

**TOWN OF ORANGE ZONING BY-LAW
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SECTION I: PURPOSE

The purpose of this by-law is to promote the general welfare of the Town of Orange, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land within the town, to increase the amenities of the town, to minimize confusion and congestion, and to conserve the value of property within the town, all as authorized by the provisions of the Zoning Act, Chapter 40A of the General Laws, as amended, and by Article 89 of the Amendments of the Constitution.

SECTION II: USE AND DIMENSIONAL REGULATIONS

2100 DISTRICTS

2110 Establishment. For the purposes of this by-law, the Town of Orange is hereby divided into the following districts:

Village Residential/ Commercial	A(c)
Village Residential	A(r)
Residential/ Commercial	B
Residential	C
Rural Residential	D
Commercial Area Redevelopment District	CARD

The Boundaries of District A(c), Village Residential/ Commercial, are as follows: “Starting at the existing border of Zones A and D on the northerly side of West Main Street, thence proceeding northerly along the district border to a point 500’ northerly of the centerline of West Main Street thence continuing easterly at a distance of 500’ north of the centerlines of West and East Main Streets to the eastern Town line. Thence following the existing Zone A line southerly to the centerline of the Miller’s River, thence westerly along the existing Zone A line to a point 500’ east of Prentiss Street, thence northerly to the centerline of East River Street and thence westerly along centerline of East River Street to the centerline of Hayden Street thence southerly along the centerline Hayden Street to the centerline of Church Street, thence westerly to South Main Street and continuing through South Main Street to the centerline of Cheney Street, and thence northerly along the centerline of Cheney Street, and thence to the centerline of West River Street, and thence westerly along the centerline of West River Street to a point 400’ west of the centerline of Roche Avenue, thence northerly parallel to the centerline of Roche Avenue to the centerline of the Miller’s River, and continuing westerly by the centerline of the River to the

District D boundary and then northerly thereby to the point of beginning.”

All other areas previously in District A are now Village Residential, District A(r).

Note: All references in this By-law to Zone A or Districts A shall pertain to both District A(c) and A(r) unless otherwise specified.

An additional “overlay” district if hereby created, a “Water Resource District” for the purposes of Section 4400.

The Boundaries of these districts are defined and bounded on the map entitled “Official Zoning Map, Orange, Massachusetts”, dated October 16, 2008, and the Zone II APA for PWS#3” maps dated March 1994, prepared by Horsley and Witten, Inc. indicating the Zones I, II, and for public well #3, and the conceptual Zone I and II delineation for Wells 1 & 2, dated July 1994, and as may be subsequently amended by Town Meeting vote, these maps are on file with the Town Clerk. These maps and all explanatory matter therein are hereby made part of this By-law.

2120 Boundary Definition. Except when labeled to the contrary, boundary or dimension lines shown approximately following of terminating at street railroad, or utility easement center or layout lines, boundary or lot lines, water body shoreline, or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or radial to such lines shall be construed to be actually parallel, perpendicular, or radial thereto. When not located in any way, boundaries shall be determined by scale from the map.

2130 Existing Lots. Where a district boundary line divides any lot existing at the time is adopted, the use regulations for any district in which the lot has frontage on a street may be extended not more than thirty feet into the other district, and dimensional regulations may be extended not more than two hundred feet.

2200 USE REGULATIONS

2210 General. No structure shall be erected or used or land used except as set forth in Section 2230, “Use Regulations Schedule” or in Section

2400, “Accessory Buildings and Uses”, unless exempted by Section 2240, or by statute. Symbols employed shall mean the following:

- Y A permitted use
- N An excluded or prohibited use
- SP A use authorized under Special Permits as provided for in Section 5300
- PS A use allowed provided that the Performance Standards in Section 4600 are complied with
- Spr Site Plan Review and Approval by the Planning Board is required (See Section 5400 for other uses which may be subject to Site Plan Review)

2220 Applicability. When the activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

2230 Use Regulation Schedule

Principal Uses [for Accessory Uses, see Section 2400]						
DISTRICT	A(r)	A(c)	B	C	D	CARD *
2231 Residential Uses						
One & Two Family Dwellings	Y	Y	Y	Y	Y	SP
Multi Family Dwellings over 2 units, attached or detached, on a single lot	SP	SP	SP	SP	SP	Y
Accessory Apartment	Y	Y	Y	Y	Y	Y
Non-family Accommodations (boarding house, etc.)	Y	Y	SP	Y	SP	Y
Mobile Home	N	N	N	N	N	N
Mobile Home Park	N	N	N	N	N	N
Storage Trailers	SP	SP	SP	SP	SP	SP
Open Space Development meeting the requirements of Sections 5400 & 5700.	Spr	Spr	Spr	Spr	Spr	Spr
*All Priority Development Sites are located in the CARD District						

DISTRICT	A(r)	A(c)	B	C	D	CARD *
Bed and Breakfast, up to 6 bedrooms for lodging purposes	Y	Y	SP	Y	Y	Y
Conversion of Historic Commercial or Industrial Structures for Residential Use	Spr	Spr	SP	SP	SP	Spr
2232 Extensive Uses						
Agriculture or Forestry	Y	Y	Y	Y	Y	Y
Campground, Extensive Outdoor Recreation	N	N	SP	SP	SP	N
Commercial Earth Removal (See Section 4100)	SP	SP	SP	SP	SP	N
2233 Community Service Uses						
Public Utility	SP	SP	Y	SP	SP	SP
School (educational use exempted from Zoning regulations by M.G.L. CH. 40A, Section 3)	Y	Y	Y	Y	Y	Y
Other Educational Use	SP	SP	SP	SP	SP	SP
Church, Other Religious Use	Y	Y	Y	Y	Y	Y
Other Non-Commercial Community Service Uses	SP	SP	SP	SP	SP	SP
2234 Business Uses						
Dog Kennels	N	N	N	SP	SP	N
Motel	N	SP	Y	N	N	SP
Inn or Hotel	SP	Y	Y	SP	SP	Y
Inn or Hotel with Conference or Banquet Facilities	SP	Spr	Spr	SP	SP	Spr
Drive-thru Food Service	N	SP	Y	N	N	N
Restaurants or Other prepared food serving facilities	SP	Y	Y	SP	SP	Y
Take-out Restaurants	SP	SP	Y	SP	SP	Y
Junkyard, Salvage	N	N	SP	N	N	N
Farm Stand	Y	Y	Y	Y	Y	Y
Retail or Commercial Office Space with 2,000 square feet or less of enclosed floor area which can meet the Parking and Disturbances Requirements of Sections 3100 and 3330	Y	Y	Y	SP	SP	Y

DISTRICT	A(r)	A(c)	B	C	D	CARD *
Retail or Commercial Office Space with 2,000 square feet or less of enclosed floor area which does not meet the Parking and Disturbances Requirements of Sections 3100 and 3330	SP	SP	SP	SP	SP	SP
Retail or Commercial Office Space with greater than 2,000 sq. ft. but less than 5,000 sq. ft. of enclosed floor area which can meet the Performance Standards of Section 4600	PS	PS	PS	SP	SP	PS
Retail or Commercial Office Space with greater than 2,000 sq. ft. but less than 5,000 sq. ft. of enclosed floor area which cannot meet the Performance Standards of Section 4600	SP	SP	SP	N	N	Spr
Shopping Centers, Malls, Retail Establishments and Commercial Office Space with over 5,000 sq. ft. of enclosed floor area	N	SP	SP	N	N	SP
Retail Uses (e.g. Pharmacies) or Banks of any size having a Drive-thru Facility	SP	SP	SP	N	N	SP
Bank	SP	Y	Y	N	SP	Y
Manufacturing, Bulk Storage or Warehousing with 5,000 sq. ft. of enclosed floor area or less and complying with the Performance Standards of Section 4600	SP	PS	Y ¹	N	SP	PS
Manufacturing, Bulk Storage or Warehousing with more than 5,000 sq. ft. up to 10,000 sq. ft. of enclosed floor area or less and complying with the Performance Standards of Section 4600	N	PS	Y ¹	N	N	PS

¹ No Performance Standards (Section 4600) review or submission is required in the B District for this use.

DISTRICT	A(r)	A(c)	B	C	D	CARD *
Manufacturing, Bulk Storage or Warehousing with 10,000 sq. ft. of enclosed floor area or less which cannot meet the Performance Standards of Section 4600	N	SP	Y	N	N	SP
Manufacturing, Bulk Storage or Warehousing with greater than 10,000 sq. ft. of enclosed floor area	N	SP	SP	N	N	SP
Transportation Terminal	N	SP	Y	SP	SP	SP
Incineration Plants	N	N	N	N	N	N
Sales, Service or Rentals of Motor Vehicles, Gasoline and Other Fuels, Farm Equipment, Motorboat Equipment or Parts thereof	N	SP	SP	SP	SP	SP
Barber or Beauty Shop, Shoe Repair Shop	Y	Y	Y	SP	SP	Y
Drive-In Theaters, Cart Tracks, Mini-Golf, Driving Ranges, Similar Commercial Outdoor Recreation	N	SP	SP	SP	SP	N
Home Occupations (see Section 2411)	Y	Y	Y	Y	Y	Y
Theater, Bowling Alley, Dance Hall, Nightclub, Arcade or other indoor Entertainment	N	SP	SP	SP	SP	SP
Golf Courses, Shooting or Skeet Ranges, Archery Ranges, Similar Outdoor Recreation	N	SP	SP	SP	SP	N
Personal Wireless Service Facility	SP	SP	SP	SP	SP	SP
2235 Other Principal Uses						
Other principal uses have externally observable attributes similar to a use permitted (Y or SP) above.	SP	SP	SP	SP	SP	SP

***All Priority Development Sites are located in the CARD District**

2236 Mobile Home. No Mobile Home shall be granted a building permit unless the Building Inspector determines that all applicable regulations of the Orange Board of Health, pursuant to M.G.L. Ch. 111 and Ch. 140, have been complied with by the applicant, as evidenced by written approval of the Board of Health, or its agent(s).

2237 Mobile Offices are allowed in all districts where office uses are allowed for a period not to exceed 12 months, or with an extension and written approval of building inspector in conjunction with a valid building permit.

2240 Nonconforming Uses. Any use or structure not conforming with this By-law may be continued if the use or structure was lawfully existing at the time it became nonconforming, subject to the following:

2241 Alteration, Extension or Change. As provided in Section 6 of M.G.L. Ch. 40A, a nonconforming single or two-family dwelling may be altered, extended, or reconstructed provided that the Inspector of Buildings determines that doing so does not increase the non-conforming nature of said structure. Other pre-existing nonconforming structures or uses may be extended, altered, reconstructed or changed in use on Special Permit from the Planning Board if the Planning Board finds that such extension, alteration, reconstruction or change will not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

2242 Abandonment. A nonconforming use which has been abandoned, discontinued for a period of two years (five years for agriculture, horticulture, or floriculture), or changed to a conforming use, shall not be re-established and any future use of the premises shall conform with this By-law.

2243 Restoration. A legally nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if reconstruction is begun within twelve months and completed within twenty four months from the date of catastrophe.

2244 Premises. Premises may be changed from one category of nonconforming use to another only on Special Permit from the Planning Board, and only when such uses are deemed no more damaging or inharmonious with the environs than the use being replaced, as per Special Permit Criteria, Section 5330.

2310 Multiple Principal Uses. Not more than one single-family dwelling shall be erected on a lot, unless in compliance with Section 2330 below. Not more than one other principal building shall be erected on a lot unless such building is served by access and utilities determined by the Building Inspector to be functionally equivalent to those otherwise required for separate lots. Two or more principal buildings on a single

lot, if listed as uses on separated rows in Section 2230, must each meet the minimum lot area requirements of the section without counting any area twice.

2320 Flag Lots. Flag lots must meet the following conditions:

2321 In District B, C, and D, flag lots must be at least double the required lot area for the respective district regardless of wastewater disposal method. The access strip shall not be counted in the determination of lot area for the Flag lot. In Districts A(r) and A(c), flag lots must be at least the required minimum lot area for the District and the access strip shall not be counted in the determination of the minimum lot area for the Flag lot.

2322 The front lot must meet all dimensional requirements for its respective district as listed in Section 2330. The required frontage shall not include the access strip in its measurement.

2323 The access strip shall meet the following required dimensions: A maximum length of 1000 feet, a minimum length of 150 feet; a maximum width of 75 feet; a minimum width of 40 feet in all districts.

2324 The width of the Flag lot as measured through the principal building (erected or to be erected) where the lot is the narrowest must equal or exceed the required frontage for the respective district.

2325 The Flag lot shall be used for a single family home and accessory buildings as allowed in the respective district. No building shall be allowed to be plotted or to be erected, in the access strip.

2326 The back line of a lot having the required frontage of Section 2330 herein shall be considered as the front lot line of the Flag lot.

2327 There shall be no more than one Flag lot divided from a lot having frontage as required by Section 2330.

2328 Plans submitted to the Planning Board under this section shall included the statement: "Lot ___ is a lot created under the Flag Lot By-Law of the Zoning By-Laws."

2330 Dimensional Schedule

DISTRICT	A(r)/A(c)	B	C	D	CARD *
Max. Lot Coverage	70%	35%	25%	25%	100%
Max. Number of Stories	4	3	3	3	5
Min. Lot Area (sq. ft.)					
with sewer	10,000	21,780	43,560	87,120	5,000
without sewer	21,780	43,560	43,560	87,120	N/A
Min. Lot Frontage (ft.)	50	100	100	200	50
Min. Front Yard (ft.)	20	20	35	35	0
Min. Side Yard (ft.)	10	10	15	20	0
Min. Side Yard (ft.) for Multi-Family >4 per lot:	20	20	30	40	0
Min. Rear Yard (ft.)	15	15	25	35	0
DISTRICT	A(r)/A(c)	B	C	D	CARD *
Additional Lot Area Required for each Detached Dwelling Unit					
with sewer	10,000	20,000	20,000	40,000	5,000
without sewer	20,000	40,000	40,000	80,000	N/A
Additional Lot Area Required for each Attached Dwelling Unit over 2:					
with sewer	10,000	20,000	20,000	40,000	5,000
without sewer	20,000	40,000	40,000	80,000	N/A

N/A – Not Applicable, sewer available in all areas of the CARD District

***All Priority Development Sites are in the CARD District**

2340 Sight Obstruction. At corners, no sign (except signs erected by a public agency), fence, wall, hedge, or other obstruction shall be allowed to block vision between 2 ½ and 8 feet above the street grade within an area formed by the intersecting street lines and a straight line joining the points of said street line 20 feet back from their point of intersection.

2350 SPECIAL PERMIT FOR LOT COVERAGE INCREASE. In Zone B an additional thirty-five percent (35%) lot coverage beyond the maximum thirty-five (35%) may be granted providing that the following criteria are met.

2351 Building Criteria

- A. The roofs of all structures shall be pitched in a manner so as to allow rapid runoff of precipitation and limit the amount of water lost to evaporation.
- B. All structures shall be designed in a manner sufficient to prevent all hazardous materials as defined in Section 4431 herein from being spilled or released into the outside environment, whether through the storage or operations occurring inside the structure and/or any loading, unloading or transportation operations in and around the structure or site.

2352 Permeable Area Criteria

- A. An area of permeable gravel, pea stone or other like material acceptable to the Board shall be placed adjacent to all structures. This permeable surface must extend from the building and must also extend at least six feet (6') from the drip-line of all roofs. The permeable area shall not be less than 15% of the footprint of the structure.
- B. No parking, storage, or snow stacking or any other use that may inhibit or pollute groundwater recharge may occur at any time on the permeable area, as identified in item "A" above. All access points to structures such as but not limited to walks and loading areas and other paved areas such as but not limited to parking and driveways shall direct runoff away from the permeable area.
- C. Vegetation disturbance and or removal on any portion of the site shall be limited as much as possible.

2353 Parking, Loading, and Outside Storage Area Criteria for Lot Coverage Increase.

- A. The area of lot covered by driveways, roadways, parking areas and walkways shall not exceed twenty-five percent (25%) lot coverage, inclusive of any bonus lot coverage.
- B. All parking, loading, and outside storage areas shall drain into catchment areas or structures. These areas or structures shall be designed so as trap pollutants defined by hazardous materials Section 4431 herein.
- C. The applicant shall provide the Planning Board with a maintenance agreement specifically stipulating the maintenance procedures, schedule, and person or firms responsible for removal of pollutants from the catchment areas or structure.
- D. If in the opinion of the Planning Board monitoring wells are necessary then that shall be installed by the applicant. The

applicant shall assume all costs for installation and maintenance for monitoring the wells. The monitoring wells shall be for the purpose of monitoring the effectiveness of the catchment areas or structures in containing hazardous materials, in addition to monitoring of areas where there is potential for a spill or discharge into the ground of hazardous materials. An Agreement acceptable to the Planning Board for the monitoring of these wells must be provided by the applicant.

- E. Where drainage is directed off site the applicant may also be required to provide monitoring wells at interval acceptable to the Planning Board along the drainage structures and provide that the off-site catchment areas or structures are sufficient to meet the above criteria.

2354 Submittal Requirements for Special Permit for Lot Coverage

The applicant shall provide the following minimum information at the time of application.

1. A completed Special Permit application form with the appropriate fee.
2. A site plan drawn by a Massachusetts Registered Professional engineer indicating the following:
 - a. the boundaries of the property and abutting streets,
 - b. outlines of all buildings,
 - c. layout and location of all areas used for storage of (within structures and outside of structures) hazardous materials,
 - d. location of buffers, landscaping, and existing vegetation which will be retained,
 - e. location of wastewater disposal systems or public sewer facilities,
 - f. location of all public and private water supplies on the property and abutting properties,
 - g. topography at a contour interval not greater than 2 feet showing the effects of drainage and runoff on site and including adjacent properties,
 - h. a typical cross section of the permeable area as required in item A Section 2352 herein,
 - i. construction details of all catchment facilities or structures as required in item B Section 2353,
 - j. all items as required by Section 4470 herein.

2355 Existing Uses Under the Lot Coverage Special Permit. Other pre-existing nonconforming uses of lot coverage may be extended to 70% on a Special Permit from the Planning Board, provided that the area to be increased in lot coverage conforms to the requirements of this Section

2350 and that existing lot coverage poses no detriment to the measures that will be required for the area that will be increased.

2400 ACCESSORY BUILDINGS AND USES

2410 Use Regulation. Any use permitted as a principal use is also allowed as an accessory use, as are others customarily accessory and incidental to permitted principal uses.

2411 Home Occupations. A business or profession may be engaged in as an accessory use of a dwelling by a resident of that dwelling if conforming to the following conditions:

- a. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- b. No more than 50% of the floor area of the residence shall be used for the purpose of the home occupation, nor more than 50% of the combined floor area of the residence and any accessory structures used in the home occupation.
- c. No more than four persons shall be employed on the premises.
- d. Except for a permitted sign there shall be no exterior display, no exterior storage of materials, and no other exterior indication of the occupation or profession or other variation from the residential character of the premises.
- e. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
- f. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
- g. Parking generated shall be accommodated off-street, other than in a required front yard, and shall not occupy more than 35% of lot area.

2412 Animals. Horses and other animals, including pigs, poultry, and other farm animals, used for non-commercial or non-agricultural purposes, may be kept within Districts B, C, or D, provided such animals are stabled at least twenty five feet (25') from all property lines. Keeping of such animals in District A is prohibited.

2413 Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which are activities necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a Special Permit by

the Planning Board provided the Board finds that the proposed accessory use does not substantially derogate from the public good.

Section III: GENERAL REGULATIONS

3100 PARKING AND LOADING REQUIREMENTS

3110 General. Adequate off-street parking must be provided to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Such parking shall be on the same premises as the activity it serves or on a separate parcel, which may be jointly used with other premises for this purpose.

3120 Schedule of Parking Area Requirements. In applying for a building or occupancy permit, the applicant must demonstrate that the following minimums will be met for new demand without counting existing parking. However, these minimums may be reduced on Special Permit from the Planning Board upon their determination that special circumstances render a lesser provision adequate for all parking needs, in accord with the Special Permit Criteria under 5330. Parking area requirements are eliminated in the CARD district.

Dwellings: Two spaces per dwelling unit.

Motels, Hotels, Lodging Houses: One space per guest unit plus one additional space per eight guest units or fraction thereof.

Retail Stores, Offices: In District B, C, and D, one space per 750 sq. ft. of leasable floor area.

Industrial/ Wholesale: Four spaces per five employees on the largest shift.

Places of Assembly: One space per three seats, or one space per 12 square feet of seating area, whichever is greater.

Hospitals: One space per bed.

Nursing Homes: One space per four beds.

Bowling Alleys: Four spaces per lane.

All Others: As determined by the Building Inspector.

3130 Parking Area Design. No off-street parking shall be maintained within 20 feet of a street right-of-way line. Less than a 20 foot setback in Zone A(c) may be allowable **only** on Special Permit from the Planning Board. All required parking areas except those serving single-family residences shall be, at minimum, of oil and stone construction, or paved.

3200 SIGNS

3210 In Districts C and D. The following signs are permitted:

3211 For a residence or permitted accessory use, one sign not over eight (8) square feet in area is allowed.

3212 For permitted buildings, structures, and uses of the premises other than one or two family dwellings and their accessory uses, one sign not over 16 square feet in area is allowed.

3213 Temporary, unlighted signs pertaining to the construction, lease or sale of the premises are allowed provided such signs do not exceed 20 square feet in total area.

3220 In Districts A and B. Signs advertising the name of the firm and the products and services produced or available on the premises are permitted only as follows:

3221 Signs or other advertising devices attached flat against the wall of a building, which do not project above the wall to which they are attached and which do not project more than 24 inches from the building. One such sign shall be allowed for each firm on the premises, but in no case shall such sign exceed 50 square feet area. One additional sign for each firm may be attached to a marquee which is an integral part of the building provided the total area of the sign does not exceed 6 square feet. Each sign shall not exceed 50 square in area. A business could have 50 square feet of signage per side.

3222 One sign or other advertising device of a free-standing nature may be erected for each firm or such signs may be combined into one or more units provided that in all cases, the sign per firm does not exceed 32 square feet in area. All such signs shall be located at least 10 feet from a public right-of-way and no free-standing sign shall exceed 25 feet in height unless a Special Permit has been granted from the Planning Board. In lieu of this free-standing sign, one sign may be placed above a one-story commercial or

industrial building provided the top of the sign is not more than 25 feet above the ground, and the area of the sign does not exceed 32 square feet.

3230 GENERAL SIGN RESTRICTIONS

3231 Signs, announcements, or bulletin boards not exceeding 16 square feet in area are allowed in all zoning districts in connection with public, charitable or religious uses.

3232 No exterior sign or advertising device shall incorporate motion or be lighted by flashing or blinking lights or utilize a change in light intensity.

3233 All illumination of signs or other advertising devices shall be shielded or indirect.

3234 No non-accessory sign or billboard shall be allowed.

3240 Signs Allowed on Special Permit

The Planning Board may grant Special Permits as follows:

3241 For changes in existing signs on nonconforming uses in District C and D, provided such changes are within the limits established for Districts A and B, and not detrimental to the neighborhood.

3242 For a directional or identification sign in any district where such sign will serve the public convenience and not be detrimental to the neighborhood with respect to size, location or design.

3250 Temporary Signs. Temporary signs are allowed only if conforming to the requirements of permanent signs, except for signs relating to sales, rental or construction on the premises, or a political, religious or charitable campaign or event. Such signs shall be allowed in excess of the usual limits, but shall be removed within 30 days of the completion of the activity to which they relate. The penalty for failure to comply with these requirements shall be \$10.00 per sign/per day.

3310 EROSION CONTROL. Site design and materials and construction processes shall be designed to avoid erosion damage, sedimentation or uncontrolled surface runoff.

3311 Grading or construction on, or which result in slopes of 25% or greater on 50% or more of lot area, or on 43,560 sq. feet or more on a single parcel, even if less than half the lot area, shall be allowed only under Special Permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such Special Permits shall be referred to the Conservation Commission for their advisory review.

3312 All slopes exceeding 15% resulting from site grading shall be either covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete, or other suitable materials.

3313 The Inspector of Buildings shall require information of the applicant in addition to that specified in Section 5400, as necessary for him to ensure compliance with these requirements, including, if necessary, elevations at key locations, descriptions of vegetative cover, and the nature of impoundment basins proposed, if any.

3314 Where the resultant site grades shall exceed 15%, the Town Shall require a performance bond or a deposit of money or negotiable securities sufficient in the opinion of the Planning Board to secure compliance with Section 3310-3314 of this By-Law.

If a deposit of money or negotiable securities is provided, an agreement shall be executed by the applicant, a lender, if any, and the Town, and shall provide for the retention by the lender or Town of funds sufficient in the opinion of the Planning Board and otherwise due the applicant to secure compliance with the requirements of Section 3310-3314 of the Orange Zoning By-Law. 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 parties, any funds remaining unused shall be available for completion.

3320 FLOOD PLAINS

STATEMENT OF PURPOSE

The purposes of the Floodplain District are to:

- 1) Ensure public safety through reducing the threats to life and personal injury.
- 2) Eliminate new hazards to emergency response officials;
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- 4) Avoid the loss of utility services, which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- 5) Eliminate costs associated with the response and cleanup of flooding conditions;
- 6) Reduce damage to public and private property resulting from flooding waters.

FLOODPLAIN DISTRICT BOUNDARIES

The Floodplain District is herein established as an overlay district. The District includes all special flood hazards areas designated on the Town of Orange Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated July 5, 1982 as Zone A, AH, AO, A1-30, and the FEMA Flood Boundary & Floodway Map dated 7/5/82, both maps which indicate the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet dated 7/5/82. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

Development within the 100 year flood plain (land subject to a one percent or greater chance of flooding in any given year), shall be allowed only if authorized by a Special Permit from the Planning Board, after finding that the proposed development meets all other applicable requirements, and will constitute no hazard to either site occupants or others. Where base flood plain elevation is not provided on the above map, the applicant shall obtain any existing base flood elevation data, and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the evaluation of flood proofing requirements, as appropriate, of the State Building Code.

SECTION B. BASE FLOOD ELEVATION AND FLOODWAY DATA

1. **Floodway Data.** In Zone A, and A1-30, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. **Base Flood Elevation Data.** Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

ARTICLE III. NOTIFICATION OF WATERCOURSE ALTERATION

- Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:
- Adjacent Communities
- NFIP State Coordinator
Massachusetts Office of Water Resources
251 Causeway Street - Suite 600-700
Boston, MA 02114-2104
- NFIP Program Specialist
FEMA Region I, Rm. 462
J.W. McCormack Post Office & Courthouse
Boston, MA 02109

ARTICLE IV. USE REGULATIONS

SECTION A. REFERENCE TO EXISTING REGULATIONS

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Section of the Massachusetts State Building Code, which addresses floodplain and costal high hazard areas (currently 780 CMR 3107.0 “Flood Resistant Construction”)

- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);
- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
- Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

SECTION B. OTHER USE REGULATIONS

1) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Orange FIRM or Flood Boundary & Floodway Map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

3) There shall be established a “routing procedure” which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Building Inspector, for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

ARTICLE V. PERMITTED USES

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

- 1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
- 2) Forestry and nursery uses.

- 3) Outdoor recreational uses, including fishing, boating, play areas, etc.
- 4) Conservation of water, plants, wildlife.
- 5) Wildlife management areas, foot, bicycle, and/or horse paths.
- 6) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
- 7) Buildings lawfully existing prior to the adoption of these provisions.

ARTICLE VI. DEFINITIONS

AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, or A99.

BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year.

DEVELOPMENT means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISTRICT means floodplain district

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction or facilities for serving the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured

homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding waters surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP regulations 60.3.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means, for floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, **NEW CONSTRUCTION** means structures for which the “start of construction” commenced on or after the effective date of an initial **FIRM** or after December 31, 1974, whichever is later.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

ONE-HUNDRED-YEAR FLOOD - see **BASE FLOOD**.

REGULATORY FLOODWAY - see **FLOODWAY**

SPECIAL FLOOD HAZARD AREA means an area having special flood and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE.

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. **STRUCTURE**, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and

affixed to a permanent site, as well as a manufactured home on foundations. For the latter purpose, the term includes a building or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures, which have incurred “substantial damage”, regardless of the actual repair work performed.

ZONE A means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1-A30 and **ZONE AE (for new and revised maps)** means the 100-year floodplain where the base flood elevation has been determined.

ZONE AH and **ZONE AO** means the 100-year floodplain with flood depths of 1 to 3 feet.

ZONE A99 means areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONES B, C, AND X are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

3330 DISTURBANCES. No use shall be allowed if it will cause vibration, odor or flashing (except for warning devices, temporary construction or maintenance work, parades, recreational or agricultural activities, or other special circumstances) perceptible without instruments more than 400 feet from the boundaries of the originating premises in any zoning district. Sound or noise levels shall not exceed 50 dBA, at the boundary of a property in the A(r), A(c), B or CARD Districts or 40 dBA at the boundary of a

property in the C or D Districts during the hours from 9:00 p.m. to 7 a.m., except for warning devices, temporary construction or maintenance work, parades, recreational or agricultural activities, or other special circumstances. However, the Planning Board may grant a Special Permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties. The noise level criteria shall not apply to those sources of sound lawfully existing prior to the adoption of this by-law or to sources of sound emitted by businesses located in either the Randall Pond Industrial or the Orange Industrial Park.

3331 For contractor's yards, open storage and loading, service yards, and outdoor sales display areas, and storage trailers used in excess of 12 months, must be screened from any abutting residential structure by a wall, fence, or densely planted trees sufficient to restrict view of the area from the residential structure.

3332 Lighting shall not produce illumination beyond the property boundaries and lighting shall be pedestrian in scale with fixtures not exceeding sixteen (16) feet in height. Full cut-off down lighting fixtures should be used unless the Planning Board grants a Special Permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties.

3333 The Planning Board may grant a Special Permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties.

3340 SOLAR ACCESS. The following provisions are incorporated to promote the use of solar designs in the structure of any building.

3341 Restrictions on glare shall not pertain to any solar energy system unless such glare creates a hazard to safe driving on any adjacent streets or creates a direct reflection onto any building.

3342 Whenever possible, new development should be designed so that the maximum number of buildings receive direct sunlight sufficient for the operation of solar energy systems for space, water, or industrial process heating or cooling. Buildings may be

sited with respect to each other and the topography of the site so that unobstructed sunlight reaches the south wall, lot, or rooftop of the greatest number of buildings between the hours of 10:00 a.m. and 3:00 p.m.

SECTION IV: SPECIAL REGULATIONS

4100 EARTH REMOVAL. The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil, or similar materials within any twelve month period shall be allowed only on Special Permit from the Planning Board, unless such removal is incidental to construction of the premises under a current building permit. A Special Permit for earth removal shall be granted only subject to the following:

4110 Plan. The application shall be accompanied by a plan or plans indicating existing topography, base grades below which no excavation shall take place, proposed topography upon completion, and existing and proposed cover vegetation.

4120 Screening and Noise. Excavation areas and processing equipment shall be screened by buffer strips or other means, and noise and dust shall be controlled to meet the requirements of Section 3330.

4130 Restoration. Following removal, all excavation areas shall be restored by grading to provide for drainage and for slopes not to exceed one foot vertical to two feet horizontal, and by covering with four inches of topsoil, and by planting with cover vegetation, which shall have been established prior to release of the bond.

4140 Bond. A performance bond, a deposit of money or negotiable securities shall be provided in an amount sufficient to secure compliance with the requirements detailed in Sections 4100-4140 of this By-Law.

If a deposit of money or negotiable securities is provided, an agreement shall be executed by the applicant, a lender, if any, and the Town, and shall provide for the retention by the lender or Town of funds sufficient in the opinion of the Planning Board and otherwise due the applicant to secure compliance with the requirements of Sections 4100-4140 of the Orange Zoning By-Law. 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 parties, any funds remaining unused shall be available for completion.

4200 PROVISIONS FOR NEW BUILDINGS

4210 A dwelling may be occupied by the owner and family during construction, for a period of up to two years from the issue of a building permit, provided construction is completed within the same two years and that the dwelling conforms to this by-law or amendments thereto.

4220 A temporary dwelling, including mobile homes, may be occupied on the premises by the owner and family during the construction of a permanent residence, for a period of up to twelve (12) months of the date of issue of the building permit, provided the construction starts within twelve (12) months of the date of issue of the building permit and conforms to this by-law or amendments thereto.

4300 HAZARDOUS WASTE DISPOSAL. A facility for the permanent disposal of hazardous waste shall be allowed only after approval by a two-thirds (2/3) vote at an Annual or Special Town Meeting.

4400 WATER RESOURCE DISTRICT

4410 Purpose. The purpose of the Water Resource Districts is to protect the public health by preventing contamination of the ground and surface water resources providing water supply for the Town of Orange.

4420 Establishment of District. The Water Resource Districts are herein established as overlay districts. The First Water Resource District includes land shown as Zones I and II on the map entitled "Zone II APA for PWS #3, dated March 1994 as approved by DEP, prepared by Horsley & Witten, Inc." The Second Water Resource District includes the land shown as Zones I & II on the map entitled "Conceptual Zone II delineation of PWS #1 & 2, as approved by DEP dated July 1994, prepared by Horsley & Witten, Inc."

Where the bounds of the actual Water Resource Districts are in doubt or dispute, the burden of proof shall be upon the owners of the land in question to show where the boundaries should properly be located. At the request of the landowners or Planning Board, the Town may engage a

professional hydrogeologist, surveyor or other qualified expert to determine more accurately the location and extent of the watershed or the recharge area and may charge the owner for all or part of the cost of the investigation. Such determinations may include, but not be limited to, test holes, soil samples and physical data to support the claim being made.

In the delineation and establishment of the aforementioned districts, the transcription onto the Orange Assessors' maps 8, 11 & 15 of United Mapping (April 1996) of the Horsley & Witten Inc., map mentioned as approved by DEP (dated March and July) shall be presumed to be accurate.

4430 Definitions

4431 "Hazardous materials" means any substance or combination of substances which, because of quantity, concentration of physical, chemical, or infectious characteristics, pose a significant present or potential hazard to water supplies or to human health if disposed into or on any land in Orange. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E and CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use. Any substances deemed a hazardous waste under Section 3001 of the Resource Conservation and Recovery Act of 1976, as amended, 40 C.F.R., Part 261, shall also be deemed a hazardous material for the purposes of this section.

4432 "Impervious" means a material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

4433 "Recharge area" means any area through which water from any surface drains onto a well field, and includes any wetlands or body of surface water surrounded or adjacent to any such area. Recharge areas shall include any area designated as Zone I or Zone II.

4440 Use regulations. Within the Water Resource Districts the requirements of the underlying districts continue to apply, except: for properties or portions thereof which are determined in the manner provided for in Section 4420 not to be in the Water Resource Districts, a Special Permit pursuant to Section 5300 shall be required for all uses listed in the Water Resource District Overlay Use Schedule found in

Sections 4441, 4442, and 4443 of the By-Law; and for the properties or portions thereof which are determined in the manner provided for in Section 4420 to be in the Water Resource Districts, the Water Resource District Overlay Use Schedule found in Sections 4441, 4442, and 4443 of this By-law shall apply. Where there is no entry in the Water Resource District Use Schedule, the underlying district use schedule controls.

4441 Principle Uses

Facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.00 as amended, . N
 except for:

- a. very small quantity generators as defined under 310 CMR 30.000; or SP
- b. water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters SP

Sanitary landfill, septage lagoon, wastewater treatment facility for municipal or industrial wastes N

Non-sanitary treatment or disposal work that are subject to 314 CMR 5.00 N
 except the following:

- a. the replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system, and SP
- b. treatment works approved by the DEP designed for the treatment of contaminated groundwater SP

Storage of road salt and other deicing chemicals N

Junk yard, salvage yard N

Truck terminal with more than 10 trucks N

Gasoline Station, car wash not connected to Town sewer lines, Auto repair, or auto body shop N

Landfills and open dumps as defined in 310 CMR 19.006 N

Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the Water Resources Districts N

Special waste and septage landfills as defined at 310 CMR
 19.006 N
 except for:
 waste treatment residuals approved by the Department
 of Environmental Protection SP

Removal of soil, loam, sand or gravel within four feet of the
 historical high groundwater table elevation. N
 except for:
 a. where the substances are redeposited within 45
 days of removal to achieve a grading greater than four
 feet above the historical high water mark; or SP
 b. building foundations, excavations, or utility
 works. SP

4442 Accessory Uses.

Facilities that generate, treat, store, or dispose of hazardous waste
 subject to MGL 21C and 310 CMR 30.000 as amended, N
 except for:
 a. very small quantity generators as defined under
 310 CMR 30.000; or SP
 b. water remediation treatment works approved by DEP
 for the treatment of contaminated ground or surface
 waters SP

Underground storage of hazardous materials, fuel oil,
 gasoline N

Storage of sludge and septage N

Storage of commercial fertilizers, as defined in MGL Chapter 128,
 Section 64, N
 unless such storage is within a structure designated to
 prevent the generation and escape of contaminated runoff or
 leachate SP

Storage of animal manure N
 unless such storage is covered or contained in accordance
 with the specifications of the Natural Resources Conservation
 Service SP

Above ground storage of hazardous material or petroleum
 products N
 except that when stored in a manner which meets the cited

storage criteria of MA Drinking Water Regulations 310 CMR
22.21(2)(b)5 and 22.21(2)(b)7d. SP

4443 Other Uses.

Any use, other than a single family dwelling, with on site disposal
of domestic wastewater to a system with a capacity greater than
1,500 gallons per day SP

Residential dwellings served by on-site sewage disposal systems
with less than one acre in lot size SP

Land uses that result in impervious surfaces covering more than
15% or 2500 square feet of any lot, whichever is greater SP

4450 Special Permit Granting Authority. The Special Permit Granting
Authority (SPGA) shall be the Planning Board. Such Special Permit shall
be granted if the SPGA determines that the intent of this regulation as
well as the specific criteria of Section 4460 are met. In making such
determination, the SPGA shall give consideration to the simplicity,
reliability, and the feasibility of the control measures proposed, the
degree of threat to groundwater quality which would result if control
measures failed. The SPGA shall deny a request for a Special Permit in
writing, giving reasons therefor.

Upon receipt of a Special Permit application, the SPGA shall transmit one
copy each to the Conservation Commission, the Board of Health, the
Water Commissioners, and the Building Inspector for their written
recommendations. Failure to respond within forty-five days shall
indicate approval by said agencies. The copies necessary to fulfill this
requirement shall be furnished by the applicant.

4460 Special Permit Criteria. Special Permits under Section 4450
shall be granted only if the SPGA determines, in conjunction with other
agencies specified above, that groundwater resulting from on-site
wastewater disposal or other operations on-site shall not fall below
federal or state standards of drinking water, or if existing groundwater is
already below these standards, on-site disposal or operations shall result
in no further deterioration.

4470 Submittal. In applying for a Special Permit under this section, the
SPGA may require all or some of the information listed below, at its
discretion, to be submitted as per Section 4450:

- A) A complete list of all chemicals, pesticides, fuels, or other potentially hazardous materials to be used or stored on the premises in quantities greater than associated with normal household use, accompanied with a description of the measures proposed to protect all storage containers from vandalism, corrosion, and leakage, and to provide for the control of spills.
- B) A description of all potentially hazardous wastes to be generated, including the same provisions for containment as set forth in subsection (A) above.
- C) For aboveground storage of hazardous materials or wastes, evidence of qualified professional supervision and design of the installation of such storage facilities and containers.
- D) For disposal on-site of domestic wastewater, other than from a single-family dwelling, to a system with a capacity greater than 1,500 gallons per day, evidence of qualified professional design and supervision of installation of said system, including a narrative assessment of nitrate, bacterial, and hazardous materials impact on downgradient groundwater quality.
- E) For residential dwellings with on-site sewage disposal systems with less than one acre lot size, evidence as set forth in (D) above.

4480 Nonconforming Uses. Legally pre-existing nonconforming uses and structures shall be governed as per Section 2240 in these zoning regulations.

4500 PERSONAL WIRELESS SERVICE FACILITIES

01.0 Purpose and Intent

It is the express purpose of this by-law to minimize the visual and environmental impacts of personal wireless service facilities. The By-law enables the review and approval of personal wireless service facilities by the Town's Planning Board in keeping with the Town's existing by-laws and historic development patterns, including the size and spacing of structures and open spaces. This by-law is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local by-laws designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development.

The regulation of personal wireless service facilities is consistent with the purpose of the planning efforts of the town through its conservation and

preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; protection of the natural resources; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

If a personal wireless service facility is permitted by Special Permit, then the basic assumption is that the personal wireless service facility could go anywhere in the Town, providing certain discretionary and dimensional requirements are met. The Special Permit regulations of the Model By-law are intended to mitigate any negative impacts of these facilities.

02.0 Definitions

02.1 Above Ground Level (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

02.2 Antenna. The surface from which wireless radio signals are sent and received by a personal wireless service facility.

02.3 Camouflaged. A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged."

02.4 Carrier. A company that provides wireless services.

02.5 Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

02.6 Cross-polarized (or dual-polarized) antenna. A low mount that has three panels flush mounted or attached very close to the shaft.

02.7 Elevation. The measurement of height above sea level.

02.8 Environmental Assessment (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

02.9 Equipment Shelter. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

02.10 Fall Zone. The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

02.11 Functionally Equivalent Services. Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

02.12 Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

02.13 Lattice Tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

02.14 Licensed Carrier. A company authorized by the FCC to construct and operate a commercial mobile radio services system.

02.15 Monopole. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

02.16 Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

1. Roof-mounted. Mounted on the roof of a building.
2. Side-mounted. Mounted on the side of a building.
3. Ground-mounted. Mounted on the ground.
4. Structure-mounted. Mounted on a structure other than a building.

02.17 Omnidirectional (whip) antenna. A thin rod that beams and receives a signal in all directions.

02.18 Panel Antenna. A flat surface antenna usually developed in multiples.

02.19 Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

02.20 Personal Wireless Services. The three types of services regulated by this Model By-law.

02.21 Radiofrequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

02.22 Radiofrequency Radiation (RFR). The emissions from personal wireless service facilities.

02.23 Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

02.24 Separation. The distance between one carrier's array of antennas and another carrier's array.

03.0 District Regulations

03.1 Use Regulations A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

03.1.1 A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 03.3.5 below. Such installations shall not require a Special Permit but shall require site plan approval by the town.

03.1.2 A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a Special Permit. Such facilities may locate by Special Permit in all zoning districts within the Town, provided that the proposed use complies with the height and setback requirements of Section 03.3 and all of the Special Permit Regulations set forth in Section 04.0 of this By-law.

03.1.3 A personal wireless service facility that exceeds the height restrictions of Sections 03.3.1 - 03.3.5 may be permitted by Special Permit in a designated Wireless Service Overlay District provided that the proposed facility complies with the height restrictions of Section 03.3.6, and all of the setback and Special Permit Regulations set forth in Sections 03.3 and 04.0 of this By-law.

03.2 Location Applicants seeking approval for personal wireless service facilities shall comply with the following:

03.2.1 If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and

related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.

03.2.2 If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.

03.2.3 The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or Special Permit.

03.3 Dimensional Requirements Personal wireless service facilities shall comply with the following requirements:

03.3.1 Height, General Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

03.3.2 Height, Ground-Mounted Facilities Ground-mounted personal wireless service facilities shall not project higher than ten feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on site.

03.3.3 Height, Side- and Roof-Mounted Facilities Side- and roof-mounted personal wireless service facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is

located. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

03.3.4 Height, Existing Structures New antennas located on any of the following structures existing on the effective date of this by-law shall be exempt from the height restrictions of this by-law provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: Water towers, guyed towers, lattice towers, fire towers and monopoles.

03.3.5 Height, Existing Structures, (Utility) New antennas located on any of the following existing structures shall be exempt from the height restrictions of this by-law provided that there is no more than a twenty foot (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in Historic Districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic view sheds.

03.3.6 Height, Wireless Facility Overlay Districts Where the town establishes Wireless Facility Overlay Districts (as designated on the town zoning map), personal wireless service facilities of up to 150 feet in height may be permitted by Special Permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and Special Permit Regulations set forth in this By-law.

03.3.7 Setbacks All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

03.3.7.1 In order to ensure public safety, the minimum distance from the base of any ground-mounted personal wireless service facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered a "fall zone".

03.3.7.2 In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service

facilities and their equipment shelters shall not increase any non-conformities, except as provided in Section 03.3.8 below.

03.3.8 Flexibility In reviewing a Special Permit application for a personal wireless service facility, the Planning Board (SPGA) may reduce the required fall zone and/or setback distance of the zoning district by as much as 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

04.0 Special Permit Regulations

All personal wireless service facilities shall comply with the Performance Standards set forth in this section.

04.1 Design Standards

04.1.1 Visibility/Camouflage Personal wireless service facilities shall be camouflaged as follows:

04.1.1.1 Camouflage by Existing Buildings or Structures:

a. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

b. Personal wireless service facilities which are side mounted shall blend with the existing building's architecture and, if over 5 square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

04.1.1.2 Camouflage by Vegetation:

If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The SPGA shall

determine the types of trees and plant materials and depth of the needed buffer based on-site conditions.

04.1.1.3 Color:

a. Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

b. To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a light grey or light blue hue which blends with sky and clouds.

04.1.2 Equipment Shelters

Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

a. Equipment shelters shall be located in underground vaults; or

b. Equipment shelters shall be camouflaged behind an effective year-round lands buffer, equal to the height of the proposed building, and/or wooden fence. The SPGA shall determine the style of fencing and/or lands buffer that is compatible with the neighborhood.

04.1.3 Lighting and Signage

a. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot-candle measurements at the property line shall be 0.0 initial foot-candles when measured at grade.

b. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Town's sign regulations.

c. All ground mounted personal wireless service facilities shall be surrounded by a security barrier.

04.1.4 Historic Buildings and Districts

- a. Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- b. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
- c. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

Historical Commissions and Historic District Commissions should be involved in the review of any applications to locate such facilities within an historic district or within an historic structure.

04.1.5 Scenic Landscapes and Vistas

- a. Personal wireless service facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required in the Camouflage section above, all ground-mounted personal wireless service facilities which are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.
- b. Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this by-law will apply.

04.2 Environmental Standards

04.2.1 Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

04.2.2 No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

04.2.3 Stormwater run-off shall be contained on-site.

04.2.4 Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 dB at the property line.

04.2.5 Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

04.3 Safety Standards

04.3.1 Radio frequency Radiation (RFR) Standards

All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radio frequency Radiation (FCC Guidelines). The FCC Guidelines were published on August 1, 1996. The FCC has extended the implementation date of the FCC Guidelines from January 1, 1997 to September 1, 1997. The existing guidelines remain in effect.

05.0 Application Procedures

05.1 Special Permit Granting Authority (SPGA). The Special Permit Granting Authority (SPGA) for personal wireless service facilities shall be the Planning Board.

05.2 Pre-Application Conference

Prior to the submission of an application for a Special Permit under this regulation, the applicant is strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed personal wireless service facility in general terms and to clarify the filing requirements. The SPGA shall meet with an applicant under this regulation within twenty-one (21) days following a written request submitted to the SPGA and the Town Clerk. If the SPGA fails to meet with an applicant who has requested such a meeting within twenty-one (21) days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a Special Permit application under this regulation without need for a pre-application conference.

05.3 Pre-Application Filing Requirements

The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed personal wireless service facility. As

such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.

05.4 Application Filing Requirements

The following shall be included with an application for a Special Permit for all personal wireless service facilities:

05.4.1 General Filing Requirements

- a) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- b) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.
- c) A licensed carrier shall either be an applicant or a co-applicant.
- d) Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photo reproductions of signatures will not be accepted.

05.4.2 Location Filing Requirements

- a) Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- b) Tax map and parcel number of subject property.
- c) Zoning district designation for the subject parcel (Submit copy of Town zoning map with parcel identified)
- d) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- e) A town-wide map showing the other existing personal wireless service facilities in the Town and outside the Town within one mile of its corporate limits.

f) The proposed locations of all existing and future personal wireless service facilities in the Town on a Town-wide map for this carrier.

05.4.3 Siting Filing Requirements

a) A one-inch-equals-40 feet vicinity plan showing the following:

- 1) Property lines for the subject property.
- 2) Property lines of all properties adjacent to the subject property within 300 feet.
- 3) Tree cover on the subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
- 4) Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
- 5) Proposed location of antenna, mount and equipment shelter(s).
- 6) Proposed security barrier, indicating type and extent as well as point of controlled entry.
- 7) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
- 8) Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
- 9) Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
- 10) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- 11) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility.

12) Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below.

b) Sight lines and photographs as described below:

1) Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

2) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.

3) Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

c) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

1) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.

2) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

3) Any and all structures on the subject property.

4) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

5) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

05.4.4 Design Filing Requirements

a) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

b) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

c) Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

d) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.

e) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.

f) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.

g) Within 30 days of the pre-application conference, or within 21 days of filing an application for a Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days prior to the test.

h) If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be

developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

05.4.5 Noise Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

- 1) Existing, or ambient: the measurements of existing noise.
- 2) Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this By-law.

05.4.6 Radio frequency Radiation (RFR) Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility, for the following situations:

- 1) Existing, or ambient: the measurements of existing RFR.
- 2) Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.
- 3) Certification, signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio frequency Radiation Standards sub-section of this By-law.

05.4.7 Federal Environmental Filing Requirements

a) The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

Wilderness areas.

Wildlife preserves.

Endangered species habitat.

Historical site.

Indian religious site.

Flood plain.

Wetlands.

High intensity white lights in residential neighborhoods.

Excessive radio frequency radiation exposure.

b) At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC.

c) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.

05.4.8 The Special Permit Granting Authority may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

06.0 Co-location

06.1 Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a Special Permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- 1) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
- 2) Contact with all the other licensed carriers for commercial mobile radio services operating in the County; and

3) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

06.2 In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

06.3 If the applicant does intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.

06.4 If the SPGA approves co-location for a personal wireless service facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit.

Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

07.0 Modifications

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a Special Permit when the following events apply:

a) The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the personal wireless service facility in one or more of the following ways:

1) Change in the number of facilities permitted on the site;

2) Change in technology used for the personal wireless service facility.

b) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

08.0 Monitoring and Maintenance

08.1 After the personal wireless service facility is operational, the applicant shall submit, within 90 days of beginning operations, and at annual intervals from the date of issuance of the Special Permit, existing measurements of RFR from the personal wireless service facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio frequency Standards section of this By-law.

08.2 After the personal wireless service facility is operational, the applicant shall submit, within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this By-law.

08.3 The applicant and co-applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

09.0 Abandonment or Discontinuation of Use

09.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

09.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- a) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
- b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

c) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

09.3 If a carrier fails to remove a personal wireless service facility in accordance with this section of this By-law, the town shall have the authority to enter the subject property and physically remove the facility. The Planning Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the Town must remove the facility.

10.0 Reserved for Future Use

11.0 Term of Special Permit

A Special Permit issued for any personal wireless service facility over fifty (50) feet in height shall be valid for fifteen (15) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new Special Permit shall be required.

12.0 Exemptions.

The following types of Personal Wireless Facilities are exempt from this by-law:

12.1 Amateur radio towers used in accordance with the terms of any amateur radio license issued by the Federal Communication Commission, provided that (1) the tower is not used or licensed for any commercial purpose.

12.2 Satellite dished and antennas for private radio or television reception which are not required to have a building permit for installation as per the Massachusetts State Building Code (780 CMR Section 3109.0)

12.3 Police, fire, highway department and emergency medical service dispatch facilities operated by a Federal, State or Municipal entity.

No Personal Wireless Service Facility which is proposed to share a tower of other structure with such exempt uses shall be considered exempt from this By-law for any reason.

4600 PERFORMANCE STANDARDS

The Town of Orange is interested in attracting a variety of commercial enterprises to support the economy, employment and tax base of the community. This Performance Standards section provides an alternative to the Special Permit process and should save applicants time and expense. As identified in Section 2230 Use Regulation Schedule, Manufacturing Uses, Bulk Storage, or Warehousing with 10,000 square feet or less of enclosed floor area or Retail or Commercial Office Space Uses with greater than 2,000 square feet but with 5,000 square feet or less of enclosed floor area, may be allowed by right in certain districts provided that they comply with the requirements of this Section 4600. Such uses must meet all the Performance Standards of this section and the Review and Submission requirements unless a waiver is granted by the Planning Board (see Section 4630). The Planning Board will review the information outlined below and will prepare a written finding within 45 days from the date of submission of the application as to whether the applicant is in compliance with the Performance Standards. The Planning Board shall transmit that written finding to the Building Inspector. The following information is required:

4610 Review and Submission Procedures

1. Plan Filing Requirements
The following plans and items shall be submitted to the Planning Board with an application form and three (3) copies of the drawings. Plans shall be prepared by a registered architect, landscape architect or professional engineer licensed in Massachusetts.
 - (a) A locus map at a scale of 1"=1,000' inset within the plans noted below to identify the location of the proposed development.
 - (b) A plan view at a scale not to exceed 1"= 100' showing the location and dimensions of all existing and proposed buildings, parking areas and access roads on the site subject to this application. Clearly show the relationship between proposed and existing structures and adjacent lots within a radius of five hundred (500) feet.
 - (c) A plan view at a scale not to exceed 1"= 40' showing the location and dimensions of all existing and proposed buildings, access points, parking areas, bicycle racks, roads, sidewalks, open spaces and

utilities, including underground utility lines, water, sewer, electric power, telephone, gas, outdoor illumination and cable television.

- (d) A narrative addressing compliance with each of the Performance Standards listed below and identifying the type of business proposed, the hours of operation, and information on the types and quantities of hazardous materials which shall be used or stored on site in excess of household quantities.
- (e) A letter from the Superintendent of Wastewater Treatment Plant certifying that sufficient wastewater treatment capacity exists to accommodate the new use if sewer is needed.

4620 Performance Standards

- (a) Traffic generation shall not exceed 150 vehicle trips per day as estimated using the greater of (i) number of employees expected or (ii) the average weekday trip rate for the proposed use from the Institute for Transportation Engineers Trip Generation Manual;
- (b) No person owning, leasing, or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service or maintenance, or through failure to take necessary precautions, cause, suffer, allow or permit unnecessary noise emissions from said source of sound.

Such condition shall be said to exist if the source:

- (1) Increases the broadband sound level by more than 5 db(a) above the hourly ambient average, or
- (2) Produces a “pure tone” condition – when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more

These criteria shall be measured at the property line. The noise criteria shall not apply to those sources of sound lawfully existing prior to the adoption of this by-law or to sources of sound emitted by businesses located in either the Randall Pond Industrial Park or the Orange Industrial Park.

All relevant definitions shall be said to be defined in DEP bureau of waste prevention noise policy dated February 1, 1990 BWP policy 90-001.

All noise measuring procedures shall be set forth by BWP policy 90-001. In addition the hourly average background noise levels shall be determined by noise level readings recorded not less than every 15 seconds for one hour.

- (c) Vibration, odor, or flashing that is perceptible without instruments may not occur beyond the parcel boundaries of the originating premises, except for warning devices and temporary construction or maintenance work;
- (d) The hours of operation must be no earlier than 7 a.m. and no later than 9 p.m.;
- (e) There is adequate wastewater treatment capacity to accommodate the new or expanded manufacturing use;
- (f) On site parking and loading areas sufficient to accommodate employees and truck deliveries must be provided;
- (g) A minimum five (5) foot wide buffer area shall surround the parking area and shall provide adequate screening of the parking area from abutting parcels. Such buffer area shall be planted with a combination of evergreen and deciduous shrubs that are at least five (5) feet in height;
- (h) Lighting shall be pedestrian in scale with fixtures not exceeding sixteen (16) feet in height and full cut-off down lighting fixtures that direct light downward should be used;
- (i) Lighting shall not produce illumination beyond the property boundaries;
- (j) No increase in stormwater runoff to neighboring properties or roads; and
- (k) Access to the site shall be provided by frontage on Route 122, Route 202 or Route 2A or the site shall be located in the Randall Pond Industrial Park, the Orange Industrial Park (adjacent to the Airport), or at the Airport.

4630 Provision for Waivers

The Planning Board may waive one or more of the requirements for Plan Filing under 4610 if the simplicity or scale of the project warrants such action.

SECTION V: ADMINISTRATION

5100 Administration

5110 Building Permits. This By-law shall be administered by the Building Inspector. Buildings, structures, or signs may not be erected, substantially altered or changed in principal use without certification by the Building Inspector that such action is in compliance with then-applicable zoning, or without review by him that all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification.

5120 Reserved for Future Use

5130 Enforcement. The Building Inspector shall institute and take any and all such actions as may be necessary to enforce full compliance with any and all provisions of this by-law and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Selectmen to the Town Counsel.

5140 Penalties. The penalty for violation of any provision of this by-law, of any conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be three hundred (\$300.00) dollars for each offense. Each day that each violation continues shall constitute a separate offense.

5150 Amendments. This By-law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in M.G.L.A., Ch. 40A, Section 5, and any amendment thereto.

5200 BOARD OF APPEALS

5210 Establishment. There is hereby established a Board of Appeals, which will consist of five members and three associate members, who shall be appointed and act in all matters in the manner prescribed in Chapter 40A of the General Laws.

5220 Powers. The Board of Appeals shall have and exercise all powers granted to it by Chapters 40A, 40B and 41 of the General Laws and this By-law. The Board's powers are as follows:

5221 To hear and decide petitions for dimensional variances from the terms of this by-law, with respect to particular land or structures. Such variances shall be granted only in cases where the Board of Appeals finds all of the following:

- a. A literal enforcement of the provisions of this by-law would involve a substantial hardship, financial or otherwise, to the petitioner.
- b. The hardship is owing to circumstances relating to soil conditions, shape or topography of such land or structure and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
- c. Desired relief may be granted without either:
 1. substantial detriment to the public good, or
 2. nullifying or substantially derogating from the intent and purpose of this by-law.

5222 To hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:

- a. Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Ch. 40A, General Laws, or by
- b. the Franklin Regional Planning Board, or by
- c. any person including officers or Boards of the Town of Orange or of any abutting town, if aggrieved by any decision or order of the Building Inspector or other administrative official, in violation of Ch. 40A, General Laws, or this by-law.

5223 To issue Comprehensive Permits. Comprehensive Permits for construction may be issued by the Board of Appeals for construction of low and moderate income housing by a public agency or limited dividend or non-profit corporation, upon the Board's determination that such construction would be consistent

with local needs, whether or not consistent with local zoning, building, health, or subdivision requirements, as authorized by M.G.L.A. Ch. 40B, Section 20-23.

5224 To hear and decide appeals under the Commonwealth of Massachusetts State Building Code, as provided under Section 122 of that code.

5225 To hear and decide appeals on Site Plan Review decisions and Performance Standards decisions.

5230 Public Hearings. The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws on all appeals and petitions brought before it.

5300 SPECIAL PERMITS

5310 Special Permit Granting Authority. The Planning Board shall act as the Special Permit Granting Authority. The Planning Board may designate up to two associate members, to sit on the Board for the purposes of acting on a special permit application, in the case of absence, inability to act or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board. Associate members will be appointed by the Board of Selectmen for a term of three years. The Board of Selectmen in appointing the associate members, will give consideration to any recommendation made by the Planning Board.

5320 Public Hearings. Public Hearings for Special Permits shall be held and decisions rendered in accordance with M.G.L. Chapter 40A, Section 9.

5330 Criteria. Except as designated under Section 4450 herein (Water Resource Districts), Special Permits shall be granted by the Special Permit Granting Authority only upon its written determination that the proposed use will not have adverse effects which outweigh its beneficial effect on either the neighborhood or the Town, in view of the particular characteristics of the site and the proposal in relation to that site. The determination shall indicate consideration of each of the following:

- a. Social, economic, or community needs which are served by the proposals;
- b. Traffic flow and safety;

- c. Adequacy of utilities and other public services;
- d. Neighborhood character and social structures;
- e. Qualities of the natural environment;
- f. Potential fiscal impact.

5340 Conditions. Special Permits may be granted with such reasonable conditions, safeguards, or limitations on time or use as the Special Permit Granting Authority may deem necessary to serve the purpose of this By-law.

5350 Expiration. Special Permits shall lapse 24 months following Special Permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L.A., Ch. 40A, Section 17, from the grant thereof) if substantial use thereof or construction has not yet begun, except for good cause.

5400 SITE PLAN REVIEW

5410 Purpose

The purpose of Site Plan Review is to further the purposes of this By-law and to ensure that new development is designed in a manner which reasonably protects public safety, the environment, and the visual character of the neighborhood and the town.

5420 Applicability

- a) Site Plan Review shall be required:
 - 1. for permits for construction if creating 20 or more parking spaces;
 - 2. when a non-residential or non-agricultural development on a single lot or contiguous lots under common ownership will create more than 10,000 square feet of enclosed floor area;
 - 3. For an Open Space Development (see Section 5700); or
 - 4. For residential subdivisions of 10 or more lots.

5430 Procedures

(a) An applicant for Site Plan Review shall file a completed application with the Town Clerk. The application shall include eleven (11) copies each of the site plan and any narrative documents as outlined in the submittal requirements. The Town Clerk shall acknowledge receipt of the plans by signing and dating

the application. The Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, the Zoning Board of Appeals, the Board of Health, the Historical Commission, the Highway Superintendent, the Fire Chief, Police Chief, Water Department, and the Building Inspector. Town Boards and municipal officials shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations.

(b) The Planning Board shall hold a public hearing within 65 days after the filing of an application and shall take final action on an application for site plan approval within 90 days of the close of the public hearing. Notice and posting of the public hearing shall comply with the provisions of the Zoning Act, MGL C. 40A, Section 11, regarding notice for public hearings.

(c) No building permits for projects requiring site plan review shall be issued until the Planning Board has approved the site plan or unless the required time period for taking action on a site plan has lapsed without action from the Planning Board.

(d) The Planning Board may adopt and from time to time amend regulations for the submission and approval of site plans including the fee schedule for applications.

(e) The Planning Board may waive any of the requirements for site plan submittal and approval if the simplicity or scale of the project warrants such action. The Planning Board may also request any additional information it should need to render a decision.

(f) Site plan review shall judge the appropriateness of the design of a project. Any question to the appropriateness of the use shall be governed by the Table of Use Regulations or the special permit review process.

(g) For large or complex projects, the Planning Board shall have the right to retain a registered professional engineer, planner, designer or other professional to advise the Board regarding any or all aspects of the site plan. The applicant shall be responsible for the costs of such advice.

(h) Written Site Plan Review decisions shall be filed with the Town Clerk within 14 days after final action is taken by the Planning Board on the application.

5440 Required Contents of a Site Plan

- (a) All site plans of the area proposed to be developed and adjacent public ways shall be on standard sheets of 24 inches by 36 inches and shall be prepared at a scale of 1"= 40 feet or finer (e.g. 1"= 20 feet).
- (b) A Locus Map of the parcel, abutting parcels, parcels within 300 feet of the property line, and public ways shall be on a standard sheet of 24 inches by 36 inches and shall be prepared at a scale of 1"= 100 feet.
- (c) The site plan shall be prepared by a registered professional engineer, registered landscape architect, or registered land surveyor and shall contain the following information:
 - 1. Name of project, locus map(s) showing the location of the site in Town, date, north arrow and scale of plan;
 - 2. Name(s) and address(es) of the owner(s) of the land, the developer (if applicable), and/or their designee;
 - 3. Name, title, and address of person(s) who prepared the plan;
 - 4. Names and addresses of all owners of record of abutting lots and those within 300 feet of the property line;
 - 5. All existing lot lines, easements and rights of way;
 - 6. The location and boundaries of the lot, adjacent streets or ways;
 - 7. Location and use of buildings and structures within 300 feet of the site;
 - 8. Location and use of all existing and proposed buildings and structures, including approximate height and floor area;
 - 9. Location of wetlands on site and within 300 feet of the property line;
 - 10. Location of proposed water supply well or hook-up to the public water supply;
 - 11. Location and date of all registered "perc" tests or proposed sewer hook-up;
 - 12. Location of all proposed new lot lines;
 - 13. Existing and proposed topography at a two-foot contour interval for the proposed grading and landscape plan;
 - 14. Location of proposed public and private ways on the site;
 - 15. The location of existing and proposed parking and loading areas, driveways, walkways, access and egress points;
 - 16. The location and a description of proposed open space or recreation areas.

17. Size and location of existing and proposed sign(s);
18. Proposed landscape features, including the location and a description of screening, fencing and plantings;
19. Surface drainage strategy that prevents pollution and increased drainage off-site;
20. A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
21. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and cleanup procedures;
22. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
23. Estimated average daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for both vehicles and pedestrians, showing adequate access to and from the site and adequate circulation within the site;
24. Existing vegetation that will be left undisturbed and proposed planting areas; and
25. Other proposed methods to screen development.

5450 Compliance with Other Zoning Requirements

The site plan shall comply with any zoning requirements for parking, loading, dimensions, water resource district protection, other environmental performance standards and all other provisions of the zoning by-laws. Before approval of a site plan, the Planning Board may request that the applicant make modifications in the proposed design of the project to ensure that all zoning requirements are met.

5460 Decision

The Planning Board's action shall consist of either:

- a) Approval of the site plan based upon the determination that the proposed project is in compliance and consistent with the Orange Zoning By-law;
- b) Approval of the site plan subject to conditions, modifications, and restrictions as the Planning Board may deem necessary; or

- c) Denial of the site plan based upon specific findings such as a determination that there was insufficient information submitted with the proposal to adequately review it or the project was inconsistent with the requirements of these Zoning By-laws.

5500 APPLICABILITY

5510 Other Laws. Where the application of this by-law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this by-law shall control.

5520 Conformance. Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this by-law unless the use or construction is commenced within a period of six months after issuance of the permit and in cases involving construction, unless construction is continued through to completion as continuously and expeditiously as is reasonable.

5600 SEPARABILITY. The invalidity of any section or provision of this by-law shall not invalidate any other section or provision hereof.

5700 OPEN SPACE DEVELOPMENT

5710 General Provisions

5711 Definition:

An Open Space Development shall mean a residential development in which the houses are sited together into one or more groups within the development, and separated from adjacent properties and other groups by undeveloped land. This type of development is optional and may occur as either a subdivision or as lots created on an existing public way. Either single family homes or two-family homes may be located in an Open Space Development.

5712 Purpose:

The purpose of an Open Space Development plan is to:

- a) encourage the permanent preservation of common open space or open land for conservation, agriculture, open space, forestry, wildlife habitat, and passive recreational use which maintains the land in an undeveloped condition. Common Open Space for the purposes of Section 5700 is defined as land owned by a corporation or trust owned by the owners of lots within the development, the municipality, a suitable State Agency, or a non-profit land trust. Open Land for the purposes of Section 5700 is defined as land retained by a private individual or trust owned by private individuals which are not the owners of the residential lots within the development;
- b) encourage a less sprawling form of development that preserves open land and preserves the natural features of the site;
- c) promote the efficient provision of municipal services and protect existing and potential water supplies;
- d) maintain the rural character of the Town;
- e) promote the siting of buildings that is sensitive to existing natural and historic features;
- f) protect public health by siting septic systems on the most suitable soils; and
- g) protect the value of real property.

5713 Approval Authority

The Planning Board may approve a Site Plan for the construction of an Open Space Development in accordance with Section 5400 Site Plan Review and subject to the regulations and conditions set forth in this section.

5720 Procedures

5721 Pre-Application Review:

To promote better communication and avoid misunderstanding, applicants are encouraged to submit a Preliminary Plan for review by the Planning Board prior to the application for Site Plan Approval. Materials and information to be submitted with the preliminary plan shall be agreed upon by the applicant and the Board.

5722 Relation to the Subdivision Control Act:

The Planning Board approval for Site Plan Review shall not substitute for compliance with the Subdivision Control Act nor oblige the Planning Board to approve a related Definitive Plan for

subdivision approval or an Approval Not Required Plan, nor reduce any time periods for the Board consideration under that law. However, in order to facilitate processing, the Planning Board may, insofar as practical under law, adopt regulations establishing procedures to allow the applicant and Planning Board to agree on an application which shall satisfy this section and the Board's regulations under the Subdivision Control Act, if applicable. In addition, to the extent permitted by law, the Planning Board shall coordinate the public hearing requirement for Open Space Development (Section 5725) with the Public Hearing required for a Definitive Subdivision Plan.

5723 Filing of Application:

An applicant for Open Space Development shall file a completed application with the Town Clerk. The application shall include eleven (11) copies each of the site plan and any narrative documents as outlined in the submittal requirements. The Town Clerk shall acknowledge receipt of the plans by signing and dating the application.

5724 Review of Other Boards:

The Town Clerk shall transmit copies of the application to the Planning Board, Conservation Commission, the Zoning Board of Appeals, the Board of Health, the Historical Commission, the Highway Superintendent, the Fire Chief, the Police Chief, the Water Department, and the Building Inspector. Town Boards and municipal officials other than the Planning Board shall have 45 days from the date the completed application is received by the Town Clerk to report to the Planning Board their findings and recommendations.

5725 Public Hearing:

After the opportunity for review of other boards has taken place, the Planning Board shall hold a hearing under this section, in conformity with the provisions of Chapter 40A, Section 11, of the Massachusetts General Laws, the provisions of the Zoning By-laws and the regulations of the Planning Board. In addition, to the extent permitted by law, the Planning Board shall coordinate the public hearing requirement for Open Space Development with the Public Hearing required for a Definitive Subdivision Plan.

5726 Contents of Application:

If the applicant has not submitted adequate information in the Pre-Application review to determine the number of dwelling units that could be constructed as calculated according to Section 5750 a), he/she shall do so at the time the application is submitted.

In addition to the Site Analysis/ Development Plan described below, the applicant shall provide an evaluation of the conservation and recreation land proposed, with respect to use, size, shape, location, and natural resource value.

5727 Site Analysis/ Development Plan:

The plan shall be prepared by a professional architect, engineer, landscape architect, or registered land surveyor.

The Site Analysis/ Development Plan shall be drawn at a scale of one (1) inch equals forty feet or better, shall be on standard twenty four (24) inch by thirty six (36) inch sheets, and shall include the information required by Section 5400 Site Plan Review.

5728 Narrative Statement:

- a) capability of soils to support the proposed development without danger of groundwater or surface water pollution and proposed measures to prevent such pollution;
- b) measures to prevent soil erosion, increased runoff, and flooding;
- c) proposed design features intended to integrate the proposed development into the existing landscape and enhance aesthetic assets;
- d) preliminary drainage calculations (definitive calculations to be included with definitive subdivision plan);
- e) projected traffic flow patterns;
- f) the total number of building lots.

5729 Additional Information:

- a) Deeds, leases, or documents confirming the applicants interest in the land to be developed;
- b) the individual or form of organization proposed to own and maintain the Common Open Space or Open Land;
- c) the substance of covenants and grants of easements to be imposed upon the use of the land and structures and a development schedule;

- d) if necessary to determine compliance with the requirements of this provision, the Planning Board may require further engineering or environmental analysis.

5730 Criteria for Approval:

- b) Approval of an Open Space Development Site Plan shall be granted only if the Planning Board determines that the requirements of the Open Space Development and Site Plan Review by-laws have been complied with.

5740 Minimum Requirements:

- a) The minimum area of land for an Open Space Development shall be six (6) acres for both a subdivision and for lots on an existing public way. The parcel shall be held in single ownership or control at the time of application.
- b) The maximum number of dwellings for the development shall not exceed that which is normally allowed in the district under a conventional plan.
- c) Each lot shall have adequate access on a public or approved private way.
- d) Each lot shall comply with the minimum dimensional requirements of this Open Space Development [residential] By-law.
- e) Each lot shall be of size and shape to provide a building site which shall be in harmony with the natural terrain and other features of the land.
- f) All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width to be kept in a natural, landscaped or managed condition.
- g) There shall be an adequate, safe, and convenient arrangement of pedestrian circulation, facilities, roadways, driveways, and parking. There shall be no parking in the buffer strip, or in areas not otherwise designated for parking.
- h) Design of roads, utilities, and drainage shall be functionally equivalent to the standards contained in the Planning Board's Subdivision Regulations insofar as reasonably applicable, but the Board may vary those standards to meet

the particular needs of the Open Space Development and natural features.

- i) The amount of Open Space set aside must meet the requirements of Massachusetts General Laws (MGL) Chapter 40A, Section 9, "Cluster Developments"; notwithstanding the above, at a minimum, at least thirty-five percent (35%) of the total parcel shall be set aside as Common Open Space or Open Land. The minimum required Common Open Space or protected Open Land shall not include wetlands, floodplains, existing permanently protected open space, land with slopes greater than 25%, roadways or accessory uses.
- j) Septic systems shall be placed in the development to maximize the distance between systems and well or water supplies and may be placed in Common Open Space or on Open Land areas rather than on individual lots. All systems must comply with Title 5 of the State Environmental Code.

5750 Dimensional and Density Requirements

- a) The maximum density of an Open Space Development shall not exceed the allowed density for a conventional subdivision in any zoning district. The maximum density for the Open Space Development shall be calculated by taking the parcel area and subtracting out any acreage that is wetlands, floodplains, existing permanently protected open space, land with slopes greater than 25%, and 10% of the total parcel area for roads and drainage to find the Net Parcel Area. The Net Parcel Area shall be divided by the Minimum Lot Area of the zoning district in which the parcel is located to determine the maximum number of lots allowed. It is the intention of this Section that the Open Space Development shall not result in more lots than would be approved for a standard subdivision under a Definitive Subdivision Plan.
- b) The minimum lot size per dwelling unit shall be 10,000 sq. ft. The minimum frontage on an approved public or private way shall be 50 feet.
- c) Attached dwelling units may be laid out with zero side lines, however, the side lot of an attached unit not adjoining another unit must be at least 10 feet.

5760 Required Conservation Land

5761 The required Common Open Space or Open Land shall be set aside for passive recreation, conservation, forestry, or agricultural uses which preserve the land essentially in its undeveloped condition.

5762 Further subdivision of Common Open Space or Open Land or its use for other than the above listed uses, except for easements for underground utilities and septic systems, shall be prohibited. To insure this, a Conservation Restriction in accordance with M.G.L. Chapter 184 shall be imposed on the Common Open Space or Open Land. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but shall not exceed 2% coverage of such Common Open Space or Open Land. The purpose of the Conservation Restriction will be to clearly identify the uses and restrictions which apply to the Common Open Space or Open Land in the Open Space Development. Uses should include passive recreation, easements for utilities, easements for existing or future septic systems, and easements for private drinking water wells.

5763 Such Common Open Space or Open Land shall be either:

- a) Conveyed to a corporation or trust owned or to be owned by the owners of lots within the development. If such a corporation or trust is utilized, title to the Common Open Space shall pass with conveyance of the lots in perpetuity.
- b) Conveyed to a non-profit conservation land trust or a suitable State Agency, the principal purpose of which is the conservation or preservation of open space.
- c) Conveyed to the Town of Orange, at no cost, and be accepted by it for passive recreation or open space use. Such conveyance shall be at the option of the Town and shall require the approval of the voters at a Town Meeting.
- d) Retained by a private individual or a trust owned by private individuals provided that the interests of the residents of the Open Space Development will be protected as outlined in the requirements of the Conservation Restriction.

5764 In any case where such Common Open Space or Open Land is not conveyed to the Town, a conservation restriction enforceable by the Town, a suitable State Agency, or a non-profit land trust shall be recorded to ensure that such land shall be kept in a natural or undeveloped state and not be built for residential use or

developed for accessory uses such as parking or roadways. Such restrictions shall further provide for maintenance of the Common Open Space or Open Land in a manner which will ensure its suitability for its function, appearance, cleanliness and proper maintenance of drainage, utilities and the like. The Conservation Restriction placed on such Common Open Space or Open Land shall be held by the Conservation Commission of the Town of Orange, a suitable State Agency, or by a non-profit conservation land trust the principal purpose of which is the conservation or preservation of open space.

5765 If the Common Open Space is to be conveyed to the owners within the development, ownership and maintenance of such Common Open Space shall be permanently assured through a corporation or trust owned or to be owned by the owners of the lots within the development. If such a corporation or trust is utilized, title to the Common Open Space shall pass with conveyances of the lots in perpetuity. Each owner is subject to a charge for a share of the maintenance expenses which binds all owners to maintain the Common Open Space in a manner consistent with the agricultural, recreational, or conservation restriction. Such land agreement documents shall be submitted with the Site Analysis/ Development Plan and shall be subject to approval by the Planning Board and Town Counsel.

5766 The developer shall remain in control of and shall be responsible for maintenance of the Common Open Space or Open Land until the Common Open Space or Open Land is conveyed to one of the entities identified in Section 5763. In the case where the conveyance is to a corporation or trust to be owned by the owners of the lots within the development, the developer shall remain in control of and shall be responsible for maintenance of the Common Open Space until a majority (51%) of the lots are conveyed to permanent owners.

5767 The individual or corporation or trust shall enter into an agreement with the Town that shall provide that in the event that the individual or organization established to own and maintain the Common Open Space or Open Land, or any successor individual or organization, fails to maintain the Common Open Space or Open Land in reasonable order and condition in accordance with the Site Analysis/Development Plan, then the Town or Homeowners Association may, after notice to the organization or individual and a public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the

development, enforce the Conservation Restriction, and to prevent the Common Open Space or Open Land from becoming a public nuisance. The covenants shall also provide that the costs of such maintenance by the Town shall be assessed ratably against the properties within the development or the individual owning the Open Land and shall become a charge on said properties and that such charge shall be paid by the property owners or the individual owning the Open Land within thirty (30) days after the receipt of a statement therefor.

5770 Further Requirements

- a) There shall be no amendments or changes to an approved Site Analysis/ Development Plan without review and approval from the Planning Board.
- b) No lot within an approved Conservation/ Open Space Development may be further subdivided so as to increase the number of lots, and a notation to this effect shall be shown on any Definitive Plan of a subdivision, on the approved Site Analysis/ Development Plan and on the ANR Plan, if not a subdivision under the Subdivision Control Law.
- c) No use other than residential, agricultural, forestry or recreational shall be permitted.

SECTION VI: DEFINITIONS

In this by-law the following terms shall have the following meaning unless other meaning is required by the context or is specifically prescribed:

6005 Accessory Apartment shall mean the alteration of an existing single-family home to create one additional dwelling unit consisting of no more than four rooms and no more than 800 square feet of living area. The Accessory Apartment shall be occupied by no more than two people. The owner of the property shall permanently occupy the principal or accessory residence. Adequate off-street parking shall be provided.

6010 Accessory Building or Use shall mean a building not attached to any principal building, or a use customarily incidental to and located on the same lot with the principal building or use.

6020 Alteration shall mean a change in external form, shape, or size of a building or structure.

6030 Building shall mean any roofed structure, permanently located on the land, used for housing or enclosing persons, animals or materials.

6040 Building Coverage refers to the percentage which the first floor area of all principal and accessory buildings is of the gross lot size.

6050 Dwelling shall mean a building or part of a building used exclusively as the living quarters of one or more families that contains kitchen and sanitary facilities.

6060 Dwelling, Single-family, shall mean a dwelling, singly and apart from any other building, used exclusively for residential purposes for one family.

6061 Dwelling, Two-family, shall mean a dwelling containing two (2) dwelling units, separated by vertical walls or horizontal floors, designed for occupancy by two (2) families.

6070 Family shall mean an individual or two or more persons related by blood or marriage, or a group of not more than six persons not so related, living together as a single household unit.

6080 Front Yard shall mean the space across the full width of the lot extending from the front line of the building located on such lot to the street line of such lot.

6090 Hotel shall mean a building containing rooms used or designed to be used for sleeping purposes by transient guests and which may also provide a restaurant to lodgers and the public within the building or in an accessory building. An Hotel can have conference or banquet facilities as an accessory use to its primary use of providing lodging provided that any Special Permit or Site Plan Review requirements are met.

6095 Inn shall mean an historic structure used or designed for overnight lodging for transient guests, and which may also provide a restaurant to lodgers and the public. An inn shall be located in a building fifty (50) years or more in age. A guest(s) may not stay at an Inn for more than 90 days in any six-month period. An Inn can have conference or banquet facilities as an accessory use to its primary use of providing lodging provided that any Special Permit or Site Plan Review requirements are met.

6097 Light Manufacturing shall mean that which complies with the regulations for Section 2411 Home Occupation with the exception of subsection (b).

6100 Lot Area shall mean the horizontal area of the lot exclusive of any area in a street or recorded way open to public use. At least 90% of the lot area required by zoning compliance shall be land other than that under water nine months or more in a normal year, and other than any marsh, swamp or flat bordering on inland waters.

6110 Lot Coverage shall include the percentage of a lot covered in the manner described in “Building Coverage” plus that portion of a lot covered by driveways, roadways, parking areas and walkways.

6120 Lot Frontage shall mean that portion of a lot fronting upon and having access to a street, to be measured continuously along one street line beside lot lines, or in the case of corner lots, between one side lot line and the midpoint of the corner radius. Frontage may alternatively be measured at the required setback line provided that 60% of the requirement can be met at the street line.

6130 Mobile Home shall mean a moveable or portable dwelling unit on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year round living. Prefabricated and modular homes are specifically excluded from this definition.

6132 Mobile Office shall mean a unit on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation.

6133 Motel shall mean an attached, semi-detached, or detached building containing rooms used or designed to be used for sleeping purposes by transient guests having separate outside entrances and a parking space convenient to each unit. Such accommodations may have individual kitchen facilities (sink, range, refrigerator). A guest(s) may not stay at a Motel for more than 90 days in any six-month period.

6134 Office, Commercial shall mean the workplace of computer software, insurance, physicians, lawyers, engineers, or other professionals which may include space for appropriate support staff (e.g., nurses, administrative assistants, etc.).

6140 Non-Family Accommodations shall include boarding houses, lodging houses, tourist homes, dormitories or similar accommodations.

6150 Flag Lot: Flag lot shall mean the back parcel resulting from dividing a lot having no adjacent land in the same ownership provided that the lot meet all the requirements of Section 2320. The access strip of the Flag Lot shall be considered as that area which has frontage on a public way and has the minimum dimensions as required in Section 2323 herein.

6160 Sign shall mean device displaying, or any display of, any letter, work, picture, symbol, or object to inform or attract the attention of persons not on the premises on which such device or display is located, including billboards.

6165 Storage Trailers shall mean a unit on a chassis, originally designed for transporting materials.

6170 Story shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and ceiling next above it, and including those basements of which fifty percent (50%) are used for the principal use.

6180 Street shall mean either (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law.

6190 Structure shall mean anything constructed or erected, the use of which requires fixed location on the ground, including mobile homes.

6200 Yard shall mean an open space, unoccupied and unobstructed by any structure exceeding 75 square feet in floor area, except fences, walls, posts, paving and other customary yard accessories, including noncovered porches.