Chapter 158

Water

[HISTORY: Adopted by the Town of Orleans as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Water Department rules and regulations — See Ch. 196.

Article I

General Regulations

[Adopted 3-11-1963 ATM, Art. 41; amended in its entirety 3-9-1970 ATM, Art. 33]

§ 158-1 Guaranty or bond required for extension of mains.
[Amended 5-11-2009 ATM, Art. 32; 5-13-2013 ATM, Art. 31]

Whenever any extension of the water main is requested upon any street or way, the Board of Water and Sewer Commissioners (hereinafter the "Board") may require that, before such extension is made, a guaranty or bond shall be given to the Town in such amount and form and with such sureties as they shall approve, conditioned that the obligors shall pay to the Town for not more than ten (10) years, at the time appointed for payment of water rates, such sums as shall amount in the aggregate annually to ten percent (10%) upon the cost of such extension, subject to diminution by the amounts that the Town shall receive annually from rates paid for water by consumers connected with such extension.

§ 158-2 Protection of watershed; fines and penalties.
[Added 5-9-1989 ATM, Art. 30; amended 5-11-2009 ATM, Art. 32]

Any person who, without lawful authority, directly or indirectly corrupts or defiles or who causes the corruption or defilement of the watershed system or any water source located within the Town of Orleans supplying the watershed system including but not limiting to dumping of any type of materials within the watershed of said Town as depicted on Assessors Map 54, Parcel 1: 490+/- acres, Assessors Map 68, Parcel 5: 3.91 acres, Assessors Map 68, Parcel 7: 6.91 acres, Assessors Map 81, Parcel 10: 13.67 acres, Assessors Map 81, Parcel 9: 3.33 acres, Assessors Map 81, Parcel 5: 11.48 acres, Assessors Map 75, Parcel 119: 4.00 acres, Assessors Map 75, Parcel 87: 6.53 acres filed in the Orleans Tax Assessor’s Office, shall be subject to the following fines and penalties. A violation of this bylaw shall be punished by a fine of not more than three hundred and 00/100 ($300.00) dollars for each day such violation occurs or continues. Any such fine or penalty shall be payable to the Treasury of the Town of Orleans. The fines and penalties imposed under this bylaw are in addition to the fines and penalties imposed under Massachusetts General Laws, Chapter 21, Section 42, and said statutes shall not be construed as a limitation of the enforcement or the extent of violations covered under this bylaw. The bylaw shall not be deemed the exclusive remedy available to the Town of Orleans for the corruption or defilement of the Town’s watershed. The Town specifically reserves the right to maintain an action under theories of tort law or any other appropriate legal theory.
Article II
Cross-Connection Control

[Adopted 5-9-1989 ATM, Art. 31]

§ 158-3 Purpose.
A. To protect the public potable water supply served by the Board from the possibility of contamination or pollution by isolating such contaminants or pollutants which could backflow or backsiphon into the public water system. [Amended 5-11-2009 ATM, Art. 32]

B. To promote the elimination or control of existing cross-connection, actual or potential, between its customers in-plant potable water system, and non-potable systems.

C. To provide for the maintenance of a continuing program of cross-connections control which will effectively prevent the contamination or pollution of all potable water systems by cross-connection.

§ 158-4 Authority.
A. As provided in the Federal safe drinking water act of 1974 (Public Law 93-523), and the Commonwealth of Massachusetts drinking water regulations, 310 CMR 22.22, the water purveyor has the primary responsibility for preventing water from unapproved sources or any other substances from entering the public potable water system.


§ 158-5 Responsibility.
[Amended 5-11-2009 ATM, Art. 32; 5-13-2013 ATM, Art. 31]

The Board shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or backsiphonage of contaminants or pollutants. If, as a result of a survey of the premises, the Water Department determines that an approved backflow prevention device is required at the Town's water service connection or as inplant protection on any customer's premises, the Water Department, or its delegated agent, shall issue a cross-connection violation form to said customer to install approved backflow prevention devices. The customer shall, within a time frame determined by the Water Department, install such approved device or devices at his own expense, and failure or refusal or inability on the part of the customer to install said device or devices at his own expense, and failure or refusal or inability on the part of the customer to install said device or devices within the specified time frame shall constitute a ground for discontinuing water service to the premises until such device or devices have been properly installed.

§ 158-6 Definitions.
[Amended 5-11-2009 ATM, Art. 32; 5-13-2013 ATM, Art. 31]

APPROVED

Accepted by the Reviewing Authority as meeting an applicable specification stated or cited in this regulation or as suitable for the proposed use.

APPROVED BACKFLOW PREVENTION DEVICE OR DEVICES
A testable or non-testable cross-connection control device that is approved by the Department of Environmental Protection for use in Massachusetts.

AUXILIARY WATER SUPPLY
Any water supply on or available to the premises other than the Water Department's approved public potable water supply.

BACK PRESSURE
Pressure created by mechanical means or other means which causes water or other liquids or substances to flow or move in a direction opposite to that which is intended.

BACK SIPHONAGE
A form of backflow due to reduced or subatmospheric pressure within a water system.

BACKFLOW
The flow of water or other liquids, mixtures or substances, under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

BACKFLOW PREVENTER
A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principal device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bibb vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

1. AIR GAP The method of preventing backflow through the use of an unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. The air gap separation shall be at least twice the internal diameter of the supply pipe discharge line but in no case less than one inch.

2. ATMOSPHERIC VACUUM BREAKER A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or subatmospheric pressure in a water system.

3. BAROMETRIC LOOP A fabricated piping arrangement rising at least thirty-five (35) feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage.

4. DOUBLE CHECK VALVE ASSEMBLY An assembly of two (2) independently operating spring loaded check valves with tightly closing shut off valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

5. DOUBLE CHECK VALVE WITH INTERMEDIATE ATMOSPHERIC VENT A device having two (2) spring-loaded check valves separated by an atmospheric vent chamber.

6. HOSE BIBB VACUUM BREAKER A device which is permanently attached to a hose bibb and which acts as an atmospheric vacuum breaker.
7. **PRESSURE VACUUM BREAKER**A device containing one or two independently operated spring-loaded check valves and an independently operated spring loaded air inlet valve located on the discharge side of the check or checks. Device includes tightly closing shutoff valves on each side of the check valves and properly located test cocks for the testing of the check valve(s).

8. **REDUCED PRESSURE PRINCIPLE BACKFLOW PREVENTER** An assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing shutoff valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

9. **RESIDENTIAL DUAL CHECK** An assembly of two (2) spring loaded, independently operating check valves without tightly closing shutoff valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.

**COMMISSION**
The Town of Orleans Board of Water and Sewer Commissioners (the "Board") or owner or operator of a public water supply system invested with the authority and responsibility for the implementation of a cross-connection control program and for the enforcement of the provisions of this article.

**CONTAINMENT**
A method of backflow prevention which requires a reduced pressure backflow preventer or an air gap separation at the meter or property line.

**CONTAMINANT**
A substance that will impair the quality of water to a degree that it creates a serious health hazard to the public leading to poisoning or the spread of disease.

**CROSS-CONNECTION**
Any actual or potential connection between the public water supply system and a source of contamination or pollution.

**CROSS-CONNECTION VIOLATION FORM**
A violation form designated by the Department of Environmental Protection, which is sent to the owner by the Water Department with copies sent to the plumbing inspectors and Board of Health denoting cross-connection violations found on the owner's premises and a procedure for corrective action.

**DEPARTMENT**
The Massachusetts Department of Environmental Protection (MassDEP).

**DESIGN DATA SHEET**
A report form submitted to the supplier of water along with plans for each installation of a reduced pressure backflow preventer or double check valve assembly, or for each change to any such device already installed, describing and showing the details of the specific installation.

**HEALTH HAZARD**
An actual or potential threat of contamination to the potable water in a public water system, which, in
the opinion of the supplier of water, would endanger health.

**IN-PLANT PROTECTION**

The location of approved backflow prevention devices in a manner which provides protection of the consumers of water and the potable water system within the premises.

**INSPECTION**

An on-site inspection and survey by a qualified individual to determine the existence and location of cross-connections and/or the physical examination and testing of an installed backflow prevention device to verify that the backflow prevention device is functioning properly.

**INSPECTION AND MAINTENANCE REPORT FORM**

A report form which is to be used by certified testers to record all pertinent testing information.

**OWNER**

Any person maintaining a cross-connection installation or owning or occupying premises on which cross-connections can or do exist.

**OWNER’S AGENT**

Any person or body designated by the owner to act as his or her representative.

**PERSON**

Any individual, corporation, company, association, trust, partnership, the commonwealth, a municipality, district, or other subdivision or instrumentality of the United States, except that nothing herein shall be construed to refer to or to include any American Indian tribe or the United States Secretary of the Interior in his capacity as trustee of Indian Lands.

**POLLUTANT**

A foreign substance that if permitted to get into the public water system will degrade its quality so as to constitute a moderate hazard, or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such water for domestic use.

**POTABLE WATER**

Water from any source that has been approved by MassDEP for human consumption.

**REVIEWING AUTHORITY**

The supplier of public water, or the local plumbing inspector, authorized by MGL c. 142 and licensed by the Board of State Examiners of Plumbers and Gas Fitters, whichever is responsible for the review and approval of the installation of an approved backflow prevention device.

**SUPPLIER OF PUBLIC WATER**

Any person who owns or operates a public water supply system.

**UNAPPROVED SOURCE**

The source or distribution system for any water or other liquid or substance which has not been approved by the MassDEP as being safe and sanitary quality for human consumption, including but not
limited to any waste pipe, soil pipe, sewer drain, or non-acceptable potable water system material.

§ 158-7 Administration.
A. The Board will operate an active cross-connection control program, to include the keeping of necessary records which fulfills the requirements of the Department of Environmental Protection Cross Connection Regulations and is approved by the Department. [Amended 5-11-2009 ATM, Art. 32]

B. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Board’s program and the Department regulations. [Amended 5-13-2013 ATM, Art. 31]

§ 158-8 Requirements.
A. WATER DEPARTMENT. [Amended 5-11-2009 ATM, Art. 32]

1. On new installations, the Water Department will provide on-site evaluation and/or inspection of plans in order to determine the type of backflow preventer, if any, that will be required, and notify the owner of plan approval requirements by the appropriate reviewing authority.

2. For premises existing prior to the start of this program, the Water Department will perform surveys of the premises and reviews of as-built plans and issue a cross-connection violation form to the owner detailing any corrective action required, the method of achieving the correction, and the time allowed for the correction to be made. The time period allowed shall depend upon the degree of hazard involved.

3. The Board will not allow any cross-connection to remain unless it is protected by an approved backflow preventer which has been approved and which will be regularly tested to insure satisfactory operations.

4. The Water Department shall inform the owner by letter of any failure to comply by the time of the first re-inspection. The Water Department will allow an additional fifteen (15) days for the correction. In the event the owner fails to comply with the necessary correction by the time of the second re-inspection, the Water Department will inform the owner by letter that the water service to the owner's premises will be terminated within a period not to exceed five (5) days. In the event that the owner informs the Board of extenuating circumstances as to why the correction has not been made, a time extension may be granted by the Board, but in no case will exceed an additional thirty (30) days. [Added 5-13-2013 ATM, Art. 31]

5. If the Board determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.

6. The Water Department shall have on its staff, or shall have a delegated representative, who is a backflow prevention device tester certified by the Commonwealth of Massachusetts.

7. The Water Department began initial premise inspections to determine the nature of existing or potential hazards, following the approval of this program by the Department of Environmental Protection, during calendar year 1988. Initial focus was on high hazard industries and commercial premises. The Water Department continues with an annual survey program.

B. OWNER.
1. The Owner shall be responsible for the elimination or protection of all cross-connections on his/her premises. [Amended 5-11-2009 ATM, Art. 32]

2. The Owner shall be responsible for applying for and obtaining all necessary approvals for the maintenance of cross-connections and installation of backflow prevention devices. [Amended 5-11-2009 ATM, Art. 32]

3. The Owner shall have any device that fails an inspection or test repaired or replaced by a licensed plumber. [Amended 5-11-2009 ATM, Art. 32]

4. The Owner shall inform the Water Department of any proposed or modified cross-connection and also any existing cross-connections of which the owner is aware but has not been found by the Water Department. [Amended 5-11-2009 ATM, Art. 32]

5. The Owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary to allow testing to take place.

6. The Owner shall install backflow preventers in a manner approved by the Water Department. [Amended 5-11-2009 ATM, Art. 32]

7. The Owner shall install only reduced pressure backflow preventers and double check valve assemblies approved by MassDEP. [Amended 5-11-2009 ATM, Art. 32; 5-13-2013 ATM, Art. 31]

8. Any Owner of industrial, commercial, or institutional premises having a private well or other private water source must have a permit if the well or source is cross connected to the Orleans water system. Permission to cross connect may be denied by the Board. The Owner may be required to install a backflow preventer at the service entrance if a private water source is maintained even if it is not cross connected to the Orleans water system. [Amended 5-11-2009 ATM, Art. 32]

9. A private well or individual water source serving residential dwellings used for potable or non-potable purposes will not be allowed a physical connection with the public water supply system.

10. The owner shall be responsible for the payment of all fees for annual or semi-annual device testings, retesting in the case that the device fails to operate correctly, and second re-inspections for noncompliance with Water Department or MassDEP requirements. [Amended 5-11-2009 ATM, Art. 32; 5-13-2013 ATM, Art. 31]

§ 158-9 Degree of hazard.
[Amended 5-11-2009 ATM, Art. 32]

The Board recognizes the threat to the public water system arising from cross-connections. As such, the Board, whereas it is responsible for the quality of the public water supply, may require a containment device on the water service entrance to any customer who, as a result of unprotected cross-connections, could contaminate the public water supply system.

§ 158-10 Enforcement.
[Amended 5-11-2009 ATM, Art. 32]
The Board shall not allow a cross-connection to exist with the public water supply system unless it is considered necessary and all appropriate approvals and/or permits have been issued.

§ 158-11 Existing in-use backflow-prevention devices.  
[Amended 5-11-2009 ATM, Art. 32]

Any existing backflow preventer shall be allowed by the Board to continue in service unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer or result in an unreasonable risk to the public health. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, any existing backflow preventer must be upgraded to a reduced pressure backflow preventer, or a reduced pressure backflow preventer must be installed in the event that no backflow device was present.

§ 158-12 Testing.  
[Amended 5-11-2009 ATM, Art. 32]

A. Reduced pressure backflow preventers shall be tested and inspected at least semi-annually and double check valve assemblies shall be tested and inspected at least annually by the Water Department.

B. Testing shall be performed by the Water Department’s certified tester or a Massachusetts Department of Environmental Protection certified tester with the approval of the Water Department.

C. The testing shall be conducted during the Water Department’s regular business hours. Exceptions to this, when at the request of the Owner, may require additional charges to cover the increased costs to the Water Department.

D. (Reserved)

E. Any backflow preventer which fails during a periodic test must be repaired or replaced by a licensed plumber. When repairs are necessary, upon completion of the repair, the device will be retested at the Owner’s expense to insure proper operation. High hazard situations will not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. In other situations, a compliance date of not more than fourteen days after the test date will be established. The Owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices is an effective means of the Owner insuring that uninterrupted water service remains during testing or repair of devices and is strongly recommended when the owner desires such continuity.

F. Backflow prevention devices may be tested more frequently than specified above in “A” in cases where there is a history of test failures and the Water Department feels that due to the degree of hazard involved, additional testing is warranted. Cost of the additional tests will be borne by the Owner.

§ 158-13 Records and reports.  
[Amended 5-11-2009 ATM, Art. 32]

A. RECORDS.

The Water Department maintains the following:

1. Master files on customer cross-connection tests and/or inspections.

2. Master files on approved cross-connection installations.
3. Master files on facilities surveyed and violations found. [Amended 5-13-2013 ATM, Art. 31]

4. Master files on correspondences, violation notices and enforcement actions. [Added 5-13-2013 ATM, Art. 31]

B. REPORTS. [Amended 5-13-2013 ATM, Art. 31]

The Water Department will submit the following to the Massachusetts Department of Environmental Protection upon request:

1. Annual list of all cross-connections protected by an approved dual check valve assembly or reduced pressure backflow preventer device.

2. Summary of cross-connection inspections and surveys.

§ 158-14 Residential dual check.
[Amended 5-11-2009 ATM, Art. 32]

All new residential buildings are required to install a residential dual check device immediately downstream of the water meter. This device will be provided by the Water Department at a scheduled cost to the homeowner. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the Water Department.

The Owner must be aware that installation of a residential dual check valve results in a potential closed plumbing system within his residence. As such, The Owner shall be responsible for provisions for thermal expansion within his closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

§ 158-15 Strainers.
[Amended 5-11-2009 ATM, Art. 32]

The Board strongly recommends that all new and retrofit installations of reduced pressure backflow preventers and double check valve assemblies include the installation of strainers located immediately upstream of the backflow device. The installation of strainers may preclude the fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic cleaning and flushing of mains, etc. These occurrences may "stir up" debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

Article III
Water Supply

[Adopted 5-8-2000 ATM, Art. 26; amended in its entirety 5-13-2013 ATM, Art. 31]

§ 158-16 Authority.
This bylaw is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and pursuant to its powers under MGL c. 40, § 21 et seq. and implements the Town's authority to regulate water use pursuant to MGL c. 41, § 69B. This bylaw also implements the Town's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection under MGL c. § 24G, the "Massachusetts Water Management Act" and its regulations promulgated at 310 CMR-
§ 158-17 Purpose.
The purpose of this bylaw is to protect, preserve and maintain the public health, safety, welfare and the environment whenever there is in force a "State of Water Supply Conservation" or "State of Water Supply Emergency" by ensuring an adequate supply of water for drinking and fire protection and to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers, and wetlands. This purpose will be accomplished by providing for the imposition and enforcement of any duly implemented restrictions, requirements, provisions or conditions on water use imposed by the Town in accordance with this bylaw and/or by the Department of Environmental Protection under its state law authorities.

§ 158-18 Applicability.
All Town residents that are customers of the public water supply system and private well users shall be subject to this bylaw. This bylaw shall be in effect year round.

§ 158-19 Definitions.
As used in this article, the following terms shall have the meanings indicated:

AGRICULTURE
Farming in all its branches as defined at MGL c. 128, § 1A.

AUTOMATIC SPRINKLER SYSTEM
Any system for watering vegetation other than a hand-held hose or a bucket.

NONESSENTIAL OUTDOOR WATER USE
A. Those uses that are not required:

1. For health or safety reasons;

2. By regulation;

3. For the production of food and fiber;

4. For the maintenance of livestock;

5. To meet the core functions of a business (for example, irrigation by golf courses as necessary to maintain tees and greens, and limited fairway watering, or irrigation by plant nurseries or agricultural operations as necessary to maintain stock or establish new plantings, wash equipment to prevent damage and/or maintain performance, pest management and plant cooling).

B. Nonessential outdoor water uses that are subject to mandatory restrictions include:

1. Irrigation of lawns via sprinklers or automatic irrigation systems;

2. Washing of vehicles, except in a commercial car wash or as necessary for operator safety or to prevent damage and/or maintain performance of agricultural or construction vehicles or equipment; and

3. Washing of exterior building surfaces, parking lots, driveways or sidewalks, except as necessary to apply paint, preservatives, stucco, pavement or cement.
C. Exceptions to nonessential outdoor water uses are:

1. Irrigation of public parks and recreation fields outside the hours of 9:00 a.m. to 5:00 p.m.; and

2. Irrigation of lawns, gardens, flowers and ornamental plants by means of a hand-held hose outside the hours of 9:00 a.m. to 5:00 p.m.; and

3. Irrigation outside the hours of 9:00 a.m. to 5:00 p.m. with harvested and stored stormwater runoff.

D. The following outdoor water uses are subject to review and approval by the Town through its Board or their designee:

1. Irrigation to establish replanted or resodded lawn or plantings during the months of May and September;

2. Irrigation of newly planted lawns (seeded or sodded) in the current calendar year for homes or businesses newly constructed in the previous 12 months;

3. Filling of privately owned outdoor pools.

PERSON

Any individuals, corporation, trust, partnership or association, agency or authority, or other entity and any officer, employee, group or agent of such persons.

STATE OF WATER SUPPLY EMERGENCY

A State of Water Supply Emergency declared by the Department of Environmental Protection under MGL e. 21G, § 15-17.

STATE OF WATER SUPPLY CONSERVATION

A State of Water Supply Conservation declared by the Town pursuant to § 158-20 of this bylaw.

WATER CUSTOMERS

All persons using the public water supply, irrespective of that person’s responsibility for billing purposes for use of the water.

WATER USERS

All persons using water within the Town.

§ 158-20 Declaration of a State of Water Supply Conservation.

The Town, through the Board or its designee authorized to act as such, may declare a State of Water Supply Conservation upon a determination that conservation measures are appropriate to ensure an adequate supply of water for drinking and fire protection, to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands and to ensure compliance with the Water Management Act. Upon notification to the public that a declaration of a State of Water Supply Conservation has been declared, no person shall violate any provision, restriction, requirement or condition of the declaration. The Board may designate the Water Superintendent to declare a State of Water Supply Conservation at any time that conditions warrant. Public notice of a State of Water Conservation shall be given under § 158-21 of this bylaw before it may be enforced.
Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department of Environmental Protection for the purpose of bringing about an end to the State of Water Supply Emergency.

§ 158-20.2 Restricted water uses.
A declaration of a State of Water Supply Conservation and/or a State of Water Supply Emergency shall include but not be limited to one or more of the following restrictions, conditions, or requirements limiting nonessential outdoor water use by water customers (and water users) as necessary to control the volume of water pumped each day, except as provided as acceptable. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 158-21.

a) Nonessential outdoor water use is permitted only on the days per week specified in the State of Water Supply Emergency or State of Water Supply Conservation and public notice thereof. During a State of Water Supply Emergency or State of Water Supply Conservation, nonessential outdoor water use is restricted to two days or fewer per week.

b) Nonessential outdoor water use hours. Nonessential outdoor water use is permitted only during the hourly periods specified in the declaration of a State of Water Supply Emergency or State of Water Supply Conservation and public notice thereof. At a minimum, nonessential outdoor water use is prohibited during the hours from 9:00 a.m. to 5:00 p.m.

c) Nonessential outdoor water use method restriction. Nonessential outdoor water use is restricted to a bucket or hand-held hose controlled by a nozzle.

d) Nonessential outdoor water use ban. Nonessential outdoor water use is prohibited at all times.

e) Automatic sprinkler system ban. The use of automatic sprinkler systems is prohibited.

§ 158-21 Public notification of a State of Water Supply Conservation or State of Water Supply Emergency; notification of DEP (Department of Environmental Protection).

a) Public notification of a State of Water Supply Conservation—Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by the Town as part of a State of Water Supply Conservation, shall be made as soon as possible, but no later than 48 hours following the declaration of a State of Water Supply Conservation by public notice in a newspaper of general circulation within the Town and by signage on major roadways or intersections. The Town may also notify the public using other means determined to be appropriate (cable TV, reverse 911, email, etc.). Notification may also include email, websites, public service announcements on local media or other such means reasonably calculated to reach and inform all water users.

b) Public notification of a State of Water Supply Emergency—Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by a State of Water Supply Emergency declared by the Department of Environmental Protection (DEP), shall be made by publication in a newspaper of general circulation with the Town and by signage on major roadways or intersections. The Town may also notify the public using other means determined to be appropriate (cable TV, reverse 911, email, etc.) This notice shall be provided as soon as possible, but no later than 48 hours after the public water system receives notice of DEP’s declaration of a State of Water Supply Emergency.
§ 158-22 Termination of a State of Water Supply Conservation; notice.
A State of Water Supply Conservation may be terminated by a majority vote of the Board or its designee, upon a determination by either or both of them that the conditions requiring the State of Water Supply Conservation no longer exist. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by § 158-21 for notice of imposition.

§ 158-22.1 Termination of a State of Water Supply Emergency; notice.
Upon notification to the Town that the declaration of a State of Water Supply Emergency has been terminated by the Department of Environmental Protection, the public will be notified of the termination in the same manner as is required by § 158-21 for notice of imposition.

§ 158-22.2 Penalties.
The Town, through the Board or its designee, including the Water Superintendent, Building inspector and/or local police, may enforce this bylaw. Any person violating this bylaw shall be liable to the Town in the amounts listed below:

1) First violation: warning.
2) Second violation: $50.00.
3) Third and subsequent violations: $100.00.

Fines shall be recovered by complaint before the District Court, or by non-criminal disposition in accordance with M.G.L. c. 40, § 21D. For purposes of non-criminal disposition, the enforcing person shall be any police officer of the Town or water superintendent or the superintendent's designee. If a State of Water Supply Emergency has been declared the Board may, in accordance with M.G.L. c. 40, § 41A, shut off the water at the meter or the curb stop.

§ 158-22.3 Severability.
The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

§ 158-16: Authority
This bylaw is adopted by the Town under its police powers pursuant to the Home Rule Amendment of the Massachusetts Constitution, Article LXXXIX, to protect public health and welfare and pursuant to its powers under M.G.L. c. 40, §§ 21 et seg. and implements the Town’s authority to regulate water use pursuant to M.G.L. c. 41, § 69B. This by-law also implements the Town’s authority under M.G.L. c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection under G.L. c. 21G, §§ 15-17. This by-law is also intended to implement other water conservation requirements of M.G.L. c. 21G, the “Massachusetts Water Management Act” and its regulations promulgated at 310 CMR 36.00.

§ 158-17: Purpose
The purpose of this bylaw is to protect, preserve and maintain the public health, safety, welfare and the environment whenever there is in force a “State of Water Supply Conservation”, a “State of Drought” or a “State of Water Supply Emergency” by ensuring an adequate supply of water for drinking and fire protection and to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands. This purpose will be accomplished by providing for the imposition and enforcement of any duly implemented restrictions, requirements, provisions or conditions on water use imposed by the Town in accordance with this by-law and/or by the Department of Environmental Protection under its state law authorities.

§158-18: Applicability
All Town customers of the public water supply system and private well users shall be subject to this by-law. This by-law shall be in effect year round.

§158-19: Definitions
As used in this article, the following terms shall have the meanings indicated.

Agriculture shall mean farming in all its branches as defined at M.G.L. c. 128, § 1A.¹

Automatic irrigation system, including sprinklers, shall mean any system for watering vegetation other than a handheld hose, a bucket or a drip-irrigation system outside the hours of 9:00 am to 5:00 pm.

Nonessential outdoor water use shall mean those uses that are not required:
1. for health or safety reasons;
2. by regulation;
3. for the production of food and fiber;
4. for the maintenance of livestock; or
5. to meet the core functions of a business.

Nonessential outdoor water uses that are subject to mandatory restrictions include:
• irrigation of lawns, shrubs or gardens via sprinklers or automatic irrigation systems;
• washing of vehicles, except in a commercial car wash or as necessary for operator safety or to prevent damage and/or maintain performance of agricultural or construction vehicles or equipment; and
• washing of exterior building surfaces, parking lots, driveways or sidewalks, except as necessary to apply paint, preservatives, stucco, pavement or cement.

Exceptions to nonessential outdoor water uses are:
• irrigation of lawns, gardens, flowers and ornamental plants by means of a hand-held hose controlled by a nozzle or a drip irrigation system outside the hours of 9:00 am to 5:00 pm; and
• irrigation with harvested and stored storm-water runoff.

The following outdoor water uses are subject to review and approval by the Town, through its Board of Water

¹This statutory definition includes cultivation of the soil, dairying and the production, cultivation, growing and harvesting of agricultural, aquacultural, floricultural or horticultural commodities as well as forest harvesting, raising livestock inclusive of bees and fur-bearing animals and forestry, lumbering, preparation for market, delivery to storage or market or to carriers to market incidental to an agricultural operation.
and Sewer Commissioners or their designee:

- irrigation of public parks and recreation fields outside the hours of 9 AM to 5 PM;
- irrigation to establish replanted or re-sodded lawn or plantings during the months of May and September;
- irrigation of newly planted lawns (seeded or sodded) in the current calendar year for homes or businesses newly constructed in the previous twelve months; and
- filling of privately owned outdoor pools.

Person shall mean any individual, corporation, trust, partnership, association, agency or authority, or other entity and any officer, employee, group or agent of such persons.

State of Drought shall mean a Drought Advisory, Watch, Warning or Emergency declared by the Secretary of Energy and Environmental Affairs in consultation with the Massachusetts Drought Management Task Force.


State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to §158-20 of this by-law.

Water Customers shall mean all persons using the public water supply regardless of that person’s responsibility for payment for use of the water.

Water Users shall mean all persons using the public water supply or using privately-owned wells within the Town boundaries.

§ 158-20: Declaration of a State of Water Supply Conservation
The Town, through its Board of Water and Sewer Commissioners or their designee authorized to act as such:

a) may declare a State of Water Supply Conservation upon a determination that conservation measures are appropriate to ensure an adequate supply of water for drinking and fire protection, to protect the quality and quantity of water in local aquatic habitats such as ponds, rivers and wetlands; and
b) shall declare a State of Water Supply Conservation as necessary to ensure compliance with the Water Management Act.

Upon notification to the public that a State of Water Supply Conservation has been declared, no water customer shall violate any provision, restriction, requirement or condition of the declaration. The Board of Water and Sewer Commissioners may designate the Water Department Superintendent, Town Administrator, or DPW Director to declare a State of Water Supply Conservation at any time that conditions warrant. Public notice of a State of Water Supply Conservation shall be given under §158-21 of this bylaw before it may be enforced. The applicable restrictions, conditions or requirements shall be included in the public notice.

§ 158-20.1: State of Drought
Upon notification to the public that a State of Drought has been declared, no water user shall violate any provision, restriction, requirement or condition of the Town’s water use restrictions. Public notice of a State of Drought shall be given under §158-21 of this bylaw before it may be enforced. The applicable restrictions, conditions or requirements shall be included in the public notice.

§ 158-20.2: Declaration of a State of Water Supply Emergency
Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement or condition of any order approved or issued by the Department of Environmental Protection for the purpose of bringing about an end to the State of Water Supply Emergency. Public notice of a State of Water Supply Emergency shall be given
under §158-21 of this bylaw before it may be enforced. The applicable restrictions, conditions or requirements shall be included in the public notice.

§158-20.3: Restricted Water Uses
A declaration of a State of Water Supply Conservation, State of Drought or State of Water Supply Emergency shall include one or more of the following restrictions, conditions or requirements limiting nonessential outdoor water use by water users as necessary to control the volume of water pumped each day, except as provided as an acceptable exemption in §158-18. The applicable restrictions, conditions or requirements shall be included in the public notice required under §158-21.

a) Nonessential outdoor water use days: Nonessential outdoor water use is permitted only on the days per week specified in the State of Water Supply Conservation, State of Drought or State of Water Supply Emergency and public notice thereof. During a State of Water Supply Conservation, nonessential outdoor water use is restricted as necessary to ensure compliance with the Water Management Act, or for a Town or Water District without a Water Management Act permit, to two days or fewer per week.

b) Nonessential outdoor water use hours: Nonessential outdoor water use is permitted only during the hourly periods specified in the State of Water Supply Conservation, State of Drought or State of Water Supply Emergency and public notice thereof. At a minimum, nonessential outdoor water use is prohibited during the hours from 9AM to 5PM.

c) Nonessential outdoor water use method restriction: Nonessential outdoor water use is restricted to a bucket or hand-held hose controlled by a nozzle or a drip-irrigation system outside the hours of 9:00 am to 5:00 pm.

d) Nonessential outdoor water use ban: Nonessential outdoor water use is prohibited at all times.

e) Automatic irrigation systems, including sprinklers: The use of automatic irrigation systems is prohibited.

§158-21: Public Notification and Notification of DEP
a) Public Notification of a State of Water Supply Conservation or a State of Drought — Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by the Town as part of a State of Water Supply Conservation or a State of Drought shall be made as soon as possible, but no later than 48 hours following the declaration of a State Water Supply Conservation or State of Drought by publication in a newspaper of general circulation within the Town and by signage on major roadways or intersections. Notification may also include email, Web sites, public service announcements on local media, reverse 911 calls or other such means reasonably calculated to reach and inform all public and private water users.

b) Public Notification of a State of Water Supply Emergency — Notice to the public of all provisions, including all restrictions, requirements and conditions imposed by a State of Water Supply Emergency declared by the Department of Environmental Protection shall be made as soon as possible, but not later than 48 hours after the public water system receives notice of the Department of Environmental Protection’s declaration of a State of Water Supply Emergency, by publication in a newspaper of general circulation within the Town and by signage on major roadways or intersections. Notification may also include email, Web sites, public service announcements on local media, reverse 911 calls or other such means reasonably calculated to reach and inform all water users of the State of Water Supply Emergency.

c) Any restriction imposed pursuant to §158-20 or §158-20.1-20.3 or in the Department’s State of Water Supply Emergency or Order shall not be effective until notification to the public is provided.

d) Notification of DEP: Submittal of MassDEP’s form “Notification of Water Use Restriction” shall be provided to the Massachusetts Department of Environmental Protection within 14 days of the effective date of the restrictions, per MassDEP regulations (310 CMR 22.15(8)).

§158-22: Termination of a State of Water Supply Conservation; Notice
A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water and Sewer Commissioners or by decision of their designee upon a determination by either or both of them that the conditions requiring the State of Water Supply Conservation no longer exist, or in accordance with the Water Management Act permit conditions. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner as is required in §158-21a for notice of its imposition.

§158-22.1: Termination of a State of Drought; Notice
Upon notification to the Town, the Board of Water and Sewer Commissioners or their designee that the State of Drought has been terminated by the Secretary of Energy and Environmental Affairs, the public will be notified of the termination in the same manner as is required in §158-21a for notice of its imposition.

§158-22.2: Termination of a State of Water Supply Emergency; Notice
Upon notification to the Town or to the Board of Water and Sewer Commissioners or their designee that the declaration of a State of Water Supply Emergency has been terminated by the Department of Environmental Protection, the public will be notified of the termination in the same manner as is required in §158-21b for notice of its imposition.

§158-22.3: Penalties
The Town through its Board of Water and Sewer Commissioners or their designee including the Water Superintendent, Building Inspector and/or local police may enforce this by-law. Any person violating this by-law shall be liable to the Town in the amounts listed below:
1) First violation: **Warning**
2) Second violation: **$50.00**
3) Third violation: **$100.00**
4) Fourth and subsequent violations: **$250.00**

Each day of violation shall constitute a separate offense. Fines shall be recovered by complaint before the District Court, or by non-criminal disposition in accordance with Section 21D of Chapter 40 of the MA General Laws. For purposes of non-criminal disposition, the enforcing person shall be any police officer of the town or the Water Superintendent or the Superintendent's designee. If a State of Water Supply Emergency has been declared the Board of Water and Sewer Commissioners may, in accordance with G.L. c. 40, § 41A, shut off the water at the meter or the curb stop.

§158-22.4: Severability
The invalidity of any portion or provision of this by-law shall not invalidate any other portion or provision thereof.

Article IV
Water Meter Tampering


§ 158-23 Violations and penalties.
Any person who, without lawful authority, causes intentional injury to, or interferes with the proper recording of a water meter shall be fined $250.00 for each violation. Said fine is in addition to the fines and penalties imposed under Massachusetts General Laws, Chapter 165, Section 11. In addition to such fines, the user of the affected water service shall pay for an estimated water usage based on the national average as determined by American Water Works Association and all labor and materials incurred by the Town in correcting said injury or interference.
Article V  
Interest on Unpaid Water Bills  
[Adopted 10-7-1991 STM, Art. 12; amended in its entirety 5-11-2009 ATM, Art. 32]

§ 158-24 Interest rate.  
Town water bills which remain unpaid after their due date shall accrue interest at the rate of 14% per annum or at the maximum rate of interest which may be charged on tax bills under the provisions of Massachusetts General Laws Chapter 59, Section 57. Effective January 1, 1992 interest shall accrue from the due date, until the date of payment.

Article VI  
Water Supply and Watershed District Protection  
[Adopted 5-12-1992 ATM, Art. 21]

§ 158-25 Authority.  
This bylaw is adopted by the Town of Orleans under the Home Rule Amendment and its police powers to protect public health and welfare and the specific authorization under Massachusetts General Laws Chapter 40, Section 21.

§ 158-26 Purpose.  
[Amended 5-10-2004 ATM, Art. 29]  
The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare of the inhabitants of the town and quality of groundwater of the town and to preserve and protect the watershed, as defined in § 158-27, as an area primarily devoted to the production of potable water.

§ 158-27 The watershed.  
[Amended 5-10-2004 ATM, Art. 29]  
The watershed shall consist of the following tracts of land within the Town:

A. The Route 28 Tract consisting of the following parcels:

1. Assessors Map 54, Parcel 1: 490+/- acres.

2. Assessors Map 68, Parcel 5: 3.91 acres.


B. The Quanset Road Tract consisting of the following parcels:


2. Assessors Map 81, Parcel 9: 3.33 acres.

3. Assessors Map 81, Parcel 5: 11.48 acres.

4. Assessors Map 75, Parcel 119: 4.00 acres.

5. Assessors Map 75, Parcel 87: 6.53 acres.
(6) Total area: 39.01 acres.

C. The Lots Hollow Road Tract consisting of the following parcel:

(1) Map 47, Parcel 96: 3.88 acres.

§ 158-28 Land use within the watershed.
[Added 5-10-2004 ATM, Art. 29]

A. The primary use of the land located in the watershed shall be the production, treatment and protection of potable water and to provide suitable sites for the location of future wells.

B. The watershed may also be used for selected recreational activities, as authorized from time to time by the Board, after notice and a public hearing. [Amended 5-11-2009 ATM, Art. 32]

C. The Board is hereby authorized to promulgate regulations for the purpose of carrying out the provisions of this bylaw, including the regulation of all activities conducted within the watershed other than the production of water, and uses incidental and related thereto. Failure of the Board to promulgate such regulations or a legal declaration of the regulations' invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. [Amended 5-11-2009 ATM, Art. 32]

§ 158-29 Watershed management plan.
[Added 5-10-2004 ATM, Art. 29; amended 5-11-2009 ATM, Art. 32]

The Board shall be charged with the responsibility of drafting a Watershed Management Plan, the primary purpose of which shall be to set forth recommendations for management of the watershed in order to protect the Town's supply of potable water. The plan shall include, but not be limited to, an assessment of the natural habitat of the watershed, recommendation(s) for the control of nonpublic water supply activities within the watershed, assessment of the impact(s) of activities within the watershed, recommendation(s) for posting of informative signs and a trail system for passive recreational activities, and an analysis of fiscal impact(s) resulting from the implementation of the Plan. The Board shall conduct a public hearing, after public notice, prior to the adoption of the Plan and any amendments thereto.

§ 158-30 Discharge of firearms and explosives regulated.
[Amended 5-11-2009 ATM, Art. 32]

No person shall fire or discharge any firearms or explosives of any kind for target practice purposes within the limits of the Town of Orleans watershed without the permission of the Board.

§ 158-31 Violations and penalties; enforcement.

A. Any person who violates this bylaw, or any regulation promulgated hereunder by the Board, shall be liable to the Town in the amount of two hundred fifty dollars ($250) for the first violation and five hundred dollars ($500.) for each subsequent violation. Each day or portion thereof during which the violation continues shall constitute a separate offense. [Amended 5-10-2004 ATM, Art. 29; 5-11-2009 ATM, Art. 32]

B. This bylaw may be enforced pursuant to the noncriminal disposition procedures provided for Massachusetts General Laws Chapter 40 Section 21D.
§ 158-32 Severability.
The invalidity of any portion or provisions of this bylaw shall not invalidate any other portion, provision or section hereof.