

DRAFT ARTICLES AFTER REVIEW BY TOWN COUNSEL FOR PUBLIC HEARING

DRAFT ARTICLE A

§ 4. Warrants

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

2-4-2 The opening of the Warrant shall be **no less than** ninety days prior to the date of the Annual Town Meeting, and **no less than** sixty days prior to any Special Town Meeting unless otherwise required by General Laws Chapter 39, Section 10 as the same may be amended from time to time.

2-4-3 The Warrant for the Annual Town Meeting shall remain open for **no less than** thirty days and shall be closed **at least** sixty days prior to the date of the meeting.

2-4-4 The Warrant for any Special Town Meeting shall remain open for **no less than** fifteen days and shall be closed **at least** forty-five days prior to the date of the special meeting unless otherwise required by General Law Chapter 39, Section 10 as the same may be amended from time to time.

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

NEW 2-4-6 A notice of the availability of the Warrant shall be published in a newspaper of general circulation within the Town and the Warrant shall be posted on the Town Website at least 14 days prior to the Annual or any Special Town Meeting. The notice of availability and the posting on the Town Website shall include where printed copies of the Warrant are available.

2-4-7 All said Warrants shall also be posted in every post office in the Town ~~on or before the day of their publication in the newspaper~~ **at least fourteen days prior to any such meeting** and shall remain so posted until the date of the meeting.

RATIONALE: The use of phrases "at least" and "no less than" allow for a more appropriate timeline for the opening and closing of the Warrant. Adding the words "on the Town website" facilitates the dissemination of the Warrant to Town residents and also informs those residents without access to the website where printed copies of the Warrant are available.

DRAFT ARTICLE B

Preamble

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

We, the people of the Town of Orleans, Massachusetts, reaffirm the right to manage our affairs, participate responsibly in the conduct of local government, and take the fullest advantages inherent in the home rule amendments to the Constitution of the Commonwealth. We acknowledge

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our common property rights and powers to preserve, protect, conserve, and maintain the natural resources and the environment of our Town in perpetuity.

We also acknowledge, with respect, that we are inhabiting the traditional lands of the Nauset and Wôpanâak (Wampanoag) peoples who have always existed here. We value their roles as past, present, and future guardians of this land. We therefore adopt the following Home Rule Charter for this Town.

RATIONALE: To replace the original Preamble and update and re-affirm its intent, adding a civic commitment to protect our Town in perpetuity and respectfully acknowledge and value the peoples who existed here before us.

TOWN COUNSEL COMMENT: The change might be considered not within a Charter Review Committee's role, rather more for an elected Charter Commission, and might be considered too political. He saw no legal reason it could not go forward, but it might encounter some feedback.

DRAFT ARTICLE C

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

6-4-1 A Conservation Commission of seven members and three associate members shall be appointed by the Select Board for three-year overlapping terms. ~~Regarding associate members, the Chairperson, at the Chairperson's discretion, may designate any such associate member to sit and vote, in case of absence; inability to act; or in the event of a vacancy on the Commission until said vacancy is filled.~~ 5/3/21

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

RATIONALE: Consolidates the role of Associate Members in one section, deletes the second redundant sentence in the two multi-member bodies that refer to that language, inserts the clarifying phrase "and vote" and adds a phrase to conform with the Conflict-of-Interest Law.

TOWN COUNSEL OK as written but wanted to confirm Associate Members voting in Home Rule Charters as well as Special Acts.

DRAFT ARTICLE D

2-7-6 The Select Board shall, by recorded vote, indicate its recommendations on all articles. In the event of a split vote, the Board shall supply its reasons, pro and con, in the Warrant, **by flier distributed on the floor of Town Meeting, or** during discussion of the article at Town Meeting.

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

RATIONALE: *Insert language to add the option of a flier to be distributed at Town Meeting to inform voters of votes taken after the Warrant has been printed and matches language of 8-3-3 for consistency.*

DRAFT ARTICLE E

DELETE Section 3-5-3, and re-number Section 3-5-4 to 3-5-3.

~~3-5-3 Any contract or formal agreement establishing such cooperation which requires an appropriation of Town funds in excess of \$500,000 or entails a commitment by the Town in excess of five years, shall require the approval of Town Meeting.~~

~~**3-5-3 DELETED (Intermunicipal Agreement)**~~

RATIONALE: *The Select Board and the Town Administrator have recommended removing these restrictions and avoid the Town regularly losing out on time – sensitive agreements and grant opportunities because of its inflexibility. In addition, there are other constraints in place, and the Town would still need to go to Town Meeting for any appropriations. 3-5-4 would replace the deleted 3-5-3. (CRC to vote on amended Rationale)*

DRAFT ARTICLE F

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

RATIONALE: *The deleted language is no longer relevant.*

RATIONALE: **Mr. Ford suggested “The deleted phrase was transition language used when the Charter was first adopted and is no longer relevant.”**

DRAFT ARTICLE G

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

RATIONALE: *Article 1 in the Consent Calendar provides the opportunity for any multi-member body to bring a report forward at Town Meeting. Changing “shall” to “may” releases the necessity for the Planning Board to do so unless it wishes to; and the use of the Consent Calendar improves the efficiency of Town Meeting.*

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DRAFT ARTICLE H

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

RATIONALE: To compensate for the increased workload of the Board of Water and Sewer Commissioners, this article would increase the number of Select Board appointees from three to five plus its two associate members.

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

RATIONALE: This article removes the old "effective" and "termination" dates that are no longer relevant and updates the section's language.

6-8-2 The Select Board shall appoint ~~three~~ **five** members and two associate members of the Board of Water and Sewer Commissioners for three-year overlapping terms. The Board of Health and the Planning Board shall each appoint one member of the Board of Water and Sewer Commissioners for three-year overlapping terms, **bringing the total number to seven (7) members and two associate members.**

Mr Ford recommended that for clarity, the last phrase should be added.

RATIONALE: The increase in the number of Commissioners appointed by the Board is updated to make it consistent with 3-9-1.

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

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Wastewater Management Plan and oversight of that system when operational. The Select Board shall establish sewer rates **and fees** and shall consult with and receive recommendations from the Board of Water and Sewer Commissioners with respect to sewer rates **and fees**.

RATIONALE: With the advent of a new sewer system, the Board will need flexibility as the system rolls out; and fees would be a useful tool. In order to structure the way the new Town wastewater system will be funded it is recommended that the words "and fees" be added to provide for the use of ~~betterments and~~ other proposals.

RATIONALE: Mr Kelly explained, and Mr Ford agreed, that betterments was not an accurate phrase to use in this context, suggesting "to provide for the use of fee proposals" instead.

DRAFT ARTICLE I is now part of DRAFT ARTICLE H – but kept letters to match NOTES for Feb. 1st discussion.

DRAFT ARTICLE J

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

RATIONALE: To provide for a more efficient Town Meeting process, it is recommended that each speaker be concise and limit remarks to two minutes. This proposed change came from Town Meeting participants who stated that a shortened amount of time is adequate to make one's point.

DRAFT ARTICLE K

2-1-3 Quorum The quorum necessary ~~to begin to~~ for the conduct of Town Meeting business shall be ~~two hundred (200)~~ **one-hundred (100)** of the current registered voters of the Town. **Once the Moderator has declared a quorum is present and called the Town Meeting to order, the quorum necessary to continue Town Meeting business becomes zero.**

RATIONALE: To provide for an on-time start to Town Meeting, a quorum of 100 is recommended. Once the Moderator has declared a quorum of 100 present and called the Town Meeting to order, the quorum becomes zero, and all articles are considered and acted upon without the possibility of questioning the quorum.

Mr Ford recommended the second sentence of 2-1-3 as shown in blue and the second sentence of the Rationale as shown in blue as well.

DRAFT ARTICLE L

7-1-1 To promote a maximum level of active, interested and diverse citizen and voter representation and participation in Town affairs, Town officials shall make every effort to encourage citizen interaction and information on current Town issues through the regular use of **the Town website**, public service announcements and appropriate local media.

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Provided, however, that nothing stated herein shall relieve the Town from the meeting notification requirements of state law.

7-1-2 The Select Board shall annually, in the month of July, call a public meeting in a public place. **The purpose of the meeting shall be to provide non-resident taxpayers, voters and other interested persons an opportunity to discuss problems, policies, and progress.** The meeting shall be advertised in at least two issues of a newspaper of local circulation. **on the Town website and as provided in 7-1-1.**

MOVE 7-1-3 to be second sentence in 7-1-2. ~~The purpose of the meeting shall be to provide non-resident taxpayers, voters and other interested persons an opportunity to discuss problems, policies, and progress. (No change in language)~~

RE-NUMBER 7-1-4 to 7-1-3: The Select Board, the Town Administrator and Chairpersons of multi-member bodies shall be available to make appropriate presentations and to answer questions.

7-2-1 Prior to making appointments to multi-member bodies, the Select Board shall advertise all vacancies and impending appointments. **on the Town website and in at least three public places.** Said advertising shall enumerate the vacancies that are to be filled and include a description of the duties and shall solicit the names of persons willing and able to serve. The advertisement shall also state the location, time and date of the meeting, to be held no sooner than seven days after the publication of the advertisement, at which the Board anticipates that the appointments will be made.

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

8-6-1 The Select Board shall publish **on the Town website,** in one or more newspapers of general circulation in Town, **and in at least three public places** the general summary of the proposed Capital Improvements Plan (CIP) and Capital Budget and a notice stating: (a) the times and places where copies of the complete CIP and Capital Budget are available for inspection; and (b) the date, time and place, not less than seven days following such publication, where the Select Board and the Finance Committee will conduct a public hearing on said plan to be chaired by the Finance Committee. The joint hearing shall be held no later than March 1 of each year in order to allow the Select Board and the Finance Committee to include their respective positions on the CIP and the Capital Budget to be printed in the Warrant for the Town Meeting.

The language in blue in each article where it occurs above was recommended by Mr Ford.

RATIONALE: *Each of these sections add the Town website to the ways in which the Town can communicate with citizens to be a resource for information, give notice of important issues, and announce when vacancies are available in multi-member bodies. Two sections have been consolidated, and 7-1-4 has become 7-1-3.*

DRAFT ARTICLE M – NEW SECTION

3-2-4 The Select Board shall issue a Code of Conduct policy for all Town Officers, Town Employees, Members of Multi-Member Bodies, and citizens as defined by law and/or regulation relating to the practices, procedures and behavior for conducting Town business. It shall include, but not be limited to the use of electronic mail or communication, internet, social media and use of Town property and facilities. The policy shall be reviewed annually by the Select Board at the beginning of each fiscal year, published on the Town website and presented to multi-member bodies in accordance with Section 6-1-4 of this Charter.”

***RATIONALE:** A Code of Conduct has become a best practice in many municipalities and elsewhere, and webinars are regularly presented through the Massachusetts Municipal Association to consider the ways a Code can give direction on interactions between the Select Board, multi-member bodies, residents, town staff, and its professional Administrator or Manager.*

Mr Ford recommended tabling this Article until the Fall to discuss further. He noted that the town employees were under contract, which would be of concern, and he did not feel that a Charter should include citizens in such a section.

DRAFT ARTICLE N

3-3-4 The Board, acting through the Fire Chief, shall develop and annually update the Town’s Emergency Plan and ~~publish~~ **publicize** appropriate emergency response guidance to its citizens on the Town website and by any other means.

~~The Board shall establish and appoint the Town’s Emergency Planning and Preparedness Team to be chaired by the Fire Chief. It shall also consist of the Police Chief, Town Administrator, Health Agent, Department of Public Works and Natural Resources Director, and Water and Sewer Superintendent. This section provides for the necessary organization and power to enable the timely and effective use of all the available Town, State or Federal resources to prepare for, respond to and recover from any emergency or disaster that may be declared by the Select Board, State or Federal authorities. It is intended to grant as broad power as permitted by law or regulation to address any type of emergency or disaster. The Team shall provide the Select Board with a Comprehensive Emergency and Disaster Plan within one year of the date of appointment of its members and it shall be reviewed biennially or sooner, if necessary, and publicized on the Town website and by any other means. The appointments shall occur within 30 days from the date of adoption of this section.~~

***RATIONALE:** In view of the recent pandemic, it was recommended that this section increase transparency by providing more information on how the developing and updating of the Town’s Emergency Plan is organized. By using the word “publicized on the Town website and by any other means” it becomes consistent with other the communication sections recommended for the Town to community and its citizens.*

Mr Ford said that the language was too prescriptive for a Charter. We discussed it a little with Mr Kelly as well and concluded that this should be tabled until the Fall as well. Suggestions included keeping 3-3-4 as is but identifying the Fire Chief as the person in charge and putting some words in to publicize it on the website. His draft language is inserted in current 3-3-4 above.

ARTICLE O

Chapter 4 Change TITLE from Town Administrator to Town Manager.

In the Warrant, this would mirror the change from Board of Selectmen to Select Board and would read: “... By striking out the words “Town Administrator” wherever they appear, and inserting in place thereof, in each instance, the words “Town Manager.” Or to take any other action relative thereto.”

RATIONALE: *The Orleans Home Rule Charter states that the Select Board appoints a full time professional to manage Town affairs on a day-to-day basis. The title of that person varies throughout the Commonwealth of Massachusetts. Regardless of the title, the important issue is that the Town have a centralized government structure with clear lines of authority because they enable better oversight and accountability. In pursuit of this, many progressive communities have refashioned and retitled this position as “Town Manager,” doing so through a charter amendment.*

ARTICLE P

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

Mr Ford and Mr Kelly felt that reducing the number of months to fill the vacancy could potentially not give the Select Board enough time to choose the best candidate and perhaps added too much pressure.

RATIONALE: *Since the Town Administrator/Town Manager is such an integral part of the day-to-day operations necessary for the Town government to function properly, it is recommended that this vital position be filled within the shorter time frame of 4 months.*