

2012

# Town Charter

Ogunquit (Me.)

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## **PREAMBLE**

We, the citizens of the Town of Ogunquit, realizing our responsibilities inherent in the adoption of this Charter, also recognize that strict moral ethics must be practiced by all people, particularly those in positions of authority. These moral obligations require honesty, integrity, and high ethical standards on the part of all elected and appointed officials.

Honest, responsible, dedicated, and transparent leadership in all phases of our community is essential if Ogunquit is to continue to be a better place in which to live.

The Ogunquit Village Corporation was formed in 1913 as a result of the efforts of our forebears. The works of many went into the original Charter; specifically mentioned are Nehemiah P. M. Jacobs, Wilbur F. Cousins, George H. Littlefield, J. Moses Perkins, Edward T. Weare, Samuel J. Perkins and F. Raymond Brewster.

The citizens of Ogunquit appreciate what the charterers and other dedicated people have done through the years to establish, preserve and improve the Town.

The Charter, approved by the legislature of the State of Maine in 1913, has been amended several times since the corporation was born. Times have changed; Ogunquit has changed and grown. On July 1, 1980, Ogunquit officially became a town in the State of Maine pursuant to L.D. 959 as enacted by the State Legislature in June, 1979.

The purpose of this Charter is to clarify the rights and responsibilities of the Town of Ogunquit; to add other rights and responsibilities as required by present needs and by changes in State Statutes; and to assemble all this into a readable, acceptable format. This Charter may be amended in the future, as cause or need requires.

**ARTICLE I**  
**GRANT OF POWERS TO THE TOWN**

**SEC. 101 INCORPORATION**

The inhabitants of the Town of Ogunquit shall, in the collective, constitute a municipal corporation by the name of the Town of Ogunquit.

**SEC. 102 POWERS OF THE TOWN**

The Town shall have, exercise, and enjoy all the rights, immunities, powers, privileges, and franchises, and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said Town under the Laws of the State of Maine and the State Constitution.

It may enact by-laws, regulations, and ordinances not inconsistent with the State Constitution and the Laws of the State of Maine, and impose penalties for the breach thereof, not exceeding the maximum amount as established by statute in any one case, to be recovered to the use of said Town by appropriate action.

The Town shall operate under the Town Meeting-Selectmen-Manager form of government set forth in this Charter. Under this form of government, the Select Board serves as the Town's executive body, and the Town Manager serves as the Chief Operating Officer to oversee the daily operations of the Town.

The Town shall have all the powers possible for a municipality to have under the State Constitution and the Laws of the State of Maine, including but not limited to the power to:

- 102.1** Elect municipal officials.
- 102.2** Appoint officials or members of boards, commissions and committees.
- 102.3** Establish and maintain a Police Department.
- 102.4** Establish and maintain a Fire Department.
- 102.5** Approve the salaries of those elected and appointed officials receiving compensation.
- 102.6** Lay out, construct, reconstruct, alter, maintain, repair, control and operate roads, streets and ways, sidewalks, <sup>1</sup>Marginal Way, public parks and beaches, public walks, public parking lots, and public wharves and landings.

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<sup>1</sup> Section 102.6 – 11/06/2012

- 102.7** Contract for public utilities.
- 102.8** Plant, remove, and care for trees in the rights of way of roads and streets, and upon public lands.
- 102.9** Widen, deepen, extend and maintain Flat Pond and the channel of the Josias River between Flat Pond and the sea, hereinafter referred to as Perkins Cove Harbor.
- 102.10** Provide for planning and zoning.
- 102.11** Establish, maintain, conduct and finance recreational facilities; and may charge for the use thereof.
- 102.12** Borrow money and issue bonds within the limits specified by State Laws for municipalities for any purpose for which money may be legally appropriated.
- 102.13** Establish and maintain municipal parking, which may include parking fees.
- 102.14** Regulate the taking of clams.
- 102.15** Maintain real and personal property owned by the Town.
- 102.16** Apply for State, Federal, and other aid grants for the benefit of the Town.
- 102.17** Adopt and modify the official map of the Town.
- 102.18** Acquire real and personal property within or without its corporate limits for any Town purpose, and sell, lease, mortgage, hold, manage, maintain, and control such property as its interests may require in accordance with Title 30-A MRSA.
- 102.19** Accept contributions of personal property and monetary contributions to be used as the Town determines.

**SEC. 103 INTERGOVERNMENTAL RELATIONS**

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, states, or civil divisions or agencies thereof, or the United States government or agency thereof.

**ARTICLE II**  
**TOWN MEETINGS**

**SEC. 201    PURPOSE**

The purpose of Town Meetings is to allow voters to exercise their powers under the Town Meeting-Selectmen-Manager form of government and to provide for the election of municipal officials and other elected officials, appropriation of funds, approval of warrants, adoption of ordinances and any other business that may legally come before the meeting.

**SEC. 202    QUALIFICATION OF VOTERS AND DEFINITION OF RESIDENT VOTERS**

**202.1** Eligibility of voters shall be as determined by the Statutes of the State of Maine.

**202.2** Resident Voter shall be defined as:

A person who appears on the Town's voter registration rolls maintained by the office of the Town Clerk certifying eligibility to vote in the Town in local, State and national elections, having listed in such rolls the name and place of domicile (home address) located within the border of the Town in which he/she has lived a minimum of six (6) months and one (1) day.

**202.3** Domicile shall be defined as:

That place where an individual has his/her true, fixed and permanent home and principal establishment and to which whenever he/she is absent has the intention of returning.

**SEC. 203    TOWN ELECTIONS**

Provisions of the Laws of the State of Maine relating to the qualifications of voters, registration, the manner of voting, the duties of elected officials and all other particulars respective to preparation for, conduct of and management of elections, as far as they may be applied, shall govern all Town elections except as otherwise provided in this Charter. Title 30-A, MRSA as amended shall govern the manner of voting in Town elections, provided that all voting shall henceforth be conducted by secret ballot pursuant to the provisions of Section 2528 thereof. In addition, voting on budgetary matters shall be conducted in accordance with the provisions of Section 503 of this Charter.

## **\*SEC. 204 PROCEDURES**

The Annual Town Meeting shall be held on the second Tuesday of June. Notice of a Town Meeting, to include a specimen ballot, shall be conspicuously posted in at least three (3) public places and on the town website (townofogunquit.org), at least thirty (30) calendar days in advance of the voting day. Notice of the meeting shall also be posted on the public access channel (WOGT) at least thirty (30) calendar days in advance of the voting day.

Town Meetings shall be initiated and conducted in the manner provided by applicable State Statutes. A quorum for the purpose of conducting the business and exercising all the powers of the Town Meeting shall consist of a number of eligible votes cast equal to at least twenty-five percent (25%) of the number of eligible votes cast in the Town at the last gubernatorial election.

## **SEC. 205 SPECIAL TOWN MEETINGS**

The Select Board may call a Special Town Meeting whenever deemed necessary or on petition of the voters. If the Select Board unreasonably refuses to call a Special Town Meeting, it may be called by a Notary Public in the County on the written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the Town at the last gubernatorial election. Notice of a Special Town Meeting, to include a specimen ballot, shall be conspicuously posted in at least three (3) public places and on the town website (townofogunquit.org), at least thirty (30) calendar days in advance of the voting day. Notice of the meeting shall also be posted on the public access channel (WOGT) at least thirty (30) calendar days in advance of the voting day; and in compliance with applicable State Statutes. A quorum for a Special Town Meeting shall be twenty five percent (25%) of eligible votes cast in the Town at the last gubernatorial election.

## **SEC. 206 WARRANT ARTICLE(S) BY PETITION OF VOTERS**

Article(s) for the Warrant of any Town Meeting may be requested of the Select Board. If the Select Board declines, the article(s) shall be inserted in the Warrant of an Annual or Special Town Meeting upon the written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the Town at the last gubernatorial election.

**ARTICLE III**  
**SELECT BOARD**

The duty of the Select Board is to execute the will of the people, to manage Town affairs, to protect and maintain the assets of the Town and to provide leadership and oversight on issues of importance to the Town.

**SEC. 301 COMPOSITION**

The Select Board shall consist of five members elected by voters of the Town, and shall constitute the Executive Branch of the Town government.

**SEC. 302 QUALIFICATIONS and ELIGIBILITY**

- 302.1** Only registered voters of the Town shall be eligible to hold office on the Select Board.
- 302.2** Select Board members shall not hold any other compensated Town office or position of employment and shall not have contractual business relationships with the Town.
- 302.3** Candidates for office shall be nominated by the filing of nomination papers with the Town Clerk signed by a minimum of twenty-five (25) registered voters.

**\*SEC. 303 ELECTION and TERM OF OFFICE**

- 303.1** Select Board members shall be elected for a term to commence<sup>3</sup> upon conclusion of the Annual Town Meeting. Election shall be for a three year term, unless elected to fill an unexpired term.
- 303.2** Each Select Board member shall serve until a successor is elected and qualified. Vacancies, which may occur, are covered in Section 309 of this Charter.

**SEC. 304 COMPENSATION**

- 304.1** Members of the Select Board shall each receive annual compensation for their services as approved at the annual Town Meeting.
- 304.2** Members serving unexpired terms shall be paid on a prorated basis for time

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<sup>2\*</sup> Section 303.1 – 11/04/2008

2. Section 303.1 – 11/03/2009

served.

**304.3** The Town Treasurer shall make payment for all services under this Section annually after the Annual Town Meeting and only after completion of the year's service.

**304.4** Members shall receive reimbursement for actual and authorized expenses incurred in the performance of the duties of office.

### **SEC. 305 INDUCTION INTO OFFICE**

All elected Select Board members shall be sworn to the faithful discharge of their duties by the Town Clerk or Notary Public at the conclusion of the Annual or Special Town Meeting or as otherwise legally required.

### **SEC. 306 ORGANIZATIONAL MEETING**

**306.1** At the next regular meeting following the Annual Town Meeting, members of the newly constituted Select Board shall meet to elect, by secret ballot, a Chairperson and Vice Chairperson.

**306.2** The positions of Chairperson and Vice Chairperson are offices of merit rather than seniority. The Select Board shall endeavor to elect officers whose previous work on the Select Board, or other Town boards or committees, indicates an ability to lead, manage and work toward consensus.

**306.3** A member of the Select Board shall place in nomination him/herself or another Select Board member for the position of Chairperson of the Select Board. Each nomination requires a second. All members of the Select Board shall vote by secret ballot for one of the names placed in nomination for the position of Chairperson. The name of the person for whom each member votes shall be written down on a piece of paper and handed by each Select Board member to the Town Clerk. The Town Clerk shall count the votes and declare the person with a majority of the votes the winner of the election for the Chairperson of the Select Board.

**306.4** The same procedure as in Article 306.3 shall be followed for the election of the Vice Chairperson of the Select Board.

**306.5** Both the Chairperson and Vice Chairperson shall serve a term of one year.

**Sec. 307 CHAIRPERSON**

The Chairperson or, in his or her absence, the Vice Chairperson shall preside at all regular meetings of the Select Board and is responsible for the legal and orderly transaction of Select Board business at all regular and special meetings.

- 307.1** The Chairperson shall conduct impartial and orderly discussions and exercise his or her vote in Town affairs as a regular member of the Select Board. The Chairperson shall be recognized as head of Town government for all ceremonial purposes, and by the Governor for purposes of military law, but he or she shall have no regular administrative duties.
- 307.2** The Chairperson is responsible for calling special meetings of the Select Board when such meetings are warranted.
- 307.3** In the temporary absence or disability of the Chairperson and Vice Chairperson, the Select Board may elect, from among its members, a Chairperson pro tempore, who shall exercise all powers of the Chairperson during the temporary absence or disability of the Chairperson and Vice-Chairperson.
- 307.4** The Select Board, after a public hearing, may replace the Chairperson and/or Vice Chairperson at any time, by a secret ballot vote of four (4) members for a full Board and a majority vote if less than a full Board.

**SEC. 308 MEETINGS AND VOTING**

**308.1 Meetings**

- 308.1.1** The Board shall meet a minimum of once a month.
- 308.1.2** Meetings shall be conducted according to the most recent edition of Robert's Rules of Order.
- 308.1.3** The Board may meet in executive session only upon the publicly recorded vote of three-fifths (3/5) of the members present and voting. A motion to go into executive session shall indicate the precise nature of the business of the executive session, and no other matter shall be considered in that particular executive session. Final action on any matter taken up in such closed sessions, except those matters which are permitted or required by law to be acted upon in closed sessions, shall not be taken by the Board until such matter is placed on the agenda of a regular or special meeting and voted upon thereafter.

- 308.1.4** Except as noted in Section 308.1.3 above, all meetings and workshops of the Board shall be open to the public.
- 308.1.5** All regularly scheduled Select Board meetings shall be televised on WOGT, and Select Board workshops shall also be televised on WOGT to the extent possible.

**308.2** Quorum and Voting

- 308.2.1** A quorum of the Board for the transaction of any business shall consist of at least three (3) members.
- 308.2.2** Passage, adoption or enactment of any item shall require three (3) votes on the prevailing side.
- 308.2.3** Each Board member in attendance shall vote on all issues and questions presented for a vote except when a valid conflict of interest or appearance of conflict of interest clearly exists,<sup>4</sup> in which case, the member must abstain. Otherwise, members in attendance will vote in one of the following responses, in favor, against or present. A member voting present will be considered part of the quorum. The record will show votes in favor, against and present.
- 308.2.4** A member with a conflict of interest or the appearance of a conflict of interest shall recuse him or herself and shall leave the room until such time as the matter involving the conflict of interest is closed and the Select Board is ready to move to the next item on the agenda.

**308.3** Record Keeping and Journal

The Board shall keep accurate permanent records of its meetings and these records shall be maintained at the Town offices and/or on the Town website. Said records shall be available to the public.

The Board shall also keep recordings of its meetings and these recordings shall be maintained at the Town offices for one year after the meetings. These recordings shall be available to the public.

**308.4** Training

Board members shall receive training on boardsmanship, Robert's Rules of Order and municipal governance as provided by the Maine Municipal Association and

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<sup>4</sup> Section 308.2.3 – 11/06/2012

may participate in other training opportunities at Town expense and the Board's discretion.

**SEC. 309 VACANCIES: FOREITURE OF OFFICE; FILLING VACANCIES**

**309.1 Vacancies**

The office of a Board member shall become vacant upon:  
failure to qualify for office within ten days after written demand by the Town Clerk; non-acceptance; resignation; death; removal of domicile from the Town limits; removal in a manner authorized by law or this Charter; or forfeiture of office.

**309.2 Forfeiture of Office**

At any time during a term, a member shall forfeit office by an affirmative vote of at least three (3) Board Members for any of the following reasons:

- A. Lack of any qualifications for the office as prescribed by this Town Charter or by State law.
- B. Violation of any express prohibition of the Town Charter.
- C. Conviction of a crime punishable by imprisonment for more than thirty (30) days, whether or not such imprisonment actually occurs.
- D. A Member of the Board who has three (3) consecutive unexcused absences from that Board's Meetings (including regular and special meetings) or has been absent, without excuse, from twenty percent (20%) or more of the Board's regular and special meetings during the prior twelve (12) month period shall be deemed to have created a vacancy, resulting in the loss of membership on the Board and shall be replaced.

The Recording Secretary shall be responsible for maintaining accurate attendance records. An absence shall be excused only by a majority vote of the remaining Members in attendance at the Meeting from which the Board Member is absent. The absent Board Member shall provide a reason

for his/her absence to the Chairperson prior to the Meeting. The Chairperson shall share that reason with the other Members in attendance.

**309.3 Filling of Vacancies**

**309.3.1** If for any reason a vacancy occurs in the membership of the Board more than seventy (70) calendar days prior to the next annual Town Meeting, the vacancy shall be filled at a Special Town Meeting for the unexpired portion of the term.

In the event such vacancy occurs less than seventy (70) calendar days prior to the next annual Town Meeting, the vacancy is to be filled for the unexpired portion of the term at the next Annual Town Meeting. Any such special election shall be conducted in accordance with the statutes of the State of Maine. When an election is being held to fill an unexpired term at the same time as a general election to fill other Select Board positions, all positions shall be considered “At Large”, with the candidates receiving the highest vote totals elected to the longest terms.

**309.3.3** In the event of a tied election result, the Select Board shall schedule a special run-off election to be held within sixty (60) days.

**309.3.4** In the event of multiple vacancies totaling three (3) or more at one time, a special election shall be called within thirty (30) calendar days. During the period prior to the special election, the Chairperson of the Planning Board, Chairperson of the Zoning Board of Appeals, and the Chairperson of the Board of Assessment Review successively shall serve on the Select Board to make a quorum.

**SEC. 310 POWERS OF THE BOARD**

The Select Board shall act as a unit settling all questions by formal vote in authorized meetings. Members must not act individually unless specific authority related to a particular duty has been delegated to them by the Select Board. A formal minority report

may be issued by Select Board members voting in the minority. Without limitation, the Select Board shall have the power to:

- 310.1** Appoint and remove the Town Manager, the Town Tax Collector, the Town Attorney, the Town Assessor or Certified Public Assessor, the Auditor, the Health Officer, and the Director of Emergency Management.
- 310.2** Appoint, remove or provide for the election of such officials and members of boards, commissions and committees as ordinances and statutes may require. All appointments shall be in writing and signed by the Board. Appointments may be removed by the Board under the provisions of Section 804 of this Charter.
- 310.3** Appoint any individual or committee to assist the Board with any aspect of Town government, e.g., long-range planning or special projects.
- 310.4** Set the salary, subject to budget adoption, of those appointed by the Select Board.
- 310.5** Oversee, monitor and account for the appropriations and sign the Warrant certifying all disbursements of Town funds.
- 310.6** Prepare, or provide for the preparation of, the Warrant for the Annual and Special Town Meetings and the Annual Town Report.
- 310.7** Expend funds as authorized by the voters at the Annual Town Meeting or Special Town Meetings.
- 310.8** Enact, unless otherwise provided by State statute, ordinances to be effective for a maximum of ninety (90) calendar days to meet emergencies or contingencies. Such ordinances shall not be renewable and shall not become regular or permanent until adopted by vote at the Annual or Special Town Meeting.
- 310.9** Ensure compliance of all ordinances through its designated enforcement agents.
- 310.10** Provide for an independent annual audit.
- 310.11** Require a bond from a surety company for all persons trusted with the collection, custody or disbursement of any of the monies of the Town. The premiums on said bonds shall be paid by the Town.
- 310.12** Enter into and execute contracts on behalf of the Town concerning matters authorized by Town Charter, Town Meetings or State statutes.
- 310.13** Authorize legal activity on behalf of the Town.
- 310.14** Adopt and abide by management, administrative and personnel policies.
- 310.15** Act on other powers or duties permitted by Maine State statutes.

- 310.16** The Select Board shall issue a written mid-year report each <sup>5</sup>January updating the citizens of the Town on the Articles passed at the Annual Town Meeting. This report shall also include any important issues currently before the Select Board. Notice of this report shall be given seven (7) calendar days prior to its issuance. Notice shall be posted in three (3) conspicuous places and on the community public access channel (WOGT). This “State of Ogunquit” report shall be posted on the town website (townofogunquit.org) and copies shall be available in Town Hall. The first item on the agenda at the Select Board’s meeting following the “Mid-Year Report” shall be a public forum for questions and comments. For purposes of this Charter, the Annual Report shall be considered the “Year End Report”.
- 310.17** Adopt an annual budget and recommend it to the Town Meeting for approval.
- 310.18** Inquire into the conduct of any office, department or agency of the Town through the Town Manager and to conduct investigations as deemed necessary.
- 310.19** Provide oversight, liaison and leadership to the volunteer committees and advisory groups that serve at the Board’s pleasure.
- 310.20** Remove or suspend the Town Manager for cause, in accordance with the procedure outlined in Article 4, Section 407.

## **SEC. 311 PROHIBITIONS**

### **311.1 APPOINTMENTS AND REMOVALS**

Neither the Select Board nor any of its members shall dictate the appointment or removal of any administrative officers or employees whom the Town Manager or other persons in authority are empowered to employ.

### **311.2 INTERFERENCE with ADMINISTRATION**

Select Board members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Manager, or other persons in authority, solely through the Town Manager. Select Board members shall not give orders to or influence any officer, employee or citizen of the Town either publicly or privately.

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<sup>5</sup> Section 310.16 – ATM 6/14/11

**SEC. 312 6SELECT BOARD SHALL BE JUDGE OF ELECTIONS**

**312.1** The Select Board shall decide any disputes as to elections or the eligibility of those elected as Municipal Officials. It shall have the power to subpoena witnesses and require the production of records. The decision of the Board in any such case shall be subject to court review under appropriate Maine statutes, hereafter referred to as the “Board” unless otherwise noted.

**ARTICLE IV**

**TOWN MANAGER**

**SEC. 401 QUALIFICATIONS**

**401.1** The Select Board shall appoint a Town Manager as the chief operating officer of the Town on the basis of character, executive leadership, administrative qualifications, education, and experience in municipal administration. Experience in project planning and operation is desirable.

**401.2** The Town Manager need not be a resident of the Town at the time of appointment and may reside outside the Town while in office, provided that the Select Board in office at the time of the appointment approves, by majority vote, said approval not to be rescinded during the Town Manager’s term of office.

**Sec. 402 SELECTION AND APPOINTMENT PROCESS**

The Select Board shall appoint a Town Manager for a specific term, as specified by contract, the first six months of which shall be probationary. The procedure leading to the appointment of a Town Manager shall be as follows:

**402.1** The Select Board shall consult with the Maine Municipal Association regarding recruiting procedures and may make use of any services the Maine Municipal Association might have available. This information shall be made available to the Search Committee.

**402.2** A Search Committee of not less than five (5) and not more than seven (7) Town residents shall be appointed by the Select Board within 30 days of the office of Town Manager becoming vacant or within 30 days notice to the Select Board that the office of Town Manager will become vacant. One member of the Select

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<sup>6</sup> Section 312 – 11/06/2012 – Repealed (Independent Judges of Election)

Board shall serve as an ex-officio member of the Search Committee. The Search Committee shall endeavor to complete its tasks within 90 days of its formation.

- 402.3** All meetings of the Search Committee shall be conducted as Executive Sessions and all information and discussions are confidential to the extent allowed by law.
- 402.4** The Search Committee shall choose from its members a chair that is responsible for conducting the meetings and conveying to the Select Board the progress of the search.
- 402.5** The Search Committee shall also choose from its members a vice-chair who shall act in the event the chair is absent or unable to carry out his or her duties.
- 402.6** The Select Board shall present to the Search Committee a job description for the position of Town Manager.
- 402.7** The Search Committee shall receive and review all applications for Town Manager, assuring that the minimum standards set out in state law are met and that the applications meet the requirements of the job description. A copy of each application for Town Manager shall be given to each member of the Select Board.
- 402.8** The Search Committee shall present to the Select Board a semi-final list of candidates for the position of Town Manager. By a majority vote the Select Board may add to the list of semi-finalists the name of one or more applicants taken from the list of all applicants.
- 402.9** The Search Committee and the Select Board together shall prepare a questionnaire, which all semi-finalists must complete in writing and return to the Search Committee. Responses to the questionnaire shall be kept confidential and distributed to all members of both the Search Committee and the Select Board.
- 402.10** After reviewing the questionnaires, the Search Committee shall present to the Select Board a list of finalists, not to exceed five.
- 402.11** By a simple majority vote, the Select Board may add to the list of finalists additional finalists from the original list of semi-finalists, not to exceed two.
- 402.12** The Select Board shall, as a group, interview in person in executive session, each of the finalists for the position of Town Manager.
- 402.13** Appointment of a Town Manager requires a majority plus one vote of the entire Select Board.
- 402.14** In the event the Select Board is unable to meet the requirements for appointing a Town Manager, the position shall be advertised again and the search re-started.

**402.15** If the office of Town Manager becomes vacant for any reason within 90 days of the appointment of the Town Manager, the Select Board may choose a new Town Manager from the list of finalists in the previous search.

**Sec. 403**      **COMPENSATION**

The Select Board shall, by contract, fix the compensation, benefits, holidays, vacation, and other terms, and provide for the reimbursement of the actual and necessary expenses incurred in the performance of the Town Manager's duties.

**403.1** The Select Board shall consult with the Maine Municipal Association to determine the usual salary range and benefits provided to Town Managers of towns similar in administrative size and population to Ogunquit.

**403.2** The Select Board shall consult with the Maine Municipal Association to determine the usual salary range and benefits provided to Town Managers with various levels of experience, education, and training.

**Sec 404**      **RESTRICTIONS**

**404.1** The Town Manager may not serve as a member of the Select Board, Assessor, member of the School Board, or any other Town board, committee, or commission. (State Law Reference: Title 30-A, MRSA, Section 2632)

**404.2** Other than a Select Board member, current or former municipal officers may be appointed Town Manager. When a current municipal officer is appointed Town Manager, he or she must immediately submit in writing to the Select Board his or her resignation from his/her municipal office. (State Law Reference: Title 30-A, MRSA, Section 2606)

**404.3** Select Board members are ineligible to be appointed Town Manager while serving on the Select Board or within one year after their term on the Select Board expires.

**SEC. 405**      **POWERS AND DUTIES OF THE TOWN MANAGER**

The Town Manager shall:

**405.1** Be the chief operating officer of the Town.

**405.2** Appoint, subject to the confirmation or veto by the Select Board, all Department Heads except those otherwise provided for under State statute or this Charter. All appointments and promotions of town officials and employees shall be made

solely on the basis of merit and fitness demonstrated by examination or other evidence of accomplishment.

- 405.3** Be responsible to the Select Board for administration of all departments and offices over which the Board has control.
- 405.4** Serve in any office as the head of any department under the control of the Select Board when so directed by the Board.
- 405.5** Have exclusive authority to remove for cause, after notice and hearing, any person the Town Manager is authorized to appoint, and to report all such removals to the Select Board, unless otherwise provided for by this Charter or Maine State law. In order to remove the Town Clerk and Town Treasurer for cause there is an additional requirement that there be an affirmative vote from the Select Board of not less than three of its members.
- 405.6** Unless otherwise provided by municipal ordinance, the Town Manager shall supervise all Town appointees whom the municipal officials are required by statute to appoint, and appoint and supervise all other subordinates and assistants. The Town Manager shall have the authority to delegate supervisory authority to the head of a department. The Town Manager's authority does not extend to supervision of members of boards, commissions, committees and auditors, attorneys and assessors.
- 405.6.1** The Town Manager shall maintain current job descriptions for all Town Employees.
- 405.7** Appoint, with the approval of the Select Board, an administrative assistant to the Town Manager, whose duties shall include that of a purchasing agent for all Town departments and agencies, except the School District.
- 405.8** Attend all meetings of the Select Board, unless excused.
- 405.9** Make recommendations to the Select Board regarding the efficient operation of the Town.
- 405.10** Attend all Town meetings and other meetings and hearings as so directed by the Select Board.
- 405.11** Keep the Select Board and the residents of the Town informed with respect to the financial condition of the Town. Twelve (12) times per year, at the opening of the first Select Board Meeting of every month, prior to the discussion of any business or public hearings, the Town Manager, or the Town Manager's appointee, shall address the inhabitants of Ogunquit on the public access channel (WOGT), with

the express purpose of updating and informing the residents of Ogunquit as to the present status of approved projects and departmental achievements and/or deficiencies. It shall be at the discretion of the Town Manager to determine the depth of the public updates. The residents shall have the opportunity to submit written questions to the Town Manager on any budget issues or other questions regarding the Town's affairs and the Town Manager shall respond to these questions during the next monthly report.

**405.12** Collect the necessary data and prepare the budget for the Select Board.

**405.13** Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.

**405.14** Be aware of and make application, as approved by the Select Board, for State, Federal and other grants for the benefit of the Town.

**405.15** Perform such other duties as may be prescribed by this Charter or required by the Select Board, not inconsistent with this Charter.

**405.16** Notify the Town Clerk, for inclusion in the Annual Town Report, of the attendance record of the members of the Town boards, committees and commissions, whether elected or appointed, including the number of meetings attended and absent.

#### **SEC. 406 ABSENCE OF THE TOWN MANAGER**

The Town Manager may, with the consent of the Select Board, designate by letter filed with the Town Clerk, a qualified person, preferably a resident of the Town, to perform the duties of the Town Manager in the event of an extended absence or disability. In the event of failure of the Town Manager to designate, the Select Board shall appoint a qualified person, preferably a resident of the Town, to perform the duties of the Town Manager until such time as the Town Manager returns.

#### **SEC. 407 REMOVAL OF THE TOWN MANAGER**

The Town Manager may be removed or suspended for cause by the Select Board in accordance with the following procedure:

- A. The Select Board shall file with the Town Clerk a written preliminary resolution setting forth the specific reason for the proposed removal, a copy of which shall be delivered to the Town Manager within five (5) days of filing. The Town Manager may, within ten business days of receiving the resolution, reply in writing and may

request a hearing. The Town Manager shall specify whether that hearing is to be held in public or executive session.

- B. Upon request for a hearing, the Select Board shall hold a hearing not earlier than five (5) business days after the request is filed and not later than twenty (20) business days.
- C. After the hearing or at the expiration of the time permitted the Town Manager to request the hearing, if no such request is made, the Select Board may adopt or reject the resolution of removal.
- D. Removal of the Town Manager requires a majority plus one of the Select Board, all members being present.
- E. The Select Board may suspend the Manager from duty in the preliminary resolution, but in no event shall the Manager's salary and benefits be affected until the final resolution of removal has been adopted. (State Law Reference: Title 30-A, MRSA, Section 2633)

**ARTICLE V**  
**FINANCIAL PROCEDURES**

**SEC. 501 AUTHORITY**

The Select Board shall be responsible for the preparation and submission of the annual and special budgets to be voted at Annual and Special Town Meetings.

**SEC. 502 FISCAL YEAR**

Starting in 2009, the fiscal year of the Town shall begin on the first day of July and terminate on the last day of June of each year. The Town fiscal year shall constitute the budget and accounting year as specified in this Charter.

**502.1** The Town shall collect Real Estate Taxes on a semi-annual basis starting in Fiscal Year 2009.

**SEC. 503 BUDGET PROCESS**

**503.1** The Town Manager, assisted by input from each Department Head and Chairpersons of Town Boards, Committees, and Commissions shall submit a five (5) year capital improvement plan, the annual budget, and any special funding requests to the Select Board .

**503.2** The Select Board will then, with the collaboration and advice of the Budget Review Committee, review and revise, if necessary, approve and finalize the budget for presentation at the Annual Town Meeting.

**\*503.3** Prior to finalizing the budget, the Select Board shall hold a public hearing on its proposed budget at least thirty (30) days prior to the Annual Town Meeting vote.

**503.4** The budget shall be presented to the voters by the Select Board in the form of warrant articles for an appropriation.

**503.5** Each warrant article shall be accompanied by a notation of the Select Board's recommendation and vote on the article. Each warrant article containing a budget item shall also be accompanied by a notation of the Budget Review Committee's recommendation and vote on the article.

**\*503.6**<sup>7</sup> On those articles where the recommendations of the Select Board and the Budget Review Committee are in agreement, the Warrant Article shall include their common recommendation and the previous fiscal year's budget as the two (2)

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<sup>\*</sup> Section 503.3 – 11/04/2008

Section 503.6 – 11/03/2009 – Repealed (Multiple Choice Vote-New Numbering

<sup>7</sup> Section 503.6 – 04/06/2010

voter choices. In the event a previously funded budget article is not approved by majority vote, the appropriation for the previous fiscal year shall be construed as the appropriation for the current fiscal year.

**503.6.1** <sup>8</sup>On those articles where the recommendations of the Select Board and Budget Review Committee differ, the Warrant Article shall include the Select Board's recommendation and the Budget Review recommendation as the two (2) voter choices. In the event of a tie vote and a previously funded budget article is not approved by majority vote, the Select Board's appropriation will prevail.

**503.7** In the event a budget item appearing on a ballot for the first time or a petitioned article is <sup>9</sup>not approved by majority vote, the item shall receive no funding.

**503.8** In the case of petitioned warrant articles or special funding requests for budgetary items to be voted at a Special Town Meeting, the procedures required and the only public hearing shall be as otherwise set forth in Title 30-A, MRSA §2528.5.

**503.9** No defeated warrant article shall be reconsidered until the next Annual Town Meeting.

#### **SEC. 504 REVENUE AND EXPENDITURES**

Anticipated revenues and taxation shall be identified on each appropriation account. The budget for all departments shall include all proposed expenditures. Total expenditures shall not exceed total income.

The gross appropriation for each department shall not be exceeded except by vote at a Special Town Meeting or as provided for herein. Amounts may be transferred by the Select Board within a department as long as the approved total departmental budget amount is not exceeded. Transfers between departments (Warrant Articles) shall be allowed only as a final adjustment at the end of the fiscal year following a public hearing at a Select Board Meeting. This transfer is limited to an amount not to exceed Ten Thousand Dollars (\$10,000.00) for any one department and not to exceed Fifty Thousand Dollars (\$50,000.00) for the departments overall. Amounts above these limits require approval at a Special Town Meeting.

#### **SEC. 505 BORROWED FUNDS**

The Town Treasurer, with approval from the Select Board, is authorized to borrow money for approved expenditures in anticipation of revenue and taxation collection.

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<sup>8</sup> Section 503.6 – 04-06-2010

<sup>9</sup> Section 503.6.1 – 04-06-2010

**SEC. 506 INDEPENDENT ANNUAL AUDIT**

Prior to the end of the fiscal year, the Select Board shall designate either the Maine Department of Audit or a private firm of certified public accountants to make an independent audit of accounts and other evidence of financial transactions of the Town government for the current fiscal year and to submit its report and a management letter to the Board. Such accountants shall not maintain any accounts or records of Town business, but shall post-audit the records and documents maintained by the Town and any separate or subordinate accounts maintained by another office, department, or agency of Town government. This information shall be published in the Annual Report which shall be made available to the voters fifteen (15) days prior to the Annual Town Meeting.

**ARTICLE VI**

**SCHOOL COMMITTEE**

**SEC. 601 COMPOSITION**

The Wells/Ogunquit Community School District School Committee shall be comprised of six (6) members. Registered voters of each town shall elect at large from their respective towns three (3) members. Election shall be to a three-year term, unless elected to fill an unexpired term. In the event of <sup>10</sup>a vacancy on the Wells-Ogunquit Community School District Committee, the municipal officers shall select a new member from the municipality to serve until the next annual municipal election. (20-A M.R.S.A. §1653(2)(A), as amended.

**SEC. 602 ELIGIBILITY**

School Committee members shall be registered voters in the Town during their term of office. They shall hold no other positions that would be in conflict with their responsibilities and function as a School Committee Member.

**SEC. 603 REPORTING**

At the first Select Board meeting each November, a School Committee member will present the October 1st Attendance Report regarding the number of school-age children from Ogunquit as well as any other information deemed appropriate to provide the Select Board and the citizens of Ogunquit regarding the education of our young people.

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<sup>10</sup> Section 601 – ATM 6/14/11

## ARTICLE VII

### TAX ADMINISTRATION

#### **SEC. 701 ASSESSOR**

The Town Assessor or Certified Public Assessor shall be appointed by the Select Board with special reference to actual related experience or knowledge of accepted practices with respect to the duties of the office. The Town Assessor or Public Assessor shall meet the State requirements for Town certification. The Assessor shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the towns and cities in the State of Maine may exercise and may now or hereafter be subject to under the Laws of the State.

#### **SEC. 702 ASSESSMENT REVIEW**

The Select Board shall appoint in accordance with State statutes a Board of Assessment Review to review and revise assessments where appropriate.

## ARTICLE VIII

### BOARDS, COMMITTEES AND COMMISSIONS

#### **SEC. 801 TOWN BOARDS, COMMITTEES AND COMMISSIONS**

The Select Board shall appoint a Board of Assessment Review,<sup>11</sup> a Planning Board, a Zoning Board of Appeals and any other Boards as required by State Statutes. All boards shall conduct their business in accordance with the rules set forth in this Charter. Members of these boards shall be registered voters of the Town of Ogunquit. The Select Board may also create and appoint members to other Town committees as needed.

**801.1** The Select Board is responsible for each board and committee's purpose (mandate) and direction. The intent of this section is to provide guidance to all official volunteer boards and committees.

##### **801.1.1 Organization**

A. All Boards and Committees:

- a. shall operate under by-laws approved by the Select Board and updated as necessary;
- b. shall annually elect a chairperson and vice-chairperson, and

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<sup>11</sup> Section 801 – 11/02/2009

other officers as are necessary and required by their by-laws.

<sup>12</sup>A chairperson or vice chairperson shall not serve simultaneously as a chairperson or vice chairperson on any other board, committee or commission;

- c. shall hold meetings at regularly scheduled, or specially scheduled dates and times, in accordance with their by-laws, that are publicized by the Town in advance of all meetings; and
- d. all meetings shall be open to the public.

**B. Board and Committee chairpersons:**

- a. shall manage their group according to its by-laws, Select Board directives, and any applicable Town ordinances and state and federal laws;
- b. shall establish a meeting schedule and set their group's agenda;
- c. shall keep the Select Board, and any other necessary Town officials, apprised of its work;
- d. shall run orderly meetings;
- e. shall provide for recorded minutes if and whenever necessary, and shall review and approve minutes regularly;
- f. shall make themselves available, within reason, to the press;
- g. shall ensure their members receive proper training and understand their roles and responsibilities, including boardsmanship and conflict of interest parameters;
- h. shall work to recruit new members whenever a vacancy occurs; and
- i. shall welcome public comment at appropriate segments of their meetings.

**801.1.2 Procedures**

In developing rules, Boards and Committees shall follow the most recent edition of Robert's Rules of Order.

**SEC. 802 BUDGET REVIEW COMMITTEE**

There shall be an elected Budget Review Committee with two (2) appointed alternates to assist the Select Board with budgets and financial planning. The recommendations of the

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<sup>12</sup> Section 801.1.1 (A)(b) – 11/03/2009

Budget Review Committee will be presented to the public at the Annual Town Meeting when any budget items are being presented for consideration by the voters. Members of said Committee shall be registered voters of the Town. The Budget Review Committee shall adopt such by-laws; as it deems necessary.

**\*802.1 APPOINTMENT AND TERMS:**

The Budget Review Committee consists of five (5) members who shall be elected at the Annual Town Meeting commencing June 2009. As vacancies occur when the terms of previously appointed members end, those vacancies will be filled by election to a three (3) year term.

**802.2** The Budget Review Committee will also have a first and a second alternate who are appointed for one year terms by the Select Board.

**802.3 Filling of Vacancies**

**802.2.1** If for any reason a vacancy shall occur in the membership of the Budget Review Committee, the vacancy will be filled in the following manner:

- A. In the event that the Select Board has previously appointed Alternates to the Budget Review Committee, the first Alternate will succeed to fill the vacancy, the Second Alternate will succeed to First Alternate, and the Select Board will fill the vacancy by appointment.
- B. In the event that no Alternates have been appointed, the Select Board shall fill the vacancy by appointment.
- C. The new Committee member will serve until there is either an Annual or Special Town Meeting. At such time there will be an election to fill the remainder of the original term.

**802.2.2** Any such election shall be conducted in accordance with the statutes of the State of Maine. In the event that more than one position is to be filled by election, all positions shall be considered “At Large”, with the candidates receiving the highest vote totals elected to the longest terms.

**\*802.2.3** In the event of a tied election result the Select Board shall schedule

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\* Section802.1 – 11/04/2008

\* Section 802.2.3 – 11/04/2008

Section 803 – 11/03/2009 – Repealed (Planning Board)

a special run-off election to be held within sixty (60) days pursuant to 30-A MRSA § 2528(10).

**SEC. 803 FORFEITURE OF OFFICE**

At any time during a term, an appointed municipal board, commission or committee member shall forfeit office by an affirmative vote of at least a majority plus one of the Select Board for any of the following reasons:

- A. Lack of any qualifications for the office as prescribed by this Town Charter or by State law.
- B. Violation of any express prohibition of the Town Charter.
- C. A member of any municipal board, commission or committee who has three (3) consecutive unexcused absences from that board, commission or committee meetings or who has an absentee rate of twenty (20%) percent of unexcused absences year to date (including regular and special meetings), during the prior twelve (12) month period, shall be deemed to have created a vacancy on that board, commission or committee resulting in loss of membership on the board, commission or committee. The recording secretary shall be responsible for maintaining accurate attendance records. An absence may be excused only by a vote of the remaining members in attendance at the meeting from which the board, commission or committee member is absent.

**SEC. 804 RECALL OF ELECTED OFFICIALS**

Any elected official may be recalled and removed from office by the registered voters of the Town as herein provided.

**804.1 <sup>13</sup>PETITIONS FOR RECALL:**

- A. Any fifty (50) registered voters of the Town may make and file with the Town Clerk an affidavit, with each signature notarized, containing the name of the officer or official whose removal is sought and a statement of the specific reason(s) why such removal is desired.
- B. The Town Clerk shall then prepare and sign ten (10) copies of a petition for removal.

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<sup>13</sup> Section 804 – ATM – 6/14/11

- C. The petition forms must meet the following requirements: 1) each petition form must be signed by the Clerk; 2) each petition form must have attached thereto a copy of the signed affidavit containing the name of the officer or official whose removal is sought and a statement of the specific reason(s) why such removal is desired; 3) each petition form must have spaces for each voter signing the petition to affix his or her signature, print his or her name, print his or her physical address, and indicate the date; and 4) each petition form must contain an affidavit to be executed by the circulator and attested by a notary stating that the circulator personally circulated the petition form; that all signatures contained on the form were affixed in the circulator's presence; that the circulator believes them to be the genuine signatures of the registered voters whose names appear on the petition; and that each person signing the petition had the opportunity to read it before signing.
- D. The Town Clerk or Deputy shall control one copy of the petition for thirty (30) business days thereafter, during which time it shall be available for signatures, during regular business hours, of registered voters of the Town.
- E. The Town Clerk shall make the remaining copies of the petition available for circulation and collection of signatures. Petition forms may be circulated by any registered voter of the Town. Should the initial ten (10) petitions prepared by the Clerk be insufficient, the Clerk shall prepare additional petitions for circulation.
- F. To be effective, the recall petition must be signed by the number of registered voters of the Town equal to at least twenty five percent (25%) of the ballots cast in the last gubernatorial election and the signed petition must be delivered to the Clerk on or before the 30<sup>th</sup> business day after it was first issued by the Clerk.

- G. Should fewer than 25% of the number of voters who participated in Ogunquit in the last gubernatorial election sign the petition or should the petition not be delivered to the Clerk within the time specified above, the petition shall have no further force or effect, and no new petition action for recall of the same person for the same specific reason(s) can be initiated until 180 days from the end of the previous filing period.

**804.2 EXAMINATION OF THE PETITION:**

- A. At the expiration of the thirty (30) day period described above, the Town Clerk shall declare the petition closed and shall within five (5) business days thereafter ascertain whether or not the petition contains the valid signatures of the requisite number of registered voters and shall attach thereto a certificate showing the results of such examination.
- B. The Town Clerk shall certify the petition to be sufficient. The Town Clerk shall allow five (5) days for the filing of legal challenges to the signatures on the petition.
- C. If no such challenges are filed, the Town Clerk shall forthwith certify and submit the petition to the Select Board.

**804.3 CALLING OF RECALL ELECTION:**

The petition and the certificate shall be submitted to the Select Board at its next scheduled meeting. If the petition, certified by the Town Clerk, includes the requisite number of signatures, the officer whose removal is sought shall be notified. The Board shall thereupon, within ten (10) business days of receipt of the Town Clerk's Certificate, order an election to be held not less than <sup>14</sup>forty-five (45) calendar days, nor more than sixty (60) calendar days thereafter; unless a regular election is to occur within seventy (70) calendar days in which case the recall election will be held concurrent with the regular election. The officer whose removal is being sought may request a public hearing by submitting a

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<sup>14</sup> Section 804.3 – ATM 6/14/11

written request to the Select Board within ten (10) calendar days of the Town Clerk's certification. Unless the Board Member whose removal is sought shall have resigned within ten (10) days after the receipt by the Select Board of the Town Clerk's Certificate, a ballot shall be prepared. Any elected official against who recall proceedings have been initiated may continue to hold office until recalled and shall have the privilege of seeking election to the same or any other office at any election after the date of recall.

**804.4 FORM OF BALLOT:** The form of the ballot at the recall election shall be: "Shall [elected municipal official shown on petition] be recalled?"

**804.5 COUNT OF BALLOTS:** In the case that a majority of those voting on the recall of any official shall vote in favor of recall, that official shall be removed immediately, and a vacancy shall be declared by the Town Clerk.

**804.6 ELECTION BY PETITION:** If the Select Board, upon receipt of the petition, fails to call a Town Meeting for the purpose of a recall election, it may be called by a Notary Public in the county upon the written petition of a number of votes equal to at least ten percent (10%) of the number of signatures on the certified petition.

**804.7 CANDIDATES FOR RECALLED POSITIONS:** In the event of a successful recall election, nominations for candidates shall be sought in the same manner as for any municipal election and in accordance with State and municipal election laws.

## **ARTICLE IX GENERAL PROVISIONS**

### **SEC. 901 SCOPE OF POWERS**

In this Charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers that the Town would have if the particular powers were not mentioned. The Charter shall be liberally construed to the end that the Town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the Town may assume pursuant to State Laws and to the provisions of the State Constitution.

### **SEC. 902 SEPARABILITY**

If any portion of this Charter shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

**SEC. 903     SHORT TITLE**

This Charter shall be known as the Charter of the Town of Ogunquit. The Town Clerk shall cause the Charter to be printed and made available to the public within a reasonable time following its enactment.

**SEC. 904     OATH OF OFFICE**

Every official of the Town shall, before entering upon the duties of office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:

“I \_\_\_\_\_ solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States of America and of the State of Maine; that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Ogunquit and will faithfully discharge the duties of the office of \_\_\_\_\_.”

**SEC. 905     ORDINANCES NOT INCONSISTENT CONTINUE IN FORCE**

All ordinances of the Town of Ogunquit in force at the time when this Charter takes effect not inconsistent with the provisions of this Charter shall continue in force until amended or repealed. All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict.

**SEC. 906   CONTINUANCE OF PRESENT ELECTIVE AND ADMINISTRATIVE**

All persons holding elective or administrative office at the time this Charter takes effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuation of such office.

**SEC. 907   APPLICABILITY OF STATE STATUTE**

Any subject matter not provided for by this Charter shall be controlled by the applicable State statute.

**SEC. 908     CHARTER REVIEW COMMISSION**

The Select Board shall convene a Charter Review Commission, in accordance with State Law Title 30-A, MRSA, Section 2103, every five (5) years for the purpose of reviewing and recommending updates to this Charter. In the event a Commission shall have been convened within any five (5) year period, a new five (5) year period shall commence from the date of the dissolution of said Commission.

**SEC. 909 CONFLICT OF INTEREST**

Any official or employee who has any financial interest, direct or indirect, in any contract with the Town or in the sale of any land, material, supplies or services to the Town or to a contractor supplying the Town, shall make known that interest and shall refrain from voting upon or otherwise participating in his/her capacity as an official or employee in making of such sale or in the making or performance of such contract. Any official or employee who willfully conceals such a financial interest or willfully violates the requirement of this section shall be guilty of malfeasance in office or position and shall forfeit his/her office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Board.

**SEC. 910 APPEARANCE OF CONFLICT OF INTEREST**

Even if no personal financial conflict of interest exists, a board, commission, or committee member should avoid the appearance of a conflict by disclosing the reason for abstaining from a discussion and voting in order to maintain the public’s confidence in the board’s, commission’s, or committee’s work. An appearance of conflict exists when a reasonable person could conclude from the circumstances that participation would be perceived as inappropriate. As with the conflict of interest described in Section 909, the member should excuse him/herself from the room during the discussion and vote.

ATTEST:

A TRUE COPY: \_\_\_\_\_  
Judy Shaw-Kagiliery, Town Clerk

Dated: \_\_\_\_\_