

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

ARTICLE __. AMEND HOME RULE CHARTER: FORM OF GOVERNMENT, PURPOSE, AND EFFECTIVE DATE

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

§ 2. Form of Government, Purpose, and Effective Date

1-2-3 The purpose of this Charter is: to secure citizen control of local affairs; to establish and maintain efficient and financially sound government; and to ensure that elected and appointed officials are accountable to the electorate.

§ 7. Purpose

~~1-7-1 The purpose of this Charter is: to secure citizen control of local affairs; to establish and maintain efficient and financially sound government; and to ensure that elected and appointed officials are accountable to the electorate.~~

1-3-4 Except as specifically provided in this Charter, all ~~committees, commissions, councils, boards,~~ **multi-member bodies**, departments, **and** offices and other agencies of the Town in existence on January 1, 1988 shall continue to perform their duties until not reappointed, reelected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

1-3-5 Any person serving in the employment of the Town shall retain such position and shall continue to perform his or her duties until provisions shall have been made in accordance with this Charter for the performance of the said duties by another person or agency **department**, provided, however, that no person in the permanent, full-time service or employment of the Town shall forfeit his or her pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical so to do and shall be eligible for appointment to a position at a higher pay grade.

1-3-6 If a power or duty is reassigned as the result of the provisions of this Charter, as amended, the records, property, and equipment necessary to fulfill said power or duty shall likewise be reassigned to the newly responsible office or **agency department**.

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

§ 7: CHARTER OPERATIONS AND MAINTENANCE

§ 1. Charter Amendment

1-7-1 This Charter may be replaced, revised, or amended in accordance with the procedures made available by Articles eighty-nine and one hundred and thirteen of the amendments to the Constitution of the Commonwealth, commonly known as the Home Rule Amendment, and M.G.L. Chap. 43B, commonly known as the Home Rule Procedures Act.

§ 2. Transition Requirements

1-7-2 Revisions or amendments requiring a transition to take effect shall specify the circumstances, duration, and conditions for termination of the transition status.

§ 3. Enforcement

1-7-3 Clause 3-3-3 requires the Select Board to enforce the Charter. Ten or more voters shall have the right to petition the Select Board for enforcement of the Charter or to obtain a formal opinion from Town Counsel regarding any Charter enforcement issue. The forgoing enumeration shall not limit or restrict the exercise of rights of enforcement set forth in the General Laws of the Commonwealth.

§ 8 DEFINITIONS

1-8-1 Certain words and phrases contained in this Charter are defined in M.G.L. Chapter 4, Section 7. Other words and phrases used herein, but not defined in that statute, shall have the following specific meanings:

(a) Charter. The word "Charter" shall mean this Charter and any amendments to it made through any of the methods provided under Articles eighty-nine and one hundred and thirteen of the amendments to the Constitution of the Commonwealth.

(b) Town. The word "Town" shall mean the Town of Orleans.

(c) Appropriate local media. The phrase "appropriate local media" shall mean the Town's website, public access television, any additional posters, signs, and electronic or other available media. Provided, however, that nothing stated herein shall relieve the Town from the meeting notification requirements of state law.

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

(d) Majority Vote. The words "majority vote" shall mean a majority of those present and voting provided that a quorum of the body is present.

(e) Voters. The word "voters" shall mean registered voters of the Town of Orleans.

(f) Multi-member body. The words "multi-member body" shall mean any board, commission, or committee, of the Town consisting of two or more persons, whether appointed or elected.

(g) Certification. The word "certification" shall mean that person has been declared elected and sworn to the faithful performance of duty by the Town Clerk.

(h) News Outlet. The phrase “news outlet” shall mean any entity which regularly provides, produces, and/or publishes notices, information, and stories about the Town of Orleans, by way of newspapers/e-newspapers, the Town website, and/or the Orleans Government Access Cable Television Channel;

And further to delete the existing Chapter 10 in its entirety;

Or take any other action relative thereto. (Select Board)
(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

The amendment would move sections about the Charter’s purpose; how the Charter guides Town government; Charter Operations and Maintenance; and Definitions from Chapter 10 to Chapter 1. Moving the Charter purpose up to Section 2 and including all of Chapter 10 and an additional definition for “news outlet” will provide readers with a clearer understanding of the subsequent chapters. Chapter 10 will be deleted.

BOS:	0 – YES	0 – NO	0 – ABSTAIN
FC:	0 – YES	0 – NO	0 – ABSTAIN

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

ARTICLE __. AMEND HOME RULE CHARTER: SPECIFIC PROVISIONS TO PREVAIL

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

§ 5. Specific Provisions to Prevail

1-5-2 The Charter shall govern whenever there exists a conflict between Charter provisions and the provisions of Town by-laws, rules and/or regulations. All Town by-laws, rules and/or regulations not superseded by this Charter shall remain in force.

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

This amendment would make it clear that, should there be conflict between specific Charter provisions and Town by-laws, rules and/or regulations, the Charter prevails.

BOS:	0 – YES	0 – NO	0 – ABSTAIN
FC:	0 – YES	0 – NO	0 – ABSTAIN

ARTICLE __. AMEND HOME RULE CHARTER: CODE OF CONDUCT

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

3-2-4 The Select Board shall issue a Code of Conduct policy for all Town Officers, 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.

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.

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

It is important that Town Business is conducted for the benefit of its citizens and allows for all to participate and share ideas in a manner of cooperation and civility. This amendment would ensure that the Select Board, in its policy role, would provide a Code of Conduct to which all Town officers, multi-member bodies, and citizen will be expected to adhere.

BOS:	0 – YES	0 – NO	0 – ABSTAIN
FC:	0 – YES	0 – NO	0 – ABSTAIN

ARTICLE __. AMEND HOME RULE CHARTER: EMERGENCY PLAN

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

3-3-4 In coordination with the Fire Chief, ~~the~~ Board shall develop and ~~annually~~ at least biennially update the Town’s Comprehensive Emergency Preparedness Plan and publish appropriate emergency response guidance to its citizens on the Town website and by any other means.

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

This amendment is intended to ensure that Orleans has a comprehensive Town Emergency Preparedness Plan that identifies the Orleans Fire Chief, who, with the Select Board, organizes the participation of all significant municipal, regional, State, and Federal support needed to direct a response to emergencies or disasters. It would ensure that the Plan would be updated every other year, and information widely published so that all citizens will know what to do in case of an emergency.

BOS:	0 – YES	0 – NO	0 – ABSTAIN
FC:	0 – YES	0 – NO	0 – ABSTAIN

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

ARTICLE __. AMEND HOME RULE CHARTER: CHAPTER 4

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

§ 1 Appointment

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

§ 2. Qualifications

4-2-1 The Town Manager shall be appointed on the basis of educational, executive, and administrative qualifications and experience. The educational qualifications shall consist of at least a bachelor's degree, preferably in public administration, granted by an accredited degree-granting college or university. The professional experience shall include at least five years of prior full-time compensated executive service in public or business administration. Alternatively, at least ~~two~~ **three** years of prior full-time compensated executive service in public or business administration, and a master's degree in an appropriate discipline shall qualify an applicant.

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

This amendment is intended to make the qualifications for Town Manager more rigorous by increasing the alternative requirement for a Town Manager with a master's degree from two years of executive service to three years. Also, when advertising for a new Town Manager, the use of "news outlets" will provide additional ways to publicize the search beyond newspapers.

BOS:	0 – YES	0 – NO	0 – ABSTAIN
FC:	0 – YES	0 – NO	0 – ABSTAIN

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

ARTICLE __. AMEND HOME RULE CHARTER: RESPONSIBILITY FOR APPOINTMENTS

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

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

4-4-1 ~~Subject to the approval of the Select Board, t~~ The Town Manager shall appoint and, on the basis of merit and fitness alone, and except as otherwise is provided by general law, Charter, or personnel By-laws, may suspend or remove: a Town Clerk; ~~who need not be a Town resident;~~ a **Director of Municipal Finance/Town Accountant;** a Town **Treasurer/Tax Collector/Treasurer;** a full-time professional Assessor who shall not be a member of the Board of Assessors; **a Director of Planning and Community Development; a Conservation Agent who shall not be a member of the Conservation Commission;** and a Director of Public Works and Natural Resources. The Town Manager may also appoint other positions, subject to the availability of funds. **All such appointments and removals may be reversed by an affirmative vote of at least four members of the Select Board taken within 14 days.**

4-4-3 **There shall be a Department of Municipal Finance under the direct control and supervision of the Town Manager. The Town Manager shall appoint a Director of Municipal Finance/Accountant who shall be the Chief Financial Officer of the Town and be responsible for the supervision and coordination of the Treasurer/Tax Collector and Assessor.**

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

This amendment would insert two existing positions omitted from the current version of the Charter. In addition, due to a Special Act passed by the state legislature the requirement for the Town Clerk is no longer needed. The amendment would also codify

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

that the Town would have a Department of Municipal Finance under the control and supervision of the Town Manager. Any appointments, suspensions, or removals concerning any of these positions could be reversed within fourteen days if voted by at least four members of the Select Board.

BOS: 0 – YES 0 – NO 0 – ABSTAIN
FC: 0 – YES 0 – NO 0 – ABSTAIN

ARTICLE __. AMEND HOME RULE CHARTER: MODERATOR MAY DESIGNATE

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

5-3-1 A Moderator shall be elected for a three-year term. The Moderator shall: (a) preside at all Town Meetings; (b) appoint the members of the Finance Committee; (c) appoint all ad hoc committees of the Town Meeting as provided in clause 2-8-2; (d) preside at any hearing called to discuss the suspension or removal of the Town Manager **or designate a professional neutral hearing officer to perform this duty;** (e) appoint two representatives to the Cape Cod Regional Technical High School Committee: and (f) advertise impending appointments as provided in clause 7-2-2; or take any other action relative thereto.

4-9-4 The Moderator shall preside at any such hearing **or designate a professional neutral hearing officer. The rules of evidence shall not apply to the removal hearing process and/or proceedings.**

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

The current Charter states that the Moderator shall preside at any hearing called to discuss the suspension or removal of the Town Manager. This amendment will give the Moderator the option to designate a professional neutral hearing officer to perform this duty.

BOS: 0 – YES 0 – NO 0 – ABSTAIN
FC: 0 – YES 0 – NO 0 – ABSTAIN

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

ARTICLE __. AMEND HOME RULE CHARTER: TITLE CHANGE AND SWEARING IN OF ELECTED OFFICIALS

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

CHAPTER 5 TITLE CHANGE: Elected Town Boards **Multi-Member Bodies** and Officers

5-1-4 Any person duly elected to any office or multi-member body shall take up the duties of said office immediately provided that each person first shall have been sworn to the faithful performance of said duties by the Town Clerk.

~~§ 7 — Time of Taking Office~~

~~7-7-1 Any person duly elected to any office or multi-member body shall take up the duties of said office immediately following said certification.~~

Current § 8 Recall of Elective Officers in Chapter 7 shall be renumbered to **§ 7 Recall of Elective Officers**, and current 7-8-1 through 7-8-8 shall become **7-7-1, 7-7-2, 7-7-3, 7-7-4, 7-7-5, 7-7-6, 7-7-8** with **NO CHANGE OF LANGUAGE**.

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

The amendment would re-name the Title of Chapter 5 to use the term “Multi-Member Bodies” as used elsewhere in the Charter and move the language of how those elected are sworn in by the Town Clerk from Chapter 7 into the General Provisions for elected officials.

BOS:	0 – YES	0 – NO	0 – ABSTAIN
FC:	0 – YES	0 – NO	0 – ABSTAIN

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

ARTICLE __. AMEND HOME RULE CHARTER: COOPERATION

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

9-1-4 The Planning Board shall cooperate closely with the Conservation Commission, the Board of Health, ~~and the Board of Water and Sewer Commissioners,~~ **and any other multi-member bodies that the Planning Board’s decisions may impact.**

6-6-2 **The Planning Board shall cooperate closely with the Conservation Commission, the Board of Health, the Board of Water and Sewer Commissioners,** ~~and any other multi-member bodies that the Planning Board’s decisions may impact.~~

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

This amendment would place the same language from the Planning chapter into Chapter 6 for appointed multi-member bodies and broaden the opportunities for cooperation to include any other multi-member bodies that the Planning Board’s decisions might impact. This will encourage efficiency in Town initiatives through coordination and collaboration among all multi-member bodies.

BOS: 0 – YES 0 – NO 0 – ABSTAIN
FC: 0 – YES 0 – NO 0 – ABSTAIN

ARTICLE __. AMEND HOME RULE CHARTER: FINANCE COMMITTEE

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

8-1-1 **It is the responsibility of the Finance Committee to independently examine and analyze the Town’s financial affairs, including proposed budgets, the Capital Improvements Plan and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.**

~~8-1-6 It is the responsibility of the Finance Committee to independently examine and analyze the Town’s financial affairs, including proposed budgets, the Capital~~

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

~~Improvements Plan and all other proposals which would have a financial impact; and to inform the citizens of the Town of its findings and recommendations.~~

8-1-2 The Finance Committee, appointed by the Town Moderator, shall consist of nine members and two associate members appointed for three-year overlapping terms, arranged so that the terms of at least three members shall expire at the end of the 15th day of the fiscal year, provided that no more than one associate member's term expires in any given year.

8-1-3 Any person duly appointed to the Finance Committee shall take up the duties of the office ~~upon the first day of the fiscal year,~~ on the 16th day of the fiscal year, provided that such said person shall have been sworn to the faithful performance of said person's duties by the Town Clerk.

Current 8-1-3 shall be **renumbered to 8-1-4** "Vacancies..." No change of language
Current 8-1-4 shall be **renumbered to 8-1-5** "Any person..." No change of language
Current 8-1-5 shall be **renumbered to 8-1-6** "No member..." No change of language

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

This amendment would move the responsibilities of the Finance Committee to the beginning of Chapter 8 with no change of language. Due to the extensive learning curve for new members, it would also add two associate members to the Committee so that associate members will be prepared to serve as substitutes as needed. Finally, since the Finance Committee reviews the final year-end financial records, this will enable existing members to remain until the 15th day of the new fiscal year and new appointees to begin their terms on the 16th day of that fiscal year.

BOS: 0 – YES 0 – NO 0 – ABSTAIN
FC: 0 – YES 0 – NO 0 – ABSTAIN

8.25.22 DRAFT ARTICLES
Special Town Meeting – October 17, 2022

ARTICLE __. AMEND HOME RULE CHARTER: PLANNING

To see if the Town will vote to adopt the following proposed Order of Amendment to the Orleans Home Rule Charter:

Bold underline = new language ~~strikethrough~~ = language removed

9-1-3 The Planning Board may make recommendations to the **Town Manager, the Select Board, and the Town Meeting** on all matters concerning the physical, economic, and environmental development of the Town **as provided in 9-2-5.**

9-2-1 The Planning Board shall be responsible for the development and periodic updating of the Orleans Comprehensive Plan. **A 5-year review shall be undertaken to incorporate current data to ensure that the Plan remains a viable reference and guidance document for the appropriate and orderly development of the Town.**

9-2-3 The Planning Board shall present such proposed updated Plan at a public hearing and may revise it following such hearing. Such portions of the Plan as are considered ready shall be presented to the Town Meeting for adoption. ~~The revisions may be amended on the floor of Town Meeting.~~

Or take any other action relative thereto. (Select Board)

(2/3 Vote Required)

PROPOSED MOTION

I move that this article be accepted and adopted as printed in the warrant.

SUMMARY

This amendment would change the order of the parties mentioned to reflect the actual order in which the recommendations of the Planning Board are received each year. It also would add language to ensure that the Orleans Comprehensive Plan remains a current, viable reference and guidance document for the orderly and appropriate development of the Town. Finally, it will delete the last sentence as not needed since revisions can already be amended on the floor of Town Meeting.

BOS:	0 – YES	0 – NO	0 – ABSTAIN
FC:	0 – YES	0 – NO	0 – ABSTAIN