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# 2009 Annual & Special Town Meeting

## ANNUAL TOWN MEETING “DOINGS”

**May 11, 2009**

The Annual and Special Town Meetings were held on Monday, May 11, 2009 in the Nauset Regional Middle School Gym. The Annual Town Meeting was opened at 6:56 p.m. by Moderator, Duane Landreth when a quorum of 276 voters was announced by Town Clerk, Cynthia May. There were 322 voters in attendance. Tellers sworn in were: Wally Swidrak, Paul O'Connor, John and Ann Hodgkinson. Constables on duty were John Fitzpatrick and Mary E. Stevens.

The Town Meeting observed a moment of silence for the late John P. Hinckley, Jr., Selectman of the Town of Orleans.

Board of Selectmen Chair, David Dunford announced the Annual Citizenship Award recipient, Tom Conrad. He presented Mr. Conrad with a citation and medallion, and thanked him for his service to the community.

Selectwoman Margie Fulcher recognized Mike Gradone, Superintendent of the Nauset Regional Schools, thanked him for his service to the children of Orleans and wished him well in his upcoming retirement.

### PROCEDURAL MOTION

Mr. Dunford made a motion to dispense with the reading of the Warrant except the Preamble, Conclusion and Attestation thereof.

**ACTION:** Voted, voice vote carries unanimously.

### PROCEDURAL MOTION

Mr. Dunford made a motion to adjourn the Annual Town Meeting until the close of the Special Town Meeting.

**ACTION:** Voted, voice vote carries unanimously.

**The Special Town Meeting was opened at 7:30 p.m.**

### PROCEDURAL MOTION

Mr. Dunford made a motion to dispense with the reading of the Warrant except the Preamble, Conclusion and Attestation thereof.

**ACTION:** Voted, voice vote carries unanimously.

## PROCEDURAL MOTION

Mr. Dunford made a motion that all Town Officials or department managers or their duly designated representatives, required to attend Town Meeting pursuant to Section 2-7-3 of the charter, all of whom are not residents of the Town of Orleans, be permitted to address the Special Town Meeting on matters affecting their office or department.

**ACTION:** Voted, voice vote carries unanimously.

## ARTICLE 1. PAY BILLS OF PRIOR YEARS

To see if the Town will vote to transfer from available funds a sum of money to pay bills of prior years under the provisions of Chapter 179, Acts of 1941, as amended, or to take any other action relative thereto. (9/10 vote required)

**MOTION:** To indefinitely postpone Article #1.

**ACTION:** Voted, voice vote carries unanimously.

## ARTICLE 2. TRANSFER ARTICLE

To see if the Town will vote to transfer from available funds and/or authorize the transfer from various line items within current appropriations, such sums of money as necessary to supplement the operating budgets of the various Town departments for Fiscal Year 2009 as follows:

- Transfer the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) from the Water Department Capital Outlay Account, of which Twenty-Two Thousand and 00/100 Dollars (\$22,000.00) was for the replacement of a pickup truck and Three Thousand and 00/100 Dollars (\$3,000.00) was for the replacement of undersized mains, to the Water Department Capital Outlay Account for the purpose of recoating the roof of Water Tank Number 1;
- Transfer the sum of Fifty-Seven Thousand and 00/100 Dollars (\$57,000.00), or any other sum, from the Water Reserve Account to the Water Department Expense Account;
- Transfer a sufficient sum from the Water Department Salary Account to the Water Department Expense Account;
- Transfer the sum of Four Thousand Eight Hundred Twenty and 00/100 Dollars (\$4,820.00), or any other sum, from the Water Service Connection Funds Reserved for Appropriation Account to the Water Service Connection Account;
- Transfer the sum of Ten Thousand and 00/100 Dollars (\$10,000.00), or any other sum, from the Cable Fees Reserve for Appropriations Account to the Media Operations Expense Account. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #2 and the following transfers be made from available funds for the purpose(s) set forth in the article.

- Transfer the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) from the Water Department Capital Outlay Account, of which Twenty-Two Thousand and 00/100 Dollars (\$22,000.00) was for the replacement of a pickup truck and Three Thousand and 00/100 Dollars (\$3,000.00) was for the replacement

of undersized mains, to the Water Department Capital Outlay Account for the purpose of recoating the roof of Water Tank Number 1;

- Transfer the sum of Fifty-Six Thousand and 00/100 Dollars (\$56,000.00) from the Water Surplus Fund and One Thousand and 00/100 Dollars (\$1,000.00) from the Water Department Salary Account to the Water Department Expense Account;
- Transfer the sum of Four Thousand Eight Hundred Twenty and 00/100 Dollars (\$4,820.00) from the Water Service Connection Funds Reserved for Appropriation Account to the Water Service Connection Account;
- Transfer the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) from the Cable Fees Reserve for Appropriations Account to the Media Operations Expense Account.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 3. CLOSING ARTICLE**

And to act on any other business that may legally come before the meeting.  
(Simple Majority Vote Required)

**MOTION:** To adjourn this meeting.

**ACTION:** Voted, voice vote carries unanimously.

**The Special Town Meeting was adjourned at 7:07 p.m.**

### **PROCEDURAL MOTION**

Mr. Dunford moved that all Town Officials or department managers or their duly designated representatives, required to attend Town Meeting pursuant to Section 2-7-3 of the charter, and Hans Baumhauer, Nauset Regional School District Business Manager, and Mary Corr, Orleans Chamber of Commerce Executive Director, who are not residents of the Town of Orleans, be permitted to address the Town Meeting on matters affecting their office, department or organization, or projects for which they have performed services for the Town.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 1. REPORT OF THE SELECTMEN, TOWN OFFICERS AND SPECIAL COMMITTEES**

To act upon the Annual Report of the Board of Selectmen, Town Officers and other Special Committees. (Simple Majority Vote Required)

**MOTION:** To accept and adopt the report of the Selectmen, Town Officers and all Town Committees, Commissions and Boards as published in the 2008 Annual Town Report and hear the report(s) of any other Town Committee reporting to the Town Meeting.

**Planning Board Report on the Orleans Comprehensive Plan**  
Presented by Seth Wilkinson, Vice Chairman

As required by the Orleans Town Charter, I will give you a brief update on the year's progress in implementing the Orleans Comprehensive Plan.

As you know, the Special Town Meeting last fall approved the draft Comprehensive Wastewater Management Plan. The plan is a key component to future planning in a number of areas, including environmental protection, land use planning, economic development, and affordable housing. The approval in October set in motion a series of steps to finalize the plan and prepare for final design and Phase 1 of construction. Studies of the Tri-town Septage Facility site have yielded positive results about the suitability of the site for wastewater treatment and disposal. A study of potential regionalization with Brewster and Eastham is underway to determine whether the towns can save money by working cooperatively. The Board of Selectmen has begun meeting with its counterparts in those towns to work through issues of mutual interest at the Tri-town site. Finally, our consultant is in the process of working with state and County officials on early permitting of the plan.

Affordable housing is another area where progress has been made in the last year. The John P. Hinckley Jr. affordable housing project planned for 257 Route 6A is currently out to bid as a 4-unit townhouse project for qualified homebuyers. The Town is also working towards a program of purchasing existing condominium units for affordable housing. These two programs have been supported thus far through Community Preservation Act funds, and Article 4 tonight will request your approval of their continued funding.

The other major effort of note concerns the Orleans Village Center. The Planning Board has successfully proposed several zoning changes in past years to make the Village Center function better, and we thank you for your past recognition that the district deserves our attention. Further progress on the Village Center will be contingent upon your local officials having good information about the local economy in order to prepare for an economically viable downtown in the future. Article 8 of tonight's meeting requests your approval of funding to develop a business market analysis that we can use as the basis for future planning. We hope you will consider this funding at its due time.

The Town continues to work hard to maintain its public facilities in difficult fiscal times. This is evidenced in the Capital Improvement Plan, which projects costs for Water Department equipment, improvements to the Highway Garage, and investments in our beaches and public landings among other things. The comprehensive plan recommends that Orleans be pro-active in maintaining its assets, and we encourage your support of sound long-term planning.

Town Hall is becoming more accessible to residents, primarily through advances allowed by the internet. The Town's mapping system continues to be maintained to provide open access to information about the Town to all interested citizens. This is a step that other towns are taking, and we are pleased that Orleans is serving its residents with available modern technology.

The Planning Board is privileged to have a town plan that is reflective of the needs and interests of its residents. We will continue to bring forward to you recommendations for short and long-range items that we think are necessary to preserve and improve Orleans.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 2. TOWN / SCHOOL BUDGET (FY10)**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund and pay departmental expenses for the fiscal year commencing July 1, 2009 and ending June 30, 2010 and to authorize the Board of Selectmen to sell, trade, lease or exchange or otherwise dispose of old equipment or vehicles deemed advisable and in the best interest of the Town. The proceeds from any such disposition to be applied toward the cost of acquiring said equipment or service as the case may be, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #1 and that the Town Meeting adopt the Selectmen's adopted FY10 budget as printed in the warrant and that the sum of Twenty Five Million Four Hundred Seventy Nine Thousand Three Hundred Eighty Two and 00/100 Dollars (\$25,479,382.00) be raised and appropriated, and the sum of Six Hundred Ninety One Thousand One Hundred Thirty Eight and 00/100 Dollars (\$691,138.00) be transferred from the Community

Preservation Fund, and the sum of Five Hundred Sixty Nine Thousand and 00/100 Dollars (\$569,000.00) be transferred from the Ambulance Receipts for Reserve for Appropriation Account, and the sum of One Hundred Thousand and 00/100 Dollars (\$100,000.00) be transferred from the Cable Fees Reserve for Appropriations Account, and the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) be transferred from the Municipal Insurance Fund, and the sum of One Hundred and Ten Thousand and 00/100 Dollars (\$110,000.00) be transferred from the Water Ways Improvement Account, and the sum of Five Thousand and 00/100 (\$5,000.00) be transferred from the Water Pollution Abatement Trust, and the sum of Sixteen Thousand and 00/100 Dollars (\$16,000.00) be transferred from the Wetlands Protection Fund, and the sum of Eleven Thousand Seven Hundred Ninety and 00/100 Dollars (\$11,790.00) be transferred from the Fund Balance Reserve for Premiums on Bond Issue, for a total appropriation of Twenty Seven Million Thirty Two Thousand Three Hundred Ten and 00/100 Dollars (\$27,032,310.00).

**ACTION:** Voted, voice vote carries unanimously.

### **FY 2010 Operating Budget as Approved at Anual Town Meeting**

#### **ARTICLE 3. CAPITAL IMPROVEMENTS PLAN**

To see if the Town will vote pursuant to CHAPTER 8 FINANCIAL PROVISIONS AND PROCEDURES, Section 7, Action of Town Meeting, Subsection 8\_7\_1 of the Orleans Home Rule Charter, to act on the Capital Improvements Plan as published in the Warrant, by adopting said Plan with or without amendments thereto, which amendments may include an increase or decrease in the amount of money allocated to any particular line item contained therein, the addition of new line items or the deletion of line items contained therein, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #3 and that pursuant to Chapter 8, Financial Provisions and Procedures, Section 7, Action of Town Meeting, Sub-section 8-7-1 of the Orleans Home Rule Charter, the Town Meeting accept the Capital Improvement Plan as printed in the warrant.  
the town meeting for approval.

**ACTION:** Voted, voice vote carries by the necessary majority..

#### **ARTICLE 4. FUND COMMUNITY PRESERVATION ACT PROGRAM BUDGET**

To see if the Town will vote to act on the report of the Community Preservation Committee on the Fiscal Year 2010 Community Preservation budget and to appropriate or reserve for later appropriation monies from the Community Preservation Fund's Annual Revenues and/or available funds for the payment of debt service, the undertaking of Community Preservation projects, the Administrative Expenses of the Community Preservation Committee and all other necessary and proper expenses for FY10, and to modify the actions taken under prior Community Preservation budgets as they pertain to Project #3, Hinckley Affordable Housing to the extent necessary, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #4as printed in the warrant and that the sum of One Million Six Hundred Nineteen Thousand Four Hundred Eight and 00/100 Dollars (\$1,619,408.00) be transferred from the Community Preservation Fund for the purposes and in the amounts set forth in the article, except that under Appropriation line 10) Committee Expense, the sum under Fund Balance shall be reduced by \$1,000.00 from \$30,000.00 to \$29,000.00, and that the total under Committee Expense be reduced from \$38,500.00 to \$37,500.00, and that the grand total under fund balance be reduced from \$265,400 to \$264,400 and the total of all items be reduced from \$1,620,408.00 to 1,619,408.00, and further that all prior actions taken by Town Meeting with respect to Project # 3 (Route 6A Affordable Housing Project) are hereby modified so as to be consistent with this vote.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 5. HIGHWAY DEPARTMENT – WATER QUALITY DRAINAGE IMPROVEMENTS**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00), or any other sum, for the purpose of funding the design and construction of improvements to the town's drainage infrastructure systems, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote, and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose, and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article #5 as printed in the warrant and that the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) be appropriated for this purpose and for costs incidental and related thereto, to raise such appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clauses (1) and (6), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59 Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 6. HIGHWAY DEPARTMENT – TOWN PAVEMENT MANAGEMENT PROGRAM**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) for the purpose of funding the local share of the town's ongoing pavement management program to repair, resurface, and reconstruct town roadways, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21 C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article #6 as printed in the warrant and that the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) be appropriated for this purpose and for costs incidental and related thereto, to raise such appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clauses (1), (5) and (6), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59 Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 7. PLANNING DEPARTMENT - WASTEWATER MANAGEMENT PRE-DESIGN ENGINEERING FEASIBILITY**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of One Hundred Fifty-Five Thousand and 00/100 Dollars (\$155,000.00) for the purpose of funding a feasibility study for pre-design engineering relative to the implementation of the comprehensive wastewater management plan (CWMP), and

authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto.

(Simple Majority Vote Required)

**MOATION:** To accept and adopt Article #7 as printed in the warrant and that the sum of One Hundred Fifty-Five Thousand and 00/100 Dollars (\$155,000.00) be raised and appropriated for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 8. FUND VILLAGE CENTER ECONOMIC ASSESSMENT**

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Twenty-Seven Thousand and 00/100 Dollars (\$27,000.00) and for the purpose of conducting an economic assessment of the Village Center, including all expenses incidental and related thereto; and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #8 as printed in the warrant and that the sum of Twenty-Seven Thousand and 00/100 Dollars (\$27,000.00) be raised and appropriated for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 9. SHELLFISH/HARBORMASTER DEPARTMENT - REPLACE MUNICIPAL PIERS, DOCKS AND BOAT LAUNCH RAMP**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) for the purpose of funding the replacement of municipal piers and boat launch ramp, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21 C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article #9 as printed in the warrant and that the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) be appropriated for this purpose and for costs incidental and related thereto, to raise such appropriation, the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00), pursuant to Massachusetts General Laws Chapter 44, section 7 clause (17), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Law Chapter 59 Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 10. WATER DEPARTMENT – I&M PLANT FILTER MEMBRANE RACK REPLACEMENT**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of Two Hundred Eighty-five Thousand and 00/100 Dollars (\$285,000.00) for the purpose of funding the replacement of Water Treatment Plant membranes, as needed, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21 C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article #10 as printed in the warrant and that the sum of Two Hundred Eighty-Five Thousand and 00/100 Dollars (\$285,000.00) be appropriated for this purpose and for costs incidental and related thereto, to raise such appropriation, the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Two Hundred Eighty-five Thousand and 00/100 Dollars (\$285,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clause (9) and Section 8 Clause (7c), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59 Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 11. ACCEPT TRANSPORTATION BOND BILL FUNDS**

To see if the Town will vote to authorize the Board of Selectmen to accept and enter into a contract for the expenditure of any funds allocated or to be allocated from year to year by the Commonwealth of Massachusetts and/or Barnstable County for the construction, reconstruction and improvements of roads and bikeways within the Town of Orleans, or to take any other action relative thereto.  
(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #11 and that said funds and their earned interest shall be expended to repair and resurface certain Town roads under the direction of the Board of Selectmen.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 12. HOLDING STATE HARMLESS FOR WORK**

To see if the Town will vote to assume liability in the manner provided by Section 29 of Chapter 91 of the General Laws, as most recently amended by Chapter 5 of the Acts of 1955, for all damages that may be incurred by work to be performed by the Massachusetts Department of Environmental Management for the improvement, development, maintenance and protection of tidal and non-tidal rivers and streams, harbors, tide\_waters, foreshores and shores along a public beach, in accordance with Section 11 of Chapter 91 of the General Laws and authorize the Selectmen to execute and deliver a bond of indemnity therefore to the Commonwealth, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #12 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 13. AUTHORIZATION TO SELL SURPLUS EQUIPMENT & ACCEPT GIFTS**

To see if the Town will vote to authorize the Town Administrator to dispose of surplus supplies and equipment under such terms and conditions as the Town Administrator deems advisable, provided all proceeds from any such disposition are returned to the General Fund, Water Surplus Fund or Reserve for Appropriation account where applicable and to accept any gift items that may be given to the Town on behalf of the citizens of Orleans, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #13 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 14. LEASE OF TOWN COVE LAND**

To see if the Town will vote to authorize the Board of Selectmen to lease the property located adjacent to the Town Boat ramp at Town Cove, being a portion of Lot 48 on Town of Orleans Assessors Map 18, consisting of approximately 5,000 square feet, as more particularly shown on a sketch plan dated March 10, 2009, on file with the Town Clerk, for a period not to exceed fifty (50) years, on such further terms and conditions as the Board of Selectmen deem appropriate, or to take any other action related thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article #14 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary 2/3 majority.

#### **ARTICLE 15. ADOPT M.G.L. CHAPTER 44, SECTION 53E ½ - REVOLVING ACCOUNTS**

To see if the Town will vote to authorize the establishment of the following Revolving Accounts, in accordance with Massachusetts General Law Chapter 44, § 53E ½;

- The Home Composting Bin/Recycling Containers Account, said account not to exceed Fifteen Thousand and 00/100 Dollars (\$15,000.00). The Account will be used to purchase additional composting bins and recycling containers. Said funds to be spent under the direction of the department manager and the Town Administrator.
- The Council on Aging Account, said account not to exceed Seventy-Five Thousand and 00/100 Dollars (\$75,000.00). Monies on hand in the Account will be used to fund programs, class instructor fees, fees for reservations and tickets related to trips and functions, and an annual volunteer appreciation function. All funds to be spent under the direction of the department manager and the Town Administrator.
- The Conservation Properties Account, said account not to exceed Ten Thousand and 00/100 Dollars (\$10,000.00). The Account will be used to pay utility bills and other necessary expenses associated with the rental of the Town owned properties under the jurisdiction and control of the Conservation Commission. Said funds to be spent under the direction of the Conservation Commission and the Town Administrator.
- The Gavigan Property Account, said account not to exceed Eighteen Thousand and 00/100 Dollars (\$18,000.00). The Account will be used to pay utility and other necessary expenses associated with the rental of the property located on Wildflower Lane. Said funds to be spent under the direction of the department

manager and the Town Administrator.

- The Cultural Council Awards Account, said account not to exceed Two Thousand and 00/100 Dollars (\$2,000.00). The Account will be used for awarding of cash prizes for participants and reception expenses for special art gallery showings. Said funds to be spent under the direction of the Cultural Council and the Town Administrator.(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #15 as printed in the warrant and that the Revolving Accounts as set forth in the article be established in accordance with Massachusetts General Law Chapter 44, Section 53E ½.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 16. ADOPT M.G.L. CH. 71, § 16B – ASSESSMENT FORMULA –  
NAUSET REGIONAL SCHOOLS**

To see if the Town will vote to accept the provisions of Massachusetts General Law Chapter 71, § 16B, which would reallocate the sum of the member towns' contribution to the Nauset Regional School District in accordance with the Regional Agreement rather than the Education Reform Formula, so-called, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #16 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 17. ACCEPTANCE OF M.G.L. CH. 83 §1A: REGARDING INSTALLATION OF sewer MAINS**

To see if the Town will vote to accept the provisions of M.G.L. Chapter 83 §1A, as amended by Ch. 312 of the Acts of 2008, which authorizes the Town to lay out, construct, maintain and operate a system or systems of common sewers and main drains in public or private ways for that part of its territory as it adjudges necessary to reduce or eliminate the impacts of nutrient enrichment on surface water bodies or sources of drinking water with such connections and other works as may be required for a system or systems of sewerage and drainage and sewage treatment and disposal, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #17 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 18. TRANSFER WATER SERVICE CONNECTION FUNDS**

To see if the Town will vote to transfer the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00), or any other sum, from the Water Service Connection Funds Reserved for Appropriation Account to the Water Service Connection Account, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #18 as printed in the warrant and the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) be transferred from the Water Service Connection Funds Reserved for Appropriations Account to the Water Service Connection Expense Account for this purpose.

**ACTION:** Voted, voice vote carries unanimously

**ARTICLE 19. APPROVE NON-UNION EMPLOYEE COLA (FY10)**

To see if the Town will vote to adopt an amendment to the Personal Bylaw Compensation plans, which amendment provides for a general cost of living wage increase for those employees who are covered by such Plans, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #19 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary majority

#### **ARTICLE 20. FUND ELECTED OFFICIALS COMPENSATION (FY10)**

To see if the Town will vote to fix the salaries of elected officials for the twelve month period beginning July 1, 2009 as follows:

- 1) Board of Selectmen (4) \$2,000.00 each
- 2) Chairperson \$2,500.00
- 3) Moderator (1) \$ 150.00
- 4) Constables (2) \$ 100.00 each

and to raise and appropriate and/or transfer from available funds the sum of Ten Thousand Eight Hundred Fifty and 00/100 Dollars (\$10,850.00), or any other sum, for this purpose, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #20 as printed in the warrant and that the sum of Five Thousand Three Hundred Fifty and 00/100 Dollars (\$5,350.00) be raised and appropriated for this purpose as follows:

- |                           |                 |
|---------------------------|-----------------|
| 1) Board of Selectmen (4) | \$1,000.00 each |
| 2) Chairperson (1)        | \$1000.00       |
| 2) Moderator (1)          | \$150.00        |
| 3) Constables (2)         | \$100.00 each   |

**ACTION:** Voted, voice vote carries unanimously

#### **ARTICLE 21. FUND VISITOR MANAGEMENT SERVICES BY ORLEANS CHAMBER OF COMMERCE**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Eighteen Thousand Five Hundred Fifty and 0/100 Dollars (\$18,550.00), or any other sum, to be spent under the direction of the Orleans Chamber of Commerce, Inc. and the Board of Selectmen for the purposes of managing summer visitors, making the Town more user-friendly and improving the visual image of the Town, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #21 as printed in the warrant and that the sum of Eighteen Thousand Five Hundred Fifty and 00/100 Dollars (\$18,550.00), be raised and appropriated for this purpose.

**ACTION:** Voted, voice vote carries unanimously

#### **ARTICLE 22. FUND HUMAN SERVICES AGENCIES (FY10)**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Sixty-Four Thousand Three Hundred Fifty-Nine and 0/100 Dollars (\$64,359.00), or any other sum, to fund the following human services organizations for the period July 1, 2009 to June 30, 2010.

AIDS Support Group of Cape Cod \$2,000  
 Cape Cod Human Services 6,500  
 CapeAbilities 5,827  
 Community Connections 1,500  
 Consumer Assistance Council 250  
 Elder Services of Cape Cod and the Islands 2,500  
 Independence House, Inc. 4,500  
 Homeless Prevention Council 4,682  
 South Coast Legal Services 3,100  
 Lower Cape Outreach Council 6,500  
 Nauset Together We Can/Juice Bar 5,000  
 Orleans After School Activities Program 15,000  
 Outer Cape Health Services 7,000  
 TOTAL \$64,359

Said funds to be expended under the direction of the Board of Selectmen, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #22 as printed in the warrant, and that the sum of Sixty-Four Thousand Three Hundred Fifty-Nine Dollars (\$64,359.00) be raised and appropriated for this purpose.

**ACTION:** Voted, voice vote carries unanimously

**ARTICLE 23. AMEND ZONING BYLAW SECTION 164-4: DEFINITIONS**

To see if the Town will vote to amend Section 164-4 by ~~striking~~ and **adding** the following language:

**BUILDING:** A structure enclosed with exterior walls or firewalls, whether portable or fixed, built, erected, and framed, and having a roof for the shelter of persons, animals, or property. For the purposes of yard requirements, decks ~~and porches~~ shall be considered part of a building but shall not count towards the building coverage of the lot.

**BUILDING COVERAGE:** The buildable upland portion of a lot that is covered by buildings, ~~including~~ as well as porches **and bulkheads**, but excluding parking areas, pools, decks, or any permanent structures that do not have roofs. [Added 5-13-1996 ATM, Art. 21]

**FENCE:** A combination of materials assembled at a fixed location for the purposes of protection, confinement, enclosure, or privacy. Any fence, that exceeds ~~six~~ **seven (7)** feet in height, as measured from the undisturbed existing natural grade, shall be ~~required to meet yard requirements of an accessory building as set forth in Section 164-22.F~~ **setback from the lot line a distance equal to the height of the fence**. Trees, hedges, plants and all other vegetation shall not be considered a fence. [Added 5-10-2004 ATM, Art. 25]

**RESTAURANT, CONVENTIONAL: An establishment for the sale of on-premise food, the majority of which is served and consumed at tables or counters on the premises with open plates and utensils, and not in bags or containers suitable for takeout.~ Any take-out service conducted at a conventional restaurant shall be incidental and subordinate to the on-premise dining.~**

Or to take any other action relative thereto. (2/3 vote required)

**MOTION:** To accept and adopt Article # 23 as printed in the warrant and the Zoning Bylaw be so amended.

**PLANNING BOARD REPORT**

The Planning Board held a public hearing on January 13, 2009. 15 residents were in attendance. The Board voted

5-0-0 to forward this article to the Town Meeting and recommend its approval. This year, the Planning Board has brought forward 5 amendments to the Zoning Bylaw. The first two amend the definitions section. Two are administrative changes. The last proposal is an update to the regulations on signs. The proposals were developed in response to issues that have been raised over the course of the last year, by town staff, volunteer boards or members of the general public. We think they will clarify the bylaw and improve its function and hope you will agree.

Article 23 proposes amending three existing definitions and adding a new definition to the bylaw. The definitions of BUILDING and BUILDING COVERAGE have been amended to clarify that decks (which are not covered with a roof) are part of a building but do not count toward building coverage. Bulkheads would also count, as they are generally within the foundation and have an impervious surface.

The definition of FENCE is changed to allow a 7 foot fence height. Fences come in 6-foot sections, and the additional space is needed to allow for sloping lots and air space underneath the fence.

A new definition is proposed for CONVENTIONAL RESTAURANT. The Zoning Bylaw has a definition for a Fast Food restaurant, a prohibited use which makes reference to a conventional restaurant. There is no such definition of a conventional restaurant in the bylaw today. The Building Commissioner has asked for such a definition to help him administer the bylaw. By adding this definition we hope to further affirm the difference between what is fast food and what is a conventional restaurant.

The definition includes table or counter service with food served on site, and it helps constitute what we feel is a conventional restaurant and not fast food.

We request your approval of Article 23.

Respectfully Submitted, John Fallender, Chairman, Orleans Planning Board

**ACTION:** Voted, voice vote carries by the necessary 2/3 majority.

#### **ARTICLE 24. AMEND ZONING BYLAW SECTION 164-4: DEFINITIONS**

To see if the Town will vote to amend Section 164-4 by ~~striking~~ and **adding** the following language:

**BUILDING HEIGHT:** The vertical distance from the average undisturbed existing natural grade at the foundation ~~on the street side of the building~~ to the top of the ridge. Except as otherwise provided in § 164-40.2B, the only portions of a structure permitted above the ridge line shall be chimneys, air conditioning equipment, skylights, ventilators and antennae and other like features appurtenant to buildings that are usually carried above roofs and are not used for human occupancy and which in no event shall exceed 5 feet above the ridge line. [Amended 5-9-1988 ATM, Art. 66; 11-18-1991 STM, Art. 3]

Or to take any other action relative thereto. (2/3 vote required)

**MOTION:** To accept and adopt Article #24 as printed in the warrant and the Zoning Bylaw be so amended.

#### **PLANNING BOARD REPORT**

A public hearing was held on January 13, 2009. 15 residents were in attendance. A number of helpful comments were received. The board voted 4-1-0 to forward this article to the Town Meeting and recommend its approval.

This article proposed that the definition of BUILDING HEIGHT be amended by removing the reference to the street side. By this change, building height will be measured from the average undisturbed existing natural grade. This is

the manner in which all of our abutting neighbor towns measure building height and we think Orleans would be best served by the proposal.

I would like to invite the Town's Planning Director to explain the rationale for this amendment.

Respectfully Submitted, John Fallender, Chairman, Orleans Planning Board

**MOTION:** John Nichols made a motion to amend Article #24. The motion was rejected by the moderator as being beyond the scope of the article.

**MOTION:** Ken McKusick made a motion to amend the main motion by striking the wording in Article #24 as printed in the warrant and to refer the matter back to the Planning Board.

**ACTION:** On the motion to amend, voted, voice vote carries by the necessary majority.

**ACTION:** On the main motion, as amended to refer this matter back to the Planning Board, voted, voice vote carries unanimously.

#### **ARTICLE 25. AMEND ZONING BYLAW SECTION 164-21: SCHEDULE OF LOT, YARD AND BULK REQUIREMENTS**

To see if the Town will vote to amend Section 164-21.C by ~~striking~~ and adding the following language:

C. In all zoning districts, all construction, with the exception of water-dependent facilities, such as piers, docks, floats, boathouses, structures used in conjunction with fishing and shellfishing and structures used for agricultural purposes, shall be set back a minimum distance equal to one and one-half (1 1/2) times the building height from any coastal bank, coastal beach, coastal dune, salt marsh, inland pond, lake or inland bank bordering on any pond or lake. "Building height," for the purpose of this section, shall be the vertical distance from the preexisting natural grade at the foundation on the side of a building facing the coastal bank, coastal beach, coastal dune, salt marsh, inland pond, lake or inland bank bordering on any pond or lake, as defined herein, to the highest point of the building(s). Notwithstanding anything contained in this section, no building shall be required to be set back more than fifty (50) feet from any coastal bank, coastal beach, coastal dune, salt marsh, inland pond, lake or inland bank bordering on any pond or lake. The terms "coastal bank," "coastal beach," "coastal dune," "salt marsh," "inland bank," "pond" or "lake," 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. ~~April 1, 1983~~.

Or to take any other action relative thereto. (2/3 vote required)

**MOTION:** To accept and adopt Article #25 as printed in the warrant and the Zoning Bylaw be so amended.

#### **PLANNING BOARD REPORT**

The Planning Board held a public hearing on January 13, 2009. 15 residents were in attendance. No comments were received regarding this article. The Board voted 5-0-0 to forward this article to the Town Meeting and recommend its approval.

Article 25 concerns zoning requirements for building setbacks from coastal banks and other coastal features. The section makes reference to a Massachusetts regulation. The date of the regulation has changed, and the bylaw updates the reference.

Respectfully Submitted, John Fallender, Chairman, Orleans Planning Board

**ACTION:** Voted, voice vote carries by necessary 2/3 majority

**ARTICLE 26. AMEND ZONING BYLAWS SECTION 164-22: MODIFICATIONS**

To see if the Town will vote to amend Section 164-22.1.2 (Yard Requirements in the VC District) by ~~striking~~ and **adding** the following language:

164-22.1.2: Side and rear yards shall be a minimum of ten (10) feet or more, except that, by Special Permit by the Board of Appeals, following consultation with the Fire Chief and Board of Health, said side and rear yards may be reduced to zero (0) for party wall ~~or similar~~ construction, **or access for disabled persons**, provided that adequate access is assured for fire or other emergency and public services and that satisfactory provisions have been made for storm drainage and sewage disposal.

Or to take any other action relative thereto. (2/3 vote required)

**MOTION:** To accept and adopt Article #26 as printed in the warrant and the Zoning Bylaw be so amended.

**PLANNING BOARD REPORT**

The Planning Board held a public hearing on January 13, 2009. 15 residents were in attendance. The Board voted 5-0-0 to forward this article to the Town Meeting and recommend its approval.

Article 26 concerns building setback requirements in the Village Center District. The current side setback for buildings is 10 feet. The setback may be reduced to zero for party wall construction, quote "OR SIMILAR". The "OR SIMILAR" is not meaningful, and is recommended to be eliminated.

We have also added an allowance for handicapped access to be within the side setback. This was a problem with a recently proposed commercial redevelopment, and we think the proposal allows for reasonable accommodation of accessibility needs.

Thank you. John Fallender, Chairman, Orleans Planning Board

The required side and rear yard setbacks in the Village Center are 10 feet. The setback may be waived for party walls. This amendment would add an allowance for handicapped access within the side yard setback in order to provide reasonable accommodations for disabled persons.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 27. AMEND ZONING BYLAW SECTION 164-35: SIGNS**

To see if the Town will vote to amend Section 164-35 by ~~striking~~ and **adding** the following language:

**§ 164-35. SIGNS.**

**A. Purpose.** It is the purpose of this section to regulate the size, location and appearance of signs within the Town of Orleans in order to facilitate ~~the~~ smooth **and safe** flow of traffic within the town while preserving the essential character of the neighborhoods in which signs are located.

**B. Definitions.** As used in this section, the following terms shall have the meanings indicated:

**A-FRAME SIGN / SANDWICH BOARD SIGN – A portable freestanding sign or folding sign with a hinge at the top.**

**BACK LIT SIGN** — A sign illuminated by a non- visible light source consisting of non-translucent lettering and where the only visible light is light reflected off the background creating a “halo” effect. The average face brightness of the sign must not exceed thirty (30) foot-lamberts, and the total light output from the sign must not exceed fifteen thousand (15,000) lumens, as measured with an exposure meter. In all cases, the primary source of light must not be visible to the public. The sign fabricator or his designated agent will certify after installation that the average face brightness of the sign does not exceed the specifications of the article. [Added 5-9-2005 AT M, Art. 33]

**BANNER SIGN – A sign of lightweight, plastic, fabric, or similar non-rigid material that is temporarily mounted.**

**DOUBLE-FACED SIGN** — Shall have two (2) advertising surfaces of identical shape and size, on shared supports and separated by a distance of not more than eighteen (18) inches. The planes of such advertising shall be parallel.

**INTERNALLY ILLUMINATED SIGN** — A sign illuminated by a light source, either incandescent, fluorescent, neon, or other light that is enclosed by the sign panel(s) or within the sign. [Added 10-13-1987 STM; amended 5-9-2005 ATM, Art. 33]

**LADDER SIGNS** — **A sign identifying several businesses located on the same property or within a shopping plaza.** ~~On any lot on which three (3) or more businesses are located, all freestanding signs shall be of the ladder type, and no business shall be permitted a freestanding sign other than a sign located on the ladder.~~

**MOBILE SIGN** — A sign attached to a vehicle or trailer and located in a stationary position primarily for use as an advertising or identifying device. Such signs may be considered either temporary or permanent.

**PERMANENT SIGN** — One that is used to identify or advertise a principal use or activity for the property with which it is associated.

**SIGN** — Any device, including recognizable logos, pictographs and objects of similar nature, which is used to identify or advertise a permitted use, service or activity in the zone in which it is located.

**SIGN AREA** — The area of the smallest single horizontal or vertical rectangle which will totally enclose the face of a sign, including any borders, or, in the case of a sign painted or otherwise applied directly to the sides of buildings, the smallest vertical or horizontal rectangle which will completely enclose the identifying or advertising information. Support structures for freestanding signs shall not be considered in determining “sign area” unless they are deemed to contribute significantly to the advertising content of the sign or are of such construction that they would contribute to the limiting of vision of oncoming traffic. The area of a two-faced sign shall be figured using one (1) face only.

**SIGN HEIGHT – The height of the sign from the existing average natural grade to the top of the highest point of the sign.**

**TEMPORARY SIGN** — One that is used to identify or advertise a use or activity that is not a principal use or activity for the property with which it is associated and which is intended for removal when such use or activity stops. Such signs shall include but are not limited to sale, rent or lease signs erected by a property owner or licensed real estate broker, yard sale, garage sale or open house signs.

**WINDOW SIGN** — Any temporary or permanent sign visible on or through a window, affixed to the window or with any part situated closer than two (2) feet from the interior surface of a window. “Window signs” for an identified business shall not obscure more than twenty-five percent (25%) of the surface area of the windows on any one (1) side of the building or portion of a side of a building occupied by the business. Temporary “window signs” exceeding this amount of area may be displayed for up to fourteen (14) consecutive days two (2) times per year. “Window signs” shall be measured according to the method in the definition of “sign area” in this subsection. The surface area of a window shall include the gross area within the exterior frame of the window. “Window signs” shall not be included in the total number of signs allowed per business and shall not be limited in number. Requirements of the definition of “internally illuminated signs” shall apply to “window signs.” No fee or permit shall be required. [Added 5-9-1988 AT M, Art. 65]

### C. Sign permits.

(1) No sign shall be erected or altered without a permit granted by the Building ~~Inspector~~ **Commissioner**, except as otherwise provided herein. **All signs, other than temporary signs, shall be subject to review and approval by the Architectural Review Committee under Section 164-33.1.C.**

(2) All applications for sign permits shall include a sketch or photograph of the proposed sign showing size, colors and materials used and a site plan for the associated property showing the height and proposed location of the sign, as well as locations of buildings, driveways, street lines and pavement edges, as well as the location of any trees or shrubbery that might interfere with traffic visibility. [Amended 5-6-1986 AT M, Art. 69]

~~(3) Preexisting, nonconforming signs. Permanent signs which do not conform to this section, lawfully erected before enactment of this section, or permanent signs not yet erected but for which permits have been granted prior to enactment of this section may be erected and/or maintained, provided that such erection shall take place within ninety (90) days of enactment of this section.~~

~~(4) Sign permits shall be deemed to be associated with the use, service or activity with which the sign is associated and shall become void thirty (30) days after such use, service or activity ceases. Signs whose permits have become void under this principle shall be removed promptly by the end of this thirty day period. Signs for uses, services or activities of a seasonal nature which are removed during the off season may be re-erected, and their permits remain in effect, provided that a period of one (1) year has not elapsed since removal of the sign.~~

~~(5)~~ The following signs may be erected without a permit granted by the Building ~~Inspector~~ **Commissioner**, provided that they conform in all respects to height, setback and other restrictions as set forth elsewhere in this section:

(a) One (1) permanent sign, not to exceed four (4) square feet in area, identifying the principal occupant of a dwelling in a residential or other zone.

(b) One (1) temporary sign not to exceed six (6) square feet in area, advertising property for sale, rent or lease. Such sign shall be removed within ten (10) days of a transfer of title or signing of a lease or rental agreement.

(c) Permanent signs, not exceeding four (4) square feet in area, whose purpose is solely for direction of traffic, such as "Enter," "Exit," "Parking" and the like, and which contain no advertising information.

(d) Accessory signs, such as "Open," "Closed," "Sale" and the like, not exceeding three (3) square feet in area, which are attached to signs for which permits have been issued. **One (1) flag of a similar nature is permitted, up to six (6) square feet in area.**

(e) Signs within the confining walls of a building or window sign. [Amended 5-9-1988 AT M, Art. 65]

(f) Legal notices or informational signs erected or required by governmental bodies.

(g) Church, school, municipal, historical and ladder-type signs for property owners' group listings.

**(h) One (1) contractor sign for the general contractor or contractor who takes out a building permit to work on property, not to exceed four (4) square feet in area. Such signs shall be removed promptly upon completion of the contracted services.**

~~(6)~~ Temporary sign permits. Upon at least twenty-four (24) hours' notice, the Building ~~Inspector~~ **Commissioner** may issue, ~~with the concurrence of the Selectmen and without advisory review,~~ permits for the

erection of signs advertising yard or garage sales, open houses, special events and the like. **Not more than two (2) such signs shall be permitted per event.** Such signs shall conform to this section in all other respects and shall be removed within twenty-four (24) hours after the end of the event. **Such signs shall meet the dimensional requirement set forth in Section 164-35. H., but shall not exceed fifteen (15) square feet in sign area.**

~~(75)~~ Fees. Fees may be charged for the issuance of a sign permit in accordance with a schedule ~~as may be determined from time to time~~ **determined** by the **Board of** Selectmen.

**D. Signs for customary or self-employed home occupation.** One (1) sign not to exceed six (6) square feet in area shall be permitted for a customary self-employed or home occupation in any zone for which a Special Permit or variance has been granted by the Board of Appeals, subject to any restrictions as to lighting, etc., imposed by the Board of Appeals, provided that such sign conforms in all other respects to the provisions of this section.

**E. Projecting signs.**

**(1) Projecting signs of up to three (3) square feet in area are permitted to project over walkways and shall maintain a clearance height of eight (8) feet below the bottom of the sign. No sign shall project over any lot line or any way intended for vehicular traffic.**

**(2) No sign affixed to any building shall project more than four (4) feet in any direction beyond the exterior walls of such building. Such signs shall meet the dimensional requirement set forth in Section 164-35. H.**

**F. Banners**

**Banners are permitted in all business districts for not more than four (4) calendar days in any one calendar month. There is a limit of one and a temporary sign permit is required, that permit shall not be for longer than four (4) months. All Banners are subject to section 164-35.I.1**

**Banner signs over public streets are regulated per section 164-35.K.**

**G. Ladder signs.**

**On any lot on which three (3) or more businesses are located, all freestanding signs shall be of the ladder type, and no business shall be permitted a freestanding sign other than a sign located on the ladder. In cases where businesses are not readily visible from the street, one additional sign may be allowed by Special Permit.**

**H. Prohibited signs.** The following types of signs shall be prohibited:

~~(1) In all zones, a~~ **Any sign that employs intermittent or flashing lights, whirling or similar moving devices or that emits noises or other loud sounds.**

~~(2) In all districts, a~~ **Any internally illuminated sign or sign employing illuminated gas-filled types or any other sign for which the primary source of light is visible to the public.**

**(3) Off-premises signs, except subdivision identification signs at entrances to subdivisions or except signs allowed in public display areas as designated by the Board of Selectman**

~~(4) Billboards of a general advertising nature.~~

~~(5) Signs attached to trees or utility poles.~~

**(6) Temporary signs except as described in 164-35.C.4 or 164-35.C.3.b**

**(7) Inflatable signs.**

~~(6-8) Sandwich-board or A-frame-type signs that exceed 6 square feet in area. except as provided for in Subsection B, definition of "temporary sign."~~

**J.F. Size, height, setback and other restrictions**

- ~~(1) No sign shall project over any public way intended for vehicular traffic nor more than four (4) feet over any sidewalk or public right of way intended for pedestrian use.~~
- ~~(2) No sign affixed to any building shall project more than four (4) feet in any direction beyond the exterior walls of such building.~~
- (31) Size and location.**
  - (a) Signs shall be governed as to size and location according to the following table:

Setback from <u>property street</u> line (feet)	Maximum height for freestanding or projecting signs (feet)	Maximum sign area (square feet)
1-3	3	6
3-10	6	15
10-25	10	32
Over 25	12	60

**\*NOTE:** Area for signs on ladder-type signs shall be computed individually without regard for open space between signs, and maximum aggregate sign area shall be as set forth above, except that the maximum aggregate area for ladder signs required in Subsection B, definition of "ladder signs," may be increased up to one-third (1/3) by special permit from the Board of Appeals.

- (b) No sign shall be located closer than ten (10) feet to any side lot line, except panhandle lots.
- (42) Waiver of setback requirement.** In cases where the distance from the pavement edge to the ~~street~~**property** line exceeds ten (10) feet, the setback requirement may be waived on recommendation of the Planning Board and Traffic Study Committee, and setbacks may be computed from the pavement edge instead of the ~~street~~**property** line. In no case shall any sign be located closer than one (1) foot to any ~~street~~**property** line, and all permits for signs for which setback requirements have been waived shall be subject to review and modification.
- (53) Number of signs.** No business shall have more than three (3) signs other than accessory signs not requiring permits as described elsewhere in this section. No residence shall have more than one (1) sign.

**J.G. Erection time, inspection and removal of sign violations, and pre-existing signs**

- (1) A sign permit shall become void for any sign that is not erected within six (6) months of issuance of such permit.
- (2) All signs for which permits are required shall be subject to inspection to check conformance to site plan and bylaw restrictions. Requests for inspection shall be made to the Building ~~Inspector~~ **Commissioner** within ten (10) days of erection of any sign requiring a permit.
- (3) **A sign that is determined by the** The Building ~~Inspector~~ **Commissioner to be in violation of this section** shall ~~cause to be removed or modified within ten (10) days of such finding any sign which is found to~~

be in violation of this section.

**(4) Preexisting, nonconforming signs. Permanent signs that do not conform to this section, lawfully erected before enactment of this section, or permanent signs not yet erected but for which permits have been granted prior to enactment of this section may be erected and/or maintained, provided that such erection shall take place within ninety (90) days of enactment of this section.**

**(5) Sign permits shall be deemed to be associated with the use, service or activity with which the sign is associated and shall become void thirty (30) days after such use, service or activity ceases. Signs whose permits have become void under this principle shall be removed promptly by the end of this thirty-day period. Signs for uses, services or activities of a seasonal nature that are removed during the off-season may be re-erected, and their permits remain in effect, provided that a period of one (1) year has not elapsed since removal of the sign.**

**(6) Alterations to a preexisting, nonconforming sign shall require the sign to come into compliance with all of the requirements herein. For the purpose of this section alterations shall consist of changes in any way including change in structure, location, design or lettering.**

**K.H.** Notwithstanding anything else contained in Section 164-35 to the contrary, banners advertising civic, or cultural and/or athletic events conducted by a non-profit entity, may be placed at location(s) across Main Street and/or Eldredge Park Way provided that any such banner, and its location, is approved by the Board of Selectmen or, if designated by the Board of Selectmen, the Town Administrator. In the event multiple requests are made for a common time period the Board of Selectmen or the Town Administrator, as the case may be, may give preference in scheduling and location to Town sponsored events. Banner(s) shall be no more than twenty feet in length and two feet in height and shall be strung in such a manner so the bottom of the banner is fifteen feet off the road surface. Banner(s) shall be temporary in nature and removed as soon as practicable after the event to which it refers has ended. The Board of Selectmen is hereby authorized to promulgate rules and regulations as they deem necessary to carry out the provisions of this paragraph. [Added 5-19-1997 AT M, Art. 46; amended 10-25-2004 STM, Art. 10]

**L. Lighting of Signs. Lighted signs shall conform with the Outdoor Lighting Bylaw, Chapter 122 of the Orleans General Code.**

Or to take any other action relative thereto. (2/3 vote required)

**MOTION:** To accept and adopt Article #27 as printed in the warrant and the amended.

Zoning Bylaw be so

## **PLANNING BOARD REPORT**

The Planning Board held a public hearing on January 13, 2009. 15 residents were in attendance. The Board voted 5-0-0 to forward this article to the Town Meeting and recommend its approval.

Article 27 is a proposed updating of the Town's sign regulations. The Chamber of Commerce approached the Planning Board last fall with a list of questions and concerns about the manner in which signs are regulated. The Planning Board worked with the Chamber, and with the Zoning Bylaw Task Force to rework the regulations to be more clear, more effective, and to allow businesses a reasonable level of signage without causing a negative effect on community character.

The basics of the regulations have not changed. Businesses are still allowed up to three signs, and the size and setback limitations remain in effect. All commercial signs in Orleans must receive approval from the Architectural Review Committee before they can be constructed. There are a number of improvements we have proposed, and I would direct your attention to the video screen where the Planning Director will quickly walk you through the changes.

Thank you. John Fallender, Chairman, Orleans Planning Board

**MOTION:** John Nichols made a motion to amend Section C (3) by adding sections (i) and (j):

- (i) Political and public issue signs held by individuals.
- (j) Political and public issue signs posted on private property with the homeowner's permission, expressing positions on candidates for public office and/or positions on public issues. Signs relating to electoral candidates for public office may be placed 30 days before the election until five days afterward.

The proposed amendment was rejected as the definition of the word "sign" in the bylaw does not currently apply to political signs, thus no amendment is necessary.

**MOTION:** John Nichols made a motion to amend Section H (3) by deleting the words after the words "allowed in" and adding the words "Section C (3)"

The proposed amendment was ruled out of order and was rejected as it is well beyond the scope of the main motion

**MOTION:** To move the question.

**ACTION:** Voted, voice vote carries by the necessary 4/5 majority to move the question.

**ACTION:** On the main motion, voted, voice vote carries by the necessary 2/3 majority.

## **ARTICLE 28. ADOPT GENERAL BYLAW, CH. 125: LITTERING**

To see if the Town will vote to amend the General Bylaws by adopting Chapter 125, Littering, as follows:

### Chapter 125 – Littering

#### §125-1. Prohibited acts; "litter" defined.

No person shall throw, deposit, sweep or abandon upon any public way or any property owned by the Town or on property of another any litter. For purposes of this provision, "litter" includes but is not limited to paper wrappers from sandwiches; paper, styrofoam, or plastic cups; plastic bags; paper bags; cup lids; cigarette butts; cigarette packs; gum packs; paper towels; tissues; fruit skins and containers; bottles, cans, or any other refuse which would be considered trash.

#### §125-2. Violations and penalties; enforcement.

- Violation of this chapter shall be punishable by noncriminal disposition pursuant to the provisions of MGL c. 40, §~21D. For the purposes of noncriminal disposition, penalty to apply in the event of a violation shall be as follows: \$50 for the first offense; \$100 for the second offense; \$300 for the third offense and each subsequent offense. Each day on which a violation exists shall be deemed to be a separate offense.
- This chapter shall be enforced by natural resources officers, harbormasters, assistant harbormasters, Town police officers, or any other official so authorized by the Board of Selectmen.

or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #28 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 29. AMEND GENERAL BYLAWS, CH. 120: NOISE**

To see if the Town will vote to amend the General Bylaws, Chapter 120, Noise, by deleting Chapter 120 (§120-1, §120-2§, §120-3 and §120-4), in its entirety and inserting in place thereof the following new Chapter 120, Noise:

### **§120-1. UNLAWFUL NOISE PROHIBITED**

It shall be unlawful for any person or persons occupying or having charge of, or being present in or about any building, dwelling, structure, premises, shelter, boat, vehicle or conveyance, or any part thereof, in the Town (other than that section of any establishment licensed under M.G.L. c. 138), to create, assist in creating, continue or allow to continue any excessive, unnecessary, or unusually loud noise, including any such noise in the operation of any radio, phonograph or other sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noise or loud and boisterous singing by any person or group of persons or in the use of any device to amplify the aforesaid noise or to attract attention, or loud or continuous animal noises, where such noise is plainly audible at a distance of 150 feet from the building, structure, premises, shelter, vehicle, boat or conveyance in which or from which it is produced.

The fact that the noise is plainly audible at a distance of one hundred fifty (150) feet from the building, dwelling, structure, premises, shelter, boat or vehicle from which it originates or when the noise occurs between 10:00 PM and 7:00 AM, shall constitute prima facie evidence of a violation of this By-law.

Any person shall be deemed in violation of this By-law who shall make, or aid and abet, or cause, or suffer or countenance or assist in the making of any such noise.

### **§120-2. EXEMPTIONS.**

The following uses and activities shall be exempt from the provisions of this By-law:

- Emergency Vehicles. Any police or fire vehicle or any ambulance while engaged in necessary emergency business.
- Highway and Utility Maintenance and Construction. Necessary excavation in or repairs of bridges, streets, or highways, or any public utility installation by or on behalf of the town, or any public utility or any agency of the Commonwealth of Massachusetts.
- Public Address. The reasonable use of amplifiers or loud speakers for public addresses which are non-commercial in nature.
- Garbage and Refuse collection vehicles, or vehicles providing an emergency service including without limitation fuel delivery vehicles.

### **§120-3. PENALTIES.**

The first violation of this By-Law shall be punished by a fine of not more than \$50.00.

The second violation of this By-Law within 12 months after the first violation shall be punished by a fine of not more than \$100.00.

Further violations within 12 months after the last violation shall be punished by a fine of two hundred fifty dollars \$250.00.

Each such act which either continues or is repeated more than once shall be prosecuted as a separate offense.

If the violation occurs on the premises of rental property, then the owner will be notified in writing that a violation(s) has occurred.

§120-4. **ENFORCEMENT.**

This Bylaw shall be enforced by the Orleans Police Department. Officers may:

- Issue a verbal warning.
- Issue a written warning on the appropriate departmental form.
- Utilize the noncriminal disposition procedure authorized by the Orleans By-Law §1-1 and M.G.L. c. 40, §21D.

or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #29 as printed in the warrant.

**MOTION:** Stanley Gove made a motion to amend (Article 29. General bylaws, Ch. 120: Noise) To delete the words from §120-2. Exemptions, Section D. "Garbage and Refuse collection vehicles or" retaining the words "vehicles providing an emergency service including without limitation fuel delivery vehicles".

**ACTION:** On the motion to amend, voted standing vote Yes=77, No=119, motion to amend fails.

Five voters challenged the quorum. Tellers conducted a standing count of voters in the hall. Total number of voters counted were 209. At 9:55 p.m., due to lack of a quorum, Town Meeting was adjourned at. until Wednesday, May 13<sup>th</sup> at 6:30 p.m.

**Wednesday, May 13, 2009**

Town meeting reconvened at 6:38 p.m. on Wednesday, May 13, 2009 at the Nauset Regional Middle School gym when Town Clerk, Cynthia May announced that a quorum of 276 voters had been reached. There were 433 voters in attendance. Tellers sworn in were: Wally Swidrak, Paul O'Connor, John and Ann Hodgkinson. Constables on duty were John Fitzpatrick and Mary E. Stevens.

**MOTION:** Dick Laraja made the following motion to amend Article #29 by adding the following to §120-2.

**Exemptions.**

E. Fireworks, little league, soccer and other sporting events, parades, church bells, and public events including, but not limited to, Pops in the Park.

F. Normal operation of properly muffled motor vehicles, boats, equipment for lawn moving, farm or agricultural equipment, equipment used in the normal course of home or commercial repair, renovation, construction, or demolition, or in septic system construction or maintenance.

**ACTION:** Voted, standing vote YES=208, No=161, motion to amend carries by the necessary majority.

**MOTION:** To move the question.

**ACTION:** Voted, voice vote carries by the necessary 4/5 majority to move the question.

**ACTION:** On the main motion as amended, voted, voice vote carries by the necessary majority.

**ARTICLE 30. ADOPT GENERAL BYLAW, CH. 126: PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL**

To see if the Town will vote to amend the General Bylaws by adopting Chapter 126, Public Consumption of Marijuana or Tetrahydrocannabinol, as follows:

Chapter 126 – Public Consumption of Marijuana

§126-1. Prohibited acts.

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, §1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

§126-2. Violations and penalties; enforcement.

This bylaw may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c.40, §21, or by noncriminal disposition pursuant to G.L. c. 40, §21D, by the Board of Selectmen, the Town Administrator, or their duly authorized agents, or any police officer. The fine for violation of this bylaw shall be three hundred dollars (\$300.00) for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C §32L. For the purposes of enforcing this bylaw, any person charged with a violation of this bylaw shall be required to provide proper identification.

§126-3. In the event that any provision, section or clause of this bylaw is hereafter judicially found to be invalid, such decision, invalidity or voidance shall not affect the validity of the remaining portion of these regulations.

or to take any other actions related thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #30 as printed in the warrant.

**MOTION:** To move the question

**ACTION:** Voted, voice vote carries by the necessary 4/5 majority to move the question.

**ACTION:** On the main motion, voted, voice vote carries by the necessary majority.

**ARTICLE 31. AMEND GENERAL BYLAWS, CH. 104: AFFORDABLE HOUSING**

To see if the Town will vote to amend the General Bylaws, Chapter 104 of the Code, Affordable Housing, §104-2. DEFINITIONS, as follows:

In the definition 1) Affordable Housing Trust Fund, delete the third sentence which reads:

Expenditures should follow an allocation plan submitted by a joint committee made up of the Housing Task Force and the Orleans Housing Authority Commissioners as appointed by the Selectmen.

and replace with the following sentence:

Expenditures should follow an allocation plan submitted by the Affordable Housing Committee.

Add the following new definition and then renumber the remaining definitions:

1) Affordable Housing Committee - An Affordable Housing Committee shall be established consisting of seven members, who are residents of the Town, to be appointed by the Board of Selectmen, for three year overlapping terms as follows: two members to be appointed for a term of one year and thereafter for a term of three years, two members to be appointed for a term of two years and thereafter for a term of three years, and three members to be appointed for a term of three years.

And further to authorize the Board of Selectmen, to the extent necessary, to dissolve the existing Orleans Housing Task Force, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #31 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary majority.

### **ARTICLE 32. AMEND GENERAL BYLAWS, CH. 158: WATER**

To see if the Town will vote to amend the Orleans Water Bylaw by ~~striking the following language~~ and inserting the following new text.

ARTICLE I General Regulations [Adopted 3-11-1963 A TM, Art. 41; amended in its entirety 3-9-1970 ATM, Art. 33]

§ 158-1. Guaranty or bond required for extension of mains.

Whenever any extension of the water main is requested upon any street or way, the **Board of Water Commissioners, or the Board of Water and Sewer Commissioners, as the case may be, (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]

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 ~~assessor's maps, # 3, 8, 9, and 11~~ **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 ~~Two hundred and Fifty and 00/100 (\$250.00)~~ **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 92, Section 111 and Massachusetts General Laws, Chapter 21, Section 43~~ **42**, and said statutes shall not be construed as a limitation of the enforcement or the extent of violations covered under this bylaw. ~~The fines imposed by this bylaw shall be posted at or near the areas to which it applies and shall be published at least once in a newspaper published in the County where said areas, in whole or in part, are situated.~~ 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.

- To protect the public potable water supply served by the ~~Orleans Board Water Commission~~ from the possibility of contamination ~~of or~~ pollution by isolating such contaminants or pollutants which could backflow or backsiphon into the public water system.
- 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.
- 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.

- 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.
- ~~Orleans The Water Commission~~ **Department** Rules and Regulations, Adopted August 23, 1988 **and amended 5-2-2007.**

§ 158-5. Responsibility.

The ~~Board Water Commission~~ 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 ~~commission~~ **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 ~~Commission~~ **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 ~~Commission~~ **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 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.

- **Air Gap Separation:** 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.
- **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 method to prevent backflow approved by the Department **of Environmental Protection** for use in Massachusetts.
- **Atmospheric Vacuum Breaker:** An approved backflow device used to prevent back siphonage which is not designed for use under static line pressure.
- **Auxiliary Water Supply:** Any water supply of unknown or questionable quality on or available to the premises other than the ~~suppliers~~ **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 into the distributions pipes of a potable water supply from any source other than the intended source.
- Backflow Preventer with Intermediate Atmospheric Vent: A device having two independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere, in which the check valves are force loaded to a normally closed position and the venting means is force loaded to a normally open position.
- Barometric Loop: A loop of pipe rising at least 35 feet, at its topmost point, above the highest fixture it supplies.
- ~~Commission: The Town of Orleans Water Commission or owner or operator of a public water supply system.~~
- Contaminant: Any physical, chemical, biological or radiological substance or matter in water.
- Cross-Connection: Any actual or potential connection between a distribution pipe of potable water from a public water system and any waste pipe, soil pipe, sewer, drain, or other unapproved source.
- Cross-Connection Violation Form: A violation form designated by the Department **of Environmental Protection**, which is sent to the owner by the water ~~supplier~~ **department** with copies sent to the Department **of Environmental Protection**, plumbing inspectors and Board of Health delineating cross\_connection violations found on the owner's premises and a procedure for corrective action.
- ~~Department: The Massachusetts Department of Environmental Quality Engineering.~~
- Double Check Valve Assembly: A backflow prevention device which incorporates an assembly of check valves, with shut-off valves at each end and appurtenances for testing.
- In-Plant Protection: The location of approved backflow prevention devices in a manner which provides simultaneous protection of the public water system and the potable water system within the premises.
- Owner: Any person maintaining a cross-connection installation or owning or occupying premises on which cross-connections can or do exist.
- Permit: A document issued by the **Water** Department which allows a cross-connection installation.
- 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 constructed 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.
- Pressure Vacuum Breaker: An approved backflow prevention device designed to prevent only back siphonage and which is designed for use under static line pressure and which has necessary appurtenances for testing.
- Reduced Pressure Backflow Preventer: An approved backflow prevention device incorporating (1) two ~~more~~ check valves, (2) an automatically operating differential relief valve located between the two checks, (3) two shut-off valves, (4) necessary appurtenances for testing.
- Residential Dual Check: An assembly of two spring loaded, independently operating check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device.
- Reviewing Authority: The **Water** Department, its Designees, or the local plumbing inspector, authorized by M.G.L. 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.

§ 158-7. Administration.

- The ~~Commission~~ **Board** will operate an active cross-connection control program, to include the keeping of

necessary records which fulfills the requirements of the ~~State DEQE's~~ Department of Environmental Protection Cross Connection Regulations and is approved by the Department.

B. The owner shall allow his property to be inspected for possible cross-connections and shall follow the provisions of the Commission's program and the Department regulations.

§ 158-8. Requirements.

A. ~~COMMISSION~~ WATER DEPARTMENT.

On new installations, the ~~Commission~~ 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.

For premises existing prior to the start of this program, the ~~Commission~~ 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.

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

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

The ~~Commission~~ 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.

The ~~Commission~~ Water Department will ~~begin~~ 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 ~~will be~~ was on high hazard industries and commercial premises. The Water Department continues with an annual survey program.

B. OWNER.

The Owner shall be responsible for the elimination or protection of all cross-connections on his/her premises.

The Owner shall be responsible for applying for and obtaining all necessary approvals ~~and permits~~ for the maintenance of cross-connections and installation of backflow prevention devices, ~~and applying annually for the renewal of each permit.~~

The Owner shall have any device that fails an inspection or test repaired or replaced by a licensed plumber.

The Owner shall inform the ~~Commission~~ 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 ~~Commission~~ Water Department.

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.

The Owner shall install backflow preventers in a manner approved by the Water Department ~~Department and by the Commission.~~

The Owner shall install only reduced pressure backflow preventers and double check valve assemblies approved by the State ~~DEQE~~.

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 ~~Commission's~~ Orleans water system.

Permission to cross connect may be denied by the ~~Commission~~ 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.

The Owner of any residential premises having a private well or other private water source 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 ~~permits~~, device testings, retesting in the case that the device fails to operate correctly, and second re-inspections for noncompliance with ~~commission or Department~~ Water Department requirements.

§ 158-9. Degree of hazard.

The ~~Commission~~ Board recognizes the threat to the public water system arising from cross-connections. As such, the ~~Commission~~ 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. The ~~Commission~~ **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. Any existing backflow preventer shall be allowed by the ~~Commission~~ **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. ~~Periodic~~ Testing.

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 semi-annually~~ by the **Water Department** ~~Commission~~.

Periodic Testing shall be performed by the ~~Commission's~~ **Water Department's** certified tester or **a Massachusetts Department of Environmental Protection certified tester with the approval of the Water Department**, ~~his~~ ~~delegated representative, who shall be a certified tester.~~

The testing shall be conducted during the ~~Commission's~~ **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 ~~Commission~~ **Water Department**.

~~Reduced pressure backflow preventers and double check valve assemblies must be tested annually by the owner, independent of the semiannual test by the water supplier, and said test must be conducted by a certified tester.~~

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.

Backflow prevention devices ~~will~~ **may** be tested more frequently than specified above in "A" in cases where there is a history of test failures and the ~~Commission~~ **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.

#### A. RECORDS.

The ~~Commission~~ **Water Department** ~~will initiate and maintain~~ **maintains** the following:

- Master files on customer cross-connection tests and/or inspections.
- Master files on approved cross-connection installations.
- Copies of lists and summaries supplied to the Massachusetts
- Department of Environmental ~~Quality Engineering~~ **Protection**.

#### B. REPORTS.

The ~~Commission~~ **Water Department** will submit the following to the ~~DEQ~~ **Massachusetts Department of Environmental Protection**:

1. ~~Initial listing of high hazard cross-connections.~~ **Annual list of all cross connections protected by an approved dual check valve assembly or reduced pressure backflow preventer device.**

~~Initial listing of low hazard cross-connections.~~

~~Annual update lists of items 1 and 2 above.~~

~~Annual summary of cross-connection inspections and surveys.~~

§ 158-14 residential dual check.

~~Effective the date of the acceptance of the Cross-Connection Control Program for the Town of Orleans, Massachusetts, All new residential buildings will be~~ **are** required to install a residential dual check device immediately downstream of the water meter. This device will be provided by the ~~Water Commission~~ **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 ~~Commission~~ **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 ~~may have to be made by the Owner to provide~~ for thermal expansion within his closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

§ 158-15. Strainers.

The ~~Commission~~ **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 ~~will~~ **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 ]

§ 158-16. Authority.

This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c. 40, §§ 21 et seq. ~~And~~ **and** implements the Town’s authority to regulate water use pursuant to M.G.L. c. 41, § 69B. This bylaw 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.

§ 158-17. Purpose.

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

§ 158-18. Definitions.

Person shall mean any individuals, corporation trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c. 21G, § 15-17.

Water Users or Water Consumers shall mean all public and private users of the Town’s public water system, irrespective of any person’s responsibility for billing purposes for water used at any particular facility.

Enforcing person shall mean the Board ~~of Water Commissioners~~, the Board of Health and Health Agent, Police Officers of the Town and any other persons designated by the Board ~~of Water Commissioners~~ to enforce this bylaw.

§ 158-19. Declaration of a State of water Supply Conservation.

The Town, through its Board ~~of Water Commissioners~~, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under § 158-21 of this bylaw before it may be enforced.

§ 158-20. Restricted Water Uses.

A declaration of a State of Water Supply Conservation shall include **but not limited to** one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 158-21.

- Odd/Even Day Outdoor Watering. Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- Outdoor Watering Ban. Outdoor watering is prohibited.
- Outdoor Watering Hours Restriction. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and/or public notice thereof.
- Filling Swimming Pools. Filling of swimming pools is prohibited.
- Automatic Sprinkler Use. The use of automatic sprinkler systems is
- prohibited.

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

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under § 158-20 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

§ 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 Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by § 158-21.

§ 158-22.1. State of Water Supply Emergency, Compliance with DEP Orders.

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 intended to bring about an end to the State of Emergency.

§ 158-22.2. Penalties.

Any person violating this bylaw shall be liable to the Town in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation, which shall inure to the Town. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21 D of Chapter 40 of the general laws. Each day of violation shall constitute a separate offense.

§ 158-22.3. Severability.

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

ARTICLE V Interest on Unpaid Water Bills [Adopted 10-7-1991 STM, Art. 12]

§ 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 or January 1, 1992, whichever is later, 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.
- Assessors Map 68, Parcel 5: 3.91 acres.
- Assessors Map 68, Parcel 7: 6.91 acres.

- The Quanset Road Tract consisting of the following parcels:

- 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.
- 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]

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.

The watershed may also be used for selected recreational activities, as authorized from time to time by the Board of Water Commissioners, after notice and a public hearing.

- C. The Board of Water Commissioners 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 of Water Commissioners 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.

§ 158-29. Watershed management plan. [Added 5-10-2004 ATM, Art. 29]

The Board of Water Commissioners 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 of Water Commissioners 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.

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 of ~~Water Commissioners~~.

§ 158-31. Violations and penalties; enforcement.

Any person who violates this bylaw, or any regulation promulgated hereunder by the Board of ~~Water Commissioners~~, shall be liable to the Town in the amount of two hundred ~~(\$200.)~~ **fifty** dollars **(\$250)** for the first violation and ~~three~~ **five** hundred dollars ~~(\$300.)~~ **(\$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]  
This bylaw may be enforced pursuant to the noncriminal disposition procedures provided for Massachusetts General Laws Chapter 40 Section 21D.  
(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #32 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 33. AMEND GENERAL BYLAW SECTION 159-10: Mooring /docking regulations and policies**

To see if the Town will vote to amend the General Bylaws, Chapter 159, Waterways, by removing the language from Section 159-10 A(1) indicated by a ~~strike through~~.

No person shall keep or moor any vessel, float, or raft greater than nine (9) feet in overall length ~~for a period in excess of fourteen (14) consecutive days~~ in or on the waters, flats, or shores of the town of Orleans, except when tied to a private pier, without first obtaining a mooring permit and mooring permit sticker from the Harbormaster.

Or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #33 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary majority.

### **ARTICLE 34. SPECIAL LEGISLATION - ROOM OCCUPANCY TAX**

To see if the Town will vote to authorize and instruct the Board of Selectmen to petition the Great and General Court (State Legislature) for special legislation authorizing the Town to impose a room occupancy tax on vacation rentals, including but not limited to apartments, single or multiple family housing, cottages, condominiums and time share units or any such temporary occupancy not currently subject to such tax, or to take any other action relative thereto.  
(Board of Selectmen)

(Simple Majority Vote Required)

**MOTION:** To indefinitely postpone Article #34.

**ACTION:** Voted, voice vote carries by the necessary majority.

### **ARTICLE 35. EXPLORE REGIONALIZATION OF POLICE DEPARTMENT WITH OTHER TOWNS**

To see if the Town will vote to support the efforts of the Board of Selectmen to explore the potential for regionalization of the Town's police department with neighboring towns, or to take any other action related thereto.

(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #35 as printed in the warrant.

**MOTION:** To move the question.

**ACTION:** Voted, voice vote carries unanimously to move the question.

**ACTION:** On the main motion, voted, voice vote carries by the necessary majority.

#### **ARTICLE 36. CAPE & VINEYARD ELECTRIC COOPERATIVE MEMBERSHIP**

To see if the Town will vote to authorize the Board of Selectmen to apply on behalf of the Town for membership in the Cape & Vineyard Electric Cooperative, Inc., (the "Cooperative") all in accordance with the Bylaws of the Cooperative, a copy of which, amended as of August 11, 2008, is on file with the Town Clerk, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article #36 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 37. FREE CASH**

To see if the Town will vote to transfer from Free Cash in the Town's Treasury a sum of money to be used for the reduction of taxes, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article # 37 and that the sum of Six Hundred Sixty-five Thousand and 00/100 Dollars (\$665,000.00) be transferred from available for this purpose in FY 2010.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 38. CLOSING ARTICLE**

And to act on any other business that may legally come before the meeting.  
(Simple Majority Vote Required)

**MOTION:** To adjourn this meeting.

**ACTION:** Voted, voice vote carries unanimously

Annual Town meeting was adjourned at 7:37 p.m.

A TRUE RECORD, ATTEST:

Cynthia S. May, Town Clerk