

THE ORLEANS HOME RULE CHARTER  
With amendments through May 19, 2009

Adopted  
May 6, 1987

Amended  
January 22, 1990  
May 8, 1990  
November 13, 1995  
May 13, 1996  
May 12, 1997  
May 11, 1998  
May 8, 2000  
October 30, 2000  
December 3, 2001  
May 12, 2008  
May 19, 2009

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ORLEANS CHARTER COMMISSION  
Town Hall  
Orleans, Massachusetts 02653

November 7, 1986

Board of Selectmen  
Town of Orleans  
Town Hall  
Orleans, Massachusetts 02653

In accordance with the provisions of Home Rule Procedures Act (G.L. Chapt. 43B), the Orleans Charter Commission hereby submits its Final Report.

This report contains: (a) a ballot question and summary which has been prepared for use in the 1987 elections; (b) an Introduction which should be printed as an Introduction to the charter; and (c) the charter itself.

Section 11 of MGL Chapter 43B vests in the Board of Selectmen the responsibility for the printing and distribution of the Final Report, which, by law must be "distributed to each residence of one or more registered voters not later than two weeks before the election at which the question of adopting. . . the charter is submitted to the voters."

The Charter Commission will be pleased to answer any questions that you may have about the steps that now need to be followed to fulfill the requirements of the law.

Duane P. Landreth, Chairman  
Sherman C. Reed, Clerk  
Julian T. Baird  
William J. Baskin  
Mark E. Carron  
Susan B. Christie  
Charles H. Darling  
E. Carleton Nickerson  
Gail Meyers Sharman

## BALLOT QUESTION

The language to be used for the ballot question reads as follows:

"Shall this town approve the new charter recommended by the Charter Commission, summarized below?"

Yes

No

## BALLOT SUMMARY

If approved by the voters, this Charter will become effective on the first day of January following its adoption by the voters.

The charter provides for an OPEN TOWN MEETING, a five person elected BOARD OF SELECTMEN who, as the chief policy-making board, will make several key appointments, including a TOWN ADMINISTRATOR.

The Town Administrator is given responsibilities in administration, budget preparation, personnel administration, and in some appointments, which are subject to the approval of the Board of Selectmen.

Other elected town officers and boards will be a moderator, a housing authority, a board of health, a board of library trustees, and a school committee.

## INTRODUCTION

The year 1987 will mark the two hundredth anniversary of the Philadelphia Convention and its resulting Constitution. It is fitting that, in this landmark year, the town of Orleans should establish a charter for the town, which will function as its "Constitution".

The task facing the Founding Fathers was formidable: to provide for a more perfect union and to create a national government while preserving the sovereignty of the several states.

Although the task facing the Charter Commission was more modest, it was nevertheless challenging. Five goals were paramount. These were:

- To preserve the best of the past, that is, the best of traditional town government
- To provide a local government that would enhance coordination and facilitate effective management
- To ensure accountability throughout the town's governmental structure. Elected officials will be subject to recall; appointed officials will be given a larger measure of supervision.
- To provide improvements in management and administration; budget making and budget administration; municipal and fiscal planning.
- To promote citizen participation. The Charter Commission realizes that much of what is good in Orleans local government has been the result of volunteer efforts. The charter includes several features designed to continue this tradition.

## The Main Features Enumerated

The charter:

### Identifies and explains the structure of local government

Retains the Open Town Meeting. This decision was prompted by the realization that the most important feature of New England democracy is the Open Town Meeting, which any registered voter may attend.

Retains the Board of Selectmen. The Charter provides that the board will serve as the principal goal-setting and policy-making board in town under broad guidelines established by town meeting. The composition will be increased to five members, serving overlapping three-year terms. The Board of Selectmen is given specific powers of appointment (for example police chief, fire chief, town accountant) and investigation.

Establishes a Town Administrator The Charter empowers the Board of Selectmen to appoint a professional Town Administrator. Safeguards are included to keep the appointee accountable to the Board of Selectmen. The Town Administrator will provide broad fiscal oversight, effective coordination, and day to day management and administration.

Consolidates the water function under the Board of Selectmen, but establishes a Water Advisory Board.

Improves the budget process. The Charter includes an improved budgetary process that spells out the diverse responsibilities of the Board of Selectmen, the Town Administrator, and the Finance Committee. The committee will continue to provide fiscal advice for the town meeting, relating to both the operating and capital budgets.

Improves planning. The Charter is designed to provide a higher level of fiscal and physical planning. The charter mandates cooperation between the various boards and officials who deal with the environment.

Retains key elected positions. The Charter provides that a number of key town offices shall remain elective. The Board of Selectmen, the Library Trustees, the School Committee, the Board of Health, the Housing Authority, the Moderator, and the Nauset Regional School Representative will continue to be elected.

Provides for an orderly transition. The Charter provides that all elected officials shall serve out their terms. Provisions have been included to protect the rights of those who have served the town well in recent years.

The Charter Commission acknowledges the assistance of present and past office-holders. The Commission would also like to thank all those who commented on the Preliminary Report at the public hearing, and those who have submitted additional comments in writing. Every comment received was reviewed carefully, and the Final Report incorporates many of the suggestions made about the Preliminary Report.

The Charter Commission unanimously recommends the adoption of the charter. It urges all voters to study the charter carefully, and to vote "YES" on the charter question at the polls in May.

Duane P. Landreth, Chairman

Susan B. Christie

Sherman C. Reed, Clerk

Charles H. Darling

Julian T. Baird

E. Carleton Nickerson

William J. Baskin

Gail Meyers Sharman

Mark E. Carron

TOWN OF ORLEANS  
CHARTER

PREAMBLE

We, the people of the Town of Orleans, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of local government and to take the fullest advantages inherent in the home rule amendments to the constitution of the Commonwealth, do hereby adopt the following home rule charter for this town.

CHAPTER 1 TOWN INCORPORATION, FORM OF GOVERNMENT, AND  
POWERS

Section 1 Incorporation

1-1-1 The present Town of Orleans, within its territorial limits as now or as may hereafter be established by law, is hereby continued as a body corporate and politic with perpetual succession under the name: Town of Orleans.

Section 2 Form of Government and Effective Date

1-2-1 This Charter provides for an Open Town Meeting-Board of Selectmen-Town Administrator form of town government.

1-2-2 Having been adopted by the voters on May 6, 1987, the Orleans Home Rule Charter shall be considered as having taken effect on January 1, 1988.

Section 3 Scope, Construction and Continuity of Town Powers

1-3-1 The Town shall possess, exercise, and enjoy all powers possible under the Constitution and statutes of the Commonwealth as completely and fully as though they were expressly enumerated herein.

1-3-2 The powers of the Town under this Charter shall be construed liberally in favor of the town, and no specific provision shall be deemed to limit in any

way the general grant of powers that towns may exercise under the home rule amendments to the Constitution of the Commonwealth, and the statutes thereof.

1-3-3 Except as specifically provided in this Charter all general laws, special laws, Town by-laws, votes, rules and regulations of or pertaining to the Town which are in force when this Charter takes effect and which are not inconsistent with the provisions of this Charter shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

1-3-4 Except as specifically provided in this Charter, all multi-member bodies, departments, offices and other agencies of the Town in existence on January 1, 1988 shall continue to perform their duties until not reappointed, elected, 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; provided, however, that no person in the permanent, full-time service or employment of the Town shall forfeit his 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 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.

#### Section 4 Intergovernmental Relations

1-4-1 Consistent with any applicable constitutional or statutory provisions, 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 other towns, civil divisions, subdivisions,

or agencies of any state or the United States government.

Section 5 Specific Provisions to Prevail

1-5-1 To the extent that any specific provision of this Charter shall conflict with any provision in general terms, the specific provision shall prevail.

Section 6 Severability of Charter

1-6-1 If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 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.

## CHAPTER 2 TOWN MEETING

### Section 1 Composition, Quorum, Adjournment

2-1-1 The legislative powers of the Town shall be exercised by a Town Meeting open to all registered voters of the town.

2-1-2 Persons other than legal voters shall be allowed to attend the Town Meeting, with the consent of the Moderator. A non-voter may speak after a favorable vote of the Town Meeting.

2-1-3 The quorum necessary for the conduct of Town Meeting business shall be two hundred (200) of the current registered voters of the Town.

2-1-4 Any five or more voters may challenge the existence of a quorum. If the Moderator determines the number in attendance to be less than the established quorum, the Moderator shall adjourn the meeting to a stated date, time and place.

### Section 2 Presiding Officer

2-2-1 A Moderator, elected in accordance with Chapter 5, shall preside at all Town Meetings.

2-2-2 The Moderator shall enforce procedural rules in accordance with general law, this Charter, and By-laws.

### Section 3 Powers and Responsibilities

2-3-1 The Town Meeting shall consider and act upon all Warrant articles including proposed By-laws, all proposed operating and capital budgets, bond and borrowing issues or any other financial proposals, and all amendments to the aforesaid.

2-3-2 The Town Meeting may, through the Board of Selectmen or a duly constituted special committee, investigate the affairs of any Town department, multi-member body, office, or function.

### Section 4 Warrants

2-4-1 The Board of Selectmen shall prepare the Warrant for all Town Meetings, and by public notice published in a newspaper of general circulation within the town, shall advertise the date of the opening and closing of the Warrant for all Town Meetings.

2-4-2 The opening of the Warrant shall be ninety days prior to the date of the Annual Town Meeting, and sixty days prior to any Special Town Meeting unless otherwise required by General Laws Chapter 39, Section 10 as the same may be amended from time to time.

2-4-3 The Warrant for the Annual Town Meeting shall remain open for thirty days, and shall be closed sixty days prior to the date of the meeting.

2-4-4 The Warrant for any Special Town Meeting shall remain open for fifteen days, and shall be closed forty-five days prior to the date of the Special Meeting unless otherwise required by General Laws Chapter 39, Section 10 as the same may be amended from time to time.

2-4-5 By unanimous vote, the Board of Selectmen may waive the requirements contained in clause 2-4-4, in case of emergency.

2-4-6 The Warrant for each Annual and Special Town Meeting shall be published in a newspaper of general circulation within the Town at least fourteen days prior to each such Town Meeting.

2-4-7 All said Warrants shall also be posted in every post office in the Town on or before the day of their publication in the newspaper, and shall remain so posted until the date of the meeting.

#### Section 5 Articles Having Fiscal Implications

2-5-1 All proposed operating expenditures shall be included in a single, omnibus-type article in the Town Meeting Warrant. In addition, all regular proposed capital improvements expenditures shall also be included in an omnibus-type article in the Annual Town Meeting Warrant, devoted to capital expenditures.

2-5- Articles calling for appropriation of funds may be considered at any Town Meeting, but only after review and comment by both the Board of Selectmen and the Finance Committee, acting separately at separate meetings.

#### Section 6 Initiative

2-6-1 By written petition to the Board of Selectmen, any ten voters of the Town may secure the inclusion of an article for the Warrant of the Annual

Town Meeting, provided that such petition shall be submitted at least sixty calendar days in advance of the date of such meeting.

2-6-2 By written petition to the Board of Selectmen, any one hundred voters may secure the inclusion of an article for the Warrant of any Special Town Meeting, provided that such petition shall be submitted at least forty-five calendar days in advance of the date of such special meeting unless otherwise required by General Laws Chapter 39, Section 10 as the same may be amended from time to time.

#### Section 7 Procedures

2-7-1 The Annual Town Meeting shall convene the Monday before the second Tuesday in May. A Special Town Meeting may be convened by the Board of Selectmen at any time.

2-7-2 The order of consideration of the articles as printed in the Warrant may be changed only by a two-thirds vote of the Town Meeting.

2-7-3 Town officers, members of multi-member bodies, department heads, or their duly designated representatives, shall attend any Town Meeting for the purpose of furnishing information when proposals affecting their particular office, multi-member body, or department are included in the Warrant.

2-7-4 Rules of parliamentary procedure in simplified form shall be prepared by the Town Clerk, in consultation with the Moderator, and shall be made available for distribution to all those requesting them, to new voters at the time of registration, and to those in attendance at all Town Meetings.

2-7-5 No person shall speak twice on the same question until all those wishing to speak thereon have done so, nor shall any person speak for more than five minutes at one time, except by permission of the Town Meeting, provided, however, that the restrictions shall apply neither to those persons required to be in attendance under provisions of 2-7-3, nor to those persons making the original motion or amendments thereto under the article. A motion to terminate debate requires a second, is not debatable and shall require a 4/5 majority to prevail.

2-7-6 The Board of Selectmen shall, by recorded vote, indicate its

recommendations on all articles. In the event of a split vote, the Board shall supply its reasons, pro and con, in the Warrant or during discussion of the article at Town Meeting.

2-7-7 The Finance Committee shall, by recorded vote, indicate its recommendations on all articles having financial implications. In the event of a split vote, the committee shall supply its reasons, pro and con, in the Warrant or during discussions of the article at Town Meeting.

2-7-8 No motion, the effect of which would be to dissolve the Town Meeting, shall be in order until every article in the Warrant has been duly considered and acted upon. This requirement shall not preclude the postponement of consideration of any article to an adjournment of the meeting to a stated time and place.

#### Section 8 Town Meeting Committees

2-8-1 Motions intended to establish ad hoc committees shall include the name of the committee and its charge or mandate, its size and composition, duration, whether it shall be elected or appointed, and by what methods, and a date by which said committee is expected to present a progress or final report.

2-8-2 Unless the motion establishing any such committee shall name the members, provide for their election, or provide for a different appointive authority, all such committees shall be appointed by the Moderator.

### CHAPTER 3 BOARD OF SELECTMEN

#### Section 1 The Board of Selectmen

3-1-1 A Board of Selectmen of five members, hereinafter in this chapter to be known as "the Board," shall be elected at-large for three-year overlapping terms.

3-1-2 Vacancies in the office of Selectman shall be filled by special election in accordance with the provisions of M.G.L. Chap. 41, Sect. 10.

3-1-3 The Board shall normally hold two regularly scheduled evening meetings a month, and as otherwise needed to conduct Town business, and

shall provide an opportunity for citizens to speak.

3-1-4 Members of the Board shall each receive an annual honorarium not to exceed two thousand dollars, and shall receive actual and necessary expenses incurred in the performance of their duties of office, as provided by general law and vote of the Town. The Chairperson shall receive an additional amount not to exceed five hundred dollars annually as provided by vote of the Town.

## Section 2 Policy Leadership

3-2-1 The Board shall serve as the Chief Executive goal-setting and policy-making agency of the Town. The Board shall cause the policies of the Town to be regularly published, and copies shall be made available to those requesting them.

3-2-2 In addition to the power of adopting policies for the Town, the Board shall have the power to enact rules and regulations establishing Town policies, not otherwise governed by general law, Charter, or By-law, provided, however, that if an appropriation shall be necessary to implement such action, the vote of the board shall be effective only when such appropriation has been authorized by the Town Meeting.

3-2-3 The Board shall issue policy statements setting the outer limits of possible budget expenditures, as provided in clause 8-2-5.

## Section 3 Executive Powers

3-3-1 Except as otherwise provided by this Charter, all executive powers of the Town shall be vested in the Board and it shall have all of the powers and duties given to Boards of Selectmen under the constitution and general laws of the Commonwealth, and such additional powers and duties as may be authorized by the Charter, by By-law, or by any other Town Meeting vote.

3-3-2 Members of the Board shall possess no individual authority unless such authority shall have previously been granted by vote of the Board.

3-3-3 The Board shall cause the Charter, By-laws, and rules and regulations for the government of the Town to be enforced and shall cause

an up-to-date record of all its official acts to be kept.

3-3-4 The Board shall develop and annually update the Town's Emergency Plan, and publish appropriate emergency response guidance to its citizens.

#### Section 4 Administration

3-4-1 The Board shall delegate the responsibility for the administration of the Town's business to the Town Administrator. As such, the Board shall not administer the day-to-day affairs of the Town.

#### Section 5 Powers in Intergovernmental Relations

3-5-1 The Board shall be responsible for the development and implementation of intermunicipal and regional cooperation with one or more other towns, civil divisions, subdivisions or agencies of the Commonwealth or the United States government.

3-5-2 In developing any intermunicipal agreement, the board shall carefully weigh all factors, including the cost of establishing, implementing and maintaining the agreement, the cost of liability insurance as well as the potential advantages of the proposed agreement. Any agreement shall clearly delineate the responsibilities of the several parties to such agreements.

3-5-3 Any contract or formal agreement establishing such cooperation, which requires an appropriation of Town funds in excess of \$50,000 or entails a commitment by the Town in excess of three years, shall require the approval of Town Meeting.

3-5-4 Members of the Board shall normally represent the Town on regional and/or inter-municipal committees. When deemed necessary, the Board shall designate a Town employee or other person to represent the Town.

#### Section 6 Powers of Coordination

3-6-1 The Board shall maintain liaison with all multi-member bodies.

3-6-2 The Board shall mediate disputes among Town multi-member bodies.

#### Section 7 Powers of Investigation

3-7-1 The Board may investigate and may authorize the Town Administrator to investigate the affairs of the Town and the conduct of any

Town department, office, or agency, including any claims against the Town, and for this purpose the Board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of such investigation shall be filed with the Town Clerk, and a summary report thereof shall be printed in the next town report.

#### Section 8 Specific Powers, Administrative Duties, and Responsibilities

3-8-1 The Board shall act as the licensing authority of the Town and shall have the power and responsibility required to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach conditions and impose such restrictions as it considers to be in the public interest, and further to enforce, or cause to be enforced, the laws, rules, and regulations relating to all businesses for which it issues licenses.

3-8-2 The Board shall be recognized as head of the Town government for all ceremonial purposes.

3-8-3 The Board shall act as Park Commissioners pursuant to the provisions of General Laws Chapter 45, Section 2, and shall have and exercise all the authority, powers and duties of Park Commissioners conferred by the General Laws of the Commonwealth, the Charter, or the By-laws of the Town of Orleans.

3-8-4 The Board shall review, based on Board policy, the General Bylaws of the Town and propose any revisions to Town Meeting.

#### Section 9 Powers of Appointment

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

3-9-2 The board shall also appoint the following multi-member bodies, as provided in Chapter Six: (a) a Board of Assessors; (b) a Planning Board; (c) a Conservation Commission; (d) a Council on Aging; (e) a Historical Commission and (f) a Cultural Council.

3-9-3 The multi-member bodies enumerated in clause 3-9-2 shall be responsible to the Board through the Town Administrator, and shall be responsive to requests emanating from the Town Administrator's office.

#### Section 10 Other Town Multi-member Bodies

3-10-1 The Board shall also have the power to appoint such other multi-member bodies as may be in existence on the effective date of this Charter and for whom no other method of appointment is herein provided. The Board shall also appoint such other multi-member bodies as may be hereafter established by general law, Charter, By-law, vote of the Town Meeting, or vote of the Board of Selectmen.

#### Section 11 Town Counsel

3-11-1 The Town Counsel shall be requested to schedule some regular working hours at the Town offices.

3-11-2 Access to the Town Counsel shall be scheduled through the office of the Town Administrator.

3-11-3 The opinions of the Town Counsel shall be delivered in writing, and a permanent public file of such opinions shall be established under the care of the Town Clerk, which shall be made available for inspection to those requesting it.

#### Section 12 Prohibitions

3-12-1 Except for the purpose of investigation authorized by this Charter, the Board or its members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Administrator solely through the Town Administrator and neither the Board nor its members shall give orders to any such officer or employee, either publicly or privately.

3-12-2 Members of the Board shall be ineligible to serve on appointive Town multi-member bodies established by this Charter or By-law to which

the Board is the appointive authority.

## CHAPTER 4 THE TOWN ADMINISTRATOR

### Section 1 Appointment

4-1-1 The Board of Selectmen, by an affirmative vote of at least four members, shall appoint a Town Administrator.

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

4-1-3 No person who has held elective office during the preceding twelve months within the Town of Orleans shall be eligible for the position of Town Administrator.

### Section 2 Qualifications

4-2-1 The Town Administrator 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 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.

### Section 3 Duties

4-3-1 The Town Administrator shall be the chief administrative officer of the Town and shall be responsible for administering and coordinating all employees, activities and departments placed by general law, or Charter or By-law under the control of the Board of Selectmen or the Town Administrator. The Town Administrator shall implement the goals and carry out the policies of the Board of Selectmen.

4-3-2 The Town Administrator shall devote full time to the Town

Administrator's office; the Town Administrator shall not become a candidate for, or hold, any elective office during the Town Administrator's term of appointment; and the Town Administrator shall engage in no business activity during the Town Administrator's term, except with the written consent of the Board of Selectmen. The Town Administrator shall:

- (a) Attend all meetings of the Board of Selectmen, except when excused, and shall have the right to speak but not to vote.
- (b) Assemble, prepare and present to the Board of Selectmen all annual operating and capital budgets of the Town and be responsible for the development and annual revision of the capital improvements plan.
- (c) Administer during the fiscal year the annual operating budget and capital outlay appropriations as voted by the Town to assure all such funds are expended or committed in accordance with General Laws, Charter, Bylaws, and the Town Meeting votes relating thereto.
- (d) Inform the Board of Selectmen on all departmental operations, fiscal affairs, general problems, and administrative actions, and to this end shall submit periodic written reports to the Board, no less frequently than annually.
- (e) Inform the Board on a continuous basis regarding the availability of state and federal funds and how such funds might possibly relate to short-range and long-range needs and goals, and solicit and prepare applications for such grants.
- (f) Be responsible for the day-to-day administration of the Town's personnel system.
- (g) Act as Chief Procurement Officer for the Town, excepting the School Department.
- (h) Be responsible for overseeing the enforcement of zoning, acting through the Building Inspector or a zoning enforcement agent.
- (i) Develop, keep, and annually update a full and complete inventory of all real and personal property of the Town, except School property.
- (j) Possess the right to attend and speak at any regular meeting of any

Town multi-member body.

- (k) Negotiate collective bargaining contracts on behalf of the Board of Selectmen, unless the Board shall have designated another negotiator.
- (l) Perform such other duties as assigned by the Charter, By-law, or vote of the Board of Selectmen.

#### Section 4 Responsibilities for Appointments

4-4-1 Subject to the approval of the Board of Selectmen, the Town Administrator 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; a Town Collector-Treasurer; a Surveyor of Highways; a full-time professional Assessor who shall not be a member of the Board of Assessors; and a Water and Sewer Superintendent. The Town Administrator may also appoint other positions, subject to the availability of funds.

4-4-2 The Town Administrator shall also appoint, on the basis of merit and fitness alone, and, except as may otherwise be provided by General Law, Charter, Personnel By-law, or collective bargaining agreements, may suspend or remove: (a) Town employees, including secretarial and clerical personnel; (b) other part-time secretarial and clerical employees, in consultation with the elected Town officials to whom said employees report; (c) all employees of appointed Town multi-member bodies; (d) one or more inspectors; and (e) all other full-time, part-time or seasonal employees, except those of the Police and Fire Departments and the School Department. All such appointments and removals may be reversed by an affirmative vote of at least four members of the Board of Selectmen taken within 14 days.

#### Section 5 Responsibilities in Personnel Administration

4-5-1 Under general policy guidelines of the Board of Selectmen, the Town Administrator shall administer and enforce collective bargaining contracts, personnel rules, regulations, and By-laws adopted by the Town.

Section 6 Responsibilities for Administrative Reorganization

4-6-1 With the approval of the Board of Selectmen, the Town Administrator may establish, reorganize, consolidate or abolish any department or position placed by this Charter under his or her direction and supervision, except as otherwise provided by General Law or this Charter.

4-6-2 The creation of any new full-time, compensated position shall require approval by the affirmative vote of four members of the Board of Selectmen, and such action shall not be effective until the position has been funded by Town Meeting vote provided, however, that the reclassification of an existing full-time compensated position by the Town Administrator shall not be deemed the creation of a new full-time compensated position.

Section 7 Responsibilities for Disbursements

4-7-1 Warrants or vouchers for the payment of Town funds, prepared and signed by the Town Accountant in accordance with General Law procedures, shall be submitted to the Town Administrator and his approval thereof shall be sufficient authorization for payment by the Treasurer, provided, however, that at least three Selectmen shall approve all Warrants in the Town Administrator's absence or in the event of a vacancy in his or her office.

Section 8 Evaluation

4-8-1 The Board of Selectmen shall annually evaluate the performance of the Town Administrator. The Board shall adopt a written set of procedures and criteria which shall form the basis for the evaluation.

4-8-2 A copy of the evaluation shall be provided to the Town Administrator.

Section 9 Removal

4-9-1 The Board of Selectmen, by the affirmative vote of at least three members, may initiate the removal of the Town Administrator by adopting a resolution to that effect. Said resolution shall state the reasons therefore, provided that no such resolution shall be adopted within sixty days following any Town Election that has changed the makeup of the Board. Any such resolution shall be adopted only at a regular scheduled public meeting and in

open session.

4-9-2 The adoption of said resolution shall serve to suspend the Town Administrator for not more than forty-five days, during which the salary shall continue to be paid. A copy of such resolution shall be delivered forthwith to the Town Administrator in hand, or sent by registered mail, return receipt requested, to his or her place of residence.

4-9-3 Within five days following receipt of such resolution, the Town Administrator may file a written request for a public hearing. Upon such request, the Board shall schedule a hearing within two weeks, and it shall be held in a public place. At least seven days prior to the public hearing, the Board shall advertise the hearing in a newspaper of local circulation and shall cause identical notices stating the purpose, location, time, and date to be posted in the Town Hall and in every post office in the town.

4-9-4 The Moderator shall preside at any such hearing.

4-9-5 At any such hearing, the reasons for the removal shall first be read aloud. The Town Administrator shall then have the right to respond, personally or through counsel. The Board of Selectmen and the Town Administrator shall have the power to compel testimony and to subpoena any Town records.

4-9-6 Final removal of any Town Administrator shall be effected by the affirmative vote of at least three members of the Board of Selectmen at a public meeting of the Board, the time and place of which are announced, held within seven days of such hearing, if any. If no hearing has been requested, final removal may be effected by an affirmative vote of at least three members, at a meeting of the Board held not earlier than fourteen days after the resolution is adopted initiating the removal. The salary of the Town Administrator shall be paid for a period of sixty days after the vote effecting removal from office or in accordance with the termination clause in the his or her contract.

4-9-7 The Town Administrator shall provide the Board of Selectmen with at least ninety days notice of his or her resignation, provided, however, that the

Board may shorten or waive such requirement.

Section 10 Filling Vacancy

4-10-1 When a vacancy arises in the office of the Town Administrator, the Board of Selectmen shall advertise the vacancy as soon as possible. The Board shall fill the vacancy as soon as possible but in any case, within six months.

Section 11 Absence of the Town Administrator

4-11-1 For absence of the Town Administrator for up to fourteen calendar days, the Board of Selectmen shall annually designate a Town employee to temporarily assume the duties of Town Administrator.

4-11-2 The Board of Selectmen shall designate, effective within 14 calendar days of any vacancy, a Town employee or other person to exercise the powers and perform the duties of the Town Administrator during a vacancy caused by the temporary absence, suspension, removal, resignation or death of the Town Administrator. This designation shall be for a period not to exceed ninety days, and it may be renewed, in the case of suspension, removal, resignation, or death only once for an additional period not to exceed ninety days.

## CHAPTER 5 ELECTED TOWN BOARDS AND OFFICERS

Section 1 General Provisions

5-1-1 The officers and multi-member bodies to be elected by vote of the Town shall be: a Moderator; Nauset Regional School Committee member(s); a Board of Selectmen as provided in Chapter Three; a Housing Authority; a Board of Health; a Board of Library Trustees; an Orleans School Committee; an Old Kings Highway Historic District Committee; Town Constables; and a Representative to the Barnstable County Assembly of Delegates.

5-1-2 Multi-member bodies established or continued under this Chapter shall perform their functions and duties in accordance with General Law, this Charter, and By-laws.

5-1-3 During the term for which a member is elected, and for one year

following expiration of a member's term, no member of any Town multi-member body established under this Chapter shall be eligible to accept any appointed, paid position under any such multi-member body.

#### Section 2 Vacancies

5-2-1 Except as otherwise provided, vacancies in elected Town multi-member bodies other than the Board of Selectmen established under this chapter shall be filled within thirty days by joint vote of the Board of Selectmen and the remaining members of the respective Board, in accordance with the provisions of General Law.

#### Section 3 Moderator

5-3-1 A Moderator shall be elected for a one-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 Administrator; (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.

#### Section 4 Nauset Regional School Representative

5-4-1 Nauset Regional School District representative(s) shall be elected for a three-year term.

#### Section 5 Orleans School Committee

5-5-1 An Orleans School Committee of five members shall be elected for three-year overlapping terms.

5-5-2 The School Committee shall conduct a public hearing prior to submitting a budget to the Town Administrator. The Committee shall have preliminary summaries of its recommendations available at said hearing which shall be distributed to those requesting them.

#### Section 6 Housing Authority

5-6-1 There shall be a Housing Authority of five members, one of whom shall be appointed under authority of the Commonwealth and four of whom

shall be elected. All members shall serve five-year overlapping terms.

#### Section 7 Board of Health

5-7-1 A Board of Health of five members shall be elected for three-year overlapping terms. The Town Administrator shall be an ex officio non-voting member.

5-7-2 The Board of Health shall cooperate closely with the Conservation Commission and the Planning Board.

5-7-3 The Board of Health shall appoint one member of the Board of Water and Sewer Commissioners, as provided in Clause 6-6-2.

#### Section 8 Board of Library Trustees

5-8-1 A Board of Library Trustees of the Snow Library of seven members shall be elected for three-year overlapping terms.

#### Section 9 Old Kings Highway Historic District Committee

5-9-1 The Committee shall consist of five unpaid members within the Town of Orleans, where at least three shall be residents of the District. At least one member on the Committee shall be an Architect, who need not be a resident of the District. In the event no architect is available for service on the Committee, a building contractor with not less than five years experience in the building trades may be appointed a member of the Committee in lieu of the architect.

5-9-2 The members of the Committee shall be elected according to the rules established in the Old Kings Highway Historic District Act of the Commonwealth of Massachusetts (Chapter 470 of the Acts of 1973, and as subsequently amended and recorded), provided, however, that the architect or building contractor shall be appointed shall be appointed annually by the Board of Selectmen.

5-9-3 The operating procedures of the Committee shall be established in the Old Kings Highway District Act as noted in 5-9-2.

#### Section 10 Town Constables

5-10-1 There shall be two Town Constables. Constables shall be elected to terms of three years.

Section 11 Representative to the Barnstable County Assembly of Delegates

5-11-1 A representative to the Barnstable County Assembly of Delegates shall be elected to a term of three years.

CHAPTER 6 APPOINTED MULTI-MEMBER BODIES

Section 1 General Provisions

6-1-1 Vacancies on appointed multi-member bodies shall be advertised as provided in clause 7-2-1.

6-1-2 Multi-member bodies established under this Charter shall possess and exercise all powers given to them under the Constitution and Laws of the Commonwealth, and shall have and exercise such additional powers and duties as may be granted and delegated by this Charter, By-law, or vote of the Town Meeting.

6-1-3 All multi-member bodies of the Town shall: (a) organize annually; (b) elect a chairperson and other necessary officers; (c) publish a quorum requirement for their meetings in accordance with General Law; (d) adopt rules of procedure and voting; (e) maintain minutes and all other records of proceedings, copies of which shall be a public record and filed monthly with the Town Clerk; and (f) annually

submit a report for inclusion in the Annual Town Report.

6-1-4 The Board of Selectmen, assisted by the Town Administrator and staff, shall conduct an annual briefing in the month of September for all Chairpersons and new members of multi-member bodies. The briefing shall cover new required procedures, policies and guidance.

6-1-5 All multi-member bodies, elected and appointed, shall conduct their meetings in accordance with the open meeting provisions of the open meeting law, Sect. 23A-C of M.G.L. Chap. 39, as may be amended from time to time.

6-1-6 Members of appointed Town multi-member bodies may receive such compensation as may be authorized by the Town Meeting. During the term for which a member is appointed and for one year following expiration of

such term, no member of any appointed multi-member body under this Charter shall be eligible to accept any additional paid position under any such multi-member body.

6-1-7 Nothing in the present Charter shall be deemed to prevent or prohibit a compensated Town employee from serving on a multi-member body, provided that such body shall have no administrative responsibility over any such employee.

6-1-8 Any person duly appointed to any office or multi-member body shall take up the duties of the office immediately, provided that each person first shall have been sworn to the faithful performance of said duties by the Town Clerk.

6-1-9 Members of appointed town multi-member bodies may be removed for cause by the appointing authority after notice to the affected member. Any such member so notified shall be entitled to a public hearing prior to any such removal.

6-1-10 The Town Meeting may, by By-law, enlarge or decrease the number of persons to serve as members of multi-member bodies established under this chapter other than the Board of Selectmen, provided, however, that all such multi-member bodies shall always consist of an uneven number of members.

6-1-11 When a multi-member body of the Town has associate members, the Chairperson, at the Chairperson's discretion, may designate any such associate member to sit in case of absence; inability to act; or in the event of a vacancy on the multi-member body until said vacancy is filled.

## Section 2 Board of Assessors

6-2-1 A Board of Assessors of three members shall be appointed by the Board of Selectmen for three-year overlapping terms.

## Section 3 Zoning Board of Appeals

6-3-1 A Zoning Board of Appeals of five members and three associate members shall be appointed by the Board of Selectmen for three-year overlapping terms.

Section 4 Conservation Commission

6-4-1 A Conservation Commission of seven members and three associate members shall be appointed by the Board of Selectmen for three-year overlapping terms. Regarding associate members, the chairperson, at the chairperson's discretion, may designate any such associate member to sit in case of absence; inability to act; or in the event of a vacancy on the commission until said vacancy is filled.

6-4-2 The Conservation Commission shall cooperate closely with the Planning Board and the Board of Health.

Section 5 Council on Aging

6-5-1 A Council on Aging of seven members shall be appointed by the board of selectmen for three-year overlapping terms.

Section 6 Planning Board

6-6-1 A Planning Board of five members and two associate members shall be appointed by the Board of Selectmen for three-year overlapping terms. Regarding associate members, the chairperson, at the chairperson's discretion, may designate any such associate member to sit in case of absence; inability to act; or in the event of a vacancy on the board until said vacancy is filled.

Section 7 Cultural Council

6-7-1 A Cultural Council of an indefinite, but uneven number shall be appointed by the Board of Selectmen for three-year overlapping terms.

Section 8 Board of Water and Sewer Commissioners

6-8-1 The provisions of Chapter 418 of the Acts of 1953 shall be modified by this Section concerning all matters delineated herein. Effective July 1, 2009 or after passage of a Comprehensive Wastewater Management Plan by Town Meeting, whichever shall occur later, the Board of Water Commissioners will be terminated and a new Board of Water and Sewer Commissioners shall be established. Appointments to the Board of Water and Sewer Commissioners shall be made in accordance with clause 6-8-2.

6-8-2 The Board of Selectmen shall appoint three members and two associate members to the Board of Water and Sewer Commissioners for three-year overlapping terms. The Board of Health and the Planning Board shall each appoint one member to the Board of Water and Sewer Commissioners for three-year overlapping terms.

6-8-3 The Board of Water and Sewer Commissioners shall be responsible for all functions cited in Chapter 418 of the Acts of 1953, except for the following functions vested in the Board of Selectmen for which the Board of Selectmen shall consult with and receive recommendations from the Board of Water and Sewer Commissioners: establish water rates; contract with a municipality; acquire or take water resources, rights-of-way or easements; issue bonds to defray development and construction costs. In discharging its duties and responsibilities, the Board of Water and Sewer Commissioners shall coordinate with the Town Administrator and receive technical support from the Water/Sewer Superintendent(s). The Board of Water and Sewer Commissioners shall set policy ensuring: 1) the adequate production and the high quality of potable water; 2) development of a sewer works system consistent with the Comprehensive Wastewater Management Plan and oversight of that system when operational. The Board of Selectmen shall establish sewer rates and shall consult with and receive recommendations from the Board of Water and Sewer Commissioners with respect to sewer rates.

6-8-4 The Board of Water and Sewer Commissioners shall develop annual operating and capital budget projections and Capital Improvements Plan projections for the Water and Sewer Department, and make recommendations to the Town Administrator and Board of Selectmen in accordance with Chapter 8 of this Charter.

#### Section 9 Review Committees

6-9-1 Every seven years, commencing with the year 1999, the Board of Selectmen shall appoint a Charter Review Committee of seven members. The Board of Selectmen shall charge the committee to review the provisions

of the Charter and report any amendments deemed advisable.

Section 10 Historical Commission

6-10-1 A Historical Commission of seven members shall be appointed by the Board of Selectmen for three-year overlapping

terms.

Section 11 Community Preservation Committee

6-11-1 A Community Preservation Committee of nine members serving three-year overlapping terms shall be appointed as follows: three members by the Board of Selectmen; one member by the Park Commissioners; one member by the Planning Board; one member by the Conservation Commission; one member by the Historical Commission; one member by the Housing Authority; and one member by the Open Space Committee.

CHAPTER 7 CITIZEN PARTICIPATION, ELECTIONS AND RECALL

Section 1 Citizen Awareness and Participation

7-1-1 To promote a maximum level of active, interested and diverse citizen and voter representation and participation in Town affairs, Town officials shall make every effort to encourage citizen interaction and information on current Town issues through the regular use of public service announcements and appropriate local media. Provided, however, that nothing stated herein shall relieve the Town from the meeting notification requirements of State law.

7-1-2 The Board of Selectmen shall annually, in the month of July, call a public meeting in a public place. The meeting shall be advertised in at least two issues of a newspaper of local circulation.

7-1-3 The purpose of the meeting shall be to provide non-resident taxpayers, voters and other interested persons an opportunity to discuss problems, policies, and progress.

7-1-4 The Board of Selectmen, the Town Administrator, and Chairpersons of multi-member bodies shall be available to make appropriate presentations and to answer questions.

Section 2 Advertising of Vacancies

7-2-1 Prior to making appointments to multi-member bodies, the Board of

Selectmen shall advertise all vacancies and impending appointments. Said advertising shall enumerate the vacancies that are to be filled and include a description of the duties, and shall solicit the names of persons willing and able to serve. The advertisement shall also state the location, time and date of the meeting, to be held no sooner than seven days after the publication of the advertisement, at which the Board anticipates that the appointments will be made.

7-2-2 Prior to making appointments to the Finance Committee and to the Cape Cod Regional Technical High School Committee, the Moderator shall cause a notice to be published enumerating the vacancies that are to be filled and the location, time and date when the Moderator will be available to interview persons able and willing to serve.

### Section 3 Rules of Procedure in Town Meetings

7-3-1 Simplified rules of procedure for Town Meetings shall be prepared and made available, as provided in clause 2-7-4.

### Section 4 Town Elections

7-4-1 The regular election for all Town offices shall be by official ballot held on the third Tuesday in May.

### Section 5 Town Elections to be Nonpartisan

7-5-1 All Town elections shall be non-partisan, and election ballots shall be printed without any party mark or designation.

### Section 6 Eligibility of Town Voters

7-6-1 Any registered voter of the Town shall be eligible for election to any elective office or multi-member body of the Town, provided however that no person shall be a candidate for or hold, concurrently, more than one paid elective office of the town.

### Section 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 office immediately following certification.

### Section 8 Recall of Elective Officers

7-8-1 Any holder of an elective office may be recalled by the voters as herein

provided.

7-8-2 One hundred registered voters of the Town may file with the Town Clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. Once the names that appear on the affidavit are certified by the Board of Registrars of Voters, the Town Clerk shall thereupon deliver to the voter first named on such affidavit a sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued by the Town Clerk with the Town Clerk's signature and official seal attached thereto. They shall be dated and addressed to the Board of Selectmen, and shall contain the name of the person to whom they are issued, the number of petitions so issued, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit, and shall demand the election of a successor to such office.

7-8-3 The recall petition shall bear the signatures and residential addresses of at least fifteen percent of the registered voters. The recall petition shall be returned to the Town Clerk within 20 working days after the Town Clerk issues the petition. The petitions containing the signatures requesting a recall election need not all be submitted at the same time. A copy of the petition shall be maintained with the records of the subject recall election.

7-8-4 The Town Clerk shall within one working day of receipt submit the petition to the Registrars of Voters in the Town, and the Registrars shall within seven working days certify thereon the number of signatures which are names of registered voters.

7-8-5 If the petition shall be found and certified by the Town Clerk to be sufficient the Town Clerk shall submit the same with the Town Clerk's certificate to the Board of Selectmen. The Board of Selectmen shall, within three working days, give written notice by registered mail of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within five days thereafter, the Board of Selectmen shall order an election to be held on a date fixed by them. The date of the election shall not be less than forty-five nor more than sixty days after the date of the Town Clerk's

certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within ninety days after the date of the certificate, the Board of Selectmen shall postpone the holding of the recall election to the date of such other election.

7-8-6 Any officer sought to be removed may not be a candidate for said office in the recall election. The nomination of candidates, the publication of the Warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of general law relating to elections, and the election to replace the officer sought to be removed shall be held on the same day as the recall election.

7-8-7 The incumbent shall continue to perform the duties of office until the recall election. If not recalled, the incumbent shall continue in office for the remainder of the incumbent's unexpired term. An incumbent having successfully survived a recall election shall not again be subject to recall during the same term of office. If recalled, the incumbent shall be deemed removed upon the certification of the incumbent's successor who shall hold office during the unexpired term. If the successor fails to be certified within five days after receiving notification of the successor's election, the incumbent shall thereupon be deemed removed and the office vacant.

7-8-8 The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?" The action of the voters to recall shall require a majority vote, but shall not be effective unless the total of those voting for and against recall shall exceed thirty percent of the registered voters of the town.

## CHAPTER 8 FINANCIAL PROVISIONS AND PROCEDURES

### Section 1 Finance Committee

8-1-1 A Finance Committee of nine members shall be appointed by the Moderator for three-year overlapping terms. Three members shall be appointed annually.

8-1-2 Any person duly appointed to the Finance Committee shall take up

the duties of the office upon the first day of the fiscal year, provided that such person shall have been sworn to the faithful performance of such person's duties by the Town Clerk.

8-1-3 Vacancies in the Finance Committee shall be filled by the Moderator within thirty days after the Moderator has been notified, in writing, of the vacancy on the committee. If the Moderator shall fail to fill the vacancy within thirty days after such notification, the remaining members of the committee shall fill the vacancy by majority vote.

8-1-4 Any person appointed to fill out an unexpired term shall take up the duties immediately, provided that the person first shall have been sworn to the faithful performance of the person's duties by the Town Clerk.

8-1-5 No member of the Finance Committee shall hold any other elected or appointed Town office.

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.

## Section 2 Submission of Budget and Budget Message

8-2-1 On or before the fifteenth day of September each year, the Town Administrator shall promulgate a budget schedule which shall set forth the calendar dates relating to the development of the operating budget.

8-2-2 Said schedule shall be in accordance with this chapter unless deviation therefrom is recommended by the Town Administrator, and approved by the Board of Selectmen and the Finance Committee.

8-2-3 On or before the first day of October of each year, the Town Administrator shall request and receive from the Collector-Treasurer, the Town Accountant, the Board of Selectmen, and the Assessors the estimated revenues for the ensuing fiscal year.

8-2-4 Upon receipt of any additional specific fiscal data provided by the Commonwealth or from any other source, such estimates shall be revised,

updated, and submitted forthwith to the Town Administrator.

8-2-5 The Board of Selectmen and Finance Committee shall conduct a joint public hearing, chaired by the Board of Selectmen, on or before September 20 of each year to solicit public priorities in upcoming fiscal years.

8-2-6 On or before the first day of November of each year, the Board of Selectmen, after consulting with the Town Administrator, shall issue its policy statement relating to the budget for the ensuing fiscal year. The statement shall establish the general guidelines of the next budget for the Town, in accordance with the board's responsibility under section 3-2-3.

8-2-7 All department heads and multi-member bodies shall submit their budget requests to the Town Administrator on or before November 15 of each year.

8-2-8 On or before January 15 of each year, the Town Administrator shall submit to the Board of Selectmen and the Finance Committee a comprehensive budget for all town functions for the ensuing fiscal year and an accompanying budget message.

8-2-9 The budget message shall explain the budget both in fiscal terms and in terms of what specific projects are contemplated in the year ahead. It shall: (a) outline the proposed financial policies of the Town for the ensuing fiscal year; (b) describe the important features of the budget; (c) indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes; (d) summarize the Town's debt position; and (e) include such other material as the Town Administrator may deem appropriate.

8-2-10 The budget shall provide a complete financial plan for all Town funds and activities and shall be in such format as the Town Administrator, in consultation with the Finance Committee, may suggest, provided that the format is compatible with the standards recommended by the Commonwealth's Director of Accounts and/or the State Association of Finance Committees. The budget shall indicate proposed expenditures for both current operations and capital projects during the ensuing fiscal year,

detailed by departments, offices, and multi-member bodies, and specific purposes and projects.

### Section 3 Action on Proposed Budget

8-3-1 The Board of Selectmen shall within thirty days of the submission of the budget by the Town Administrator, act thereon and submit any budget revisions to the Finance Committee at that time. The Board of Selectmen shall also transmit the budget request of the School Committee, with recommendations, to the Finance Committee.

8-3-2 On or before March 15 of each year, the Finance Committee and the Board of Selectmen shall conduct a joint public hearing on the proposed budget. The hearing agenda shall be established by the Finance Committee in consultation with the Board of Selectmen and the Town Administrator. Subsequent budget changes may be made by the Board of Selectmen prior to the publication of the Annual Town Meeting Warrant provided a second joint hearing is similarly conducted. Subsequent to the publication of the Annual Town Meeting Warrant, further budget changes to be proposed to the Town Meeting by the Board of Selectmen shall, to the extent that time allows, be the subject of a similarly conducted public hearing at least seven (7) days prior to the commencement of the Annual Town Meeting.

8-3-3 The Finance Committee shall issue printed recommendations on all articles having financial implications in the Finance Committee report within the warrant, by flier distributed on the floor of Town Meeting, or by announcement during Town Meeting. In preparing its recommendations, the Committee may require the Town Administrator, any town department, office, or multi-member body to furnish it with appropriate financial reports and budgetary information.

8-3-4 The Board of Selectmen shall be responsible for presenting the budget to the Town Meeting.

### Section 4 Budget Adoption

8-4-1 The Town Meeting shall adopt the budget, with or without amendments, prior to the beginning of the fiscal year.

## Section 5 Capital Improvements Plan

8-5-1 The Town Administrator shall prepare a five-year Capital Improvements Plan, which shall be designed to deal with unmet long-range needs, and to implement the goals and objectives of the Orleans Comprehensive Plan. The Capital Improvements Plan shall be developed based on established Board of Selectmen policy regarding types of projects to be included.

8-5-2 The Capital Improvements Plan shall include all Town activities and departments. Proposed capital expenditures for the regional school and other regional entities shall be excluded in said Plan provided that such exclusion shall be consistent with the regional or inter-municipal agreement establishing such entities.

8-5-3 The Capital Improvements Plan shall include: (a) a clear summary of its contents; (b) a list of all capital improvements proposed to be undertaken during the next five fiscal years, together with supporting data; (c) cost estimates, methods of financing, and recommended time schedules; and (d) the estimated annual cost of operating and maintaining the facilities or equipment to be constructed or acquired. The above information may be revised and shall be extended each year with regard to capital improvements pending or in the process of construction or acquisition. Any entry in said Plan previously approved at Town Meeting that is moved out more than one year shall be specifically noted and adjusted to reflect changing economic conditions.

8-5-4 The Capital Improvements Plan shall be submitted to the Board of Selectmen January 15 of each year. The Board shall act thereon within thirty days and shall then submit any Plan revisions to the Finance Committee, which shall issue its recommendation as part of the annual Finance Committee Report.

## Section 6 Notice of Public Hearing on Capital Improvement Plan

8-6-1 The Board of Selectmen shall publish, in one or more newspapers of general circulation in the town, the general summary of the capital

improvements plan and a notice stating: (a) the times and places where copies of the capital improvements plan are available for inspection; and (b) the date, time, and place, not less than seven days following such publication, when the Board of Selectmen and the Finance Committee shall conduct a public hearing, chaired by the Finance Committee, on said plan. The joint hearing shall be held no later than March 1 of each year.

#### Section 7 Action of Town Meeting

8-7-1 The Town Meeting shall act on the Capital Improvement Plan, provided that any article for capital improvements not in compliance with clause 8-5-1 shall require a three-fourths<sup>68</sup> majority vote of the town meeting.<sup>51</sup> An article for capital improvements shall be considered in compliance with clause 8-5-1 if it appeared in the Capital Improvements Plan in the prior year and does not exceed the Capital Improvements Plan estimated cost by more than ten percent.

#### Section 8 Annual Audit

8-8-1 An independent audit of the Town's finances shall be performed annually by a certified public accounting firm with experience in municipal audits and/or other public agency audits, chosen by the Board of Selectmen for a term of up to three years. A copy of every auditors' report shall be filed with the Town Clerk, shall be a public record, and a summary thereof shall be published in the next Annual Town Report.

### CHAPTER 9 PLANNING AND THE ENVIRONMENT

#### Section 1 Powers and Duties of the Planning Board

9-1-1 A Planning Board shall be appointed as provided in clause 6-6-1.

9-1-2 The Planning Board shall exercise such powers and duties as are prescribed by general law, this charter, and by-law.

9-1-3 The Planning Board may make recommendations to the Town Meeting, the Board of Selectmen, and the Town Administrator on all matters concerning the physical, economic, and environmental development of the Town.

9-1-4 The Planning Board shall cooperate closely with the Conservation

Commission and the Board of Health and the Board of Water and Sewer Commissioners.

9-1-5 The Planning Board shall appoint one member of the Board of Water and Sewer Commissioners, as provided in 6-8-2.

## Section 2 Orleans Comprehensive Plan

9-2-1 The Planning Board shall be responsible for the development and periodic updating of the Orleans Comprehensive Plan.

9-2-2 In updating said Plan, the Planning Board shall consult with, and seek evidence from, appropriate Town officials, multi-member bodies and citizens 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.

9-2-4 The Orleans Comprehensive Plan shall be considered in revising the Zoning By-law. The Planning Board shall also utilize the Plan in making its recommendations to the town. It shall also be used by other multi-member bodies in discharging their responsibilities.

9-2-5 By the fifteenth day of November, the Planning Board shall recommend implementation actions from the Plan as part of the development of the annual Operating and Capital Budgets and a six year schedule of Plan implementations as part of the Capital Improvement Plan updating process. The Planning Board shall present a report to the Annual Town Meeting specifying those Plan actions being fulfilled during the current fiscal year and the scheduled actions approved by the Board of Selectmen for full or partial completion during the ensuing fiscal year.

## Section 3 Planning Staff

9-3-1 The Town Administrator shall appoint a Director of Planning and Community Development and shall appoint other planning staff to the extent required for that purpose.

9-3-2 Such Planning staff under the provisions of 9-3-1 shall provide

services to the Planning Board but shall be under the day to day supervision of the Town Administrator.

#### Section 4 Coordination of Activities

9-4-1 It shall be the general responsibility of the Town Administrator, in consultation with the Board of Selectmen, to coordinate the activities of the Director of Planning and Community Development, and all multi-member bodies, and officials concerned with the physical, economic, and environmental development of the town.

### CHAPTER 10 CHARTER OPERATION AND MAINTENANCE

#### Section 1 Charter Amendment

10-1-1 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.

#### Section 2 Transition Requirements

10-2-1 Revisions or amendments requiring a transition to take effect shall specify the circumstances, duration and conditions for termination of the transition status.

#### Section 3 Enforcement

10-3-1 Clause 3-3-3 requires the Board of Selectmen to enforce the Charter. Ten or more voters shall have the right to petition the Board of Selectmen 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.

#### Section 4 Definitions

10-4-1 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 eighty-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 requirements 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.