

**Orleans Special Town Meeting
October 17, 2022
Nauset Regional School Gymnasium**

The Special Town Meeting was opened at 6pm after a quorum of 200 was declared by the Town Clerk. A total of 474 voters were in attendance. Tellers were: Patricia Bradley, Daniella O'Brien-Bradley, Louise Brady, Elia Marnick, Sandra Rhodes, Bonnie Munro, Margaret MacLeay, Judith Weil. Constables on duty were Mary Stevens and Kevin Higgins

PROCEDURAL MOTION

To dispense with the reading of the warrant except the Preamble, Conclusion and Attestation thereof.

ACTION: Voice vote, motion carries unanimously

PROCEDURAL MOTION

That all Town officials or department heads or their duly designated representatives, required to attend Town Meeting pursuant to Section 2-7-3 of the Charter, Brooke Clenchy, Nauset Regional School Superintendent, all of whom are not residents of the Town of Orleans be permitted to address the Special Town Meeting on matters affecting their office, department or organization, or projects for which they have performed services for the Town.

ACTION: Voice vote, motion carries unanimously

PROCEDURAL MOTION: To take article 19 out of order

ACTION: 342 in favor to 16 opposed, motion carries by necessary majority

ARTICLE 19. AMEND GENERAL BYLAW REQUIRING LICENSING OF SHORT-TERM RENTALS

To see if the Town will vote to adopt Chapter 132, Short Term Rental Properties, as follows:

§ 132.1 Purpose

The purpose of this chapter is to protect the health, safety, and welfare of both the occupants of short-term rental units and the general public and to maintain the quality of life in residential neighborhoods and the availability of the Town's year-round housing stock. It will assist the Town in the enforcement of state and local health and safety regulations and provide a method of correcting violations when requiring immediate attention.

§ 132.2 Legislative Intent and Authority

This Bylaw is adopted in accordance with General Laws c.64G, § 14, which authorizes municipalities to enact bylaws to regulate operators of SHORT-TERM RENTAL(s), and the Town's Home Rule authority under the Massachusetts Constitution. Nothing herein shall interfere with the independent authority of the BOARD OF HEALTH and any other

Boards or Commissions as applicable to enact its own health and safety regulations with respect to SHORT TERM RENTALS.

§ 132.3 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BOARD OF HEALTH The Board of Health of the Town of Orleans or its designees.

DWELLING Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter, (e.g. See definition of SHORT-TERM RENTAL in this section).

OCCUPANCY The use or possession of or the right to use or possess a short-term rental.

OCCUPANT (GUEST) Any individual residing overnight in a short-term rental.

OPERATOR (HOST) Any Person operating a short-term rental.

OPERATOR'S AGENT A Person who, on behalf of an operator of a short-term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.

OWNER Any person whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

SHORT TERM RENTAL A residential dwelling or any bedroom within a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: hotels licensed under M.G.L. Chapter, 140, §6; motels licensed under M.G.L. Chapter 140, §32B; lodging establishments licensed under M.G.L. Chapter 140, §23, or under any provision of the Orleans Zoning Bylaw.

§ 132.4 SHORT TERM RENTAL Registration

A. Registration Required

No OWNER shall rent, or offer to rent, any SHORT-TERM RENTAL as that term is defined herein, prior to registering with the BOARD OF HEALTH. No tenant or lessee of an OWNER shall let or sub-let a SHORT-TERM RENTAL under any circumstances. Any SHORT-TERM RENTAL required to be registered with the Commonwealth of Massachusetts pursuant to the applicable provision of General Laws Chapter 64G shall also be required to register with the BOARD OF HEALTH under the By-Law.

B. Compliance

A dwelling used as a SHORT-TERM RENTAL shall be in compliance with the applicable provisions of all applicable state and local health and safety laws, ordinances and regulations. Demonstration of compliance shall be in the form of a sworn affidavit submitted as part of the registration application described in Section D below to the

BOARD OF HEALTH prior to occupancy. OPERATORS shall comply with all applicable federal, state and local laws, ordinances and regulations.

C. Application Required

The OWNER of the dwelling shall be required to complete a SHORT-TERM RENTAL registration application, the form and content of which shall be provided by the BOARD OF HEALTH. The period of registration shall be for one calendar year. Acceptance of a SHORT-TERM RENTAL registration application by the BOARD OF HEALTH shall not be deemed a determination that the proposed SHORT-TERM RENTAL complies with the provisions of the Orleans Zoning Bylaw, Town and State Health Regulations or that the number of bedrooms listed in the registration application will be accepted by the Board of Health.

D. Registration Renewal

SHORT TERM RENTAL registrations shall be renewed annually. All renewals shall require a new application to be submitted to the BOARD OF HEALTH and payment of the annual fee.

E. Fees

The fee for a SHORT-TERM RENTAL registration or a renewal of a registration shall be initially set at \$50.00 plus \$50.00 for each bedroom over a total of two, which fee may thereafter may be modified by the Select Board after a public hearing.

F. Non-Transferability

SHORT TERM RENTAL registrations shall be granted solely to an OWNER and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

§ 132.5 Publication of Registration Number

The Town-issued registration number shall be included on any listing offering the SHORT-TERM RENTAL for rent.

§ 132.6 Contact Information of OWNER, OPERATOR and/or OPERATOR'S AGENT

A. An OWNER of a SHORT-TERM RENTAL shall provide the BOARD OF HEALTH with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons or who have a direct or indirect interest in any property for which a SHORT-TERM RENTAL Registration in the Town of Orleans has been issued or for which a SHORT-TERM RENTAL Registration application is pending.

B. If the OWNER is a corporation (including a Limited Liability Company (LLC)), the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the OWNER is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.

C. The name and contact information of the OPERATOR must be provided, along with the name and contact information of an OPERATOR'S AGENT, if different from the OPERATOR, who is able to respond in person to any issues or emergencies that arise

during occupancy within one (1) hour of contact by the BOARD OF HEALTH, Orleans Police or Fire Department to complaints regarding the condition or operation of the SHORT-TERM RENTAL. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to OCCUPANTS and the above-stated public safety agencies. This contact information shall be included in the application for a SHORT-TERM RENTAL Registration and shall be posted conspicuously within the rental unit.

§ 132.7 Posting of Notices

The Town shall provide information to each registered OPERATOR summarizing the regulations for SHORT TERM RENTALS. Each SHORT-TERM RENTAL Registration issued will include, but shall not be limited to: the name and 24-hour contact information of the OPERATOR or OPERATOR'S AGENT designated in the application, requirements for trash removal, occupancy requirements, parking, and noise restrictions.

The OPERATOR shall:

- A. Provide OCCUPANTS a copy of the provided information; and
- B. Post the information, along with the SHORT-TERM RENTAL Registration, in a conspicuous location within the SHORT-TERM RENTAL.

§ 132.8 Trash Removal

The OPERATOR shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent.

§ 132.9 Occupancy Requirements

The maximum number of OCCUPANTS in a SHORT-TERM RENTAL shall be 2 per bedroom, plus additional two OCCUPANTS.

§ 132.10 Parking

All parking associated with the operation of a SHORT-TERM RENTAL, including without limitation non-OCCUPANT guest parking shall be on the registered premises. There shall be no off-premises parking without the permission of the off-premise owner.

§ 132.11 Smoke Detectors and Carbon Monoxide Alarms

Each SHORT-TERM RENTAL shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor. Extinguishers shall be maintained or replaced in accordance with the manufacturer's specifications. OPERATORS shall test and perform maintenance on every smoke detector, carbon monoxide alarm upon renewal of the SHORT-TERM RENTAL Registration. Any detector or alarm found to be defective or expired shall be repaired or replaced forthwith. The OCCUPANT(s) shall be notified to report faulty or inoperative smoke detector unit(s) to, first, the OWNER or OPERATOR of the dwelling and, second, the Orleans Fire Department.

§ 132.12 Keeping of Register

The OPERATOR or OPERATOR'S AGENT shall be responsible for keeping a register containing the name of the OCCUPANT who is the leaseholder, total number of OCCUPANTS, and dates of occupancy. The register shall be retained for a period of two

(2) years and shall be made available upon request to the BOARD OF HEALTH, police, or other duly appointed or authorized code compliance staff of the Town of Orleans.

§ 132.13 Failure to Pay or to Make Suitable Arrangements for the Payment of Municipal Taxes, Fees, Assessments, and Charges

The privilege of receiving or holding SHORT TERM RENTAL Registration is contingent upon the timely payment of municipal taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a SHORT-TERM RENTAL Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

§ 132.14 Inspections

SHORT TERM RENTALS shall be subject to reasonable inspections and/or verification by the BOARD OF HEALTH, and all other applicable agencies or departments of the Town.

§132.15 Enforcement

The Select Board or its designee may issue orders as appropriate to aid in the enforcement of this Bylaw and may enforce these provisions in equity, including the request for injunctive relief in a court of competent jurisdiction or enforcement by noncriminal disposition pursuant to G.L. c. 40, §21D. Any failure to comply with any order issued hereunder shall result in the issuance of a formal warning. Any failure to comply with such a warning shall result in a fine of \$150.00. Any failure to comply after the issuance of said fine may be punishable by a subsequent fine of \$300.00. Each day of a continued non-compliance shall constitute a separate violation. Further, the Select Board may hold a hearing, with notice to the licensee, to determine if such license should be modified, suspended or revoked

§ 132.16 Penalties

If any OCCUPANT, OPERATOR or OWNER violates any provision of this chapter or condition of a SHORT-TERM RENTAL REGISTRATION issued hereunder, the OWNER may be subject to a fine in accordance with the following:

- \$150 1st Offense
- \$300 2nd Offense – and each subsequent offense

§ 132.17 Regulations

The Select Board, may adopt regulations, policies and procedures for the implementation of this chapter. The Select Board shall request comment(s) from the BOARD OF HEALTH or any other applicable Board, Commission or Agency of the Town as the Select Board shall determine, prior to the adoption of any such regulations, policies or procedures.

§ 132.18 Severability

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the Orleans Town Code, this chapter shall control, or take any action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

MOTION: To move the question

ACTION: 314 – 111 Motion to move the question passes by necessary majority

ACTION ON MAIN MOTION: 182 in favor, 261 opposed, motion fails

ARTICLE 1. FY23 BUDGET ADJUSTMENTS

To see if the Town will vote to raise and appropriate and/or transfer from available funds, such sums of money as necessary to supplement the operating budgets of the various Town departments for Fiscal Year 2023 as follows:

1. Raise and appropriate the sum of Thirty-Seven Thousand and 00/100 Dollars (\$37,000.00), or any other sum, to the Health Department Salaries Account for the purpose of funding a new 20-hour a week Assistant Health Agent position and an increase in hours for the Principal Clerk from a 30-hour part-time position to a 40-hour full-time position for the startup of the short-term rental registration program.
2. Raise and appropriate the sum of Twenty-Two Thousand and 00/100 Dollars (\$22,000.00), or any other sum, to the Health Department Expense Account for the purpose of funding a new short-term rental registration software program.
3. Raise and appropriate the sum of Two Thousand Five Hundred Sixty-Two and 00/100 Dollars (\$2,562.00), or any other sum, to the Town Clerk's Department Salaries Account for the purpose of funding an increase in hours for the Principal Clerk's position from a 19-hour part-time position to a 25-hour part-time position.
4. Raise and appropriate the sum of Six Thousand Four Hundred Eleven and 00/100 Dollars (\$6,411.00), or any other sum, to the Health Salaries Account for the purpose of funding overtime hours for the two Principal Clerks and Assistant Health Agent positions.
5. Raise and appropriate the sum of Four Thousand Two Hundred Ninety-Nine and 00/100 Dollars (\$4,299.00), or any other sum, to the Conservation Department Salaries Account for the purpose of funding overtime hours for the Principal Clerk's position.
6. Raise and appropriate the sum of Thirteen Thousand Three Hundred Thirty-Nine and 00/100 Dollars (\$13,339.00), or any other sum, to the Building Department Salaries Account for the purpose of funding overtime hours for the Principal Clerk and the Assistant Building Inspector positions.
7. Raise and appropriate the sum of Seven Thousand Six Hundred Ninety-Two and 00/100 Dollars (\$7,692.00), or any other sum, to the Town Administrator's Department Salaries Account for the purpose of funding overtime hours for the Administrative Assistant and the Licensing Agent & Procurement Coordinator's position.
8. Raise and appropriate the sum of Three Thousand Two Hundred and 00/100 Dollars (\$3,200.00), or any other sum, to the Town Administrator's Department Salaries Account for the purpose of funding the reclassification of the Licensing Agent & Procurement Coordinator position.
9. Raise and appropriate the sum of Twenty Thousand and 00/100 Dollars (\$20,000.00),

or any other sum, to the Finance Department Salary Account to fund the reclassification of the position of Principal Account Clerk to Town Accountant.

10. Transfer from Free Cash the sum of Nine Thousand Nine Hundred Fifty-Three and 00/100 Dollars (\$9,953.00), or any other sum, to the MIS Account to fund Phase 2 of the financial software program implementation on the Town's website to enable Munis integration to update data automatically.
11. Transfer from Free Cash the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), or any other sum, to the Select Board/Town Administrator Salary Account for the purpose of funding transition related costs.
12. Transfer from Free Cash the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), or any other sum, to the Select Board/Town Administrator Legal Account.

Or to take any other action relative thereto. (Select Board)

MOTION: I move this article be accepted and adopted as printed in the warrant except that items (1.) and (2.) be deleted and that the sum of One Hundred Sixteen Fifty-Seven Thousand Five Hundred Three and 00/100 Dollars (\$165,753.00) be raised and appropriated, and that the sum of Sixty-Four Thousand Nine Hundred Fifty-Three and 00/100 Dollars (\$64,953.00) be transferred from Free Cash for the purposes set forth in the article.

ACTION ON MOTION: Voice vote, motion carries unanimously

ARTICLE 2. FUND ORLEANS POLICE FEDERATION CONTRACT

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of One Hundred Sixty-Five Thousand and 00/100 Dollars (\$165,000.00) or any other sum, to pay for the salary costs for employees covered under the collective bargaining agreement between the Town and the Orleans Police Federation in accordance with the terms of the new collective bargaining agreement commencing July 1, 2022 through June 30, 2025, and that the sum of Sixteen Thousand and 00/100 Dollars (\$16,000.00) of the One Hundred Sixty-Five Thousand and 00/100 Dollars (\$165,000.00) be added to the FY 23 Police Department Salaries Account budget, provided however that such appropriation shall be contingent upon the passage of a general override ballot question under the provisions of Massachusetts General Laws, Chapter 59 Sec. 21C, paragraph (g) and (m) (Proposition 2 ½ so called); or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION: I move that this article be accepted and adopted to approve the Orleans Police Federation contract covering the period of July 1 2022 to June 30, 2025, and that the sum of Sixteen Thousand and 00/100 Dollars (\$16,000.00) be raised and appropriated for this purpose and be added to the FY 23 Police Department Salaries Account budget, provided however that this vote shall not take effect until the Town votes, pursuant to Massachusetts General Laws, Chapter 59 Sec. 21C, to assess an additional Sixteen Thousand and 00/100 Dollars (\$16,000.00) in real estate and personal property taxes for the purpose of funding the Orleans Police Federation collective bargaining agreement for the fiscal year beginning July 1, 2022, and the Town

votes, pursuant to Massachusetts General Laws, Chapter 59 Sec. 21C to assess an additional Forty-Five Thousand and 00/100 Dollars (\$45,000.00) in real estate and personal property taxes for the purpose of funding the Orleans Police Federation collective bargaining agreement for the fiscal year commencing July 1, 2023, and the Town votes, pursuant to Massachusetts General Laws, Chapter 59, Sec. 21C to assess an additional One Hundred Four Thousand and 00/100 (\$104,000.00) in real estate and personal property taxes for the purpose of funding the Orleans Police Federated collective bargaining agreement for the fiscal year commencing July 1, 2024.

ACTION: Voice voted, motion carries unanimously

ARTICLE 3. FUND ORLEANS PERMANENT FIREFIGHTERS' ASSOCIATION CONTRACT

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Three Hundred Four Thousand and 00/100 Dollars (\$304,000.00), or any other sum, to pay for the salary costs for employees covered under the collective bargaining agreement between the Town and the Orleans Permanent Firefighters' Association, Local 2675 I.A.F.F. in accordance with the terms of the new collective bargaining agreement commencing July 1, 2022 through June 30, 2025, and that the sum of Seventy-Five Thousand One Hundred and 00/100 Dollars (\$75,100.00) of the Three Hundred Four Thousand and 00/100 Dollars (\$304,000.00) be added to the FY 23 Fire Department Salaries Account budget, provided however that such appropriation shall be contingent upon the passage of a general override ballot question under the provisions of Massachusetts General Laws, Chapter 59 Sec. 21C, paragraph (g) and (m) (Proposition 2 ½ so called); or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION: I move that this article be accepted and adopted to approve the new Orleans Permanent Firefighters' Association, Local 2675 I. A. F.F. contract covering the period of July 1 2022 to June 30 2025, and that the sum of Seventy-Five Thousand and One Hundred Dollars (\$75,100.00), be raised and appropriated for this purpose and be added to the FY 23 Fire Department Salaries Account budget, provided however that this vote shall not take effect until the Town votes, pursuant to Massachusetts General Laws, Chapter 59 Sec. 21C, to assess an additional Seventy-Five Thousand and One Hundred Dollars (\$75,100.00) in real estate and personal property taxes for the purpose of funding the new Orleans Permanent Firefighters Association, Local 2675 I.A.F.F. collective bargaining agreement for the fiscal year commencing July 1, 2022, and the Town votes, pursuant to Massachusetts General Laws, Chapter 59 Sec. 21C, to assess an additional Sixty-Five Thousand and Five Hundred Dollars (\$65,500.00) in real estate and personal property taxes for the purpose of funding the new Orleans Permanent Firefighters' Association, Local 2675 I.A.F.F. collective bargaining agreement for the fiscal year commencing July 1, 2023, and the Town votes, pursuant to Massachusetts General Laws Chapter 59 Sec. 21C, to assess an additional On Hundred Sixty-Three Thousand Four Hundred Dollars, (\$163,400.00) in real estate and personal property taxes for the purpose of funding the new Orleans Permanent Firefighters Association, Local 2675 I.A.F.F. collective bargaining agreement for the fiscal year commencing July 1, 2024.

ACTION: Voice voted, motion carries unanimously

ARTICLE 4. FY23 BUDGET ADJUSTMENTS SEWER ENTERPRISE FUND

To see if the Town will vote to transfer from the Sewer Enterprise Fund Balance the sum of Three Hundred Fifty-Three Thousand Eight Hundred Seventy-Five and 00/100 Dollars (\$353,875.00), or any other sum, to the Sewer Enterprise Fund Expense Account for the purpose of funding the additional costs to operate the Sewer enterprise for FY 23; or take any action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of Three Hundred Fifty-Three Thousand Eight Hundred Seventy-Five and 00/100 Dollars (\$353,875.00) be transferred from the Sewer Enterprise Fund Balance for this purpose.

ACTION: Voice vote, motion carries unanimously

ARTICLE 5. UNPAID BILLS OF PRIOR YEARS

The following is a list of unpaid bills of prior years as of October 17, 2022,

DEPARTMENT	VENDOR	AMOUNT
Water Department	Barnstable County Health Laboratory	\$30.00
Beaches Enterprise	American Red Cross (Training)	\$450.00
Police Department	Harwich Port Heating & Cooling	\$934.00
Town Administrator's Office	Cabot Risk Strategies (Insurance)	\$5,595.00
TOTAL		\$7,009.00

MOTION: I move this article to be accepted and adopted and the sum of Seven Thousand Nine and 00/100 Dollars (\$7,009.00) be transferred from Free Cash to pay the following unpaid bills:

ACTION: Voice vote, motion carries unanimously

ARTICLE 6. FUND UNANTICIPATED EMPLOYEE BUYOUTS

To see if the Town will vote to transfer from Free Cash the sum of Forty Thousand and 00/100 Dollars (\$40,000.00), or any other sum, to fund unanticipated employee related

buyouts, or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION

I move this article be accepted and adopted as printed in the warrant and that the sum of Forty Thousand and 00/100 Dollars (\$40,000.00) be transferred from Free Cash for this purpose.

ACTION: voice vote, motion carries unanimously

ARTICLE 7. ORLEANS ELEMENTARY SCHOOL HVAC UPGRADE – CONSTRUCTION PROJECT

To see if the Town will vote to transfer from Free Cash the sum of One Million Four Hundred Thousand and 00/100 Dollars (\$1,400,000.00), or any other sum, for the purpose of funding the construction cost for the upgrade of the existing heating and ventilation system at the Orleans Elementary School, including all expenses incidental and related thereto; and further authorize the Select Board and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (Select Board)

(3/4 Vote Required)

MOTION

I move that this article be accepted and adopted as printed in the warrant and that the sum of One Million Four Hundred Thousand and 00/100 Dollars (\$1,400,000.00), be transferred from Free Cash for this purpose and for costs incidental and related thereto.

ACTION: Voice vote, motion carries unanimously

ARTICLE 8. FUND ROCK HARBOR FUEL TANKS REPLACEMENT

To see if the Town will vote to transfer from Free Cash the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), or any other sum, for the purpose of funding the Rock Harbor Fuel Tanks Replacement, including all expenses incidental and related thereto; and further authorize the Select Board and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (Select Board)

(3/4 Vote Required)

MOTION: I move that this article be accepted and adopted as printed in the warrant and that the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00) be transferred from Free Cash for this purpose and for costs incidental and related thereto.

ACTION: Voice vote, motion carries unanimously

ARTICLE 9. FUND COMPENSATION STUDY FOR MANAGERS, STEELWORKERS, CLERICAL & TECHNICAL UNIONS & PERSONNEL BYLAW

To see if the Town will vote to transfer from Free Cash the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), or any other sum, for the purpose of funding a compensation study for full-time employees in the Managers, Steelworkers, Clerical & Technical unions & Personnel Bylaw, or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) be transferred from Free Cash for this purpose.

ACTION: Voice vote, motion carries unanimously

ARTICLE 10. FUND NEW TOWN MANAGER SEARCH

To see if the Town will vote to transfer from Free Cash the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00), or any other sum, for the purpose of funding a search for a new Town Manager, including all expenses incidental and related thereto, or to take any other action relative thereto. (Select Board)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of Thirty Thousand and 00/100 Dollars (\$30,000.00) be transferred from Free Cash for this purpose.

ACTION: Voice vote, motion passes by the simple majority required

ARTICLE 11. FUND ECONOMIC VALUE STUDY OF ROCK HARBOR & NAUSET HARBOR

To see if the Town will vote to transfer from Free Cash the sum of Fifteen Thousand and 00/100 Dollars (\$15,000.00), or any other sum, for the purpose of funding a study to determine the economic value of Rock Harbor and Nauset Harbor, or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of Fifteen Thousand and 00/100 Dollars (\$15,000.00) be transferred from Free Cash for this purpose.

ACTION: Voice vote, motion passes by the simple majority required

ARTICLE 12. FUND VEHICLES AND EQUIPMENT STABILIZATION FUND

To see if the Town will vote to transfer from Free Cash the sum of Thirty-One Thousand Two Hundred Fifty and 00/100 Dollars (\$31,250.00), or any other sum, into the Stabilization Fund for Motor Vehicles and Equipment, and further to transfer from the Stabilization Fund the sum of Thirty-One Thousand Two Hundred Fifty and 00/100 Dollars (\$31,250.00) for the purpose of funding vehicle and equipment purchases in the Department of Public Works, including all expenses incidental and related thereto, and further authorize the Select Board and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose, and to enter into Intermunicipal Agreements for acceptance of any such grants or funds, or to take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of Thirty-One Thousand Two Hundred Fifty and 00/100 Dollars (\$31,250.00) be transferred from Free Cash for this purpose, including all expenses incidental and related thereto.

ACTION: Voice vote, motion passes by the simple majority required

ARTICLE 13. FUND ELECTRONIC VOTING AT TOWN MEETING

To see if the Town will vote to transfer from Free Cash the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), or any other sum, for the purpose of leasing or purchasing electronic voting equipment, or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) be transferred from Free Cash for this purpose.

ACTION: Voice vote, motion passes unanimously

ARTICLE 14. FUND NEW PARKING PROGRAM AT ROCK HARBOR AND ADOPT NEW NON-RESIDENT FEE

To see if the Town will vote to transfer from Free Cash the sum of Thirty-Two Thousand Five Hundred and 00/100 Dollars (\$32,500.00), or any other sum, for the purpose of implementing a new parking program at Rock Harbor, and pursuant to the Orleans Code §94-8 A. and B., to authorize the Select Board to implement a non-resident daily parking fee and a seasonal parking fee as set forth in the following schedule, effective June 15, 2023, or take any other action relative thereto. (Select Board)

Category	Current	Proposed
Daily Non-Resident Parking	\$0	\$15
One (1) complimentary seasonal parking permit provided at no additional charge with Dockage Agreement including non-residents	\$0	\$0
Non-Resident Seasonal Parking Permit for Commercial/Charter Crew Members	\$0	\$30

(Simple Majority Vote Required)

MOTION: I move that this article be accepted and adopted and that the sum of Thirty-Two Thousand Five Hundred and 00/100 Dollars (\$32,500.00) be transferred from Free Cash for the purposes of implementing a new parking program, however, this motion does not authorize the Select Board to implement the new parking fees at Rock Harbor as set forth in the article.

MOTION: To indefinitely postpone

MOTION: To move the question on indefinite postponement: 351 in favor, to 54 opposed, motion to move the question passes by necessary majority

ACTION: 154 in favor to 271 opposed, motion to indefinitely postpone fails

MOTION: To move the question the main motion

ACTION: 413 in favor to 24 opposed, motion to move the question passes by the necessary majority

ACTION ON MAIN MOTION: 304 in favor to 130 opposed, motion passes by necessary simple majority

ARTICLE 15. FUND FORMER GOVERNOR PRENCE PROPERTY MAINTENANCE AND INSURANCE

To see if the Town will vote to transfer from Free Cash the sum of Seventy-Five Thousand (\$75,000.00) or any other sum, for the purpose of funding ongoing property maintenance, security, insurance, and costs incidental and related thereto, for the former Governor Prence Properties located at 66 and 76 Route 6A, or to take any other action relative thereto.

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of \$75,000.00 be transferred from Free Cash for this purpose.

ACTION: Voice vote, motion passes by the simple majority required

ARTICLE 16. FUND TOWN COVE BULKHEAD FINAL DESIGN AND PERMITTING

To see if the Town will vote to transfer from Waterways Improvement and Maintenance Fund the sum of Thirty-Eight Thousand and 00/100 Dollars (\$38,000.00), or any other sum, for the purpose of funding the Town Cove Bulkhead Final Design & Permitting, including all expenses incidental and related thereto and further authorize the Select Board and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION: Voice vote, motion passes unanimously

I move that this article be accepted and adopted as printed in the warrant and that the sum of Thirty-Eight Thousand and 00/100 Dollars (\$38,000.00) be transferred from Waterways Improvement and Maintenance Fund for this purpose and for costs incidental and related thereto.

ARTICLE 17. FUND WATER TREATMENT PLANT LAGOON UPGRADE / REPLACEMENT PROJECT

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of Two Million Two Hundred Fifty Thousand and 00/100 Dollars (\$2,250,000.00), or any other sum, for the purpose of funding the residuals handling improvements at the Water Treatment Plant, as needed, including all expenses incidental and related thereto; and further authorize the Select Board and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the sum of One Million Nine Hundred Thousand and 00/100 Dollars (\$1,900,000.00) be appropriated for this purpose and for costs incidental and related thereto, and that the Treasurer, with approval of the Select Board, is authorized to borrow the sum of One Million Nine Hundred Thousand and 00/100 Dollars (\$1,900,000.00), pursuant to Massachusetts General Laws, Chapter 44, Sec. 8 (5), or any other enabling authority, and to issue bonds or notes of the Town therefore.

ACTION: Voice vote, motion passes unanimously

ARTICLE 18. AMEND GENERAL BYLAW CH. 40 – PERSONNEL CLASSIFICATION /COMPENSATION PLANS

To see if the Town will vote to amend Chapter 40, Personnel, full-time classification and compensation plan A; and to amend sections of the bylaw to reflect existing policies and procedures of the Town, as set forth in the amendment on file with the Town Clerk, or to take any action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, motion passes unanimously

ARTICLE 20. VETERAN’S MEMORIAL PARK AT ACADEMY PLACE – AUTHORIZE TAKING BY EMINENT DOMAIN TO CLEAR TITLE

To see if the Town will vote to authorize the Select Board to take by Eminent Domain, for the purpose of clearing the Town’s title thereto, the land known as Veterans Memorial Park at Academy Place and shown as Parcel 91 on Assessor’s Map 34 containing approximately .25 acres, for park purposes; or take any action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, motion passes unanimously

ARTICLE 21. AMEND HOME RULE CHARTER: FORM OF GOVERNMENT, PURPOSE, AND EFFECTIVE DATE

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

§ 2. Form of Government, Purpose, and Effective Date

1-2-3 The purpose of this Charter is: to secure citizen control of local affairs; to establish and maintain efficient and financially sound government; and to ensure that elected and appointed officials are accountable to the electorate.

§ 7. Purpose

~~1-7-1 The purpose of this Charter is: to secure citizen control of local affairs; to establish and maintain efficient and financially sound government; and to ensure that elected and appointed officials are accountable to the electorate.~~

1-3-4 Except as specifically provided in this Charter, all ~~committees, commissions, councils, boards,~~ **multi-member bodies**, departments, **and** offices and other agencies of the Town in existence on January 1, 1988 shall continue to perform their duties until not reappointed, reelected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

1-3-5 Any person serving in the employment of the Town shall retain such position and shall continue to perform his or her duties until provisions shall have been made in accordance with this Charter for the performance of the said duties by another person or agency **department**, provided, however, that no person in the permanent, full-time service or employment of the Town shall forfeit his or her pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do and shall be eligible for appointment to a position at a higher pay grade.

1-3-6 If a power or duty is reassigned as the result of the provisions of this Charter, as amended, the records, property, and equipment necessary to fulfill said power or duty shall likewise be reassigned to the newly responsible office or agency **department**.

§ 7: CHARTER OPERATIONS AND MAINTENANCE

§ 1. Charter Amendment

1-7-1 This Charter may be replaced, revised, or amended in accordance with the procedures made available by Articles eighty-nine and one hundred and thirteen of the amendments to the Constitution of the Commonwealth, commonly known as the Home Rule Amendment, and M.G.L. Chap. 43B, commonly known as the Home Rule Procedures Act.

1-7-2 § 2. Transition Requirements

1-7-3 Revisions or amendments requiring a transition to take effect shall specify the circumstances, duration, and conditions for termination of the transition status.

§ 3. Enforcement

1-7-4 Clause 3-3-3 requires the Select Board to enforce the Charter. Ten or more voters shall have the right to petition the Select Board for enforcement of the Charter or to obtain a formal opinion from Town Counsel regarding any Charter enforcement issue. The forgoing enumeration shall not limit or restrict the exercise of rights of enforcement set forth in the General Laws of the Commonwealth.

§ 8 DEFINITIONS

1-8-1 Certain words and phrases contained in this Charter are defined in M.G.L. Chapter 4, Section 7. Other words and phrases used herein, but not defined in that statute, shall have the following specific meanings:

(a) Charter. The word "Charter" shall mean this Charter and any amendments to it made

through any of the methods provided under Articles eight-nine and one hundred and thirteen of the amendments to the Constitution of the Commonwealth.

- (b) Town. The word “Town” shall mean the Town of Orleans.
- (c) Appropriate local media. The phrase “appropriate local media” shall mean the Town’s website, public access television, any additional posters, signs, and electronic or other available media. Provided, however, that nothing stated herein shall relieve the Town from the meeting notification requirement of state law.
- (d) Majority Vote: The words “majority vote” shall mean a majority of those present and voting provided that a quorum of the body is present.
- (e) Voters. The word “voters” shall mean registered voters of the Town of Orleans.
- (f) Multi-member body. The words “multi-member body” shall mean any board, commission, or committee of the Town consisting of two or more persons, whether appointed or elected.
- (g) Certification. The word “certification” shall mean that person has been declared elected and sworn to the faithful performance of duty by the Town Clerk.

News Outlet. The phrase “news outlet” shall mean any entity which regularly provides, produces, and/or publishes notices, information, and stories about the Town of Orleans, by way of newspapers/e-newspapers, the Town website, and/or the Orleans Government Access Cable Television Channel.

And further to delete the existing Chapter 10 in its entirety;

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, motion passes unanimously

ARTICLE 22. AMEND HOME RULE CHARTER: SPECIFIC PROVISIONS TO PREVAIL

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

§ 5. Specific Provisions to Prevail

1-5-2 The Charter shall govern whenever there exists a conflict between

Charter provisions and the provisions of Town by-laws, rules and/or regulations.
All Town by-laws, rules and/or regulations not superseded by this Charter shall remain in force.

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, motion passes by the necessary 2/3 majority

ARTICLE 23. AMEND HOME RULE CHARTER: CODE OF CONDUCT

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

3-2-4 The Select Board shall issue a Code of Conduct policy for all Town Officers, members of multi-member bodies and citizens as defined by law and/or regulation relating to the practices, procedures, and behavior for conducting Town business.

The policy shall be reviewed annually by the Select Board at the beginning of each fiscal year, published on the Town website, and presented to multi-member bodies in accordance with Section 6-1-4 of this Charter.

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

MOTION: To move the question

ACTION: Voice vote, motion to move the question passes unanimously

ACTION ON MAIN MOTION: Voice vote, motion fails to pass by the necessary majority

ARTICLE 24. AMEND HOME RULE CHARTER: EMERGENCY PLAN

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

3-3-4 In coordination with the Fire Chief, the Board shall develop and ~~annually~~ **at least biennially** update the Town's Comprehensive Emergency Preparedness Plan and publish appropriate emergency response guidance to its citizens **on the Town website and by any other means.**

Or take any other action relative thereto. (Select Board)
(2/3 Vote Required)

MOTION

I move that this article be accepted and adopted as printed in the warrant.

ACTION: 203 in favor to 197 opposed, motion fails

ARTICLE 25. AMEND HOME RULE CHARTER: CHAPTER 4

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

§ 1 Appointment

4-1-2 The Select Board in its search for a Town Manager, shall advertise in the International City Management Association (I.C.M.A.) Newsletter or similar professional publication and in at least two ~~newspapers~~ **news outlets** having state-wide or regional circulation.

§ 2. Qualifications

4-2-1 The Town Manager shall be appointed on the basis of educational, executive, and administrative qualifications and experience. The educational qualifications shall consist of at least a bachelor's degree, preferably in public administration, granted by an accredited degree-granting college or university. The professional experience shall include at least five years of prior full-time compensated executive service in public or business administration. Alternatively, at least ~~two~~ **three** years of prior full-time compensated executive service in public or business administration, and a master's degree in an appropriate discipline shall qualify an applicant.

Or take any other action relative thereto. (Select Board)
(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: 224 in favor to 177 opposed, motion fails

ARTICLE 26. AMEND HOME RULE CHARTER: RESPONSIBILITY FOR APPOINTMENTS

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~striketrough~~= language removed

3-9-1 The Board shall have the power to appoint (a) a Town Manager as provided in Chapter 4; (b) a Town Counsel; ~~(c) A Town Accountant/Director of Municipal Finance;~~ ~~(d);~~ **(c)** a Police Chief; ~~(e)~~ **(d)** a Fire Chief; ~~(e)~~ **(e)** three members of a Board of Registrars of Voters for overlapping three-year terms; ~~(g)~~ **(f)** Election Officers; ~~(h)~~ **(g)** five members and three associate members of a Zoning Board of Appeals for overlapping three-year terms; ~~(i)~~ **(h)** five members and two associate members of a Board of Water and Sewer Commissioners for overlapping terms; **and** ~~(h)~~ **(i)** three members of a Community Preservation Committee.

4-4-1 ~~Subject to the approval of the Select Board,~~ The Town Manager shall appoint and, on the basis of merit and fitness alone, and except as otherwise is provided by general law, Charter, or personnel By-laws, may suspend or remove: a Town Clerk, ~~who need not be a Town resident;~~ a **Director of Municipal Finance**/Town Accountant; a ~~Town~~ **Treasurer/Tax** Collector/~~Treasurer~~; a full-time professional Assessor who shall not be a member of the Board of Assessors; **a Director of Planning and Community Development; a Conservation Agent who shall not be a member of the Conservation Commission;** and a Director of Public Works and Natural Resources. The Town Manager may also appoint other positions, subject to the availability of funds. **All such appointments and removals may be reversed by an affirmative vote of at least four members of the Select Board taken within 14 days.**

4-4-3 There shall be a Department of Municipal Finance under the direct control and supervision of the Town Manager. The Town Manager shall appoint a Director of Municipal Finance/Accountant who shall be the Chief Financial Officer of the Town and be responsible for the supervision and coordination of the Treasurer/Tax Collector and Assessor.

Or take any other action relative thereto. (Select Board)

(simple majority Vote Required)

MOTION:

I move that this article be indefinitely postponed.

ACTION: Voice vote, motion passes by the necessary majority

ARTICLE 27. AMEND HOME RULE CHARTER: MODERATOR MAY DESIGNATE

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~striketrough~~= language removed

5-3-1 A Moderator shall be elected for a three-year term. The Moderator shall: (a) preside at all Town Meetings; (b) appoint the members of the Finance Committee; (c) appoint all ad hoc committees of the Town Meeting as provided in clause 2-8-2; (d) preside at any hearing called to discuss the suspension or removal of the Town Manager or designate a professional neutral hearing officer to perform this duty; (e) appoint two representatives to the Cape Cod Regional Technical High School Committee; and (f) advertise impending appointments as provided in clause 7-2-2; or take any other action relative thereto.

4-9-4 The Moderator shall preside at any such hearing or designate a professional neutral hearing officer. The rules of evidence shall not apply to the removal hearing process and/or proceedings.

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: 273 in favor to 125 opposed, motion passes by the necessary 2/3 majority

ARTICLE 28. AMEND HOME RULE CHARTER: TITLE CHANGE AND SWEARING IN OF ELECTED OFFICIALS

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

CHAPTER 5 TITLE CHANGE: Elected Town Boards **Multi-Member Bodies** and Officers

5-1-4 Any person duly elected to any office or multi-member body shall take up the duties of said office immediately provided that each person first shall have been sworn to the faithful performance of said duties by the Town Clerk.

~~§ 7 — Time of Taking Office~~

~~7-7-1 Any person duly elected to any office or multi-member body shall take up the duties of said office immediately following said certification.~~

Current § 8 Recall of Elective Officers in Chapter 7 shall be renumbered to **§ 7 Recall of Elective Officers**, and current 7-8-1 through 7-8-8 shall become **7-7-1, 7-7-2, 7-7-3, 7-7-4, 7-7-5, 7-7-6, 7-7-8** with **NO CHANGE OF LANGUAGE.**

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, motion passes by the necessary 2/3 majority

ARTICLE 29. AMEND HOME RULE CHARTER: COOPERATION

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

9-1-4 The Planning Board shall cooperate closely with the Conservation Commission, the Board of Health, and the Board of Water and Sewer Commissioners. **and any other multi-member bodies that the Planning Board's decisions may impact.**

6-6-2 **The Planning Board shall cooperate closely with the Conservation Commission, the Board of Health, the Board of Water and Sewer Commissioners, and any other multi-member bodies that the Planning Board's decisions may impact.**

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, motion passes by the necessary 2/3 majority

ARTICLE 30. AMEND HOME RULE CHARTER: FINANCE COMMITTEE

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

8-1-1 **It is the responsibility of the Finance Committee to independently examine and analyze the Town's financial affairs, including proposed budgets, the Capital Improvements Plan and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.**

~~8-1-6 It is the responsibility of the Finance Committee to independently examine and analyze the Town's financial affairs, including proposed budgets, the Capital Improvements Plan and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.~~

8-1-2 The Finance Committee, appointed by the Town Moderator, shall consist of nine members **and two associate members** appointed for three-year overlapping terms,

arranged so that the terms of at least three members shall expire at the end of the 15th day of the fiscal year, provided that no more than one associate member's term expires in any given year.

8-1-3 Any person duly appointed to the Finance Committee shall take up the duties of the office ~~upon the first day of the fiscal year,~~ **on the 16th day of the fiscal year**, provided that such **said** person shall have been sworn to the faithful performance of said person's duties by the Town Clerk.

Current 8-1-3 shall be **renumbered to 8-1-4** "Vacancies..." No change of language
Current 8-1-4 shall be **renumbered to 8-1-5** "Any person..." No change of language
Current 8-1-5 shall be **renumbered to 8-1-6** "No member..." No change of language

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, motion passes by the necessary majority

ARTICLE 31. AMEND HOME RULE CHARTER: PLANNING

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

9-1-3 The Planning Board may make recommendations to the **Town Manager, the Select Board, and the Town Meeting** on all matters concerning the physical, economic, and environmental development of the Town **as provided in 9-2-5.**

9-2-1 The Planning Board shall be responsible for the development and periodic updating of the Orleans Comprehensive Plan. **A 5-year review shall be undertaken to incorporate current data to ensure that the Plan remains a viable reference and guidance document for the appropriate and orderly development of the Town.**

9-2-3 The Planning Board shall present such proposed updated Plan at a public hearing and may revise it following such hearing. Such portions of the Plan as are considered ready shall be presented to the Town Meeting for adoption. ~~The revisions may be amended on the floor of Town Meeting.~~

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice vote, passes by the necessary 2/3 majority

ARTICLE 32. AUTHORIZE SPECIAL ACT TO PROHIBIT THE APPLICATION OF FERTILIZER

To see if the Town will vote to authorize and direct the Select Board to petition the Great and General Court of the Commonwealth of Massachusetts for special legislation, the text of which is set forth below, prohibiting the application of fertilizer in the Town of Orleans except for the purposes of commercial agriculture and the residential use of certified organic fertilizer with low nitrogen and phosphorus for the use in growing fruits and vegetables that is allowable under the USDA National Organic Program organic standards (OMRI listed), and to authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage, as follows:

An Act Prohibiting the Application of Fertilizer Used in the Town of Orleans Except for the purposes of commercial agricultural and the residential use of certified organic fertilizer with low nitrogen and phosphorus for the use in growing fruits and vegetables that is allowable under the USDA National Organic Program organic standards (OMRI listed).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1. There is sound scientific evidence to conclude that nitrogen and phosphorus in fertilizers are contaminants that negatively affect fresh and salt waters when present in excessive amounts. These excessive amounts of nitrogen and phosphorus contribute to undesirable algae and aquatic plant growth within all Orleans water bodies. This undesirable algae and aquatic plant growth has an adverse effect on public health through the degradation of waters used for drinking water, shell fishing, and recreational swimming and boating.

Section 2. It is necessary to prohibit the application of fertilizer that contains phosphorus and nitrogen so as to improve the water quality of the Town of Orleans. The soils of Orleans are unique insofar as Orleans has significant amounts of coarse, sandy soils that are subject to rapid water infiltration, percolation and leaching of nutrients, and such unique local conditions require that Orleans prohibit the application of nitrogen and phosphorus added to soils through the application of fertilizers. This Act should help Orleans to achieve compliance with the Total Maximum Daily Loads (TMDL) prescribed by the Commonwealth of Massachusetts for nitrogen and phosphorus in its waters.

Section 3. Notwithstanding any General or Special law to the contrary, including but not limited to any General or Special law conferring exclusive authority upon the Department of Agriculture to regulate and control the application of fertilizers elsewhere in the Commonwealth, the application of fertilizer containing nitrogen or phosphorus, or any other pollutants in the Town of Orleans is prohibited, except for the purposes of commercial agricultural and the residential use of certified organic fertilizer with low nitrogen and phosphorus for the use in growing fruits and vegetables that is allowable under the USDA National Organic Program organic standards (OMRI listed).

Section 4. This act shall take effect upon passage.

Or to take any other action related thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant except that the word “certified” wherever it appears in the article before the phrase “organic fertilizer” including without limitation in Section 3 of the proposed Special Act, shall be deleted, and that the Select Board be authorized to approve the final language of the Special Legislation.

MOTION: To indefinitely postpone

MOTION: To move the question

ACTION: 369 in favor to 16 opposed, motion to move the question passes by the majority required

ACTION: 179 in favor to 224 opposed, motion to indefinitely postpone fails

MOTION: To move the question

ACTION: 360 in favor to 34 opposed, motion to move the question passes by the majority required.

ACTION ON MAIN MOTION: 204 in favor to 200 opposed, motion passes by the simple majority required

ARTICLE 33. AUTHORIZE CHANGES IN FEE SCHEDULE FOR RECREATION

To see if the Town will vote, pursuant to the Orleans Code §94-8 A. and B., to authorize the Select Board to increase or set user fees, license fees and permit fees for the Recreation Department as set forth in the following schedule, changes in bold, effective November 1, 2022, or take any other action relative thereto. (Select Board)

630 Recreation	Current	<i>Proposed in bold</i>
Adult Summer Program res/non-res	\$15/\$15	\$15/ \$30

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant.

ACTION: Voice voted, passes by simple majority required

ARTICLE 34. ADOPT AMENDED SEWER ASSESSMENT GENERAL BYLAW

To see if the Town will vote to amend the action taken under Article 18 of the May 2022

Annual Town Meeting and adopt Chapter 6, an amended Sewer Assessment Bylaw, as follows:

Bold underline = new language ~~strikethrough~~= language removed

A. General

The Town of Orleans ("Town"), acting through its Board of Water and Sewer Commissioners ("Commission") and as approved by the Select Board shall assess twenty (20) percent of the cost of the wastewater treatment facility, effluent disposal, wastewater collection system and pumping stations upon those properties that benefit from the project. In assessing twenty (20) percent of the costs for the wastewater treatment facility, effluent disposal, wastewater collection system and pumping stations, the Town shall determine what portion of such costs shall be assessed as betterment assessment and what portion shall be assessed as a privilege fee.

Eighty (80) percent of the costs of the wastewater treatment facility, effluent disposal, wastewater collection system and pumping stations, and one hundred (100) percent of the cost of non-traditional technologies shall be paid by property taxes.

Property owners which abut the wastewater system are responsible for one hundred (100) percent of the cost to connect to the Town's wastewater system. Refer to the Sewer Use Rules and Regulations, as may be amended from time to time, for additional information and requirements.

B. Statutory authority

The authority to assess betterments, as well as the permitted methodologies for doing so, are described in MGL c. 80, Betterments, and MGL c. 83 Sewers, Drains and Sidewalks, and any other enabling legislation. See also the Orleans Town Charter Chapter 6, Section 6-8-3.

C. Assessment based on uniform unit method

1. The Commission in assessing betterment assessments shall assess the owners of land abutting a public sewer in each phase on construction for which public sewer is installed by the Town by a rate based upon the uniform unit method. Sewer assessments shall be determined utilizing sewer unit values.
2. A single Sewer Unit shall be equal to the residential water usage for the residential properties abutting the wastewater system in each phase as defined in the Sewer Use Rules and Regulations, as amended.

D. Sewer unit calculation

1. The Commission shall assess sewer betterments based upon water usage. An average daily water usage for each phase of sewer construction for the residential properties shall be calculated based upon the prior three (3) year average ending with the most recent billed water cycle immediately preceding the date of the project's substantial completion.
2. Residential and Non-Residential properties shall be assigned a sewer unit(s) based on their daily water usage relative to the average of residential uses, provided that the number of sewer units for any residential or non-residential

property shall not be less than one (1) sewer unit.

3. Properties abutting a sewer street shall be assessed by a rate proportional to the value assigned to the sewer unit(s) at the time of the assessment.
4. Residential undeveloped properties. Sewer units shall be calculated on the basis of the highest and best use permitted as a right of the zoning then in effect. Potential single family, multi-family, and other similar uses shall be converted into sewer units on the basis of residential equivalents. Refer to Paragraph H.4 for volume calculation.
5. Non-residential, undeveloped properties. Sewer units shall be calculated on the basis of the highest and best use permitted as a right of the zoning then in effect. Potential non-residential, commercial, industrial, semipublic and other similar uses shall be converted into sewer units on the basis of residential equivalents. Refer to Paragraph H.4 for volume calculation.
6. If a property abuts a private or unaccepted way within which a public sewer has been installed, the **Board of Water and Sewer Commissioners (“Commission”)** and as approved by the **Select Board** shall assess the betterment assessment against said property.

E Method of assessing betterments; order of assessment

The Commission shall levy, by preparing an order of assessment, assessments against all properties abutting a sewer street. In the order of assessment, the Town shall designate the owner of each parcel, as of the preceding January 1, as liable to assessment under the provisions of the General Laws.

F Time of assessment

The time of assessment for lands abutting the sewer street shall be in accordance with the provisions of M.G.L. c. 80, §1.

G Betterment payment

1. General. Except as herein provided, the provisions of the General Laws relative to the assessments, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefore and to interest thereon, shall apply to assessments made under this article, and the Tax Assessor and Town Treasurer/Collector shall have all the powers conveyed by the General Laws.
2. Betterment Payment Options
 - a. Lump-sum betterment. The lump sum betterment payment for an assessed property shall be equivalent to the product of the total number of sewer units designated upon said property and the appropriated value for one sewer unit at the time of assessment.
 - b. Apportionment of betterment payment. Property owners shall have the option to finance betterment payments through apportionment for up to thirty (30) years. The interest rate charged by the Town shall be two (2) percent greater than the project bond interest rate being paid by the Town for the construction of the wastewater system project.

H Sewer privilege fees

1. For the purpose of the Sewer Assessment Bylaw, a privilege fee shall be

equivalent to one hundred (100) percent, adjusted by the Consumer Price Index (Engineering News Record Index) at the time of the assessment, of the calculated betterment assessment value pertinent to each property as determined under Section D. of this Sewer Assessment Bylaw. Sewer privilege fees shall be levied at the time of connection to the public sewer system. Property owner options for payment of said fees shall be per Section G. of this Sewer Assessment Bylaw.

2. For those properties not abutting the sewer line, but tying into the system at a future date, the time of assessment of privilege fee shall be the date upon which that property owner applies to connect into the sewer system. Payment shall be made prior to the issuance of approval by the Board of Water and Sewer Commissioners of the Town or authorized representative.
3. Private sewer extension. If a developer or a person other than the Town, or duly authorized representative of same, constructs a sewer extension to the Town's wastewater system, the Town shall assess a sewer privilege fee in lieu of betterment assessment against each property tying into said sewer extension. The time of assessment of privilege fee shall be the date upon which the developer or person applies to connect into the sewer system. Payment shall be made prior to the issuance of approval by the Board of Water and Sewer Commissioners of the Town or authorized representative.
4. Calculation of wastewater flows shall be based on one of the following as approved by the Commission:
 - a. Documented facilities with at least two (2) years of water use data in Orleans;
 - b. Documented similar facilities with at least two (2) years of water use data; or
 - c. Sixty (60) percent of 310 CMR 15 – The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage.
5. In addition, the developer and/or property owners connecting to private sewer extensions shall bear the burden of all costs, including engineering, survey and design, construction, land acquisition and legal services, related to the following:
 - a. Preparation of design plans and specifications for the private sewer extensions to be accepted as part of the Town's wastewater system, shall be prepared by a Civil or Environmental professional engineer registered in the Commonwealth of Massachusetts. The design plans and specifications shall be in accordance with the Town's Sewer Use Rules and Regulations, as amended.
 - b. Application fees for a building sewer installation permit shall be in accordance with the Town's Sewer Use Rules and Regulations, as amended.
 - c. Inspection fees related to the installation of the private sewer extension tying into the Town's wastewater system shall be in accordance with the Town's Sewer Use Rules and Regulations, as amended.

6. Costs associated with the design and construction of a private sewer extension shall be considered separate to the sewer privilege fee. Payments or method of payment related to these costs shall not be reflected within the sewer privilege fee.

L Compensatory Sewer privilege fees

- ~~1.—Undeveloped Property. In the situation where a betterment has been assessed to an undeveloped property based upon the number of sewer units required by Section D., paragraph 4 and paragraph 5 of this Sewer Assessment Bylaw and said property is ultimately developed to accommodate a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.~~
- ~~2.—Developed Property. In the situation where a betterment has been assessed to a developed property based upon the number of sewer units required by this Sewer Assessment Bylaw, and the usage of said property is changed or increased, which results in a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.~~
- ~~3.—The compensatory sewer privilege fee shall be equivalent to that sum of money that would have been charged, as a betterment assessment upon the property at the time of the original assessment and adjusted by the Consumer Price Index (Engineering News Record Index) at the time of the assessment, under the conditions to which they have changed or increased, less than the amount of the original assessment. The time of assessment of the compensatory sewer privilege fee shall be the date upon which the developer or person applies to connect into the sewer system. Payment shall be made prior to the issuance of approval by the Board of Water and Sewer Commissioners of the Town or its authorized representative.~~
- ~~4.—All rules and regulations governing the payment and method of payment related to betterment assessments, as designated in this Sewer Assessment Bylaw, and the Town's Sewer Use Rules and Regulations, as amended, shall apply.~~
- ~~5.—The Commission is authorized to take any other action necessary or appropriate to accomplish the establishment and recovery of such betterment assessments.~~

J Regulations

The Commission is authorized to promulgate regulations to carry out the purpose and intent of this Sewer Assessment Bylaw.

K Sewer connection costs

All costs of connecting individual properties to the Town's wastewater system shall be at the sole cost and expense of the property owner. See also the provisions of Paragraph A above.

L Hardship

Hardships shall be applied for and approved in accordance with the applicable statutory real estate property tax exemptions.

M Appeals

Property owners may appeal to the Commission for exemption from, modification of, or reconsideration of any decision pertaining to this Sewer Assessment Bylaw.

Petition for abatement; filing, etc. shall be made in accordance with MGL Chapter 80, Section 5 and the Town’s Sewer Use Rules and Regulations, as amended.

The Commission shall render a decision within seventy (70) days of receipt of the appeal, unless continued by the Commission. If no decision is rendered, then the appeal is approved.

N Severability

If any provisions of this Sewer Assessment Bylaw or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Sewer Assessment Bylaw which can be given effect without such invalid provisions or applications.

Or take any other action relative thereto. (Board of Water & Sewer Commissioners)

(Simple Majority Vote Required)

MOTION:

I move that this article be accepted and adopted as printed in the warrant and that the bylaw become effective upon the passage of a Special Act of the State Legislature currently pending as House No. 2196 “An Act authorizing the town of Orleans to rescind chapter 381 of the acts of 2008 and to adopt a sewer assessment bylaw. “

ACTION: Voice voted, passes by necessary simple majority

ARTICLE 35. REAUTHORIZE SPECIAL ACT FOR SEWER BETTERMENT ALLOCATION METHOD & RESCIND CH. 381 OF THE ACTS OF 2008

To see if the Town will vote to reauthorize the Select Board, to petition the Great and General Court of the Commonwealth of Massachusetts for special legislation to rescind Chapter 381 of the Acts of 2008 which authorized the Town to lay out sewers and assess betterments in accordance with the Town’s Comprehensive Wastewater Management Plan (CWMP) approved by the Department of Environmental Protection as of 2008 and further special legislation to authorize the Town, notwithstanding the provisions of Chapters 80 and 83 of the General Laws or any other general or special law to the contrary, to adopt a sewer assessment bylaw, based on the following uniform unit method:

The Town of Orleans, acting through its Board of Sewer and Water Commissioners (“Commission”), shall be authorized when assessing betterment assessments to assess the owners of land abutting a public sewer installed by the Town by a rate based upon the following uniform unit method:

Sewer assessments shall be determined utilizing sewer unit values.

A single Sewer Unit shall be equal to the residential water usage for the residential

properties abutting the wastewater system. For the purpose of any such bylaw such single Sewer Unit shall be considered “a single-family residence” as that term is used in MGL c. 83, §15; however, based on the average daily water usage of a single-family residence, as calculated in accordance with paragraphs 1-5 set out below, a single-family residence may be assessed one or more Sewer Units.

- 1) The Commission shall assess sewer betterments based upon water usage. An average daily water usage for the residential properties shall be calculated based upon the prior three (3) year average ending with the most recent billed water cycle immediately preceding the date of the project’s substantial completion.
- 2) Residential and Non-Residential properties shall be assigned a sewer unit(s) based on their daily water usage relative to the average residential use, provided that the number of sewer units for any residential or non-residential property shall not be less than one (1) sewer unit.
- 3) Residential undeveloped. Sewer units shall be calculated on the basis of the highest and best use permitted as of right of the zoning then in effect. Potential single family, multifamily, and condominiums and other similar uses shall be converted into sewer units on the basis of residential equivalents using volume calculations.
- 4) Non-Residential, undeveloped. Sewer units shall be calculated on the basis of the highest and best use permitted as of right of the zoning then in effect. Potential non-residential, commercial, industrial, semipublic and other similar uses shall be converted into sewer units on the basis of residential equivalents using volume calculations.
- 5) If a property abuts a private or unaccepted way within which a public sewer has been installed, the Commission shall assess the betterment assessment against said property.

Or take any other action relative thereto. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move this article be accepted and adopted as printed in the warrant and that the Select Board be authorized to approve of the final language of the Special Legislation.

ACTION: Voice vote, motion passes by the simple majority required

ARTICLE 36. CLOSING ARTICLE

And to act on any other business that may legally come before the meeting. (Select Board)

(Simple Majority Vote Required)

MOTION:

I move this meeting be adjourned.

ACTION:

Voice vote, motion passes by the simple majority required. Meeting adjourned at 9:10pm

A True Copy, attest

Kelly L. Darling
Town Clerk