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TOWN OF OGUNQUIT
Board of Assessment Review
Regulations, Procedures, Standards
2017

Board Procedures for Hearings and Meetings.

1. The Chair will call the meeting to order and will supervise meetings and Hearings. Meetings are public proceedings and are electronically recorded. Three (3) members of the Board shall constitute a quorum for purposes of conducting Hearings and voting.
2. The Chair asks for a roll call of members.
3. The Chair requests Board complete any old business, approval of minutes, etc.
4. The Chair asks the Board members to introduce themselves, the parties to introduce themselves, and states the reason for the Hearing.
5. The Chair reviews standards, procedures, and summarizes the legal standards under which the Board operates (see below).
6. If the Applicant is to be represented by legal counsel in proceedings before the Board, the Board may also seek legal representation.
7. The Chair explains to the parties the order of presentation on the Hearing.
 - a. The Assessor will explain the assessment, valuation methods he/she relied on, background, etc. and then may call his/her, witnesses. The Applicant or Applicant's representative may question and cross-examine witnesses. The Board members may question the Assessor or the Assessor's witnesses as needed. The Applicant or Applicant's representative will be allowed to cross-examine the Assessor.
 - b. The Applicant or Applicant's representative presents his/her claim and calls witnesses, if needed. The Assessor may question and cross-examine the Applicant and the Applicant's witnesses. The Board members may question the Applicant, Applicant's representative or witnesses, as needed.
 - c. The Board, if it deems it helpful, may schedule a formal inspection of the property. Such inspections shall be completed in accordance with the Board's standards.
 - d. The Assessor will then summarize his/her position.
 - e. The Applicant or his/her representative will then summarize the Applicant's position.
 - f. The Board members may then pursue any follow-up questions to the Assessor, the Applicant, or any witnesses.
8. After the Assessor and Applicant have finished their presentations, the Chair will close the public/evidence gathering portion of the Hearing and the Board shall commence deliberations.

Deliberations shall be conducted in public and no further testimony or evidence is to be offered or admitted unless the public/evidence gathering portion of the Hearing is reopened. The Board's charge in the deliberative process is to review the evidence under the applicable legal standards:

Standards of Review and Burdens of Proof for Property Tax Appeals.

1. The Maine Constitution requires that all property (unless tax-exempt) is to be assessed at its "just value" and that taxpayers are to equally bear their proportionate share of the tax burden; i.e. similar properties should have similar assessments. Maine Courts have determined that "just value" is the same as market value. Market value is generally defined as the price a willing buyer should reasonably pay to a willing seller in an open-market transaction, free from unusual conditions or circumstances (bankruptcy, foreclosure, sales to a relative, etc.) and where the property has had reasonable exposure to the marketplace and prospective buyers.

2. Assessors have considerable discretion and leeway in the choice of methods or combination of methods they choose to rely on to arrive at an estimate of a property's just value. In the valuation process however the Assessor must at least consider the appropriate professionally accepted assessment and appraisal methodologies to arrive at his/her estimate of a property's fair market value. The three generally accepted methodologies are: the cost approach, the comparative sales or market approach, and the income approach. The income approach is appropriate for valuing business and commercial, i.e. where the property is used as part of the related business's production of an income stream. As a result the income approach is not considered an appropriate valuation method to use for valuation of individual residential properties; such properties are generally not held for use as income producing properties. **Assessments and the Assessor's judgment are presumed valid. To overcome these presumptions a taxpayer must prove the assessment is "manifestly wrong". To prove manifest error the taxpayer has the burden of proof to demonstrate one, or more, of the following:**
 - a. **That the judgment of the Assessor was so irrational or so unreasonable in light of the circumstances that the property was substantially overvalued and an injustice resulted; or**

 - b. **That there was unjust discrimination; or**

 - c. **That the assessment was fraudulent, dishonest, or illegal.**

The first statement concerns disputes where the taxpayer and the Assessor have differing opinions related to the fair market value of a property.

The second statement concerns disputes about the assessment method or how the Assessor applies the method. The concern here is that the Maine Constitution requires equal apportionment of the tax burden, i.e. similar properties should have similar assessments.

The third statement addresses improprieties in the assessing process. Illegality in this context means that there is a legal defect in the authority of the Assessor or in the assessing or taxation process. Differences of opinion related to a property's valuation do not make an assessment "illegal".

3. **To meet the legal threshold of what is required to prove “manifest error” in a property appeal (the taxpayer’s burden or proof), taxpayers must:**
 - a. **Present evidence that the Board accepts as credible that impeaches the validity of the assessment.**
 - and***
 - b. **Present evidence and proof of the actual fair market value of the applicant’s property that the Board also deems credible.**

Only if the taxpayer satisfies both of these burdens is the Board authorized to engage in an independent determination of the fair market value of the property for purpose of granting an abatement.

4. **Maine Law recognizes that mass valuation is not an exact science and that tax assessments and valuations may be valid though not entirely precise. By statute (36 M.R.S.A, Section 848-A) assessors are therefore afforded a “margin of error” in their valuations. Thus, assessments are valid if they are “accurate within reasonable limits of practicality”. The margin of error allowed assessors is 10% of the Town’s assessment ratio or, if contested, the ratio that is otherwise proven.**

An example of the analysis to review the application of Section 848-A follows:

A property has been assessed for \$150,000, and the Town’s assessment ratio for the tax year in question is determined to be 70%. Factoring the 70% ratio to the \$150,000 assessment to arrive at the 100% or equalized valuation results in a valuation of \$214, 285 for the property.

In the appeal process, the taxpayer convinces the Board that the fair market value for her property as of April 1 for the tax year in question is \$200,000, or approximately \$14,000 less than the 100% or equalized assessment.

The range of deviation afforded to the Assessor under Section 848-A is a 10% deviation from the ratio of 70%. As applied, this would allow as defensible assessments any assessments falling within the range from 63% to 77% of the property’s fair market value. The range of acceptable assessments for the taxpayer’s property is from \$126,000 to \$154,000 (equalized to \$180,000 to \$220,000).

In this appeal, even though the taxpayer has proven a value indicating that she has been overassessed, under Section 848-A she would not be entitled to an abatement because the assessed value is within the range of deviation allowed by the statute.



**TOWN OF OGUNQUIT
CODE OF ETHICS**

For Members of the Select Board

PREAMBLE

To ensure that the Citizens and businesses of Ogunquit have fair, impartial, ethical, and accountable local government that is responsive to the needs of the people and each other and that has the Citizens' full confidence in the integrity of the Town's government, the Select Board has adopted this Code of Ethics. In keeping with a commitment to excellence, the effective functioning of democratic Town of Ogunquit government requires that:

- Elected public officials comply with both the letter and spirit of laws and policies affecting the Town Government;
- Elected public officials be independent, impartial, and fair in judgment and action;
- Elected public officials work for the public good and not personal gain;
- Public deliberations and processes be conducted openly, unless legally confidential and;
- All discussions and debate be conducted in an atmosphere of respect and civility.

This Code of Ethics applies to members of the Select Board (hereinafter referred to as "Members").

1. Actions in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern; Members will work for the common good of the Citizens of Ogunquit and not for any private interest or personal gain. Members shall

**Town of Ogunquit
Code of Ethics**

provide fair and equal treatment of all persons, claims, and transactions that come before the Select Board.

2. Compliance with the Law

Members shall comply with the Laws of the United States, the State of Maine, and the Town of Ogunquit in the performance of their public duties. These Laws include, but are not limited to, the United States and Maine State constitutions and statutes; the Town of Ogunquit's Bylaws, Ordinances and Policies; Ogunquit Town Charter and laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government, all of which are hereby incorporated herein by reference and made applicable.

3. Conduct of Members

The professional and personal conduct of Members must be above reproach and must avoid any appearance of impropriety. Members shall refrain from abusive conduct, from making personal charges or disparaging remarks, or from verbal attacks upon the character or motives of Members of Town boards, committees, or commissions, of Town Staff or the Citizens.

4. Respect for the Process

Members shall perform their duties in accordance with the processes and rules of order established by the Select Board Each member shall be committed to respect the democratic process that encourages meaningful involvement of the public and that governs the deliberation of public policy issues in the Town of Ogunquit. Members must abide by any lawful decision made by a majority of the Select Board. Members should strive to thoughtfully consider the opinions and recommendations of other Members, Citizens, and Town staff appearing before the Select Board and shall remain respectful in all interactions with these individuals. Members shall have no legal authority outside of the Select Board unless this authority has been specifically delegated to the Member through an adopted policy or majority vote of the board.

5. Conduct of Public Meetings

Members shall prepare themselves for open discussion of public issues, shall listen courteously and attentively to all public discussions before the

body, and shall focus on the business at hand. Members shall refrain from unnecessarily interrupting other speakers, from making personal comments not germane to the business of the body, and from otherwise interfering with the orderly conduct of meetings. The Chair shall use his or her best efforts to ensure that the public who attend such meetings adhere to the same standards of conduct in this Code of Ethics as outlined for Members.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand. No member shall make promises in advance as to how they will vote on a matter, which shall properly come before the board as a whole.

7. Communication

Outside of a duly noticed formal meeting of the Board, Members are encouraged to publicly share information that is relevant to any non-confidential matter under consideration by the board. However, at no time shall such information sharing lead to promises being made as to how that Member intends to vote on that issue until it has been discussed and deliberated upon at a duly noticed meeting. Non-confidential documents including reports, studies, etc. from committees, boards, commissions, individuals, etc, presented to the Board are in the public domain and as such shall be made available to the public upon request.

Although it is proper to use electronic means of communication to share background information on a particular issue, at no time shall such sharing lead to the deliberation of any business or any decision-making prior to open discussion at a duly noticed public meeting.

Concerns involving the conduct or behavior of Town employees shall be communicated to the Town Manager and never directly with an employee. Criticism of a town employee shall never be done publicly.

8. Conflict of Interest

Members shall avoid any situation that may give rise to an actual or perceived conflict of interest. Where circumstances give rise to an actual or perceived conflict of interest, the Member shall not participate in the

deliberation of that matter unless the Member has appropriately disclosed the situation and there has been a determination by the Select Board that the Member's participation is appropriate. Additionally, any Member who believes that any fellow Member has an actual or appearance of a conflict with any agenda item before their collective body, shall disclose that interest.

Once disclosure has been made as provided above or the issue of conflict has been raised relative to a Member, the Select Board shall review the facts and shall vote on whether or not such Member has a Financial Interest or a Special Interest with respect to the agenda item concerned. All conflict-of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each Member shall be entitled to vote on all actual or perceived conflict-of-interest questions except those questions pertaining to that Member's alleged conflict of interest.

Once any Member is determined to have a conflict of interest with respect to any agenda item, the Member shall move to the area of the room occupied by the general public. The Member shall not return to their regular seat as a member of the body until deliberation and action on the item has been completed.

9. Gifts and Favors

Members shall not take advantage of services or opportunities for personal gain, by virtue of their public offices that are not available to the public in general. Members shall refrain from accepting or presenting gifts, favors, or promises of future benefits that might compromise independence of judgment or action, or that might give the appearance of such compromise.

10. Confidential Information

No Member shall, without proper legal authorization, discuss or disclose confidential information concerning the property, personnel, government or affairs of the Town, nor shall any member use such information to advance the private or financial interests of himself or herself or members of his or her immediate family. Members shall not discuss the privileged knowledge, executive sessions, or confidential business of the board, committee, or commission with unauthorized parties, either orally or in writing. For purposes of this subsection, "confidential information" shall

**Town of Ogunquit
Code of Ethics**

mean any information, oral or written, which comes to the attention of or is available to such Member due to his or her position with the Town and is not a matter of public record. Information received and discussed during any executive session shall be considered within the constraints of this section and shall not be disclosed to any party unless permitted by affirmative vote of a majority of such board.

11. Use of Public Resources

Members shall not use public resources not available to the general public for private gain or of personal purposes such as Town staff time, equipment, supplies or facilities.

12. Representation of Third Party Interests

As stewards of the public interest, Members of the Select Board shall not represent the interests of third parties before any Town board, committee, or commission, nor shall they appear before any of these bodies on behalf of the interests of third parties on matters related to the areas of service of these bodies. Nothing herein shall be construed to prohibit any Member from representing his or her own personal interest, or the interest of immediate family, by appearing before any Board on any item.

13. Advocacy

Members shall represent the official policies and positions of the Select Board when designated as delegates for this purpose to the best of their ability. When presenting personal opinions and positions Members shall explicitly state that these opinions and positions do not represent their body or the Town of Ogunquit, and they shall not allow any inference that they do.

14. Policy Role of Members

Members shall respect and adhere to the Town Manager Structure of Town government. The Select Board shall determine the policies of the Town, with advice, information, and analysis provided by Town staff, by the Town's boards, committees, and commissions, and by the Citizens.

Members shall therefore not interfere with the administrative or operational functions of the Town or with the professional duties of Town

staff, nor shall they impair the ability of Town staff to implement the policy decisions of the Select Board.

15. Independence of Boards, Committees, and Commissions

Members shall refrain from using their positions to unduly influence the deliberations or outcomes of any board, committee, or commission proceeding.

16. Positive Workplace Environment

Members shall support a positive and constructive workplace environment for Town employees and for citizens and businesses dealing with the Town. Members shall recognize their special role when dealing with Town employees and shall in no way create the perception of inappropriate direction of staff.

17. Implementation

This expression of the standards of conduct expected of Members of the Select Board is intended to be self-enforcing. It is most effective when Members are thoroughly familiar with it and embrace its provisions.

For this reason, this Code of Ethics shall be included in the orientation of newly elected Select Board members. Members entering office shall sign a statement acknowledging they have received, read and understand the Town of Ogunquit's Code of Ethics. This Code of Ethics shall be reviewed regularly by the Select Board, which shall consider updates to the Code of Ethics as necessary.

18. Compliance and Enforcement

The Town of Ogunquit Code of Ethics expresses standards of conduct expected of Members of the Town's Select Board. Members themselves have the primary responsibility for ensuring that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The Chair and Vice-Chair have the responsibility for intervening when actions of Members appear to be in violation of this Code of Ethics. In

Town of Ogunquit
Code of Ethics

instances where the Chair or Vice-Chair appears to be in violation of the Code of Ethics any remaining Select Board member may intervene.

In addition to any other penalties or remedies as may be provided by law, the Select Board may intervene and counsel Members whose conduct does not comply with the Town's ethical standards.

When a member violation is apparent as prescribed in this Code of Ethics the actions taken may range from a letter of reprimand by the Board, to a censure, to a request for resignation from the elected position. All penalties shall require a majority vote of the Select Board before being imposed upon the member determined to be in violation.

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a Select Board decision but may be used as a basis for the Board to reconsider its decision.


19. Separability

If any section, subsection, sentence clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity of the remaining portions of this Code of Ethics.

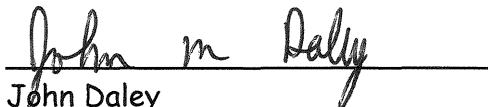
This policy, adopted by the Select Board of the Town of Ogunquit on this 19th day of June, 2018



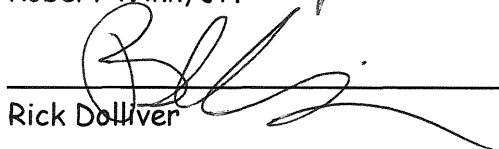
Charles Waite, III



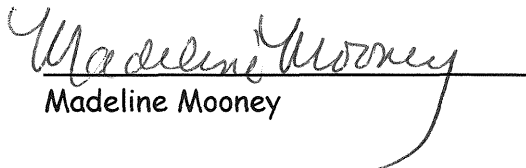
Robert Winn, Jr.



John Daley



Rick Dolliver



Madeline Mooney

This code of conduct was developed based on similar codes used by other elected boards and committees in other communities.



TOWN OF OGUNQUIT CODE OF ETHICS FOR BOARDS AND COMMITTEES

This Code of Ethics applies to members of all elected and appointed Town boards, committees, and commissions (hereinafter referred to as "Members") other than the Select Board, which has its own separate Code of Ethics.

PREAMBLE

To ensure that the citizens and businesses of Ogunquit have fair, impartial, ethical, and accountable local government that is responsive to the needs of the people and each other and that has the citizens' full confidence in the integrity of the Town's government, the Select Board has adopted this Code of Ethics for its local boards, committees and commissions (hereinafter collectively "board" or "boards"). In keeping with a commitment to excellence, the effective functioning of democratic Town of Ogunquit government requires that:

- Members comply with both the letter and spirit of laws and policies affecting Town government;
- Members be independent, impartial, and fair in judgment and action;
- Members work for the public good and not personal gain;
- Public deliberations and processes be conducted openly, unless legally confidential; and
- All discussions and debate be conducted in an atmosphere of respect and civility.

1. Actions in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern. Members will work for the common good of the citizens of Ogunquit and not for any private interest or personal gain. Members shall provide fair and equal treatment of all persons, claims, and transactions that come before their respective board.

2. Compliance with the Law

Members shall comply with the Laws of the United States, the State of Maine, and the Town of Ogunquit in the performance of their public duties. These Laws include, but are not limited to, the United States and Maine State constitutions and statutes; and the Town of Ogunquit's Charter, Bylaws, Ordinances and Policies.

3. Conduct of Members

The professional and personal conduct of Members must be above reproach and must avoid any appearance of impropriety. Members shall refrain from abusive conduct, from making personal charges or disparaging remarks, or from verbal attacks upon the character or motives of Members of Town boards; or of Town Staff; or of citizens. Members shall not use their official positions to secure unwarranted privileges or advantages for themselves or others. This conduct applies to all town affiliated matters in both on and offline media.

4. Respect for the Process

Members shall perform their duties in accordance with the processes and rules of order established by the respective board. Each member shall be committed to respect the democratic process that encourages meaningful involvement of the public and that governs the deliberation of public business in the Town of Ogunquit. Members should strive to thoughtfully consider the opinions and recommendations of other Members, citizens, and Town staff appearing before their respective board and shall remain respectful in all interactions with these individuals.

5. Conduct of Public Meetings

Members shall prepare themselves for open discussion of public issues, shall listen courteously and attentively to all public discussions before the body, and shall focus on the business at hand. Members shall refrain from unnecessarily interrupting other speakers, from making personal comments not germane to the business of the body, and from otherwise interfering with the orderly conduct of meetings. The Chair shall use his or her best efforts to ensure that the public who attend such meetings

adhere to these same standards of conduct for the conduct of public meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand. No member shall make promises in advance as to how they will vote on a matter, which shall properly come before the board as a whole.

7. Communication

A. Communications Outside of Board Meetings:

- (i) To preserve public confidence in the fairness of board deliberations and decisions, the board should ensure that the public and interested parties have the opportunity to know, and respond to, all information the board considers in making its decisions. The board should also ensure that each Member has the opportunity to know and consider the information available to other Members.
- (ii) When considering items or issues in the public process, the board deals with parties who are directly affected by the board's decision (such as the applicant and neighbors of a proposed project). Each of these interested parties need the assurance that other interested parties will not have unfair advantage in presenting their version of the relevant facts or concerns to the board. In such cases, therefore, Members shall avoid communicating with applicants or other interested parties about the proposal outside of board meetings at which the proposal is being considered. Communications with applicants or other interested parties about the proposal outside of board meetings at which the proposal is being considered or information provided to a Member outside of an official board meeting ("*ex parte* communications") can occur in person, via telephone, fax, e-mail, or other method of communication, and should be avoided.

- (iii) A Member who is approached with an *ex parte* communication should actively discourage the person from doing so and encourage the person to submit the information to the board in writing or through oral testimony at a board meeting. The Member should explain that, by providing information outside the public meeting, the person may be causing constitutional due process problems with the board's process and that the board may not legally be able to consider the information the person is trying to present.
- (iv) If a Member receives unsolicited communications about an item or issue, outside of a board meeting, the Member has the duty to reveal the communications during the board's consideration of the proposal. This ensures that the communicated information will become part of the record and that other Members and interested parties will have an opportunity to consider and refute the information.
- (v) Comprehensive Plan, Zoning Ordinance, or Subdivision Regulation amendments are legislative determinations to be made by the Town Meeting, and when considering such matters the Planning Board's role is advisory. When the Planning Board considers such issues it often finds access to a broad range of public input helpful in making a decision on the issue. In such cases, therefore, Planning Board members may communicate with interested persons outside of the meetings at which the issue is being considered, but each Planning Board member has the duty to reveal the general nature and scope of relevant information and opinions gleaned from such communications during the Planning Board's consideration of the issue. To ensure that each Planning Board member's decision is based on the full range of information and public opinion available to the Planning Board, Members should avoid committing themselves to a position on the issue during any outside communications.
- (vi) Under no circumstances should Members meet with someone representing just one side of an item or issue outside a public meeting setting. Further, Members should not discuss a pending application with a Code Enforcement Officer, Town

Planner, Town Engineer, or other Town Staff outside a public board meeting in order to avoid due process problems.

- (vii) Town Staff shall ensure that any communications between Members and themselves that constitute an *ex parte* communication are revealed to the entire board at the next available public meeting for which that item is discussed.

B. Use of E-mail to Communicate:

- (i) Members shall avoid the use of e-mail for deliberation, discussion, or for voting on matters properly confined to public meetings; e-mail should be used for non-substantive matters such as scheduling meetings, dissemination of information and reports, and developing agendas for future meetings.
- (ii) In the event this provision on use of e-mail is not followed, or if there is a question whether substantive matters properly confined to public meetings were discussed or deliberated on via e-mail by three or more members of any Town board, those e-mails in question should be printed and disclosed to the public at the next public meeting of the board.
- (iii) Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

C. Communications about Town Staff

All Members' concerns about the conduct or behavior of Town employees shall be communicated to the Town Manager in a respectful and discrete manner and never directly with an employee. Criticism of a town employee shall never be done publicly.

8. Conflict of Interest

Members shall avoid any situation that may give rise to an actual or perceived conflict of interest. Where circumstances give rise to an actual or perceived conflict of interest, the Member shall not participate in the deliberation of that matter unless the Member has appropriately disclosed the situation and there has been a determination by the remaining Members of the board that the Member's participation is appropriate. Additionally, any Member who believes that any fellow Member has an actual or appearance of a conflict with any agenda item before their collective body shall disclose that alleged interest.

Once disclosure has been made as provided above or if the issue of conflict has been raised relative to a Member, the respective board shall review the facts and shall vote on whether or not such Member has a Financial Interest* or a Special Interest** with respect to the agenda item concerned. All conflict-of-interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each Member shall be entitled to vote on all actual or perceived conflict-of-interest questions except those questions pertaining to that Member's alleged conflict of interest.

If excused from participation in a matter, a Member may not sit with the board during its consideration of the matter, and may not vote on the matter, but shall take a seat in the audience and may participate as a member of the public. The Member shall not return to his or her regular seat as a member of the body until deliberation and action on the item has been completed.

* **Financial Interest**- financial interest shall mean any direct or indirect interest having monetary or pecuniary value, including but not limited to ownership of the business or its shares of stock. (See 30-A M.R.S.A. § 2605, as may be amended.)

** **Special Interest**- A direct or indirect personal involvement that might reasonably be expected to impair his/her objectivity or independence of judgment, including a situation where, by reason of the Member's interest, the Member is placed in a situation of temptation to serve his/her own personal interests to the prejudice of the interests of the Town.

9. Gifts and Favors

Members shall not take advantage of services or opportunities for personal gain by virtue of their service on a Town board that is not available to the public in general. Members shall refrain from accepting or presenting gifts, favors, or promises of future benefits that might compromise independence of judgment or action, or that might give the appearance of such compromise.

10. Confidential Information

No Member shall discuss or disclose confidential information concerning the property, personnel, government or affairs of the Town, nor shall any member use such information to advance the private or financial interests of himself or herself or members of his or her family. Members shall not discuss the privileged knowledge, executive sessions, or confidential business of the board with any third parties, either orally or in writing. For purposes of this subsection, "confidential information" shall mean any information, oral or written, which comes to the attention of or is available to such Member due to his or her position with the Town and is not otherwise publicly available. Information received and discussed during any executive session shall be considered within the scope of this section and shall not be disclosed to any party unless permitted by affirmative vote of a majority of such board.

11. Use of Public Resources

Members shall not use public resources not available to the general public for private gain or for personal purposes such as Town staff time, equipment, supplies or facilities.

12. Representation of Third Party Interests

As stewards of the public interest, Members shall not represent the interests of third parties before any Town board, committee, or commission, nor shall they appear before any of these bodies on behalf of the interests of third parties on matters related to the areas of service of these bodies. Nothing herein shall be construed to prohibit any Member from representing his or her own personal interest, or the interest of immediate family, by appearing before any board on any item.

13. Advocacy

Members shall represent the official policies and positions of the Town of Ogunquit when designated as delegates for this purpose to the best of their ability. When presenting personal opinions and positions, Members shall explicitly state that these opinions and positions do not represent those of their board or the Town of Ogunquit, and they shall not allow any inference that they do.

14. Policy Role of Select Board

Members shall respect and adhere to the Town Manager form of Town government. The Select Board shall determine the policies of the Town, with advice, information, and analysis provided by Town staff, by the Town's boards, committees, and commissions, and by citizens.

Members shall therefore not interfere with the administrative, executive or operational functions of the Town or with the professional duties of Town staff, nor shall they impair the ability of Town staff to implement the policy decisions of the Select Board.

15. Independence of Boards, Committees, and Commissions

Members shall refrain from using their positions to unduly influence the deliberations or outcomes of any board, committee, or commission proceeding. Members should also refrain from bringing matters currently under discussion and review by their respective board up for discussion before any other board, committee, or commission unless expressly authorized to do so by affirmative vote of a majority of the Member's board.

16. Positive Workplace Environment

Members shall support a positive and constructive workplace environment for Town employees and for citizens and businesses dealing with the Town. Members shall recognize their special role when dealing with Town employees and shall in no way create the perception of inappropriate direction of staff.

17. Implementation

This expression of the standards of conduct expected of Members is intended to be self-enforcing. It is most effective when Members are thoroughly familiar with it and embrace its provisions.

For this reason, this Code of Ethics shall be included in the orientation of newly elected and appointed board members. Members shall sign a statement acknowledging they have received read and understand this Code of Ethics. This Code of Ethics shall be reviewed regularly by the Select Board, which shall consider updates to the Code of Ethics as necessary.

18. Compliance and Enforcement

The Town of Ogunquit Code of Ethics expresses standards of conduct expected of Members of the Town's boards. Members themselves have the primary responsibility for ensuring that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

Initially, the Chair and Vice-Chair of the board have the responsibility for intervening when actions of Members appear to be in violation of this Code of Ethics.

When a Member violates the Code of Ethics, the actions taken may range from a letter of reprimand by the respective board, to a censure by the respective board, to a request for resignation from the position. All such action shall require a majority vote of the respective board before being imposed upon the Member determined to be in violation.

If that board intervention fails or is ineffective, the Select Board may intervene and counsel Members whose conduct does not comply with the Town's ethical standards or take such other action as it deems appropriate under the circumstances.

19. Separability

If any section, subsection, sentence clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or

unconstitutionality shall not affect the validity of the remaining portions of this Code of Ethics.

I have read and accept the above Code of Ethics as witnessed by my signature below:

Signature

Date

This code of conduct was developed based on similar codes used by other elected boards and committees in other communities.

Approved by the Select Board at their meeting on May 15, 2018.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF OGUNQUIT, MAINE

ENACTED:

Date

CERTIFIED BY:

Name

Title

Affix Seal:

FLOODPLAIN MANAGEMENT **ORDINANCE**

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ARTICLE 1 – PURPOSE AND ESTABLISHMENT

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

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

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

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

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

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

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

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

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

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

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones A1-30, AO, and V1-30 from data contained in the “Flood Insurance Study - Town of Ogunquit, Maine,” as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from Federal, State, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
 - 2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,

- (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
 - J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
 - K. The following certifications as required in Article VI by a registered professional engineer or architect:
 1. a Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VI-30, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 4. a certified statement that bridges will meet the standards of Article VI.M.;
 5. a certified statement that containment walls will meet the standards of Article VI.N.;
 - L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
 - M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

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

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood data contained in the "Flood Insurance Study . Town of Ogunquit, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H. 1 .b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b, the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G. 1 .a, b, and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

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

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

ARTICLE VI - DEVELOPMENT STANDARDS

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

- A. **All Development** - All development shall:
 - 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 2. use construction materials that are resistant to flood damage;
 - 3. use construction methods and practices that will minimize flood damage; and,
 - 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

- F. **Residential** - New construction or substantial improvement of any residential structure located within:
- I. Zones A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures:
 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified.
 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article TII.H.1.b; Article V.B.; or Article IX.D.
 5. Zone V 1-30 shall meet the requirements of Article VI.P.

- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone A 1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article ~.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; or,
 - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI.G. 1.
4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
5. Zone VI-30 shall meet the requirements of Article VI.P.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

Zone A1-30 shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,

- (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone AO shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) of the manufactured home elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. meet the anchoring requirements of Article VI.H.1.c.
 4. Zone A shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article VI.H.1.b.; Article V.B; or Article IX.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.
 5. Zones V 1-30 shall meet the requirements of Article VI.P.

I. **Recreational Vehicles** - Recreational Vehicles located within:

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

2. Zone VI-30 shall meet the requirements of either Article VI.I.1 .a. or b., or Article VI.P.

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

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

K. **Floodways** -

1. In Zone A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Boundary and Floodway Map", unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1 -30 and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

- b. is consistent with the technical criteria contained in Chapter 5 entitled “Hydraulic Analyses,” *Flood Insurance Study Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
 - 3. In Zones AL-30 and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. Enclosed Areas Below the Lowest Floor New construction or substantial improvement of any structure in Zones A 1-30, AO, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles; “stilts,” or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
 - 1. Enclosed areas are not “basements” as defined in Article XIV;
 - 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 - 3. The enclosed area shall not be used for human habitation; and,
 - 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones A1-30, AO, A, and V 1-30 shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A1-30, A, and V1-30 shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
2. Zone AG shall have adequate drainage paths around containment walls on slopes, to guide floodwater away from the proposed walls.
3. Zone AO shall have the top of the containment wall elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. shall meet the requirements of Article VI.N. 1 .b. & c.

0. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, AO, A, and VI-30, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. **Coastal Floodplains** -

1. All new construction located within Zones A1-30, A, and VI-30 shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zone VI-30 shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:
 - (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

- (3) constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
 - c. require a registered professional engineer or architect to:
 - (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/February, 1986); and,
 - (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.
3. The use of fill for structural support in Zone VI-30 is prohibited.
4. Human alteration of sand dunes within Zone V 1-30 is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
5. The enclosed areas may be used solely for parking vehicles, building access, and storage.
6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

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

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

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

B. Expansion of Conditional Uses

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

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

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

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

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

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

ARTICLE X - APPEALS AND VARIANCES

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

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

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

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

and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in the floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

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

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRS § 4452.
- B. The penalties contained in Title 30-A MRS § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

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

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIV - DEFINITIONS

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

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

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

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

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

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

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

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

Building - see Structure.

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

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

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

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

Elevated Building means a non-basement building

- a. built, in the case of a building in Zones AI-30, A, or AG, to have the top of the elevated floor, or in the case of a building in Zone V 1-30, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or “stilts;” and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AI-30, A, or AO, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case

of Zone VI-30, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - An official form (FEMA Form 81-3 1, 08/99, as amended) that:

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

Flood or Flooding - means:

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

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

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

Flood Insurance Study - see **Flood Elevation Study**.

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

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

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior,
or

2. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

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

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

100-Year Flood - see **Base Flood**.

Recreational Vehicle - means a vehicle which is:

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

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

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

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

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

Substantial Improvement - means any singular or successive reconstructions, repairs, rehabilitations, additions, or other improvements of a structure, the cumulative cost (value) of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the first improvement project following the effective date of **November 07, 2001**. In determining whether a development project constitutes a substantial improvement, the total cost (value) of all reconstructions, repairs, rehabilitations, additions, or other improvements shall be accrued over a period of 5 years from the time of the first permit application following the effective date of **November 7, 2001**. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

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

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

ARTICLE XV - ABROGATION

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

PUBLIC EASEMENT ROAD POLICY TOWN OF OGUNQUIT, MAINE

Adopted April 5, 2016

Effective July 1, 2016

PURPOSE

The Ogunquit Town Select Board has adopted this policy to legally aid various public easement road associations maintain publicly deeded easements in a reasonable condition. The Town has adopted this policy in accordance with state law as of the policy's adoption date. This Public Easement Policy shall only apply to those roads in existence prior to the adoption date of this Public Easement Policy, April 5, 2016.

DEFINITIONS

- A. TOWN WAY – 23 MRSA Section 3021.** An area or strip of land designated and held by the Town for the passage and use for the general public by motor vehicle or foot. The Town is under a duty to maintain said roads in repair for safe and convenient passage or motorized vehicles.
- B. PUBLIC EASEMENT – 23 MRSA Section 3021.** An easement held by the Town for the purpose of public access on designated land and includes all rights enjoyed by the public with respect to unobstructed access by motor vehicle or foot. The town may at its discretion provide limited maintenance services to the public easement.
- C. PRIVATE ROAD –** A road over which neither the Town nor general public has the right to pass over by vehicle or foot.
- D. ROAD MAINTENANCE / BASIC ROAD SERVICESD –** Shall mean only snow plowing and road sanding.
- E. ADEQUATE / ADEQUACY –** The Public Works Director shall determine any standard or requirement based on adequacy.
- F. ROAD –** Refers to a duly recorded (deeded) public road easement.
- G. ROAD ASSOCIATION –** A public easement road association.

POLICY EFFECTIVE DATE

The Public Easement Road Policy as passed by the Select Board shall be effective July 1, 2016.

ROAD ADOPTION REQUIREMENTS AND PROCEDURE

In order to provide basic road services the Select Board, at its discretion, may “accept” a recorded public easement road. Upon acceptance the Town Select Board, at its discretion, may expend public funds on a public easement road considered under this policy.

The Town Select Board has established the following road adoption criteria. The criterion has been established to ensure a standard level of service can be provided and to ensure that road conditions are kept at a certain level sufficient to allow services to be provided.

All public easement roads shall meet the following criteria:

- A. Requests for public easement road acceptance under this policy shall be made in writing to the Town Manager by the road association president or designee on a Town form obtained from the Land Use offices located in Town Hall.
- B. Each respective road association shall be incorporated unless all property owners of which the respective public easement crosses over sign an individual road easement and a hold harmless clause. Each Deed shall be filed and recorded with the York County Registry of Deeds and a certified copy of such presented to the Town with their application.
- C. Each respective road association and each individual property owner if required shall sign a general release to the Town granting permission to enter upon the road and a hold harmless/release of liability agreement for any damages incurred while performing winter maintenance to the road.
- D. Only roads that outlet onto Public or State Roads shall be eligible for winter maintenance.
- E. At least three (3) full time year round residents are residing on the road.
- F. The traveled portion of the road is at least fifteen feet (15) in width with an overall clearance width of twenty three feet (23).
- G. The traveled portion of the roadway must have a minimum of fifteen feet (15') from edge to edge.
- H. Four feet (4') of unobstructed shoulder on each side of the fifteen foot roadway must be maintained at all times for a minimum road clearance of twenty-three feet. The twenty-three foot outer boundaries of the roadway must be clearly marked with survey pins and recorded in the York County Registry of Deeds.
- I. A paved or smooth gravel surface and adequate drainage to the traveled portion of the roadway must be maintained at all times. The respective Road Association or Designee

will be responsible for keeping the roadway, drainage, and clearance issues maintained and in good repair as determined by the Town Public Works Director.

- J. A clear unobstructed minimum overhead road clearance of thirteen feet six inches (13'-6") shall be maintained at all times.
- K. There is/are adequate emergency vehicle & plow truck turnaround(s).
- L. Suitability of turn-around will be determined by the Road Commissioner, Fire Chief, and Public works Director. Compliance with all other minimum standards will be determined by the Public Works Director and Road Commissioner or their Designees.
- M. By September 1st of each year, the Public Works Director shall visit all roads accepted for Winter Maintenance to identify necessary road maintenance needed to bring that road up to standards and notify appropriate personnel of the Towns findings within seven days of that visit.
- N. All required maintenance must be completed by the end of the first full week in November on an annual basis to be eligible for winter maintenance.
- O. Upon written application to the Town Select Board and demonstration of extraordinary circumstances the Town Select Board has sole authority to waive or modify requirements of the road adoption criteria.
- P. Accompanying each road association request for acceptance shall be separate, written recommendations by the Road Commissioner and Public Works Director either supporting or not supporting public easement acceptance and their reasoning for their recommendation. A copy of the recommendation shall be forwarded to the Town Planning Office for notification purpose prior to public easement acceptance.
- Q. All costs associated with each public easement road acceptance shall be borne by the respective road association and property owners. Said costs may include public easement recording fees, public notices, and other costs deemed relevant by the Town Select Board.
- R. After all criteria have been met and Select Board approval has been granted, a town vote will be necessary to bring the road into Public Easement Status. After the road has been certified by Town vote, the Select Board will have sole authority to suspend winter maintenance operations at its discretion for any reasons the Select Board may deem prudent. Annual Town votes will not be necessary after a road has been accepted as a public easement road and winter maintenance will be performed at the pleasure of the Select Board.
- T. The Town Select Board reserves the right to suspend winter maintenance to any Public Easement Road that does not comply with all required standards.

ROAD ASSOCIATION REPRESENTATION

In order to provide an efficient and workable relationship between the Town and the road associations, each respective road association president or designee shall be the liaison between the Town and road association. Each road association is responsible to inform the Town Manager, in writing, identifying their respective association president or designee, address and telephone number by August 1st of each respective year.

MAINTENANCE POLICY

Maintenance services covered under this policy shall consist only of snowplowing and road sanding. The provision of required materials: road sand and road salt is implied by this policy. All other maintenance aspects, materials and requirements of public easement roads accepted under this policy are the responsibility of the road association and its members. The Town does not assume or accept liability for any defects in or lack of repair to public easements.

The Town makes no presumption in any form or manner that any road accepted under this policy by the Town of Ogunquit is to be accepted as a Town Way, as defined above.

If a public easement's traveled portion is paved, the public easement road association and abutting property owners agree the Town assumes no responsibility for damages or injury to the paved surface.

GRADING

The Town shall not provide grading services for public easements.

SNOW EMERGENCY

If the Public Works Director determines that an emergency exists on any public easement road due to heavy snowfall and/or narrowing of the travel ways due to snow banks, the Public Works Director and the Town Manager may take such additional snow plowing and/or removal action as is deemed reasonably fit to abate the emergency. The Public Works Director shall keep accurate financial records of any such emergency work and report the same to the Town manager at least monthly.

POLICY MODIFICATION

The Town Select Board may modify this policy at any time after proper notice and public hearing as required by 1 MRSA 401 et seq.

HOLD HARMLESS

As a condition of this policy, for public easement road acceptance and road maintenance, each road association hereby recognizes the Town of Ogunquit responsibilities shall be limited to the

scope of this policy and to hold the Town harmless regarding any liability for any negligent damage to property: including but not limited to: driveways, mail boxes, lawns, trees, curbing, shrubs or property markers. Each road association or individual benefiting from this policy agrees to hold the Town of Ogunquit, its officers, agents and employees harmless. This clause does not mean to hold harmless private contractors for their negligent acts.

TOWN OF OGUNQUIT

SUBDIVISION REGULATIONS

Adopted November 5, 1985

Amended April 2, 1988

Amended April 3, 2000

Amended November 6, 2001

Amended June 11, 2002

**Repealed and Replaced, with Amendments,
as Subdivision Regulations, May 24, 2004**

(Pursuant to Procedure approved at April 12, 2004 Town Meeting)

Amended October 18, 2004

Amended May 9, 2005

Amended September 12, 2005

Amended July 24, 2006

Amended December 10, 2007

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ARTICLE 1 PURPOSE AND STATUTORY REVIEW CRITERIA

- 1.1** The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. When reviewing any subdivision as defined in Article 3 of this regulation for approval, the Planning Board shall consider, but not be limited to, the following criteria and before granting approval, shall determine that the proposed project:
- 1.1.1 Will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - a) The elevation of the land above sea level and its relation to the flood plains;
 - b) The nature of soils and subsoils and their ability to adequately support waste disposal;
 - c) The slope of the land and its effect on effluents; and
 - d) The applicable State and local health and water resources rules and regulations;
 - 1.1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision;
 - 1.1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
 - 1.1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition results;
 - 1.1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
 - 1.1.6 Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
 - 1.1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste if municipal services are to be utilized;
 - 1.1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
 - 1.1.9 Is in conformance with a duly adopted subdivision or other applicable project regulation or ordinance, comprehensive plan, development plan or land use plan, if any;. In making this determination, the Planning Board may interpret these ordinances and plans;
 - 1.1.10 Whenever situated, in whole or in part, within 250 feet of any wetland or great pond, as defined in Title 38, sections 435 through 490, or within 250 feet of tidal waters, will not

adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water; and

- 1.1.11 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water
- 1.1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- 1.1.13 Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- 1.1.14 All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- 1.1.15 Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
- 1.1.16 The proposed subdivision will provide for adequate storm water management;
- 1.1.17 If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- 1.1.18 For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- 1.1.19 The developer has adequate financial and technical capacity to meet the standards of this section.

ARTICLE 2 AUTHORITY AND ADMINISTRATION

2.1 Authority

- 2.1.1 These standards have been prepared in accordance with the provisions of Title 30-A, section 4401 through 4407.
- 2.1.2 These standards shall be known and may be cited as “Subdivision Regulations of the Town of Ogunquit, Maine.”

2.2 Administration

- 2.2.1 The Planning Board of the Town of Ogunquit, hereinafter called the Board, shall administer these standards. The Planning Board may call upon the Code Enforcement Officer or the Town Planner for assistance in administering these standards. (Amended June 11, 2002)
- 2.2.2 The provisions of these standards shall pertain to the creation or the amendment of all the subdivisions as herein defined within the boundaries of the Town of Ogunquit.

ARTICLE 3 DEFINITIONS

3.1 Definitions found in a standard Webster's Dictionary of the current decade will apply to all words not already defined herein or in Ogunquit's Zoning Ordinance. Words used in the present tense include the future; plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure", the word "shall" is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used/occupied". The terms "Code" and "Ordinance" are to be considered interchangeable.

3.1.1 *Abutting*

Having a common border with, or being separated from such a common border by an alley, easement, street, road, public way or private way.

3.1.2 *Comprehensive Plan*

A document or interrelated documents and maps, as defined by Title 30-A M.R.S.A sec. 4301.

3.1.3 *Contiguous Lot*

For the purposes of these regulations, a lot shall be considered to be contiguous if either or both of the following conditions exist:

- a) The lots adjoin or are conterminous at any point or line, or
- b) If two adjacent lots are separated at any point by a water body less than forty (40) feet wide.

3.1.4 *Developed Area*

Any area on which a site improvement or change is made, to include buildings, landscape, parking area, etc..

3.1.5 *Essential Services*

The construction, alteration or maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

3.1.6 *Final Plans of Subdivision*

The final drawings on which the developer's plan of a subdivision is presented to the Planning Board for approval and which, if approved, may be filed for record with the Municipal Clerk and county.

3.1.7 *Flood, Base*

Means the Flood having a one (1%) percent chance of being equaled or exceeded in any given year. (Adopted May 10, 1983)

3.1.8 *High Intensity Soil Survey*

A map prepared by a Certified Soil Scientist, identifying the soil types down to one-eighth (1/8th) acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

3.1.9 High Water Mark, Normal

a) **Coastal Waters**

That line on the shore of tidal waters reached by the shoreward limit of the rise of the median tides between the spring and the neap.

b) **Inland Waters**

That line on the shore and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or vegetation due to the prolonged action of the water. In places where the shore or bank cannot be easily determined (rock slides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from places where it can be determined by the above method.

3.1.10 Industrial Park or Development

An area zoned and planned for varied industrial uses and developed and managed as a unit, usually with provisions for common services for the users.

3.1.11 Living Unit

This term applies to residential dwelling units and shall include single, duplex and multi-family dwellings, apartments, efficiencies and condominiums. Each individual unit which functions as a separate dwelling quarters shall be a dwelling unit.

3.1.12 Person

Includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

3.1.13 Planning Board

The Planning Board of the municipality created pursuant to Article 6 of the Town of Ogunquit Zoning Ordinance, and the laws of the State of Maine, as amended.

3.1.14 Preliminary Plan of Subdivision

The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

3.1.15 Resubdivision

The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

3.1.16 Street

The word “street” means and includes such public or private ways as alleys, avenues, boulevards, highways, roads, streets and other right-of –ways. The term “street” shall also apply to areas on plans designated as “streets”, etc..

3.1.17 *Subdivision*

The word “Subdivision” shall be defined as in Title 30-A M.R.S.A sec. 4401, subpart 4. (See Appendix for a copy of the Statutory Definition.)

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

3.1.18 *Structure or Structures, New*

“New structure or structures” includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

3.1.19 *Tract or Parcel of Land*

“Tract or parcel of land” means all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

ARTICLE 4 ADMINISTRATIVE PROCEDURE

4.1 Purpose

4.1.1 The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

4.2 Agenda

4.2.1 In order to avoid unnecessary delays in processing applications for subdivision review, the Land Use Office, in consultation with the Planning Board Chair, shall prepare an agenda for each regularly scheduled meeting.

4.2.2 Applicants shall request to be placed on the Planning Board's agenda through the Land Use Office.

4.2.3 Applicants who attend a meeting, but who are not on the Planning Board's agenda, may be heard, but only after all agenda items have been completed and then only if a majority of the Board so votes.

4.3 Order of Business

The Planning Board shall process and review each applicant in a similar and equitable manner. In order to accomplish this, the Board shall follow the procedures set forth in the following Articles, for each stage of the review process.

ARTICLE 5 SKETCH PLAN

5.1 Sketch Plan Purpose.

The purpose of the sketch plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

5.2 Sketch Plan Meeting Procedure

- A. The applicant shall present the Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the subsequent application.
- C. The date of the on-site inspection is selected.

5.3 Sketch Plan Submissions

Fifteen copies of the sketch plan and all supporting materials must be submitted 14 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a free-hand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's tax map(s) on which the land is located. The Sketch Plan shall be accompanied by:

- 5.3.1. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; and
- 5.3.2. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed development.
- 5.3.3. A completed sketch plan application form and a fee to be set by the Selectmen.
- 5.3.4. In addition, the applicant shall pay a fee of \$1500 to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$750 be deposited by the applicant. The Board shall continue to notify the applicant and require an

additional \$750 be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant

5.4 On-Site Inspection

Within thirty days of the sketch plan meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place “flagging” at the centerline of any proposed streets or drives, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings, the approximate corners of building footprints shall be “flagged.” The Board may choose not to conduct on-site inspections when there is inclement weather or snow on the ground. On-site inspections shall be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

5.5 Follow-up and Acceptance of Sketch Plan

At its next meeting following the on-site inspection, the board should discuss the inspection and note various conditions or features found. If the Board finds the sketch plan acceptable, it should then write a letter to the applicant highlighting its findings from the inspection, giving any general guidance to the applicant regarding the future submittal of a preliminary plan application, and informing the applicant of the contour interval to be required for the preliminary plan application. If the Board finds the sketch plan unacceptable, it should indicate its decision to the applicant in writing, and the applicant shall be required to submit a new, modified sketch plan application if it wishes to proceed with the proposed project.

5.6 Rights not Vested.

The sketch plan meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

5.7 Establishment of File.

Following the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting and subsequent preliminary and final subdivision plan applications shall be maintained in the file.

ARTICLE 6 PRELIMINARY PLAN FOR SUBDIVISION

6.1 Procedure

- 6.1.1 Within six (6) months after acceptance of the sketch plan by the Planning Board, the developer shall submit an application for a Preliminary Plan to the Land Use Office. Fifteen copies of the preliminary plan and all supporting materials must be submitted at least 14 days prior to a regularly scheduled Planning Board meeting in order to be placed on the Board's agenda. Failure to do so shall require resubmission of the sketch plan to the Board. The Preliminary Plan shall approximate the layout shown on the sketch plan as well as any recommendations made by the Board.
- 6.1.2 The application for the preliminary plan shall be accompanied by a fee to be set by the Selectmen. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising. The Board may continue to require replenishment of the escrowed funds for consulting fees as authorized in sect 5.3.4, so that it may continue to employ consultants during the preliminary plan application review, if necessary.
- 6.1.3 The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Planning Board to present the preliminary plan application. Failure to attend the meeting to present the preliminary plan application shall result in a delay of the Board's review of the plan until the next meeting at which the applicant is present.
- 6.1.4 At least 11 days prior to the Planning Board meeting at which an application for preliminary plan of a subdivision is initially presented, the Land Use Office shall:
1. Issue a dated receipt to the applicant.
 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 3. Notify the Town Clerk and the Planning Board of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- 6.1.5 Within thirty days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- 6.1.6 Upon determination that a complete application has been submitted for review, the Board shall determine whether or not to hold a public hearing on the preliminary plan application. In the event that the Planning Board determines to hold a public hearing on an application for approval of a subdivision, it shall hold such hearing within thirty (30) days of receipt by it of a completed application and shall cause notice of the date, time and place of such hearing to be published in a newspaper of local circulation, at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of the notice shall be sent by first class mail to abutting landowners and to the applicant, at least ten (10) days prior

to the hearing. The Land Use Office shall prepare a written certification of the date, time, and location when and where notices were mailed. In addition, the notice of the hearing shall be posted in at least three prominent public places within the municipality at least ten (10) days prior to the hearing.

- 6.1.7 The Land Use Office shall notify the director of public works, police chief, and fire chief of the proposed subdivision application. The Board shall request that these officials review the application and comment upon the adequacy of their department's existing capital facilities to service the proposed development. The Land Use Office shall also notify the Conservation Commission of the application, request comments on whether the application meets the standards of Town ordinances with respect to environmental matters, and invite the Commission to participate in any scheduled hearings.
- 6.1.8 Within thirty (30) days of a public hearing or within sixty (60) days of receiving a completed application, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, the Planning Board shall take action to give preliminary approval, with or without modifications or disapprove such preliminary plan. The reasons for any modifications required or the grounds for disapproval shall be stated upon the record of the Planning Board and shall be issued in writing to the applicant.
- 6.1.9 When granting approval of a preliminary plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
 - 6.1.9.1 The specific changes which it will require in the final plan;
 - 6.1.9.2 The character and extent of the required improvements for which waivers of submissions or review standards may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety and general welfare;
 - 6.1.9.3 The construction items for which cost estimates and performance guarantees will be required as a prerequisite to the approval of the final plan, pursuant to section 10.9.
- 6.1.10 Approval of a preliminary plan shall not constitute approval of the final plan, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the final plan, the Planning Board may require additional changes as a result of further study of the project in final form or as a result of new information obtained at any public hearings.

6.2 Submissions

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12. Fifteen copies of all materials shall be delivered to the Land Use Office, at least fourteen days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional

information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

- 6.2.1 Application & Checklist.** Completed Preliminary Plan Application Form and Preliminary Plan Application Submissions Checklist
- 6.2.2. Location Map.** The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
 - 6.2.2.1. Existing subdivisions in the proximity of the proposed subdivision.
 - 6.2.2.2. Locations and names of existing and proposed streets.
 - 6.2.2.3. Boundaries and designations of zoning districts.
 - 6.2.2.4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- 6.2.3 Preliminary Plan.** The preliminary plan drawing sets may be printed or reproduced on paper, and shall show all dimensions in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read.
- 6.2.4 Identification of Project.** Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- 6.2.5 Right, Title or Interest.** Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
- 6.2.6 Survey.** A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30A M.R.S.A. section 4401.
- 6.2.7 Existing Deed.** A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- 6.2.8 Proposed Deed Restrictions.** A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- 6.2.9 Proposed Sewage Disposal.** An indication of the type of sewage disposal to be used in the subdivision.
 - 6.2.9.1. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the sewer district stating the district has the capacity to collect and treat the waste water shall be provided.

6.2.9.2. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

6.2.10 Proposed Water Supply. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.

6.2.11 Plan Details. The following information shall be included on the plan or plans:

- 6.2.11.1 The date the plan was prepared, north point, and graphic map scale.
- 6.2.11.2 The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
- 6.2.11.3 A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
- 6.2.11.4 The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan.
- 6.2.11.5. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
- 6.2.11.6. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
- 6.2.11.7. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
- 6.2.11.8. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 6.2.11.9. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- 6.2.11.10. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
- 6.2.11.12. The proposed lot lines with approximate dimensions and lot areas.
- 6.2.11.13. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- 6.2.11.14. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
- 6.2.11.15. The area on each lot where existing forest cover will be permitted to be removed

and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.

6.2.11.16. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

6.2.12. Hydrogeologic Assessment. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and

- a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on the 1:24,000 scale "Significant Aquifer Maps," by the Maine Geological Survey; or
- b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; or the proposed use of shared or common subsurface waste water disposal systems.

6.2.13. Estimate of Traffic Generated. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

6.2.14. Traffic Impact Analysis. For subdivisions involving 40 or more parking spaces or projected to generate more than 200 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

6.2.15. Wildlife Habitat Areas. Areas within or adjacent to the proposed subdivision which have been identified as 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 subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Program the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.

6.2.16. Historic Sites. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites.

ARTICLE 7 FINAL PLAN FOR SUBDIVISION

7.1 Procedure. The following are the procedures for the final plan application for a subdivision:

- 7.1.1 Within six months after the approval of the preliminary plan, the applicant shall submit fifteen copies of an application for approval of the final plan with all supporting materials to the Land Use Office. Application copies must be submitted at least fourteen days prior to a regularly scheduled meeting of the Board, in order to be placed on the Board's agenda. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.
- 7.1.2 If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.
- 7.1.3 All applications for final plan approval for a subdivision shall be accompanied by an application fee set by the Board of Selectmen. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification. The Board may continue to require replenishment of the escrowed funds for consulting fees as authorized in sect 5.3.4, so that it may continue to employ consultants during the final plan application review, if necessary.
- 7.1.4 Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
 - 7.1.4.1. Maine Department of Environmental Protection, under the Site Location of Development Act.
 - 7.1.4.2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
 - 7.1.4.3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 - 7.1.4.4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
 - 7.1.4.5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 - 7.1.4.6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit

If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

- 7.1.5. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the final plan application.
- 7.1.6. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board's review of the plan until the next meeting which the applicant attends.
- 7.1.7. At the meeting at which an application for final plan approval of a subdivision is initially presented, the Board shall issue a dated receipt to the applicant.
- 7.1.8. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- 7.1.9. Upon determination that a complete application has been submitted for review, the Board shall direct the Land Use Office to issue a written notice to the applicant, indicating its complete status. The Board shall determine whether to hold a public hearing on the final plan application.
- 7.1.10. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two (2) times, the date of the first publication to be at least seven (7) days before the hearing. A copy of the notice shall be sent by first class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. The Land Use Office shall prepare a written certification of the date, time, and location when and where notices were mailed. In addition, the notice of the hearing shall be posted in at least three prominent public places within the municipality at least ten (10) days prior to the hearing.
- 7.1.11. Where a subdivision is located within five (500) feet of a municipal boundary, the Town Clerk and the Planning Board of the adjacent municipality involved shall be notified at least ten (10) days prior to the hearing. Comments and recommendations made by the Planning Board of the adjacent municipality shall be given due consideration in the deliberations and decision-making process of the Ogunquit Planning Board.
- 7.1.12. Before the Planning Board grants approval of the final plan, the applicant shall file with the municipal treasurer either a certified check, bond letter of credit or other surety to cover the full cost of the required improvements. Any such surety, such as a letter of credit, performance bond, or other development agreement shall be satisfactory to the Board of

Selectmen, the Town Manager, and the municipal attorney as to form, sufficiency, manner of execution, and ease of management. The surety shall clearly indicate a period of time of at least one (1) year within which required improvements must be completed, with an option for renewal by the Board of Selectmen should the project not be completed with the specified time period. The certified check, bond, or other surety, shall include an amount required for recreation land or improvements as specified. The applicant shall present a copy of the receipt from the town treasurer for the certified check, or a letter from the Town Manager indicating approval of the surety, before the Planning Board grants approval of the final plan.

- 7.1.13 Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of these regulations has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

7.2 Inspection of Required Improvements

- 7.2.1 At least five (5) days prior to commencing construction of required improvements, the applicant shall notify the Code Enforcement Officer, in writing, of the time when he or she proposes to commence construction of such improvements, so that the Board of Selectmen can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- 7.2.2 If the Code Enforcement Officer shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Board of Selectmen and Planning Board. The Board of Selectmen shall then notify the applicant and if necessary, the company or agency backing the surety, and take all necessary steps to preserve the municipality's rights under the surety. No plan shall be approved by the Planning Board as long as the applicant is in default on a previously approved plan.
- 7.2.3 If, at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Code Enforcement Officer may, upon approval of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvement required by the Board. The Code Enforcement Officer shall

issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

- 7.2.4 The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.

7.3 Submissions.

- 7.3.1. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the borderline on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. One reproducible, stable-based transparency to be recorded at the Registry of Deeds, and fifteen full size paper copies of the plan shall be submitted.

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.

- 7.3.2. The final plan shall include or be accompanied by the following information.

7.3.2.1 Completed Final Plan Application Form and Final Plan Application Submissions Checklist

7.3.2.2 Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.

7.3.2.3 The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.

7.3.2.4 An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.

7.3.2.5 An indication of the type of water supply system(s) to be used in the subdivision.

7.3.2.5.1 When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.

7.3.2.5.2 When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.

7.3.6 The date the plan was prepared, north point, graphic map scale.

- 7.3.7 The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- 7.3.8 The location of any zoning boundaries affecting the subdivision.
- 7.3.9 If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- 7.3.10 The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 7.3.11 The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor. The original reproducible plan shall be embossed with the seal of the registered land surveyor and be signed by that individual.
- 7.3.12 Street plans, meeting the requirements of Article 10.
- 7.3.13 A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- 7.3.14 An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- 7.3.15 If applicable, the location of any streets, public improvements, or open spaces shown in the comprehensive plan or capital improvements program, that fall within the boundaries of the proposed subdivision.
- 7.3.16 All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land

is to be offered to the municipality, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title shall be included.

7.3.17 The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

7.3.18 Evidence that the applicant has the financial and technical capacity to implement the project.

7.3.19 The location and method of disposal for land clearing and construction debris.

7.4 Final Approval and Filing

7.4.1 Upon the granting of final approval pursuant to sec. 7.1.13 above, the plan shall be signed by a majority of the Members of the Planning Board. -Requisite numbers of signed copies shall then be filed by the applicant at the York County Registry of Deeds (YCRD). After filing at the YCRD, the applicant shall submit to the Ogunquit Land Use Office and Tax Assessor's Office, paper copies of the plan filed at the YCRD that shows the YCRD recording marks and the YCRD book and page number. Any subdivision not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the Planning Board as herein provided, shall become null and void.

7.4.2 At the time the Planning Board grants final plan approval, it may permit the plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the plan. The applicant may file a section of the approved plan with the Municipal Tax Assessor and the Registry of Deeds if said section constitutes at least ten (10) percent of the total number of lots contained in the approved plan. In these circumstances, plan approval of the remaining sections of the plan shall remain in effect for three (3) years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider.

7.5 Plan Revisions After Approval

7.5.1 No changes, erasures, modifications or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Planning Board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Municipal Tax Assessor and the Registry of Deeds.

7.6 Public Acceptance of Streets, Recreation Areas

7.6.1 The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement or other open space shown on such plan.

7.6.2 When a park, playground or other recreation area shall have been shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such area. The Planning

Board shall require the plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

ARTICLE 8 ENFORCEMENT

- 8.1 No plan of a subdivision of land within the municipal boundaries which would constitute a subdivision as defined herein, shall hereafter be filed or recorded in the Registry of Deeds until a final plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards and construction specifications set forth elsewhere in these standards, nor until such approval shall have been entered on such final plan by the Planning Board.
- 8.2 No person, firm, corporation or other legal entity may convey, offer or agree to convey land in a subdivision which has not been approved as required by this section and shall be punished by a fine of not more than \$1,000.00 for each such conveyance, offering or agreement. The Attorney General, the municipality or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.
- 8.3 No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.
- 8.4 Not only is making a subdivision without Planning Board approval a violation of the law, but also within such a subdivision is grading or construction of roads, grading of land or lots or construction of buildings until such time as a final plan of such subdivision shall have been duly prepared, submitted, reviewed, approved and enforced as provided in these standards and until the original copy of the final plan so approved and endorsed has been duly recorded in the York County Registry of Deeds.

ARTICLE 9 GENERAL REQUIREMENTS

9.1 Purpose

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances, the burden of proof shall be upon the person proposing the subdivision.

9.2 Subdivision Plan Shall Conform to Comprehensive Plan

9.2.1 Any proposed subdivision shall be in conformity with a Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

9.3 Relationship of Subdivision to Community Service

9.3.1 Any proposed subdivision may be reviewed by the Board with respect to its effect upon existing services and facilities. The final plan shall include a list of the construction items that will be completed by the developer prior to the sale of the lots and the list of construction and maintenance items that must be borne by the municipality, which shall include, but not be limited to, schools, including busing; road maintenance and snow removal; police and fire protection; solid waste disposal; recreation facilities; runoff water, disposal drainage ways and/or storm sewer enlargement with sediment traps.

9.3.2 The board may further require the developer of a subdivision to provide accurate cost estimates to the Town for the above services and the expected tax revenue of the subdivision.

9.4 Retention of Proposed Public Sites and Open Spaces

9.4.1 Depending on the size and location of the subdivision, the Board may require the developer to provide up to ten (10%) percent of his total area for recreation. It is desirable that areas reserved for recreation be at least five (5) acres in size and easily accessible from all lots within the subdivision.

9.4.2 Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. A site to be used for active recreation purposes, such as a playground or play field, should be relatively level and dry and have a total frontage on one (1) or more streets of at least two hundred (200) feet. Sites selected primarily for scenic or passive recreation purposes shall have access as the Board may deem suitable and shall have no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

9.5 **Preservation of Natural and Historic Features**

9.5.1 The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (6" or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

9.6 **Land Not Suitable for Development**

9.6.1 The Board shall not approve such portions of any proposed subdivision that:

9.6.1.1 Are situated below sea level.

9.6.1.2 Are located within the one hundred (100) year frequency flood plain as identified by an authorized Federal or State agency or when such identification is not available, are located on flood plain soils identified and described in the National Cooperative Standard Soil Survey, unless the applicant shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two (2) feet above the one hundred (100) year frequency flood. Elevation not to include filled or made land or if the applicant presents material which ensure:

1. That proposed developments are consistent with the need to minimize flood damage;
2. That all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage;
3. That adequate drainage is provided so as to reduce exposure to flood hazards;
4. That new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water and require that on-site waste disposal systems be located so as to avoid impairment of them or contamination from them during flooding; and
5. That construction within the one hundred (100) year flood plain conforms to the U.S. Army Corps of Engineers Flood Proofing Regulations.

9.6.1.3 Are located on land which must be filled or drained or on land created by diverting a water-course, except the Board may grant approval if a central sewage collection and treatment system is provided. In no instance shall the Board approve any part of a subdivision located on filled tidal wetlands or filled or drained Great Ponds (natural bodies of water ten (10) acres or more in size).

9.6.1.4 Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land Use Planning in Maine (as revised in February, 1975). Where soils are rated fair for septic sewage disposal, the minimum area of that soil shall be forty thousand (40,000) square feet.

9.7 **Blocks**

9.7.1 In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty (20) foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4) foot wide footpath be included. The Planning Board shall require the subdivider to provide for the proper maintenance of any such easement.

9.8 **Lots**

- 9.8.1 The lot's size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Land that is not suitable for development, that is required to be subtracted from lot areas by the definition of "Net Residential Area" in Article 2 of the Zoning Ordinance, shall not be included in the calculation of the lot areas.
- 9.8.2 Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
- 9.8.3 The subdividing of the land shall be such as to provide that all lots shall have the minimum street frontage as per the Ogunquit Zoning Ordinance.
- 9.8.4 Double frontage lots and reverse frontage lots shall be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages or topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- 9.8.5 Side lot lines shall be substantially at right angles or radial to street lines.
- 9.8.6 Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit or prohibit future resubdivision in accordance with the requirements contained in these standards.
- 9.8.7 If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirement lot size, it may not be combined with a lot on the other side of the stream, tidal water or road to meet the minimum lot size of these standards or for the purposes of on-site disposal.

9.8.8 Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than 5:1.

9.9 Easements for Natural Drainage Ways

9.9.1 Where a subdivision is traversed by a natural watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction or both, as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.

9.10 Utilities

9.10.1 The size, type and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with local practice.

9.10.2. Utilities shall be installed underground except as otherwise approved by the Board.

9.10.3 Utilities shall be installed in a timely manner during street construction so as to prevent re-excavation of the finished street.

9.11 Additional Requirements

9.11.1 Street trees, esplanades and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, maintained and replaced for a period of one (1) year from planting, they shall be incorporated in the final plan and executed by the subdivider as construction of the subdivision progresses.

9.11.2 The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip of at least twenty (20) feet planed with appropriate shrubbery between abutting properties that are so endangered.

9.12 Required Improvements

9.12.1 The following are required improvements: monuments, street signs, streets, sidewalks (when appropriate), water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of these standards.

9.12.2 Monuments

9.12.2.1 Permanent monument shall be set at all corners and angle points of the subdivision boundaries and at all street intersections and point of curvature.

- 9.12.2.2 Monuments shall be stone or granite located in the ground at final grade level and indicated on the final plan. The minimum monument size shall be four (4) inches square at the top and three (3) feet in length. After they are set, drill holes, a half an inch (1/2) deep, shall locate the point or points described above.

9.12.3 Water Supply

- 9.12.3.1 A public water supply system with fire hydrants shall be installed at the expense of the subdivider or, if in the opinion of the Board, service to each lot by a public water system is not feasible, the Board may allow individual wells to be used.
- 9.12.3.2 The subdivider shall demonstrate by actual test or a signed affidavit from an authorized representative of the servicing water company that water meeting Public Health Service, Drinking Water Standards, 1962 can be supplied to the subdivision at the rate of at least three hundred fifty (350) gallons per day per dwelling unit and at an adequate pressure for fire fighting purposes.
- 9.12.3.3 Storage shall be provided as necessary to meet peak domestic demands and fire protection needs.
- 9.12.3.4 The subdivider shall demonstrate in the form of signed affidavits from the servicing water company or by engineering reports prepared by a civil engineer registered in the State of Maine that the proposed subdivision will not result in an undue burden on the source, treatment facilities or distribution system involved or provide adequate assurance that such source, treatment facility or distribution system will be notified to meet the expanded needs.
- 9.12.3.5 The minimum water main permitted shall be eight (8) inches and shall be installed at the expense of the subdivider.
- 9.12.3.6 The water supply system shall be designed and installed in accordance with requirements of the Maine Department of Human Services.
- 9.12.3.7 Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is not economically or technically feasible to develop other ground water sources.
- 9.12.3.8 If a central water supply is provided by the subdivider, location and protection of the source and design, construction and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the Manual for Evaluating Public Drinking Water Supplies, Public Health Service No. 1180 (1969).

9.12.4 Sewage Disposal

- 9.12.4.1 A sanitary sewer system shall be installed at the expense of the subdivider or, if in the opinion of the Board, service to each lot by a sanitary sewer system is not feasible, the Board may allow individual septic tanks to be used. In no instance shall a septic disposal system be allowed in soils rated poor or very poor for such purpose by the Soil Suitability Guide for Land Use Planning Maine as revised February, 1975.
- 9.12.4.2 A developer shall submit plans for sewage disposal designated by a professional civil engineer registered in the State of Maine in full compliance with the requirements of the State of Maine Plumbing Code and/or Department of Environmental Protection.
- 9.12.4.3 Where a public sanitary sewer line is located within one thousand five hundred (1,500) feet of a proposed subdivision at its nearest point, the subdivider shall connect into such sanitary sewer line with a main not less than eight (8) inches in diameter, provided the appropriate municipal agencies certify that extending the services will not be a burden to the system.

9.12.5 Surface Drainage and Storm Water Management (Amended April 3, 2000)

- 9.12.5.1 Where a subdivision is traversed by a water course, drainage way or future sewer line or where the Board feels that surface water drainage to be created by the subdivision should be controlled for the protection of the subdivision and other property owners, there shall be provided an easement or drainage right-of-way and culverts, catch basins or other means of channeling surface water within such subdivision and over other properties of such nature, width and location as the Board of municipal engineer deems adequate.
- 9.12.5.2 The developer shall provide a statement from a civil engineer, registered in the State of Maine, that the proposed subdivision or site plan will not create erosion, drainage or runoff problems either in the subdivision or site plan or other properties. The developer shall submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements. Adequate provisions shall be made to manage any storm water flows generated by a development. All development subject to subdivision and/or site plan review shall meet the following standards for storm water management.
1. Storm water shall be detained on the site using the natural features of the site to the greatest extent possible.
 2. The rate of storm water flows from the site after development shall not exceed the predevelopment rate of storm water flow from the site unless the applicant can demonstrate, through engineering studies, that no negative impact on down gradient drainage facilities due to increased storm water runoff rates from a site will result.

3. The quality of the storm water flows off site shall be addressed. Retention of the first one-half (1/2) inch of runoff from a storm event for twenty-four (24) hours or other storm water quality improvement measure shall be necessary to minimize or eliminate sediments and other contaminants, including, but not limited to domesticated animal offal, from the storm water leaving the site.
4. In addition to any other applicable requirements of this Ordinance, any development which would require a storm water management permit from the Maine Department of Environmental Protection (DEP) under 39 MRSA 420-D shall comply with rules adopted by DEP pursuant to the statute. (1 thru 4 Adopted April 3, 2000)

9.12.5.3 Topsoil shall be considered part of the subdivision. Except for surplus from roads, parking areas and building excavations, it is not to be removed from the site.

9.12.5.4 Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Board may require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.

9.12.5.5 To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline and extending thirty-five (35) feet inland from all points along the normal high water mark shall be limited in accordance with the following provisions:

1. No more than thirty (30) percent of the length of the strip shall be clear-cut to the depth of the strip.
2. Cutting of this thirty (30) percent shall not create a clear-cut opening in this strip greater than thirty (30) feet wide for every one hundred (100) feet of shoreline.
3. In the remaining seventy (70) percent length of the strip, cutting shall leave sufficient cover to preserve natural beauty and control erosion.

9.13 Dwelling Size

No dwelling unit shall provide less than six hundred fifty (650) square feet of habitable floor space. (Adopted April 2, 1988)

ARTICLE 10 STREET DESIGN AND CONSTRUCTION STANDARDS

10.1 General Procedures and Requirements

10.1.1 The Planning Board shall not approve any subdivision plan unless proposed street(s), whether they are to be offered to the public for acceptance or to remain private, are designed and constructed in accordance with all State and local ordinances as well as the specifications contained in these regulations. When provisions or standards herein specified are more restrictive than zoning or other ordinances, these standards and requirements shall apply, but in any case, the most rigid requirement of either this standard, the zoning or other ordinance shall apply whenever they may be in conflict. Final subdivision approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of acceptance by the municipality or any street, easement or other open space.

10.1.2 Subdividers shall submit to the Planning Board, as part of an integral part of the plot plan and application for subdivision approval, the following information:

1. Applicant's name, address, telephone number, signature and date;
2. Names of the owners of record of the land upon which the proposed street is located;
3. A statement of any legal encumbrances on the land upon which the proposed way is located;
4. The anticipated beginning and ending dates of each major phase of street construction; and
5. A plan view, centerline view and typical cross section view of the proposed street(s).

10.1.3 Plans

The plans and illustrations submitted as part of the application shall include the following information.

1. The date and scale of the plan;
2. The direction of TRUE north;
3. The beginning and ending points with relation to accepted town ways and any planned or anticipated future extensions of the streets proposed for acceptance. (All terminal points and the centerline alignment shall be identified by survey stationing.);
4. The roadway and roadway limits with relation to existing buildings and established landmarks;

5. Dimensions, both linear and angular, necessary for locating subdivisions, lots, easements and building lines;
6. The lots as laid out and numbered on the proposed street showing the names of all owners of abutting property;
7. All natural waterways and watercourses in or on land contiguous to the proposed street;
8. The kind, size, location, profile and cross section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and/or watercourses;
9. Complete curve data shall be indicated for all horizontal and vertical curves;
10. The turning radii at all intersections;
11. All centerline gradients;
12. The limits and locations of all proposed sidewalks and curbing;
13. The location of all existing and proposed overhead and underground utilities to include, but not be limited to, the following: public water supply systems, sanitary sewer system, electric power line poles or underground vaults, telephone line poles or underground vaults, fire hydrants, street lights, fire alarm boxes; and
14. Such other information as may be required by the Planning Board as may be deemed essential for proper evaluation and action.

10.1.4 Upon receipt of an application for subdivision approval which includes proposed streets, the Planning Board shall confirm, in writing, the classification of the proposed streets. In addition, the commission of said application and its classification shall request a review and comment on the proposed street plan.

10.1.5 In addition to other fees for subdivision reviews, a fee is herein established to partially defray the cost of technical, legal and administrative services required for the review, processing and inspection of roads and streets. This fee is to be paid by the developer to the Town Clerk at the time of his application for road and street construction.

10.2 **Street Classification Definitions**

10.2.1 **Arterial Street**

An arterial street shall be defined as a major thoroughfare which serves as a major traffic way for travel between and through a town.

10.2.2 **Collector Street**

A collector street shall be defined as a street servicing at least fifteen (15) units of residential development or streets which serve as feeders to arterial streets and collectors of traffic from minor streets.

10.2.3 **Local Residential Street**

A local residential street shall be defined as a street servicing less than fifteen (15) units of Residential development.

10.2.4 **Planning Board Determination**

The classification of a proposed street shall be made by the Planning Board after its consideration of land use or a Comprehensive Plan adopted by the town. Said determination may be made by the Planning Board prior to the formal application after submission of all information that may be required for that purpose.

10.3. **Street Design Standards**

10.3.1 Design standards shall be defined as paved streets with such appurtenances as curbs, esplanades, paved sidewalk(s), ditches, culverts, under drain and/or storm water drainage systems. All proposed streets shall be designed and constructed to meet the design standards of this section.

10.3.1.1 Proposed streets shall conform, as far as practical, to such Comprehensive Plan or policy statement as may have been adopted, in whole or in part, prior to the submission of the preliminary plan.

10.3.1.2 All streets in the subdivision shall be so designed that, in the opinion of the Board, they will provide safe vehicular travel while discouraging movement of through traffic.

10.3.1.3 The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions to public convenience and safety and their appropriate relation to the proposed use of the land to be served by such street. Grades of streets shall conform as closely as possible to the original topography.

10.3.1.4 In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty (20) foot side easement in the line of the street to provide continuation of pedestrian traffic or utilities to the next street.

- 10.3.1.5 Reserve strips controlling access to streets shall be prohibited where their control is definitely placed in the Town under conditions approved by the Planning Board.
- 10.3.1.6 In front of areas zoned and designed for commercial use or where a change of zoning to a zone which permits right-of-way and/or pavement, widths shall be increased by such amount on each side as may be deemed necessary by the Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.
- 10.3.1.7 Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- 10.3.1.8 Where a subdivision or limited access highway borders on or contains a railroad right-of-way or limited access highway, the Planning Board may require a street approximately parallel to and on each side of such right-of-way as applicable, at a distance suitable for the appropriate use of the intervening land as for park purpose in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for approach grades and future grade separations.
- 10.3.1.9 Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the plan, marked "Reserved for Road Realignment (or Widening) Purposes". It shall be mandatory to indicate such reservation on the plan when a proposed widening or realignment is shown on the official map. Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.
- 10.3.1.10 Where a subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets (streets parallel to arterial streets providing access to adjacent lots), reverse frontage (that is frontage on a street other than the existing or proposed arterial street) with screen planting contained in a non-access reservation along the rear property line or such other treatment(s) as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- 10.3.1.11 Subdivisions containing fifteen (15) lots or more shall have at least two street connections with existing public streets or streets shown on the official map as such exists or streets on an approved subdivision plan for which a bond has been filed.

10.3.2 The following design standards apply according to street classification:

<u>DESCRIPTION</u>	<u>TYPE OF STREET</u>		
	<u>Arterial</u>	<u>Collector</u>	<u>Local Residential</u>
Minimum right-of-way width	68'	50'	50' (Amended 6/11/02)
Minimum pavement width	40'	24'	20' (Amended 6/11/02)
Minimum Sidewalk width		5' 5'	4'
Minimum grade	0.5%	0.5%	0.5%
Maximum grade	6.0%	6.0%	6.0%
Minimum centerline radius	800'	230'	150'
Minimum tangent between curves of reverse alignment	300'	200'	100'
Maximum Roadway crown	1/4"/foot	1/4"/foot	1/4"/foot
Minimum Roadway crown	1/8"/foot	1/8"/foot	1/8"/foot
Minimum angle of street intersections (see Note below)	90 degrees	90 degrees	90 degrees
Maximum Grade at intersections (within 75' of intersection)	2%	2%	2%
Curb radii at intersection 90 degrees	30'	20'	15'
Minimum property line radii at intersection	20'	10'	10'
Minimum width of shoulders (each side)	3'	3'	3'
Minimum sight distance	250'	200'	150'

NOTE: Intersections of streets shall be at angles as close to ninety (90) degrees as possible and in no case shall two (2) streets intersect at an angle smaller than sixty (60) degrees. To this end, where one street approaches another between sixty and ninety (60-90) degrees, the former street should be curved approaching the intersection.

10.3.3 Centerline

The centerline of the roadway shall be the centerline of the right-of-way.

10.3.4 Dead End Streets

Dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii of the turn-around at the terminus of the dead end: property line/right-of-way – 65', outer edge of pavement – 50'. The maximum length of a dead end street, including the cul-de-sac, shall be 1000 feet.

10.3.5 Grades, Intersections and Sight Distances

- 10.3.5.1 Grades of all streets shall conform in general to the terrain and shall not be less than one-half (1/2) of one percent, nor more than five (5) percent for arterial, industrial and commercial streets, six (6) percent for collector streets or six (6) percent for minor streets in residential zones, but in no case, more than two (2) percent within fifty (50) feet of any intersection.
- 10.3.5.2 All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Planning Board so that clear visibility shall be provided for distances specified in paragraph 10.3.2, Minimum Sight Distances.
- 10.3.5.3 Cross (four (4) cornered) street intersections shall be avoided insofar as possible except as shown on the Comprehensive Plan or at other important traffic intersections. A distance of at least two hundred (200) feet shall be maintained between center lines of offset intersecting streets.
- 10.3.5.4 Street intersections and curves shall be so designed as to permit adequate visibility for pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow twenty-five (25) foot sight lines between intersecting streets shall be cleared of all growth (except isolated trees) and obstructions above the level two (2) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

10.3.6 Sidewalks

Sidewalks where installed shall meet the minimum requirements as set forth herein.

10.3.6.1 Bituminous Sidewalks

1. The gravel aggregate sub-base course shall be not less than twelve (12) inches in thickness;

2. The crushed aggregate base course shall be not less than two (2) inches in thickness; and
3. The hot bituminous pavement surface course shall be not less than two (2) inches in thickness, after compaction.

10.3.6.2 Portland Cement Concrete Sidewalks

1. The sand base shall be not less than six (6) inches in thickness; and
2. The Portland Cement Concrete shall be reinforced with six (6) inch square, number ten (10) wire mesh and shall be not less than four (4) inches in thickness.

10.3.6.3 Curbing

Curbing shall be quarried granite, bituminous concrete or cement, with a minimum height of six inches, and shall be installed on a thoroughly compacted gravel base of six (6) inches minimum, except bituminous curbing shall be installed on a three (3) inch thick bituminous pad.

10.4 **Street Construction Standards**

10.4.1 Minimum thickness of materials after compaction:

STREET MATERIALS

MINIMUM REQUIREMENTS

	<u>Arterial</u>	<u>Collector</u>	<u>Local Residential</u>
Aggregate sub-base course (Maximum sized stone – 4")	18"	18"	18"
Crushed aggregate base course	4"	3"	3"
Hot bituminous pavement (after compaction)			
Total thickness (after compaction)	3 ¼"	2 ½"	2 ½"
Surface course (after compaction)	1 ½"	¾"	¾"
Base course (after compaction)	1 ¾"	1 ¾"	1 ¾"

Hot bituminous pavement conforming to the standards set herein shall be used on all streets within the Town or village centers and on all arterial roadways. Hot bituminous pavement also shall be used on heavily trafficked streets, through streets and where deemed necessary by the Planning Board. Liquid asphalt may be used in more rural areas where the traffic

volume is low and where through traffic is minimal. The final determination of the paving shall be made by the Planning Board.

10.4.2 Preparation

- 10.4.2.1 Before any clearing has started on the right-of-way, the center line of the new road shall be staked and side staked at fifty (50) foot intervals. Limits of clearing shall be marked by stakes or flagging distances from the center line shall be obtained from the cross sections.
- 10.4.2.2 Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable material. All ledge, large boulders and tree stumps shall be removed from the right-of-way.
- 10.4.2.3 Tree stumps and other organic materials shall be removed to a depth of two (2) feet below the subgrade of the roadway. Soils which are designated as being poor or very poor for road fill by the Soil Suitability Guide for Land Use Planning in Maine, as revised February, 1975 shall be removed from the street site to a depth of two (2) feet below the subgrade and shall be replaced where necessary with soils listed by the Soil Suitability Guide as being good or fair for road fill.
- 10.4.2.4 Side slopes shall not be steeper than a slope of three (3) feet horizontal to one (1) foot vertical, graded, fertilized and seeded. Planting strips to be lined at the rate of ten (10) pounds of a 10-10 fertilizer per one hundred (100) square feet or equivalent and seeded with a conservation mix meeting the standards of the York County Soil and Water Conservation District.

10.4.3 Bases and Pavements

10.4.3.1 Bases

1. Aggregate sub-base course – Gravel aggregate sub-base shall not contain particles of rock exceeding four (4) inches in any dimension; and
2. Aggregate base course – Crushed aggregate base shall not contain particles of rock that will not pass the two (2) square sieve.

10.4.3.2 Pavement Joints

Where pavement placed joins existing pavement, the existing pavement shall be along a smooth line and to a neat, even, vertical joint.

10.4.3.3 Curbs and Gutters

1. Street curbs and gutters shall be installed as required by the Planning Board; and
2. Curbs shall be vertical except when sloped curbs are specifically allowed by the Planning Board.

10.5 Storm Drainage Design Standards

10.5.1 Adequate provision shall be made for disposal of all storm water collected in streets and areas tributary to the street system and underground water through ditches, culverts, under drain and/or storm water drainage systems.

10.5.1.1 All storm water systems shall be designed to meet the criteria of a five (5) year storm based on rainfall data from Weather Bureau records in Portland.

10.5.1.2 Appropriate conveyances for outlets to drainage systems must be provided. Asphalt coated steel culverts and asphalt coated steel pipes or equivalent shall be used where drainage is required.

10.5.1.3 In any case, the minimum pipe size for any storm drainage pipe shall be twelve (12) inches. Catch basins of an appropriate size and type shall be installed where necessary and shall be located generally at the curb line. Catch basins shall be placed away from the line of traffic flow, however, shall be adequate to design and strength to accommodate vehicle traffic.

10.5.2 Upstream drainage shall be accommodated by an adequately size system for existing conditions and future potential development in the upstream drainage area or areas tributary to the proposed town way. The adequacy of the proposed system(s) shall be determined by the Planning Board.

10.5.3 Existing or future downstream drainage requirements shall be studied to determine the effect of proposed drainage. The applicant shall demonstrate to the satisfaction of the Planning Board that the storm drainage will not, in any way, overland existing or future storm drainage systems downstream from the proposed street.

10.5.4 Where open ditches, channels, streams or natural drainage courses are used either to collect or discharge storm water, adequately sized perpetual easements shall be provided and appropriate erosion control measures taken. No storm water will be permitted to drain across a street or across an intersection.

10.5.5 Under Drainage Systems

Where subsurface solids are of the nature to require an under drainage system, under drains shall be installed and discharged not to degrade the environment.

- 10.5.5.1 An under drainage system shall be installed to properly drain all springs or areas where the ground water level is too high and would cause a hazard to the stability of the roadway base.

10.6 Storm Drainage Construction Standards

- 10.6.1 All material used for storm drainage construction shall be in conformity with State of Maine Specifications for Highways and Bridges, most recent version. In addition, the quality of storm water flows off the street shall be addressed. Retention of the first half (1/2) inch from a storm event for twenty-four (24) hours by an oil and gas separator catch basin (properly maintained) or other storm water quality improvement measures may be necessary, as determined by the Planning Board, to minimize or eliminate sediments, hydrocarbons or other contaminants from the storm water leaving the right-of-way.

10.6.2 General Construction Requirements

- 10.6.2.1 Trenching shall be accomplished in accordance with all appropriate State and federal safety requirements.
- 10.6.2.2 Drain alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drainage is obtained in writing from the Planning Board.
- 10.6.2.3 Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. In straight runs, manholes shall be placed at a maximum of four hundred (400) feet intervals.
- 10.6.2.4 When necessary, outlets shall be terminated in an end wall or concrete construction or shall be rip-rapped to prevent erosion or other appropriate measures taken. Facilities for energy dissipation shall be provided where necessary.

10.7 Additional Improvements and Requirements

10.7.1 Erosion Control

Procedures shall be undertaken, both during preparatory, construction and cleanup stages to prevent soil erosion and water pollution. A plan shall be prepared meeting the standards of the York County Soil and Water Conservation District.

10.7.2 Cleanup

Following street construction, the developer and contractor shall conduct a thorough cleanup

of stumps and other debris from the entire road or street right-of-way.

10.7.3 Street Name, Street Signs, Street Lights

Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Planning Board. Street name signs shall be furnished and installed by the developer. The type, size and location shall be subject to the approval of the Planning Board. Street lighting shall be installed as required by the Planning Board.

10.7.4 A residential neighborhood, development or subdivision with clearly defined geographical boundaries may have on (1) sign located at the primary entrance not to exceed twelve (12) square feet. (Adopted November 6, 2001)

10.8 Design and Construction Plans

10.8.1 Plans and illustrations submitted in accordance with Section 10.2.3 (Plans) shall be designed and prepared by a professional civil engineer registered in the State of Maine. No construction will be permitted until the Planning Board has approved the plans. No lot in a subdivision may be sold, leased or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these standards up to and including that lot.

10.8.2 Utilities, where available, shall be installed prior to the street construction phase so as to avoid re-excavation of the finished street.

10.8.3 Prior to the commencement of each major phase of construction, the Code Enforcement Officer shall be notified.

10.8.4 Upon completion of street construction and prior to a vote by the Board of Selectmen to submit a proposed town way to a Town Meeting, a written certification signed by a professional Civil Engineer registered in the State of Maine shall be submitted to the Board of Selectmen, at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements set forth herein.

10.9 Performance Bond or Surety

10.9.1 Pursuant to the procedures set forth in section 7.1.11, prior to the time of the approval of the final plan application, the applicant shall tender either a certified check payable to the Town, or other such surety or performance bond payable to the Town in the amount of one hundred (100) percent of the cost of streets, and completing all grading, paving, storm drainage and utilities specified in the application.

10.9.2 Prior to the release of such check, bond or other surety, the Planning Board shall determine to its satisfaction, in part by the written certification required pursuant to Section 10.8.4, that the

proposed street and any other improvements meet or exceed the design and construction requirements set forth in the application and this ordinance.

ARTICLE 11 RELEASE OF PERFORMANCE BOND OR SURETY

- 11.1 Before a subdivider may be released from any obligation required by this guarantee of performance, the Board shall require certification from the Municipal Engineer or appointed engineer and whatever other agencies and departments that may be involved to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinance.

ARTICLE 12 WAIVERS OF SUBMISSIONS OR REVIEW STANDARDS

- 12.1 Where the Planning Board finds that unnecessary hardships may result from strict compliance with the required application submissions or where there are special circumstances of a particular plan, upon written request of the applicant, the Board may waive application submissions so that substantial justice may be done and that the public interest be secure, provided that such waivers will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or the Zoning Ordinance.
- 12.2 Where the Planning Board finds that unnecessary hardships may result from strict compliance with particular review standards, or that due to special circumstances of a particular plan, the provision of certain required improvements or compliance with particular review standards is not requisite in the interest of public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, upon written request of the applicant, the Board may waive compliance with such review standards, subject to appropriate conditions, provided that such waivers will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or the Zoning Ordinance.

ARTICLE 13 APPEALS

- 13.1 Any appeal from an action of the Planning Board in administering the provisions of these regulations shall be made to the Superior Court in accordance with state law.

ARTICLE 14 SEVERABILITY AND EFFECTIVE DATE

- 14.1 The invalidity of any provision of these regulations shall not invalidate any other part.
- 14.2 These regulations shall take effect immediately on adoption of the same by the Planning Board.

Appendix

Maine Revised Statutes Annotated

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication is current to the end of the Second Special Session of the 122nd Legislature, which adjourned July 30, 2005, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

Title 30-A, §4401, Definitions

* * * * *

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. [2001, c. 651, §§1-3 (amd).]

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

- (1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
- (2) The division of the tract or parcel is otherwise exempt under this subchapter.

[2001, c. 359, §1 (amd).]

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. A lot of 40 or more acres must be counted as a lot, except:

- (2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

[2001, c. 651, §1 (amd).]

D.

[2001, c. 359, §2 (rp).]

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

[2001, c. 359, §3 (new).]

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

[2001, c. 359, §3 (new).]

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

[2001, c. 359, §3 (new).]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a

continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

[2001, c. 359, §3 (new).]

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

[2001, c. 359, §3 (new).]

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

[2001, c. 359, §3 (new).]

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §2 (amd).]

H.

[2001, c. 651, §2 (rp).]

H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

- (1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or
- (2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

[2001, c. 651, §3 (new).]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

[2001, c. 359, §5 (amd).]