

The following is a draft bylaw dated 11/19/24. It was prepared by the East Orleans Main Street Historic District Study Committee (Study Committee). The Study Committee is a Select Board-appointed group of Orleans residents who are charged with studying the possibility of a limited local historic district along Main Street in East Orleans as a means to preserve the character of the streetscape while not being onerous on property owners. The Study Committee does not want to set in stone what is presently built, but allow change to occur in a sympathetic way.

Historic preservation has many benefits like maintaining a sense of community, a connection to the past, and the fostering of a sense of community and pride. It promotes sustainability by utilizing existing structures and the embodied energy within them. It can have economic benefits to property owners as structures within historic districts normally retain their value better than those outside of historic districts, and construction may be less costly because of certain exemptions in the building codes.

The proposed district is one that would have limitations on the scope of what would be reviewed – it is proposed to only review demolitions, additions over 200 square feet, and new construction; and these only when the work would be visible from a public right of way. Multiple types of work are proposed to be specifically exempted, such as solar panel installations, choices of colors and siding, etc. The exemptions are spelled out in Section 9 below.

**The draft bylaw is expected to change based on public comment, and a bylaw that would come to a future Town Meeting for a vote would be altered based upon public input.**

This draft bylaw was prepared to be a part of a Preliminary Study Report per MA General Laws, Chapter 40C: Historic Districts. A complete Preliminary Study Report is required to contain multiple sections including narratives describing the area and its significance, a map, a street index, and a draft bylaw. The full document is presented to the Select Board, and reviewed by the Planning Board and the MA Historical Commission. Public meetings would be held not less than 60 days after the Preliminary Study Report is issued, and the Final Study Report include revisions based upon input received. The revised bylaw would be voted on at Town Meeting.

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The Town of Orleans hereby establishes the East Orleans Main Street Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

## **1. PURPOSE**

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places along Main Street in East Orleans that are significant in the history of the Town of Orleans, the improvement of their settings, and the encouragement of new building designs compatible with the existing architecture.

## **2. DEFINITIONS**

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

**Addition.** Construction that increases the above-ground gross footprint of a building or structure by more than 200 square feet. For the purposes of this bylaw, the gross footprint area shall be the sum of all horizontal areas measured from the exterior face of exterior walls and shall include all area which is covered, such as a covered porch or portico, but shall not include decks or patios.

**Alteration, to Alter.** The act or the fact of reconstruction, restoration, removal, replacement, or other similar activities that do not constitute an Addition or Demolition.

**Building.** A combination of materials forming a shelter for persons, animals or property. For purposes of this Bylaw, when the term “Building” is used, it refers to both Buildings and other Structures such as outbuildings and garages.

**Certificate.** A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.

**Commission.** The Orleans Historic District Commission as established in this Bylaw.

**Demolition.** The act of pulling down, destroying, razing or removing a Building, in whole or in part, that results in a reduction of square footage or volume of a Building.

**District.** The East Orleans Main Street Local Historic District as established in this Bylaw.

**Exterior Architectural Feature.** Such portion of the exterior of a Building or Structure as is open to view from a public way or ways, that are character-defining features of an architectural style or form, including but not limited to the kind and texture of exterior siding and trim materials, the type, style and general arrangement of doors and windows (including muntin patterns), chimneys, and ornamental trim, including window and door surrounds, cornerboards and roof cornice trim, and roofing.

**New Construction, Construct new Building.** The act or fact of building, erecting, installing, enlarging, moving and other similar activities.

**Person Aggrieved.** The applicant; an owner of adjoining property; an owner of property within the same District area; an owner of property within 100 feet of said District area; and any charitable corporation in which one of its purposes is the preservation of historic places, Buildings, Structures or Districts.

**Public Way.** This term shall include public ways, public streets, public parks and public bodies of water. The term shall not include a foot path, cart path or any easement right of way that does not constitute a public way or public street.

**Temporary Building or Structure.** A Building or Structure not to be in existence for a period of more than two years. The Commission may further limit the time periods set forth herein as it deems appropriate.

### **3. DISTRICT**

The District shall be the area shown on the map entitled East Orleans Main Street Local Historic District, dated 11-12-24, attached as Appendix 1.

### **4. COMMISSION**

**4.1 Number of Commissioners, Terms of Appointments.** The District shall be overseen by a Commission consisting of five members, to be appointed by the Select Board, two members initially to be appointed for one year, two for two years, and one for three years, and each successive appointment to be made for three years.

**4.2 Appointment Process.** The Commission shall be formed of residents of the town of Orleans, to include, if possible one member from two nominees solicited from the Orleans Historical Society: The Centers for Culture and History; one member from two nominees solicited from the chapter of the American Institute of Architects covering Orleans; one member from two nominees of the Board of Realtors covering Orleans; and one or more property owners from within the District. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Select Board may proceed to make appointments as it desires.

**4.3 Alternate Commission Members.** The Select Board may appoint two alternate members to the Commission. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three-year terms thereafter.

**4.4 Term Expiration.** Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

**4.5 Meeting Schedule.** Meetings of the Commission shall be held at the call of the Chairman, at the request of two members and in such other manner as the Commission shall determine in its Rules and Regulations.

**4.6 Quorum.** Three members of the Commission shall constitute a quorum.

**4.7 Background Recommendations.** It is recommended, but not required, that Commission members selected by the nominating entities, including the Select Board, have educational and/or professional experience in one or more of the following fields: historic preservation, architecture, land use planning, architectural history, history, law, building construction, or engineering.

## **5. COMMISSION POWERS AND DUTIES**

**5.1 Powers of Commission.** The Commission shall exercise its powers in administering and regulating the Additions, Construction, or Demolition to any Building or Structure within the District as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the Commission shall pay due regard to the distinctive characteristics of each Building, Structure and the District as a whole.

**5.2 Rules and Regulations.** The Commission may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for Certificates, fees, hearing procedures and other matters. The Commission shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

**5.3 Guidelines.** The Commission, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, may adopt and from time to time amend guidelines which set forth design recommendations for Additions and New Construction of a Building to provide further clarity as necessary to those provided in Section 8. No such design guidelines shall limit the right of an applicant for a Certificate to present other designs to the Commission for approval. The Commission may also provide advisory guidelines for Alterations of Exterior Architectural Features.

**5.4 Annual Meeting.** The Commission shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.

**5.5 Records.** The Commission shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

**5.6 Public Education.** The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of a District.

## **6. ADDITIONS, DEMOLITION AND NEW CONSTRUCTION PROHIBITED WITHOUT A CERTIFICATE**

**6.1 Certificates.** Except as this Bylaw provides, no Addition to a Building or Structure, New Construction, or Demolition of a Building or Structure or part thereof, within the District and visible from a Public Way shall be permitted unless the Commission shall first have issued a Certificate with respect thereto.

**6.2 Building Permits.** No building permit for Construction of a Building or Structure or for Alteration of an Exterior Architectural Feature within the District and no demolition permit for Demolition of a Building or Structure within the District shall be issued by the Town or any department thereof until a Certificate as required under this Bylaw has been issued by the Commission.

## **7. PROCEDURES FOR REVIEW OF APPLICATIONS**

**7.1 Applications.** Any person who desires to obtain a Certificate from the Commission shall file with the Commission an application for a Certificate of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

**7.2 Determination of Jurisdiction.** The Commission shall determine within fourteen (14) days of the filing of an application for a Certificate whether said application involves any Addition, Demolition, or Construction which is within the jurisdiction of the Commission.

**7.3 Certificates of Non-Applicability.** If the Commission determines that an application for a Certificate involves an Alteration to an Exterior Architectural Feature, the Commission shall forthwith issue a Certificate of Non-Applicability.

**7.4 Hearings.** If the Commission determines that an application involves an Addition, Construction, or Demolition of a Building or Structure subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The Commission shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Orleans. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all abutting properties and of other properties deemed by the Commission to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in

December, and to such other persons as the Commission shall deem entitled to notice. The concurring vote of a majority of the members of the Commission shall be required to issue a Certificate.

**7.5 Issuance of Certificate of Appropriateness or Disapproval.** Within sixty (60) days after the filing of an application for a Certificate of Appropriateness, or within such further time as the applicant may allow in writing, the Commission shall issue a Certificate of Appropriateness or a Disapproval.

In the case of Certificate of Appropriateness, the Commission may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this Bylaw.

In the case of a Disapproval of an application for a Certificate of Appropriateness, the Commission shall set forth in its Disapproval the reasons for such disapproval. The Commission may include in its Disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the Commission in a subsequent application, would make the application acceptable to the Commission.

**7.6 Majority Vote.** The concurring vote of a majority of the members shall be required to issue a Certificate.

**7.7 Certificate of Hardship.** If the Construction, Addition or Demolition for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the Building or Structure involved, but not affecting the District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the Commission shall issue a Certificate of Hardship.

**7.8 Certificate Recipients.** The Commission shall send a copy of its Certificates of Appropriateness, Disapprovals, and Certificates of Hardship to the applicant, the owner of record if different from the applicant, and the office of the Town Clerk and the Building Commissioner. The date of issuance of a Certificate or disapproval shall be the date of the filing of a copy of such Certificate or disapproval with the office of the Town Clerk.

**7.9 Failure to Act.** If the Commission should fail to issue a Certificate or a disapproval within sixty (60) days of the filing of the application for a Certificate, or within such further time as the applicant may allow in writing, the Commission shall thereupon issue a Certificate of Hardship Due to Failure to Act.

**7.10 Signatures and Filing.** Each Certificate issued by the Commission shall be dated and signed by its chairman or such other person designated by the Commission to sign such Certificates on its behalf.

**7.11 Appeals.** Any person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the town clerk, ask for an appeal to the Superior Court as provided in chapter 40C, Section 12A. Notice of an appeal must also be filed with the Office of the Town Clerk within twenty (20) days of the determination.

## **8. CRITERIA FOR DETERMINATIONS**

**8.1 Review Standards.** In deliberating on applications for Certificates, the Commission shall consider, among other things, the historic and architectural value and significance of the site, Building or Structure; the general design, proportions, detailing, mass, arrangement, texture, and material of the Exterior Architectural Features involved; and the relation of such Exterior Architectural Features to similar features of Buildings and Structures in the surrounding area.

**8.2 Additions or New Construction.** In the case of new Construction or Additions to existing Buildings or Structures, the Commission shall consider the appropriateness of scale, shape and proportions of a Building or Structure both in relation to the land area upon which the Building or Structure is situated and in relation to Buildings and Structures in the vicinity. The Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.

### **8.3 Demolition.**

The Commission will issue a Certificate for approval of a Demolition only if the Building or Structure (or portion thereof) to be demolished has no historic or architectural merit, and has no historic relationship to the surrounding streetscape and District as a whole, as determined by the Commission. If an application for a demolition permit is based upon structural instability or deterioration, the applicant will be required to provide a technical report prepared by a structural engineer registered in Massachusetts detailing the nature and extent of the problems and a reasonably adequate estimate of the cost to correct them.

The Commission may request that the Orleans Historical Commission be allowed to access the property to document the building prior to demolition.

Nothing in this bylaw shall restrict the Building Inspector from immediately ordering demolition of unsafe Buildings in accordance with the provision of M.G.L. Ch. 143.

**8.4 Interiors and Use.** The Commission shall not consider interior arrangements or architectural features not subject to public view from a public way. The Commission shall not consider uses for Buildings or Structures.

## **9. EXCLUSIONS**

**9.1 Ordinary Maintenance and Repair.** Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any Exterior Architectural Feature within a District which does not involve a change in design, material or to the outward appearance thereof, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any Construction or Alteration under a permit duly issued prior to the effective date of this Bylaw.

### **9.2 Exemptions.**

Notwithstanding the preceding, the following projects, including installation, replacement or removal, are excluded from review unless they are performed in combination with other reviewable work.

(1) Alterations to Exterior Architectural Features.

2) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the commission may reasonably specify.

- (3) Terraces, walks, driveways, sidewalks and similar structures, or any one or more of them, provided that any such structure is substantially at grade level.
- (4) Walls and fences located between Buildings and Main Street that are over 4 feet tall at any point.
- (5) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae and similar appurtenances.
- (6) The color of paint.
- (7) The color of materials used on roofs.
- (8) Signs.
- (9) Solar energy systems
- (10) The reconstruction, substantially similar in exterior design, of a Building, Structure or Exterior Architectural Feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.
- (11) Properties subject to the jurisdiction of the Orleans Architectural Review Committee, unless the application is for Demolition of a Building.

**9.3** Upon request the Commission shall issue a Certificate of Non-Applicability with respect to Construction or Alteration in any category not subject to review by the Commission in accordance with the above provisions.

## **10. CATEGORICAL APPROVAL**

The Commission may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Orleans, that certain categories of Exterior Architectural Features, Buildings or Structures under certain conditions may be Constructed or Altered without review by the Commission without causing substantial derogation from the intent and purpose of this Bylaw.

## **11. ENFORCEMENT AND PENALTIES**

**11.1** The Commission shall determine whether a particular activity is in violation of this Bylaw or not, and the Commission shall be charged with the enforcement of this Bylaw.

**11.2** The Commission, upon a written complaint of any resident of Orleans, or owner of property within Orleans, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the Town of Orleans to prevent, correct, restrain or abate violation of this Bylaw. In the case where the Commission is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the Commission declines to act, the Commission shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty-one (21) days of receipt of such request.

**11.3** Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of up to \$300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

**11.4** The Commission may designate the Building Commissioner of the Town of Orleans to act on its behalf and to enforce this Bylaw under the direction of the Commission.

## **12. VALIDITY AND SEPARABILITY**

The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

## **13. APPENDIX**

### **Appendix 1: East Orleans Main Street District Map**

The East Orleans Main Street District shall be a District area under this Bylaw. The location and boundaries of the District are defined and shown on the Local Historic District Map of the Town of Orleans, which is a part of this Bylaw. The delineation of the District area boundaries is based on the parcel boundaries then in existence and shown therein.

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# Proposed East Orleans Main Street Historic District

