

Town of Orleans
Zoning Amendments approved at May 13, 2013 ATM

ARTICLE 38. AMEND ZONING BYLAW CHAPTER 164-4, DEFINITIONS

Buildable Upland: That land which is contiguous, not in the Conservancy District, and which is not **(a) a** swamp, pond, bog, dry bog, **salt** marsh, **coastal bank, coastal beach, coastal dune,** **(b)** areas of exposed ground water, **(c)** and which is not subject to flooding from storms and mean high tides, **nor (d)** is located in the FEMA flood zone 100-year base flood elevation. (See §164-23 and §164-20). **The terms “swamp,” “pond,” “salt marsh,” “coastal bank,” “coastal beach,” or “coastal dune,” as used in this section, shall be defined as in the Massachusetts Wetlands Protection Act, MGL C. 131, § 40, and the regulations issued thereunder, 310 CMR 10.04, as of May, 2008.**

ARTICLE 39. AMEND ZONING BYLAW CHAPTER 164-4, DEFINITIONS

Dog Kennels – One pack or collection of dogs on a single lot, maintained for breeding, boarding, sale, training, hunting or other commercial purposes and specifically including every pack or collection of more than three dogs three months old or over, owned or kept on a single lot for any purpose, other than 3 or more dogs kept solely as personal pets of the owner of the dogs.

ARTICLE 40. AMEND ZONING BYLAW CHAPTER 164-3, C. (b) and (c), NONCONFORMING STRUCTURES

(b) Except as otherwise set forth in (c) below, Alteration to a nonconforming single or two family residential structure that increases the nonconforming nature of the structure, **including those alterations which result in the creation of a new dimensional nonconformity, an intensification of an existing nonconformity by extending further into a required setback area or an increase in the height of the structure greater than the allowed height,** may be allowed on Special Permit from the Board of Appeals provided the Board of Appeals finds that such alteration will not be substantially more detrimental to the neighborhood than existing nonconforming structure.

(c) ~~Alteration to a nonconforming single or two family residential structure in such a _____ manner as to: 1) create a new dimensional nonconformity, or 2) intensify an existing nonconformity by extending further into a required~~

setback area, or 3) ~~increase the height of the structure greater than the allowed height, shall require the issuance of a variance by the Board of Appeals and the Special Permit finding required under subsection (b).~~ Provided, however, the extension of an exterior ~~wall or surface of an existing structure at or along the same nonconforming distance within a required setback area shall not require the issuance of a variance.~~

**ARTICLE 41. AMEND ZONING BYLAW CHAPTER 164-40.3,
TEMPORARY MORATORIUM ON MEDICAL MARIJUANA TREATMENT
CENTERS**

164-40.3. Temporary Moratorium on Medical Marijuana

A. PURPOSE

By vote at the State election on November 6, 2012, the voters of the Commonwealth approved legislation regulating the cultivation, distribution, possession and use of marijuana for medical purposes. The law took effect on January 1, 2013 and the State Department of Public Health is required to issue regulations regarding implementation within 120 days of the law's effective date. Currently under the Zoning Bylaw, a medical marijuana treatment facility is not a permitted use in the Town of Orleans and regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including medical marijuana treatment centers.

The regulation of medical marijuana raises novel and complex legal and planning issues and the Town needs time to study and consider the regulation of medical marijuana treatment centers and address such novel and complex issues and to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of medical marijuana treatment centers and other uses related to the regulation of medical marijuana.

The Town hereby adopts a temporary moratorium on the use of land and structures in the Town for medical marijuana treatment centers so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.

B. TEMPORARY MORATORIUM

The Town of Orleans hereby adopts a temporary moratorium on the use of land or structures for a medical marijuana treatment center. The moratorium will be in effect until July 1, 2014. During the moratorium period the Town will undertake a planning process to address the potential impacts of medical marijuana in Orleans, consider the Department of Public Health regulations regarding medical marijuana treatment facilities and related uses, and to the extent it is determined to allow them, adopt new zoning regulations to address the impact and operation of medical treatment centers and related uses.

C. SEVERABILITY

The invalidity of any portion or provisions of this Bylaw shall not invalidate any other portion, provision or section hereof.

