

Chapter 192

SUBDIVISION RULES AND REGULATIONS

[HISTORY: Adopted by the Planning Board of the Town of Orleans 2-10-1993.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Charter — See Charter Ch. 6, Sec. 6 and Ch. 9, Sec. 2.

Zoning — See Ch. 164.

Board of Appeals rules and practices — See Ch. 183.

ARTICLE I General Provisions

§ 192-1. General provisions.

A. Adoption of regulations; when effective. Under the authority vested in the Planning Board of the Town of Orleans by the Subdivision Control Law of Massachusetts (Massachusetts General Laws, Chapter 41), the Board hereby adopts these amended rules and regulations governing the subdivision of land in the Town of Orleans. Such rules and regulations, as amended, shall be effective until modified or amended by the Board.

B. Purpose. As provided in MGL (Massachusetts General Laws) Ch. 41, under Section 81-M, these regulations are adopted to ensure that the powers of a Planning Board under the Subdivision Control Law shall be exercised with due regard:

- (1) For the provision of access to all of the lots in a subdivision by ways that will be safe and convenient for travel;
- (2) For lessening congestion in such ways and in the adjacent public ways;
- (3) For reducing danger to life and limb in the operation of motor vehicles;
- (4) For securing safety in case of fire, flood, panic and other emergencies;
- (5) For ensuring compliance with the applicable zoning ordinances or by-laws;

1. Editor's Note: This enactment supersedes former Ch. 192, Subdivision Rules and Regulations, as amended through October 1987.

(6) For securing adequate provisions for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision;

(7) For coordinating the ways in a subdivision with each other and with the ways in neighboring subdivisions; and

(8) For consistency with the Official Town Plan.

C. **Applicability.** As provided in MGL Ch. 41, Section 81-O, no person shall make a subdivision of any land in any town in which the Subdivision Control Law is in effect unless a plan of such proposed subdivision has first been submitted to the Planning Board for its approval, showing the lots into which such land is to be divided and the ways already existing or which are to be provided for furnishing access to such lots, and the Planning Board has approved such plan in the manner provided in MGL Ch. 41. Resubdivision of all or part of land covered by an existing plan shall also be governed by these regulations. Under the provisions of the Cape Cod Commission Act (Ch 716 of the Acts of 1989), certain divisions of land are reviewable as Developments of Regional Impact and will be reviewed for compliance with the Regional Policy Plan and the Orleans Comprehensive Plan when adopted.

D. **Amendment.** These regulations or any portion thereof may be amended by the Planning Board on its own motion, following a public hearing.

E. **Waivers of strict compliance with Subdivision Rules and Regulations.** As provided in MGL Ch. 41, Section 81-R, the Planning Board may waive strict compliance with the requirements of these Rules and Regulations when, in the judgment of the Board, such action is in the public interest, and not inconsistent with the Subdivision Control Law. In waiving strict compliance, the Board may require such alternative conditions as will serve substantially the same objective as the standards or rules waived. When waivers of construction or design standards for roads proposed for use for access to or within a subdivision are requested, the Planning Board shall consult with the Highway Manager, Police Chief and Fire Chief regarding the adequacy of access for automobiles and emergency vehicles prior to granting said waiver.

F. **Definitions.** As used in these regulations, the following terms shall have the meaning indicated:

ACCESS ROAD — A way or ways used for access to property proposed to be divided by a Definitive Subdivision Plan, or by an Approval Not Required Plan.

APPROVAL NOT REQUIRED PLAN shall mean:

(1) A plan which shows a division of a tract of land into two (2) or more lots, with each such lot having frontage on: a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or a way shown on a plan previously approved and endorsed in accordance with the subdivision control law, or a way in existence when the subdivision control law became effective, and with each such way having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve

such and the buildings erected thereon. Such frontage shall be of at least such distance as is required by the applicable Orleans Zoning Bylaw at the time of plan submission; or

(2) A plan or other instrument which adds to, takes away from, or changes the size or shape of lots in such a manner as not to leave any lot so affected without the frontage set forth above; or

(3) The division of a tract of land on which two (2) or more buildings were standing when the Subdivision Control Law went into effect in Orleans into separate lots on each of which one of such buildings remains standing.

AREA — As defined under Buildable Upland in § 164-4 of the Orleans Zoning Bylaw, unless otherwise specified.

COLLECTOR STREET — Existing or proposed streets which carry or will carry traffic from minor residential streets to feeder streets.

DEFINITIVE PLAN shall mean a plan of a proposed subdivision or resubdivision of land drawn in a manner suitable for recording at the Barnstable County Registry of Deeds or the Mass Land Court that shows the information and design elements as required by these Subdivision Rules and Regulations § 192-6A(1).

FRONTAGE — As defined under Lot Frontage in § 164-4 of the Orleans Zoning Bylaw.

GROUNDWATER PROTECTION ZONING DISTRICT 2 — As shown on the map entitled “Zoning Map of Orleans, Massachusetts,” amended November 18, 1991, and defined in §§ 164-6 and 164-17 of the Orleans Zoning Bylaw.

PRELIMINARY PLAN — A plan of a proposed subdivision or resubdivision of land that shows the information and design elements as required by these Subdivision Rules and Regulations under § 192-5A(1).

PROPOSED ROAD — A road proposed for construction within the boundaries of property shown on a Definitive Plan to provide frontage and access for lots within said plan.

SUBDIVISION shall mean the division of a tract of land into two or more lots and shall include resubdivision and, when appropriate to the context, shall relate to the process of subdivision or to the land or territory subdivided; provided, however, that a plan which meets the requirements of an Approval Not Required Plan, as defined above, shall not constitute a subdivision.

WETLAND — As defined by MGL, Ch. 131 (Wetlands Protection Act), and the Orleans Wetlands Bylaw (Code of the Town of Orleans, Chapter 160).

ARTICLE II Submission and Approval of Plans

§ 192-2. Submission of plans.

No plan shall be accepted for review until all information necessary for review, as described herein, is fully provided, unless this provision is waived by vote of the Planning Board.

§ 192-3. Plans believed not to require approval.

A. Contents of filing for approval not required plans. Any person who believes a plan does not require approval under the Subdivision Control Law may submit such plan to the Planning Board for their endorsement that such approval is not required by providing the Board with the following:

(1) An original plan on linen or reproducible Mylar and fourteen (14) paper prints of the plan showing:

(a) The area, frontage and dimensions of the lot or lots requiring endorsement as approval not required.

(b) The date of the plan, scale, North point and assessor's map and parcel number.

(c) The name(s) of the record owner and the applicant, and the name, seal and signature of the surveyor.

(d) Zoning classification, the location and area of wetlands and land in the Conservancy District.

(e) A locus plan at a scale of at least 1" = 2,000', containing sufficient information so the land can be readily located, such as streets bounding or near the property.

(f) The name of the way(s) on which the lots front, information as to public or private ownership of the way, and the physical condition of the way including actual width, and surface type and condition.

(g) House numbers for new or existing lots. Numbers for new lots can be obtained from the Planning Department.

(2) A properly executed application for Approval Not Required Endorsement (Form A).²

(3) A filing fee to be collected when the application for endorsement is submitted. See fee schedule attached.³

B. Filing procedure. As provided in MGL Ch. 41, Section 81-T, every person submitting a plan to the Planning Board for determination that approval is not required shall give written notice to the Town Clerk by delivery or by registered mail, that such a plan has been submitted. Such notice shall describe the land to which the plan relates sufficiently for identification, and shall state the date when such plan was submitted and the name and address of the owner of such land.

2. Editor's Note: Form A is on file at the office of the Town Clerk.

3. Editor's Note: See § 192-18.

C. Endorsement of approval not required plans. If the Planning Board determines that the plan does not require approval, it shall, without a public hearing, forthwith endorse on the plan the words "Planning Board approval under Subdivision Control Law not required." If the Board determines that the plan does require approval, it shall, within twenty-one (21) days of the submission of said plan, so inform the applicant and the Town Clerk and return the plan. No plan shall be endorsed as not requiring approval under the Subdivision Control Law and no subdivision plan shall be approved unless each building lot, if any, to be created by such plan has adequate access as intended under the Subdivision Control Law, MGL Ch. 41, Sections 81-K through 81-GG.

D. Determination of adequacy of ways.

(1) The Planning Board will normally consider that existing ways provide adequate access when the layout, design and construction meet the standards of the Orleans Subdivision Rules and Regulations.

(2) The Planning Board will examine, for adequacy of access, ways within, abutting, and without the plan submitted, which are involved in the proposed access to that plan.

§ 192-4. Pre-Preliminary Plans (Sketch Plans).

An applicant may submit a Sketch Plan to review the proposed development of a parcel of land for informal discussion with the Planning Board. This may consist of a sketch and may contain some, but not all, of the information on a Preliminary Plan. This pre-submission review is strictly voluntary, and has no legal status with respect to protection from future changes in the Orleans Zoning Bylaw or the Subdivision Rules and Regulations.

§ 192-5. Preliminary Plans.

A Preliminary Plan must be submitted for any proposed nonresidential subdivision and may be submitted for any proposed residential subdivision. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, and other municipal agencies and owners of abutting property to discuss and resolve any problems of a proposed subdivision before more extensive engineering costs are incurred. Therefore, it is strongly recommended that a Preliminary Plan be filed in every case.

A. Contents of filing for Preliminary Plans. Any person who wishes to submit a Preliminary Plan for approval may do so by providing the Board with the following:

(1) Sixteen copies of the plan showing:

(a) The approximate boundaries, area, frontage and dimensions of the lot or lots, and of any contiguous lots in common ownership whose area or frontage would be altered by the plan and which would not meet current zoning requirements.

(b) The subdivision name, if any, North point, assessor's map and lot numbers, date of the plan, scale, legend and the title "Preliminary Plan."

(c) The name and address of the owner of record, the applicant and the designer, engineer, or surveyor.

(d) The names and addresses of all abutters, as determined from the most recent tax list.

(e) The existing and proposed systems of drainage and utilities.

(f) On lots where additional dwelling(s) could be permitted, the topography of the land, using 2' contours, derived from an actual survey.

(g) Zoning classification, and locations and area of wetlands and land in the Conservancy District, and land in Groundwater Protection District 2.

(h) A locus plan at a scale of at least 1" = 2,000', containing sufficient information so the land can be readily located, such as streets bounding or near the property.

(i) The existing and proposed lines of any easements for utilities, conservation, access or other purposes.

(j) The name and boundaries of way(s) on which the lots front, and the precise legal ownership of these ways.

(k) For the portion of ways used as frontage for the subdivision, the approximate location of the way within the right of way, physical condition of the way including actual width, surface type, depth of surface materials, condition, sight distance, grade and width of right of way. For proposed and existing roads used for access that do not meet the standard for eleven or more homes, an analysis of the total number of homes that could use the road for access is required.

(l) The approximate boundaries and the physical condition proposed for ways that will be constructed to provide access, including actual width, surface type, depth of surface materials, condition, sight distance, grade and width of right of way.

(2) A properly executed application (Form B).⁴

(3) A fee as indicated in fee schedule attached payable when the application for Preliminary Plan approval is submitted.

B. Filing procedure.

(1) As provided in MGL Ch. 41, Section 81-S, in the case of a subdivision showing lots in a Residential Zoning District, any person, before submitting a Definitive Plan for approval, may submit to the Planning Board and the Board of Health a Preliminary Plan, and shall give written notice to the Town Clerk by delivery or by registered mail, that such plan has been submitted.

4. Editor's Note: Form B is on file in the office of the Town Clerk.

(2) In the case of a nonresidential subdivision, any person shall submit to the Planning Board and the Board of Health a Preliminary Plan, and shall give written notice to the Town Clerk by delivery of by registered mail, that such has been submitted.

C. Approval or disapproval of Preliminary Plans. Within forty-five (45) days after the submission of a Preliminary Plan, the Planning Board shall notify, by certified mail, the applicant and Town Clerk either that the plan has been approved, or that the plan has been approved with modifications suggested by the Planning Board or agreed upon by the person submitting the plan, or that the plan has been disapproved. In the case of disapproval, the Planning Board shall state in detail its reasons therefor.

D. Protection from subsequent changes in Subdivision Rules and Regulations. As provided in MGL Ch. 41, Section 81-Q, the Subdivision Rules and Regulations in effect at the time of submission of the Preliminary Plan shall govern the Definitive Plan evolved from a Preliminary Plan, provided the Definitive Plan is duly submitted within seven (7) months from the date of submission of the Preliminary Plan and said Definitive Plan is ultimately approved.

§ 192-6. Definitive Plans.

A Definitive Plan shall conform substantially to any prior, recently approved Preliminary Plan. In conformance with the requirements of the Registry of Deeds and Land Court, a Definitive Plan shall be prepared by a registered land surveyor.

A. Contents of filing for Definitive Plans. Any person who submits a Definitive Plan to the Planning Board for approval shall file with the Board the following:

(1) An original drawing of the Definitive Plan and sixteen (16) full scale prints thereof, including thereon the following information:

(a) The boundaries, area, frontage and dimensions of the lot or lots, and of any contiguous lots in common ownership whose area or frontage would be altered by the plan and which would not meet current zoning requirements. Street numbers can be obtained from the Planning Department and should be shown on the plan.

(b) The subdivision name, if any, North point, assessor's map and lot numbers, date of the plan, scale, legend and the title "Definitive Plan."

(c) The name and address of the owner of record, the applicant and the designer, engineer, or surveyor.

(d) The names and addresses of all abutters, as determined from the most recent tax list, certified by the Board of Assessors.

(e) The existing and proposed systems of drainage and utilities.

(f) If no Preliminary Plan has been submitted, the topography of lots where additional dwellings could be permitted, using 2-foot contours, derived from an actual survey.

(g) Zoning classification, and locations and area of wetlands and land in the Conservancy District for each lot.

(h) A locus plan at a scale of at least one 1" = 2,000', containing sufficient information so the land can be readily located, such as streets bounding or near the property.

(i) The existing and proposed lines of any easements for utilities, access or other purposes. The location, ownership and expiration of any conservation restrictions or easements.

(j) The name and boundaries of way(s) on which the lots front, and the precise legal ownership of these ways.

(k) For all ways involved in access for the proposed subdivision, whether within, abutting or without the subdivision back to public ways, the location of the way within the right of way, physical condition of the way including actual width, surface type, depth of surface materials, condition, sight distance, grade and width of right of way. For proposed and existing roads used for access that do not meet the standard for eleven or more homes, an analysis of the total number of homes that could use the road for access is required.

(l) The boundaries and the physical condition proposed for ways that will be constructed to provide access, including actual width, surface type, depth of surface materials, condition, sight distance, grade and width of right of way.

(m) Lengths and radii of all curves in lot lines and street lines.

(n) Where any waiver of the Subdivision Rules and Regulations is requested, the applicant shall provide a description of all dimensional standards proposed to be waived, and proposed dimensions for the way where a waiver is requested. The applicant shall also state how the waiver is in the public interest and not inconsistent with the Subdivision Control Law, as required by MGL Ch. 41, Section 81-R.

(o) Sufficient data to determine the location, direction, and length of every street and way line, lot line and boundary line and to establish and reproduce these lines on the ground, to be noted in accordance with requirements of the Registry of Deeds or Land Court.

(p) The location of all permanent monuments, properly identified as to whether existing or proposed, and monuments at all points of curvature and changes in direction of street side lines. Said monuments shall be at least five by five (5x5) inches in cross section and thirty-two (32) inches in length. New monuments will contain ferrous reinforcing rods.

(q) Watercourses, marshes, coastal banks, coastal dunes, wetlands, large trees 18" and above in diameter, measured at breast height (DBH), and other significant natural features.

(r) A plan showing the size and location of existing and proposed water mains and their appurtenances and existing and proposed surface drains and their appurtenances. If town water is not available, the shortest distance

in a direct line to the nearest 8" water main shall be shown, measured from the closest point on the property to the water main.

(2) For proposed roads and for areas of panhandle lots proposed for use as access, three copies of profiles drawn as follows:

(a) Profiles shall be drawn with a horizontal scale of one (1) inch to forty (40) feet.

(b) Profiles shall be drawn with a vertical scale of one (1) inch to four (4) feet.

(c) Profiles shall be drawn with existing center-line elevations shown every fifty (50) feet.

(d) Profiles shall be drawn with proposed center-line grades and elevations, with elevations shown every fifty-foot station.

(e) Profiles shall be drawn with rates of gradient shown.

The Planning Board may also require profiles for roads or portions of roads providing access to the subdivision where a waiver of the Subdivision Rules and Regulations is required.

(3) An Environmental Analysis, if required by § 192-6C of these regulations.

(4) A properly executed application (Form C).⁵

(5) A fee as shown in the fee schedule below, payable on submission of the application.

(6) A development schedule for the completion of specific phases of the development may be required by the Planning Board. Failure to meet such schedule will be cause for the Planning Board to rescind its approval and require a new public hearing before resumption of work.

B. Filing procedure. As provided in MGL Ch. 41, Section 81-T, every person submitting a Definitive Plan to the Planning Board for approval shall give written notice to the Town Clerk by delivery or by registered mail, that such plan has been submitted. Such notice shall describe the land to which the plan relates sufficiently for identification, and shall state the date when such plan was submitted and the name and address of the owner of such land. The Planning Board shall circulate copies of the proposed plans to the Board of Health, Conservation Commission, Traffic Study Committee, Building Inspector, Water Department, Police Chief, Fire Chief, Board of Selectmen and Open Space Committee for their review and comment.

C. Environmental Analysis.

(1) Applicability.

5. Editor's Note: Form C is on file in the office of the Town Clerk.

(a) An Environmental Analysis shall, unless waived by the Planning Board, be submitted with any application for approval of a Definitive Plan:

- [1] Containing seven (7) or more acres; or
- [2] Where ten (10) or more dwelling units could potentially be allowed; or
- [3] Where proposed road development could occur within three hundred feet (300') of a wetland;

(b) In other cases, the Board may require all or a portion of such analysis if it deems appropriate, but shall state its reasons therefor.

(2) Contents. Much of the information required can be obtained through the Orleans Planning Department or Conservation Commission. The scope of such analysis shall include the following information relative to impacts and their mitigation:

(a) Effects of proposed development on important wildlife habitats and outstanding botanical features and ways of avoiding or mitigating such impacts. Minimum information to be shown shall include endangered species habitat as identified by the Mass. Natural Heritage Program or another state or federal agency or recognized conservation organization with available information concerning endangered species of plants or wildlife;

(b) Capability of soils to support proposed development, and proposed erosion control efforts, including vegetative cover.

(c) Visual analysis including impact on views from existing public ways and public waters and methods used to give prominence to natural over man-made features in the landscape, or reasons for not doing so. Minimum information to be provided shall include location of any scenic easements, and views shown on maps in Orleans' Open Space, Conservation and Recreation Plan;

(d) For subdivisions where development could occur within three hundred feet (300') of a wetland or containing two (2) or more lots with land within Groundwater Protection District 2, analysis of surface vs. underground drainage system alternatives, examine effects upon the basin water budget and upon the concentration and speed of transport of contaminants;

(e) For subdivisions containing two (2) or more lots with land within Groundwater Protection District 2, an analysis of the impact upon ground and surface water quality and level including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer and other activities within the development.

(f) Relationship to the requirements of MGL C. 131, Sections 40 and 40A, the Wetlands Protection Act.

D. Approval/disapproval and endorsement of Definitive Plans.

(1) Review by the Board of Health as to suitability of the land. The Board of Health shall, within forty-five (45) days after the filing of a Definitive Plan, report to the Planning Board, in writing, its approval or disapproval of said plan. In case of disapproval, it shall make specific findings, the reasons for them and, where possible, make recommendations for adjustments. The Planning Board shall not take action on the Definitive Plan until said report of the Board of Health has been received or forty-five (45) days has elapsed without such report having been received.

(2) Public Hearing. Before approval, modification and approval, or disapproval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Board in each of two (2) successive weeks by advertisement in a newspaper of general circulation in the Town of Orleans, the first notice being not less than fourteen (14) days before such hearing, in accordance with MGL Ch. 41, Section 81-T.

(3) Certificate of Approval and Statement of Conditions. After the hearing required above and after the report of said health board or officer or lapse of forty-five (45) days without such report, the Planning Board shall approve, or, if such plan does not comply with the Subdivision Control Law or the Rules and Regulations of the Planning Board, modify and approve or disapprove such plan. The Planning Board shall file a certificate of its action with the Town Clerk, and send notice of such action by registered mail, postage prepaid, to the applicant at his address stated on the application. Approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Board, but not until the statutory twenty-day appeal period has elapsed, following the filing of the certificate of the action of the Board with the Town Clerk, and said Clerk has notified the Board that no appeal has been filed. Approval of the Definitive Plan does not constitute the laying out or acceptance by the town of streets within a subdivision and shall so state on the Definitive Plan. Notice of such action, or of an agreed extension of the time for such action, must be provided by the Planning Board to the Town Clerk within ninety (90) days following the date of submission of the plan if it follows action on a Preliminary Plan or one hundred thirty-five (135) days following the date of submission in cases where no Preliminary Plan was submitted.

E. Modification, amendment or rescission of Definitive Plans. In accordance with MGL Ch. 41, Section 81-W, the Planning Board, on its motion or on the petition of any interested person, shall have the power to modify, amend or rescind its approval of a plan of a subdivision or to require a change in a plan as a condition of its retaining the status of an approved plan.

F. Performance guarantee. Before endorsement of its approval of a Definitive Plan, the Planning Board shall require that the construction of ways and the installation of municipal services be secured by one of the methods listed below, or a combination of methods which, from time to time, may be varied by the applicant upon approval of the Board:

(1) Bond. By a proper bond, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan, and the Planning Board may require that the applicant specify the time within which such construction shall be completed.

(2) Deposit. By a deposit of money or negotiable securities sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan, and the Planning Board may require that the applicant specify the time within which such construction shall be completed.

(3) Covenant. By a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed; provided, that a mortgagee who acquired title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the covenant that provided that no lot shall be built upon until such ways and services have been provided to serve each lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board. A deed of any part of the subdivision in violation hereof shall be voidable by the grantee prior to the release of the covenant but not later than three years from the date of such deed, as per MGL Ch 41, Section 81-U(3).

(4) Mortgage Agreement. By delivery to the Planning Board of an agreement executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the Planning Board and otherwise due the applicant to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work, and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion.

(5) Release from surety or covenant. Following full or partial completion of the improvements described under Section 192-6 of these regulations, security may be either fully or partially released by the Planning Board as provided in MGL Ch. 41, Section 81-U. Partial release shall be granted only if the released portion provides for traffic circulation and utility installation pending completion of the unreleased portion, in a reasonable manner. Normally, the Planning Board will consult the Highway Manager and Water Superintendent prior to authorizing a lot release.

G. Maintenance Agreement. In the case of subdivisions using existing or proposed sub-standard roads for access, a Maintenance Agreement shall be required prior to endorsement of a Definitive Plan. The Planning Board may require Maintenance Agreements for any subdivision roads. These Maintenance Agreements shall provide for periodic trimming of trees and brush to maintain a 14' x 14' minimum clearance for emergency vehicles, grading, filling potholes or eroded areas, and other work which must be performed on a regular basis to maintain the road surface.

ARTICLE III Design Standards

§ 192-7. General.

The design of proposed roads and lots should be developed so as to protect the natural landscape, control erosion, and encourage an attractive appearance for the subdivision.

§ 192-8. Conformance with zoning.

The size, shape, width, frontage and use of all lots shown on a subdivision plan, and the buildings constructed thereon, shall comply with applicable zoning requirements.

§ 192-9. Protection and enhancement of natural landscape.

Proposed roads and lot configuration shall be designed with the goals of reducing, to the extent reasonably possible, the volume of cut and fill; reducing flood damage; reducing the area over which existing vegetation will be disturbed; reducing the number of mature trees removed; and reducing the extent of waterways altered or relocated.

A. Buffer to wetlands. To provide for the policies of the Orleans Conservation Commission and give notice to individuals who may be prospective purchasers of lots, on Definitive Plans, a line 25 feet from all wetlands shall be shown on any Definitive Plan.

B. Treatment of natural features. Due regard shall be shown for all natural features, such as large trees, watercourse, wetlands, scenic points, historic spots and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.

C. Views. Legal and physical protection of views visible from public ways and waterways should be provided wherever possible.

D. Street design. To provide a more attractive appearance than straight street layouts, curvilinear street patterns will be used wherever feasible.

§ 192-10. Traffic convenience and safety.

The number of driveways exiting onto existing streets should be minimized. Road design should discourage through traffic on residential streets wherever possible.

A. Intersections. Right-of-ways for proposed roads shall be laid out so as to intersect as nearly as possible at right angles. No right-of-way shall intersect any other right-of-way at less than sixty (60) degrees. Property lines at right-of-way intersections shall be cut back to provide for a curb radius on the roadway of not less than twenty (20) feet, except where the angle of the intersection varies more than ten (10) degrees from a right angle, in which case the radii of the curve connecting the acute angle may be less and the opposite radius must be correspondingly greater.

B. Drainage. Before any roadway improvements shall be undertaken, due consideration shall be given to, and adequate provision made for, the disposal of surface or standing water from or in the subdivision. Runoff shall not be permitted to drain onto existing town roads, or on private roads leading to town roads unless suitable drainage is installed in said private roads and the applicant can provide evidence of legal rights to use the drainage systems therein.

C. Dead-end streets. In cases wherever dead-end streets are used, the length of such dead-end street should not exceed six hundred (600) feet, and the dead-end street shall be provided with a turnaround having a property line diameter of at least eighty (80) feet. Length will be measured along the center line where it intersects the access way to the center of the cul-de-sac.

D. Easements for turnarounds on dead-end streets. Any easement obtained for turnaround purposes at the end of a temporary dead-end street shall terminate upon construction of an extension. A twelve-foot easement may be required at the end of a cul-de-sac to provide for continuation of pedestrian traffic and/or utilities to the next street.

E. Reserve strips. Reserve strips prohibiting access to streets or adjoining property shall be permitted, except where, in the opinion of the Board, such strips shall not be in the public interest. Half streets shall be prohibited.

F. Standards of adequacy.

(1) Streets within a subdivision shall be considered to provide adequate access if and only if complying with the standards below. Proposed access to a subdivision will be considered adequate if there is assurance that such access will also be in compliance with the standards below. The basis for the different standards provided is the different volume of traffic that will be produced by the total number of existing dwellings plus the proposed lots in the submitted plan. In the tradition of the town's many unpaved roads with their rustic quality that adds to the town's character, a rural road alternative for roads that serve no more than four dwellings is available.

(2) Although unpaved roads may be accepted as access under these regulations, this does not indicate that they will be considered for acceptance as town roads, which will normally be required to meet the standard of construction required for eleven or more homes.

Total Number of Dwellings Existing & Proposed	Right-of-Way Width	Surface Type	Radius Curve*	Surface Width	Sight Distance	Maximum Grade
1 – 4	33'	Hardening or gravel with hardening base	160'	14'	100'	8%
5 – 10	40'	Bituminous	220'	18'***	150'	8%

		concrete				
More than 10	40'	Bitum- inous concrete	290'	20'***	200'	6%

*Measured at center line of pavement
 **Measurement does not include berms

G. Obligations. The Board may require, as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate land for the purpose of widening access ways leading to the subdivision to provide adequate access and that the developer provide physical improvements of such ways in order to meet the standards specified herein.

§ 192-11. Water quality.

To protect the quality of drinking water by ensuring a uniform standard of water quality, and reduce the opportunities for contamination posed by private wells, town water must be extended to subdivisions where it is deemed available.

A. Extension of town water to subdivisions. Town water shall be deemed available if any portion of a subdivision falls within seven hundred fifty (750) feet of an existing water main. This availability will require the installation of water mains and appurtenances, in accordance with the current specifications and requirements of the Orleans Water Department, to service the subdivision.

B. Protection of public water quality.

(1) For all Definitive Plans subdividing land in whole or in part in Groundwater Protection Zoning District 2, there shall be a note placed on the plan indicating a limitation of the number of bedrooms to one for each 10,000 square feet of land in Groundwater Protection Zoning District 2.

(2) For properties located in Groundwater Protection Zoning District 2 or Groundwater Protection Zoning District 3, the area of land proposed to be left in its natural state shall be shown on the plan.

§ 192-12. Underground utilities.

For any Definitive Plan showing property which could potentially be developed with two or more new dwellings, all electrical, telephone, cable television and other utility lines shall be placed underground.

§ 192-13. Open space, parks and playgrounds.

The Planning Board may require that areas for open space, parks and/or playgrounds be set aside in accordance with the intents of the Official Town Plan for Conservation, Recreation and Open Space Plans, if any, and MGL Ch. 41, Sections 81-Q and 81-U, as amended. Such areas shall be of reasonable size, but generally not less than five percent (5%) depending upon the location and quality of the land

being set aside. No building may be erected or placed on such an area for a period of three (3) years without the approval of the Board.

ARTICLE IV Required Improvements and Construction Standards

§ 192-14. Road construction.

To further guide the Planning Board in its requirements or recommendations relative to construction of ways and streets shown on subdivision plans and before any way or street shall be approved or recommended by the Board as a proposed layout as a town way it shall meet the following requirements:

A. Site preparation. Clearcutting, filling and other site preparation work done in anticipation of subdivision plan approval should not be performed prior to the endorsement of a Definitive Plan. The Planning Board reserves the right to disapprove any such work and to order restoration of the site.

B. Site clearing. The roadway shall be cleared of trees and brush for the width of paved or hardened surface and shoulders, except; suitable trees may be preserved; but they must be at least five (5) feet off the riding surface. Topsoil is to be removed from the area showing hardening in the typical cross section. All unsuitable material, such as peat, boulders and clay, is to be removed and replaced with satisfactory borrow. The placing of roots, stumps, brush or similar materials in roadway fills is not allowed. Particular attention shall be given to those areas, especially in cuts where the nature of the soil may cause frost heaving or stability problems.

C. Erosion control. Fill slopes shall not be steeper than two to one (2:1) and shall be loamed or covered with topsoil and seeded. Cut slopes shall not be steeper than three to one (3:1) and shall be loamed or covered with topsoil and seeded.

D. Subbase. Hardening shall be placed to a depth of at least six (6) inches for the full length of the roadway and the full width as shown in the cross section. The sub-grade shall be suitably rolled and compacted before placing the hardening.

E. Grade. Finished center-line profile grade shall not be less than five-tenths percent (0.5%). The roadway is to be constructed in true cross section, with a crown of one-fourth (1/4) inch of pitch per foot from the center line.

F. Surface material. Where applicable, the surface of paved roads shall be of cement concrete or bituminous concrete. Specifications for cement concrete are to be obtained from the Highway Department. Bituminous concrete shall be placed in two (2) layers as follows: base course of one and one-half (1 1/2) inches, with material and construction methods approved by the Highway Department; wearing course of one (1) inch; for a total of two and one-half (2 1/2) inches of mix.

G. Berms. Berms shall be required on all paved roads, both sides, where the grade is three percent (3%) or greater.

H. Street signs. Street signs shall be installed by the developer, which conform to the requirements of the Highway Department or any other applicable town bylaws. Stop signs will be installed by the developer wherever a proposed

private road or existing private road used for access to the subdivision intersects with a public or town road.

I. **Vegetation.** Every effort will be made to preserve existing trees of over six (6) inches in diameter, breast height (DBH), outside the travel surface of any proposed or existing roads and on proposed building lots. The Planning Board may require such trees to be identified on a plan to improve their chances of preservation and/or require the applicant to provide and plant suitable shade trees as a buffer along existing or proposed roads, or abutting already developed properties. Shrubs or ground cover may be required where stabilization is needed, for instance, on banks along roadways, or as buffer. All unvegetated areas within the road layout but outside the travel surface shall be surfaced with not less than four (4) inches of quality topsoil, seeded and rolled. The Planning Board may require plantings within the center of cul-de-sacs or turnarounds.

J. **Rural road standards.** For subdivisions with the potential for up to four (4) additional dwellings, a paved surface will not be required; however, the base should be improved so as to adequately support the expected volume of traffic and provide adequate drainage, as well as meet the sight distance and grade standards indicated above. As outlined in § 192-6G above, a Maintenance Agreement will also be required for all unpaved roads proposed to serve additional dwellings.

§ 192-15. Drainage installation.

A. **Location of catchbasins.** Catchbasins shall be provided on all paved roads at low points, near the corners of roadway at intersections and at intervals of not over two hundred (200) feet on continuous grades of five percent (5%) or more and not over four hundred (400) feet on continuous grades or less than five percent (5%).

B. **Drainage pipe and outlets.** All pipe used in drainage installations is to be reinforced concrete or asphalt-coated corrugated metal or aluminum-corrugated metal, correctly bedded in a trench to a true line and grade, said trench to be suitably filled and compacted. Minimum size of pipe permitted is ten (10) inches, with increased diameter governed by location in the particular system. Suitable headers, with aprons to prevent scour, are required at the discharge end of pipes. Manholes are to be provided at changes of grade and at feeder entrances to mains.

C. **Drainage treatment for large subdivisions.** For any Definitive Plan showing property which could potentially be developed with ten (10) or more new dwellings, a mechanism to separate and contain hydrocarbon components of road runoff such as a gross particle separator shall be installed with drainage catch basins.

§ 192-16. Installation of water.

The Board of Water Commissioners shall specify and inspect all installations. Water mains and related equipment, except hydrant tap and gate and sleeve, shall be constructed to serve all lots on each street in the subdivision, in conformity with specifications of the Town of Orleans.

A. Extension of water requiring road crossing. All services to lots on the opposite side of the roadway from the proposed main shall have the pipes installed before the hardening is placed if, in the opinion of the Commissioners, the area requires.

B. Prevention of dead-ends. In order to prevent dead ends, twelve- (12) foot wide easements from turnaround to existing or proposed mains are to be provided for future main connections, if applicable.

§ 192-17. Post-development clean up.

Before release of performance guaranteed on a lot, the applicant shall clean up any debris resulting from road construction, installation of utilities, or other site work.

**ARTICLE V
Administration**

§ 192-18. Authority.

A. The Planning Board shall be the administrative agency of these rules and shall have all the powers assigned to it by MGL Ch. 41, Sections 81-K to 81-GG. The Planning Board may assign as its agents appropriate town agencies or officials, and may, from time to time, hire professional assistance to review plans and inspect improvements at the subdivider's expense.

B. Severability. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

§ 192-19. Fee Schedule. [Amended 5-23-2006]

Approval Not Required Plan	\$200.00
Additional Lot Fee	\$100.00
Preliminary Plan	\$200.00
Additional Lot Fee	\$100.00
Definitive Plan	\$500.00
Additional Lot Fee	\$100.00
Definitive Modification	\$200.00
Release of Covenant	\$50.00
Additional Lot Fee	\$50.00

The Orleans Planning Board established the above fee schedule as of 26 March 1985.