cynthia Douglass, Marjorie Esau, Blanche Feinberg, Frederica Hart, Leila Kupper and Tracey Ann Leach served as Ballot Clerks/Counters. A total of **784** people voted at the polls.

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.]

Cheryl L. Emery was elected as Moderator.

Article 2: Shall an Ordinance entitled “**An Act to Amend Title II of the Ogunquit Municipal Code; Health, Safety & Welfare as it Relates to Chapter 11 – Pesticide/Herbicide Usage**” be enacted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

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

1101 Purpose

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

1102 Provisions

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

(a) *Permitted:*

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

1102.2 All control products and soil amendments, including fertilizer and compost, used under the terms of this article shall be in keeping with, but not limited to, products that can be used on Maine Organic Farmers and Gardeners Association Certified Farms, and/or products permitted by the Organic Materials Review Institute or the USDA National Organic Program.

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

(b) Prohibited:

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

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

1103 Definitions

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

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

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

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

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

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

1104

Exemptions

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

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

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

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

Restricted pesticides may also be applied for the following purposes:

1. **Noxious Growths** – The control of plants, including and not limited to, poison ivy (*Rhus radicans* or *Toxicodendron radicans*), poison oak (*Rhus toxicodendron* or *Toxicodendron quercifolium*), and poison sumac (*Rhus vernix* or *Toxicodendron vernix*).
2. **Invasive Species** – The control of invasive species that may be detrimental to the environment.
3. **Mandatory Applications**- Use of pesticides mandated by state or federal law.
4. **Health and Safety** – The control of insects that are venomous or disease carrying.

1105 Emergency waiver

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

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

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

1106. Enforcement and permits

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

1107. Conflict and invalidity

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

1108. Authority

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

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

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

Ordinance Change Effective January 1, 2015

YES 444 NO 297

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

Chapter 3 Sewer

304 ~~Restoration of Excavated Areas~~

~~Any person, individual, company or corporation or any agent, servant or employee of any such person, company or corporation who intends to cut open a public sidewalk or roadway within the Town of Ogunquit in order to connect into a sewer or other utility or for any other reason must first obtain a permit from the Town Manager. It will be the responsibility of the permit holder or his agent to restore the sidewalk or roadway to the same condition as it was prior to the excavation. In order to ensure that such restoration is~~

~~ompleted, the Town Manager may require a bond or other guarantee as a condition to the granting of the permit which bond or other guarantee will be used by the Town to complete the restoration if it is not completed by the permit holder or by his agent. The bond or other guarantee (or any remaining portion of it) shall be returned to the permit holder or to his agent when the restoration has been completed to the satisfaction of the Town Manager and the Road Commissioner. The amount of the bond or other guarantee shall be determined by the Town Manager but it will be only large enough to reasonably ensure the ability of the Town to complete the restoration should it become necessary for the Town to do so. (12/17/85 STM)~~

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

YES 477 NO 185

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

Chapter 3 Amusement Ordinance

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

YES 558 NO 161

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

Chapter 9 Business Registration

901 Title, Purpose and Definition

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

902 **Registration Required**

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

905 **Business Registration Inspections**

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

905.12 Purpose

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

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

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

~~905.3~~ Time Compliance

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

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

YES 556 NO 157

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

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

YES 495 NO 158

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

\$50,000 488 \$0 272

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

YES 501 NO 184

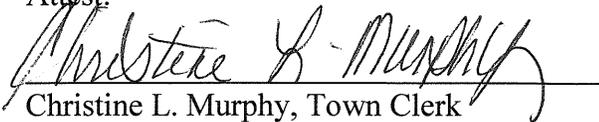
Article 9: Shall the Town vote to expend **Two Hundred Thousand (\$200,000)** from the Land Conservation Fund and **One Hundred Thousand (\$100,000)** from Undesignated Fund Balance and to delegate the Select Board, as Trustees of the Reserve Funds, to complete the purchase of 39.7 Acres (Ogunquit Tax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

YES 544 NO 204

**State of Maine
County of York, ss**

A True Copy,

Attest:


Christine L. Murphy, Town Clerk

Town of Ogunquit, Maine

Dated: 11/18/14