

COMMONWEALTH OF MASSACHUSETTS  
ANNUAL TOWN MEETING

June 16, 2008  
FRANKLIN, SS.

To either of the Constables of the Town of Orange, in the County of Franklin:

GREETINGS:

In the name of the COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in elections, and in Town affairs, to meet at RUTH B. SMITH AUDITORIUM, ORANGE TOWN HALL, 6 Prospect Street, Orange, Massachusetts 01364, on Monday the 16th day of June, 2008 at 7:00 pm., then and there to act on the following articles:

The amount of money in the Stabilization Fund is \$132,281.48

The amount of money in the Capital Stabilization Fund is \$139,182.79

The amount of "Retained Earnings" for the Water Enterprise Fund, certified by the Director of Accounts is \$ 38,419.91

The amount of "Retained Earnings" for the Sewer Enterprise Fund, certified by the Director of Accounts is \$ 3,884.55

ARTICLE 1: TOWN REPORTS AND REVOLVING FUNDS

To see if the Town will vote to accept the reports of its officers for the past year, or take any other action relative thereto or thereon.

2007 Orange Town Report  
Hazardous Spills Revolving Fund  
F.R.T.A. Transportation System Revolving Fund  
O.R.A. Revolving Fund  
Gas Inspector's Revolving Fund  
Plumbing Inspector's Revolving Fund  
Airport Fuel Revolving Fund  
Sealer of Weights and Measures Revolving Fund  
Orange Landfill and Recycling Revolving Fund  
Board of Health Revolving Fund  
Dog Officer Revolving Fund

REVOLVING FUND REPORTS (M.G.L. c. 44, s 53E 1/2)

HAZARDOUS SPILLS REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 660.10 3,819.96 (3,765.20) 714.86

FY '08 – 6 months 714.86 1,011.63 (116.30) 1,610.19

FRTA REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 5,768.43 24,446.91 (28,618.16) 1,597.18

FY '08 – 6 months 1,597.18 16,637.00 (13,411.00) 4,823.18

ORA REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 9,573.41 17,307.36 (16,642.21) 10,238.56

FY '08 – 6 months 10,238.56 9,889.06 (12,249.71) 7,877.91

GAS INSPECTOR REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 1,756.50 3,483.00 0 5,239.50

FY '08 – 6 months 5,239.50 1,872.00 (5,166.00) 1,945.50

PLUMBING INSPECTOR REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 5,115.00 14,496.00 (13,810.50) 5,800.50

FY '08 – 6 months 5,800.50 2,596.50 (3,793.50) 4,603.50

AIRPORT FUEL REVOLVING FUND

Beginning

Balance

Receipts Transferred

& Expended Ending Balance

FY '07 43,031.53 108,027.79 (99,713.41) 51,345.91  
FY '08 – 6 months 51,345.91 33,741.85 (18,036.89) 67,050.87

#### SEALER OF WEIGHTS & MEASURES REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 0 2,210.00 (1,622.94) 587.06

FY '08 – 6 months 587.06 972.00 (923.80) 635.26

#### LANDFILL/RECYCLING REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 0 1,961.00 (265.00) 1,696.00

FY '08 – 6 months 1,696.00 1,042.00 0 2,738.00

#### BOARD OF HEALTH REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 0 26,071.70 (14,934.03) 11,137.67

FY '08 – 6 months 11,137.67 14,911.00 (12,999.09) 13,049.58

#### DOG OFFICER REVOLVING FUND

Beginning Balance

Receipts

Expended Ending Balance

FY '07 0 0 0 0

FY '08 – 6 months 0 6,360.00 (615.00) 5,745.00

#### ARTICLE 2: SALE OF TAX TITLE LAND

To see if the Town will vote to authorize the transfer from the Treasurer to the Board of Selectmen the care, custody and control of those parcels of land acquired by the Town through foreclosure of tax titles in the land court or commissioner's affidavit of land of low value and to authorize the Board of Selectmen to sell, in accordance with Massachusetts General Laws, those parcels acquired by the Town by foreclosure of tax titles in the land court or commissioner's affidavit of land of low value, or take any other action relative thereto or thereon.

#### ARTICLE 3: AUTHORIZE BORROWING

To see if the Town will vote to authorize the Treasurer, with the approval of the Board of Selectmen to borrow in anticipation of the revenue for the fiscal year beginning July 1, 2008 in accordance with the M.G.L. c44, §4, or take any other action relative thereto or thereon.

#### ARTICLE 4: BALANCE AGREEMENTS

To see if the Town will vote to authorize the Treasurer to enter into compensating balance agreements during Fiscal 2009 as permitted by M.G.L. c44, s53F, or take any other action relative thereto or thereon.

#### ARTICLE 5: GRANT APPLICATIONS

To see if the Town will vote to authorize the Board of Selectmen to apply for any state and federal grant programs that become available and expend any monies received, or take any other action relative thereto or thereon.

#### ARTICLE 6: SALE OF SURPLUS PERSONAL PROPERTY

To see if the Town will vote to authorize the Board of Selectmen or their designee to sell or otherwise dispose of surplus or obsolete personal property of the Town (a) after first having advertised in a daily newspaper for sale at least seven (7) days before the date of such sale and by posting a notice thereof in the Town Hall and (b) following the procedures required by M.G.L. c.30B §15 and Chapter 76-1 of the Town of Orange bylaws, or take any other action relative thereto or thereon.

#### ARTICLE 7: LANDFILL MONITORING ACCOUNT

To see if the Town will vote to transfer and appropriate the sum of \$5,000.00 from the Landfill Monitoring Account and to authorize the Board of Selectmen in accordance with M.G.L. c.44 §28c (f) to pay for expenditures of the cost of monitoring and maintenance of existing inactive landfill, or take any other action relative thereto or thereon.

#### ARTICLE 8: SPECIAL LEGISLATION TO CREATE BOARD OF ASSESSORS POSITION BE APPOINTED RATHER THAN ELECTED

To see if the Town will vote to direct the Board of Selectmen to request that the General Court of the Commonwealth of Massachusetts enact legislation which would create the position of Board of Assessors appointed rather than elected, or take any action relative thereto or thereon.

SECTION 1. Notwithstanding the provisions of section 1 of Chapter 41 of the General Laws or any other general or special law to the contrary, the offices of Board of Assessors in the Town of Orange shall not be elected but shall instead be appointed by the Board of Selectmen, such appointment to be for the term not to exceed three years as their appointment expires. A vacancy in such office shall be filled in a like manner for the unexpired portion of the term.

SECTION 2. Notwithstanding the provisions of section 1 above, any incumbent(s), if any, in the office of Board of Assessors upon the effective date of this act shall continue to hold said office and to perform the duties thereof until the appointment of a Board of Assessors to perform said duties pursuant to the terms of this act.

SECTION 3. This act shall take effect upon its passage by the general Court of the Commonwealth of Massachusetts.

#### ARTICLE 9: SPECIAL LEGISLATION TO CREATE TOWN TREASURER POSITION BE APPOINTED RATHER THAN ELECTED

To see if the Town will vote to direct the Board of Selectmen to request that the General Court of the Commonwealth of Massachusetts enact legislation which would create the position of Town Treasurer appointed rather than elected, or take any action relative thereto or thereon.

SECTION 1. Notwithstanding the provisions of section 1 of Chapter 41 of the General Laws or any other general or special law to the contrary, the office of Treasurer in the Town of Orange shall not be elected but shall instead be appointed by the Board of Selectmen, such appointment to be for the term not to exceed three years. A vacancy in such office shall be filled in a like manner for the unexpired portion of the term.

SECTION 2. Notwithstanding the provisions of section 1 above, any incumbent, if any, in the office of Treasurer upon the effective date of this act shall continue to hold said office and to perform the duties thereof until the appointment of a Treasurer to perform said duties pursuant to the terms of this act.

SECTION 3. This act shall take effect upon its passage by the general Court of the Commonwealth of Massachusetts.

#### ARTICLE 10: SPECIAL LEGISLATION TO CREATE TOWN COLLECTOR POSITION BE APPOINTED RATHER THAN ELECTED

To see if the Town will vote to direct the Board of Selectmen to request that the General Court of the Commonwealth of Massachusetts enact legislation which would create the position of Town Collector appointed rather than elected, or take any action relative thereto or thereon.

SECTION 1. Notwithstanding the provisions of section 1 of Chapter 41 of the General Laws or any other general or special law to the contrary, the office of Collector in the Town of Orange shall not be elected but shall instead be appointed by the Board of Selectmen, such appointment to be for the term not to exceed three years. A vacancy in such office shall be filled in a like manner for the unexpired portion of the term.

SECTION 2. Notwithstanding the provisions of section 1 above, any incumbent, if any, in the office of Collector upon the effective date of this act shall continue to hold said office and to

perform the duties thereof until the appointment of a Collector to perform said duties pursuant to the terms of this act.

SECTION 3. This act shall take effect upon its passage by the general Court of the Commonwealth of Massachusetts.

#### ARTICLE 11: REVOLVING FUNDS - CHAPTER 44, SECTION 53E1/2

To see if the Town will vote, upon recommendation of the Board of Selectmen, to authorize the following revolving funds for certain town departments under M.G.L. c 44, s53E½ for FY2009, or take any other action relative thereto or thereon.

#### ARTICLE 12A: WATER ENTERPRISE BUDGET RECOMMENDATION

To see if the Town will vote to recommend that the following sums be appropriated to operate the Water Enterprise Fund, in accordance, with the provisions of M.G.L. c.44, §53F ½ such sums of money as may be necessary, together with revenue from the Water Department operations, to defray the expenses of the Water Department for the fiscal year, beginning July 1, 2008, or to take any action relative thereto or thereon.

#### WATER DEPARTMENT BUDGET REVENUES

User Fees \$600,000.00  
Betterments \$0.00  
Investment income \$1,000.00  
Retained earnings \$14,260.00  
Total \$615,260.00

#### EXPENSES

##### Direct

Commission Salary \$1,500.00  
Salaries \$227,400.00  
Expenses \$197,700.00  
Equipment \$35,000.00  
Tully Water \$15,500.00  
Capital outlay \$39,600.00  
Debt & interest \$0  
Emergency reserve \$5,000.00  
Subtotal \$521,700.00

##### Indirect

Retirement \$19,519.00  
W/Comp \$6,743.00  
Medicare \$2,826.00

Health Insurance \$41,378.00  
Dental \$2,366.00  
Life \$70.00  
Insurance \$4,854.00  
Collecting Dept \$5,477.00  
Accountant/Treasurer Dept. \$10,327.00  
Subtotal \$93,560.00

Total \$615,260.00

\$506,440.00 to come from Water Receipts enterprise revenues, \$1,000.00 to come from investment income, \$14,260.00 to come from Water retained earnings and \$93,560.00 to be appropriated in the general fund and funded from Water enterprise revenues, or take any other action relative thereto or thereon. (Recommended by Finance Committee)

#### ARTICLE 12B: WATER ENTERPRISE BUDGET APPROPRIATION

To see if the Town will vote to raise and appropriate or transfer from available funds the following sums of money to operate the Water Enterprise Fund, or take any other action relative thereto or thereon:

Commission Salary \$ 1,500.00  
Salaries & Wages \$227,400.00  
Expenses \$197,700.00  
Equipment \$ 35,000.00  
Tully Water \$ 15,500.00  
Capital Outlay \$ 39,600.00  
Debit & Interest \$ 0.00  
Emergency Reserve \$ 5,000.00  
Total \$521,700.00

And that \$521,700.00 be raised as follows: Water Dept. Receipts \$506,440.00 Retained Earnings \$14,260.00 and Investment Income \$1,000.00.

(Recommended by Finance Committee)

#### ARTICLE 13A: WWTP/SEWER ENTERPRISE BUDGET RECOMMENDATION

To see if the Town will vote to recommend that the following sums be appropriated to operate the WWTP/Sewer Department Enterprise Fund, in accordance with the provisions of M.G.L. c.44, §53F ½ such sums of money as may be necessary, together with revenue from the WWTP/Sewer Department operations, to defray the expenses of the WWTP/Sewer Department for the fiscal year, beginning July 1, 2008, or to take any action relative thereto or thereon.

#### WWTP & SEWER DEPARTMENT BUDGET REVENUES

User Fees \$455,926.00  
Connection Fees \$10,000.00

Sewer Liens Revenue \$20,000.00  
Retained earnings \$3,884.00  
Total \$489,810.00

EXPENSES

Direct

Salaries & Wages \$168,086.00  
Expenses \$196,635.00  
Capital outlay \$2,500.00  
Debt & interest \$37,899.00  
Emergency reserve \$5,000.00  
Subtotal \$410,120.00

Indirect

Retirement \$14,445.00  
W/Comp \$5,062.00  
Medicare \$995.00  
Health Insurance \$36,019.00  
Dental \$2,080.00  
Life \$123.00  
Insurance \$10,567.00  
Collecting Dept \$3,604.00  
Accountant/Treasurer Dept. \$6,795.00  
Subtotal \$79,690.00

Total \$489,810.00

\$410,120.00 to come from WWTP/Sewer Receipts enterprise revenues, and \$79,690.00 to be appropriated in the general fund and funded from WWTP/Sewer enterprise revenues.  
(Recommended by Finance Committee)

ARTICLE 13B: WWTP/SEWER DEPARTMENT BUDGET APPROPRIATION

To see if the Town will vote to raise and appropriate or transfer from available funds the following sums of money to operate the WWTP/Sewer Department Enterprise Fund, or take any other action relative thereto or thereon:

Salaries & Wages \$168,086.00  
Expenses \$196,635.00  
Capital Outlay \$ 2,500.00  
Debit & Interest \$ 37,899.00  
Emergency Reserve \$ 5,000.00  
Total \$410,120.00

And that \$410,120.00 be raised from WWTP/Sewer Department Enterprise Fund revenues.  
(Recommended by Finance Committee)

ARTICLE 14: SALARIES AND COMPENSATION



To see if the Town will vote to set the salary compensation of all elected officers of the town as provided by M.G.L. c.41, §108 to be made effective from July 1, 2008, as contained in the budget; or take any other action relative thereto or thereon.

#### ARTICLE 15: TOWN BUDGET FISCAL YEAR 2009

To see if the Town will vote to raise and appropriate such sums of money as may be necessary to defray the expenses of the fiscal year beginning July 1, 2008, or take any other action relative thereto or thereon. (BUDGET)

#### ARTICLE 16: PERSONNEL BYLAW

To see if the Town will vote to amend the Town of Orange By-Law Chapter 52 Personnel Policies Section 52-26 Longevity Bonus (adopted 9/26/02 and amended 10/14/04 STM Art.13) by deleting those provisions that are strikethrough and by adding those provisions that are in BOLD BLACK, or take any other action relative thereto or thereon.

##### Longevity Bonus

The following longevity plan shall be followed:

After five (5) years of continuous service - \$100 \$300

After ten (10) years of continuous service - \$200 \$400

After fifteen (15) years of continuous service - \$300 \$500

After twenty (20) years of continuous service - \$350 \$550

After twenty-five (25) years of continuous service - \$400 \$600

The longevity bonus will be paid on the first pay date following the employee's anniversary date.

This will take affect July 1, 2008 (FY09).

#### ARTICLE 17: LEASE PAYMENTS

To see if the Town will vote to raise and appropriate the following sums of money for the lease agreements previously authorized and entered into:

##### AMOUNT FOR THE PURPOSE OF

\$32,060.70 Police Cruisers (3) - Payment No. 3 of 3-Year Lease

\$50,000.00 Fire Dept Turnout Gear & Breathing Apparatus - Payment No. 1 of 7-Year Lease-Purchase

#### ARTICLE 18: BETTERMENT TRANSFERS

To see if the Town will vote to transfer the following amounts from betterment collections for the purpose of long term debt payments due in FY2009, or take any other action relative thereto or thereon:

##### AMOUNT FROM TO

\$6,414.48 MWPAT Title V Septic Betterments L/T Debt Principal-Comm Septic Mgmt Prog

\$0,000.00 Lake Avenue Betterments L/T Debt Principal-Lake Avenue Borrowing

\$1,250.00 Lake Avenue Betterments L/T Debt Interest-Lake Avenue Borrowing

#### ARTICLE 19: FRANKLIN COUNTY TECHNICAL SCHOOL STABILIZATION FUND

To see if the Town will vote to allow the Franklin County Technical School to establish a stabilization fund in accordance with M.G.L. c71, s 16G1/2, or take any other action relative thereto or thereon

#### ARTICLE 20: FRANKLIN COUNTY TECHNICAL SCHOOL STABILIZATION FUND

To see if the Town will vote to allow Franklin County Technical School to transfer funds from the school district's Capital Assessment Fund to its stabilization fund in accordance with M.G.L. c71, s16G1/2, for the purpose of remodeling and making extraordinary repairs to the school district facilities and grounds, or take any other action relative thereto or thereon

#### CAPITAL IMPROVEMENT PLANNING COMMITTEE - ARTICLES "21 Thru 23"

#### ARTICLE 21: SOUTH CEMETERY

To see if the Town will vote to transfer from Capital Stabilization the sum of \$10,000.00 for building repairs and improvements at the South Cemetery maintenance building to include a new roof and attic insulation, or take any other action relative thereto or thereon.

#### ARTICLE 22: POLICE DEPARTMENT COMPUTERS

To see if the Town will vote to transfer from Capital Stabilization the sum of \$10,000.00 for computers with server and printers in the Police Department, or take any other action relative thereto or thereon.

#### ARTICLE 23: FIRE DEPARTMENT COMPUTERS

To see if the Town will vote to transfer from Capital Stabilization the sum of \$25,000.00 for computers for the Ambulance on data collection and billing information in the Fire Department, or take any other action relative thereto or thereon.

#### ARTICLE 24: RECEIPTS RESERVED FOR APPROPRIATION

To see if the Town will vote to authorize payment of \$200.00 from Cemetery Sale of Lots Account to James C. Lafountain, 432 Theresa Blvd., Pt. Charlotte, FL 33954 to buy back his lots at South Cemetery, or take any other action relative thereto or thereon.

#### ARTICLE 25: TRENCH PERMITTING AUTHORITY

To see if the Town will, pursuant to MGL c. 82A, s.2 vote to designate the Board of Selectmen as the means by which the Town shall designate the person or board to issue permits for the purpose of creating a trench as that term is defined by MGL c. 82A, s4 and 520 CMR 14.00, or take any other action relative thereto or thereon.

## ARTICLE 26: TIF DECERTIFICATION NEWCOMB MOTORS INC.

To see if the Town will vote to apply to the Commonwealth's Economic Assistance Coordinating Council ("the Council") at the State's request for decertification of the projects approved pursuant to vote under Article 19 of the warrant of the Town Meeting held May 6, 2002 and subject to any applicable requirements of law and regulation, if any, to terminate the Tax Incremental Financing Agreement which the Town entered into with Newcomb Motors Inc. pursuant to and as amended by any later, applicable Town meeting votes, for failure of Newcomb Motors Inc. to fulfill its obligations under said Agreement, or take any action relative thereto or thereon.

## ARTICLE 27: SPECIAL LEGISLATION TO ESTABLISH A POST RETIREMENT INSURANCE LIABILITY FUND

To see if the Town will vote to direct the Board of Selectmen to request that the General Court of the Commonwealth of Massachusetts enact legislation which would establish a post retirement insurance liability fund, or take any action relative thereto or thereon.

SECTION 1. Notwithstanding any general or special law to the contrary, the Town of Orange may appropriate funds in order to offset the anticipated cost of premium payments for or direct payments to be made to retired employees of the town and to any eligible surviving spouse of or dependents of deceased employees of the town. Any such amounts so appropriated shall be credited to a special fund to be known as the Post Retirement Insurance Liability Fund. Any interest or other income earned by such fund shall be added to and become a part of the fund. The Town of Orange Treasurer shall be the custodian of such fund and may invest the monies held in the fund in accordance with the rules and regulations of the public employees retirement administration commission and in accordance with any applicable general law. Any amounts appropriated to or expended from such fund shall be so appropriated or expended by a majority vote of the town which vote must be taken in accordance with an actuarial schedule developed by the town. The actuarial schedule must be designed to reduce to zero any unfunded liability attributable to premium payments for or direct payments to be made to retired employees of the town and to any eligible surviving spouse of or the dependents of deceased employees of the town. The Treasurer may employ any qualified bank, trust company, corporation, firm or person to provide advice on the investment of amounts held in the Post Retirement Insurance Liability Fund and to prepare any required actuarial study and may pay for any such advice or service from amounts held in the fund.

SECTION 2. This act shall take effect upon its passage

## ARTICLE 28: ACCEPTANCE OF DREW BOULEVARD AND OAK DRIVE

To see if the Town will vote to accept for the sum of ONE AND 00/100 DOLLAR (\$1.00) for a tract of land situated on Drew Boulevard and Oak Drive, located in the Town of Orange, Franklin County, Massachusetts, bounded and described:

Being a portion of the premises conveyed to HBM Properties, LLC, a Massachusetts Limited Liability Company, by deed of Larry M. LaClaire dated December 16, 2003 and recorded in the Franklin County Registry of Deeds in Book 4495, Page 80.

The premises shown as Drew Boulevard and Oak Drive on a plan of land entitled "Definitive Subdivision Plan of Land in Orange, Massachusetts prepared for Earl & Phyllis Drew" dated November 14, 2001 and last revised on February 17, 2003 by MacLeay Associates, Inc. ("Plan") and recorded in the Franklin County Registry of Deeds in Plan Book 113, Page 15, being more particularly bound and described as follows:

Beginning at an iron pin to be set at the southeasterly corner of the premises on the northerly side of Pine Avenue,

thence N. 05° 52' 31" E. along Lot 38 on the Plan a distance of 150.00 feet to an iron pin to be set;

thence N. 05° 52' 31" E. a distance of 52.97 feet to a concrete bound to be set;

thence along a curve to the left having a radius of 325.00 feet a distance of 153.15 feet to a concrete bound to be set, the last two courses being along Lot 14 on the Plan;

thence N. 21° 07' 29" W. along Lot 15 on the Plan a distance of 200.00 feet to an iron to be set;

thence N. 21° 07' 29" W. along Lot 16 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence N. 21° 07' 29" W. a distance of 114.84 feet to a concrete bound to be set;

thence along a curve to the right having a radius of 275.00 feet a distance of 117.59 feet to an iron pin to be set, the last two courses being along Lot 17 on the Plan;

thence along a curve to the right having a radius of 275.00 feet a distance of 31.98 feet to a concrete bound to be set;

thence N. 03° 22' 31" E. a distance of 171.03 feet to a iron pin to be set, the last two courses being along Lot 18 on the Plan;

thence N. 03° 22' 31" E. along Lot 19 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence N. 03° 22' 31" E. along Lot 20 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence N. 03° 22' 31" E. along Lot 21 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence N. 03° 22' 31" E. a distance of 93.81 feet to a concrete bound to be set;

thence along a curve to the right having a radius of 100.00 feet a distance of 57.60 feet to a concrete bound to be set;

thence N. 36° 22' 31" E. a distance of 130.05 feet to a concrete bound to be set, the last three courses being along Lot 22 on the Plan;

thence N. 35° 40' 26" E. along land now or formerly of Earl Drew, Jr. a distance of 73.55 feet to a concrete bound to be set;

thence along a curve to the left having a radius of 60.00 feet along land now or formerly of Earl & Phyllis Drew a distance of 254.52 feet to a concrete bound to be set;

thence S. 27° 22' 43" E. a distance of 23.74 feet to a concrete bound to be set;

thence along a curve to the right having a radius of 30.00 feet a distance of 33.38 feet to a concrete bound to be set;

thence along the westerly sideline of Drew Boulevard a distance of 111.95 feet to a concrete bound to be set;

thence along a curve to the left having a radius of 150.00 feet a distance of 33.39 feet to an iron pin to be set, the last four courses being along Lot 23 on the Plan;

thence along a curve to the left having a radius of 150.00 feet a distance of 53.00 feet to a concrete bound to be set;

thence S. 03° 22' 31" E. a distance of 147.97 feet to an unmonumental point;

thence along a curve to the left having a radius of 30.00 feet a distance of 47.12 feet to a concrete bound to be set;

thence N. 86° 37' 29" W. a distance of 174.03 feet to an iron pin to be set, the last four courses being along Lot 24 on the Plan;

thence N. 86° 37' 29" W. a distance of 65.00 feet to a concrete bound to be set;

thence along a curve to the left having a radius of 175.00 feet a distance of 182.15 feet to a concrete bound to be set, the last two courses being along Lot 25 on the Plan;

thence S. 33° 44' 25" W. along Lot 26 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence S. 33° 44' 25" W. along Lot 27 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence S. 33° 44' 25" W. along Lot 28 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence S. 33° 44' 25" W. along Lot 29 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence S. 33° 44' 25" W. along Lot 30 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence S. 33° 44' 25" W. a distance of 65.96 feet to a concrete bound to be set;

thence along a curve to the right having a radius of 275.00 feet a distance of 90.45 feet to a concrete bound to be set;

thence S. 52° 35' 07" W. a distance of 404.61 feet to a concrete bound to be set on the northerly sideline of Tully Road, the last three courses being along Lot 31 on the Plan;

thence S. 37° 24' 53" E. along Tully Road a distance of 50.00 feet to a concrete bound to be set;

thence N. 52° 35' 07" E. a distance of 404.61 feet to a concrete bound to be set;

thence along a curve to the left having a radius of 325.00 feet a distance of 36.90 feet to a point, the last two courses being along Lot 1 on the Plan;

thence along a curve to the left having a radius 325.00 feet a distance of 70.00 feet to a concrete bound to be set;

thence N. 33° 44' 25" E. a distance of 130.96 feet to an iron pin to be set, the last two courses being along Lot 2 on the Plan;

thence N. 33° 44' 25" E. along Lot 3 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence N. 33° 44' 25" E. along Lot 4 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence N. 33° 44' 25" E. along Lot 5 on the Plan a distance of 200.00 to an iron pin to be set;

thence N. 33° 44' 25" E. along Lot 6 on the Plan a distance of 200.00 to an unmonumental point;

thence N. 33° 44' 25" E. a distance of 135.00 feet to a concrete bound to be set;

thence along a curve to the right having a radius of 125.00 feet a distance 130.10 feet to a concrete bound to be set;

thence S. 86° 37' 29" E. a distance of 69.03 feet to an iron pin to be set, the last three courses being along Lot 7 on the Plan;

thence S. 86° 37' 29" E. a distance of 170.00 feet to a concrete bound to be set;

thence along a curve to the right having a radius of 30.00 feet a distance of 47.12 feet to an unmonumental point;

thence S. 03° 22' 31" W. a distance of 209.87 feet to an iron pin to be set, the last three courses being along Lot 8 on the Plan.

thence S. 03° 22' 31" W. along Lot 9 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence S. 03° 22' 31" W. a distance of 171.03 feet to a concrete bound to be set;

thence along a curve to the left having a radius of 325.00 feet a distance of 67.68 feet to an iron pin to be set, the last two courses being along Lot 10 on the Plan;

thence along a curve to the left having a radius of 325.00 feet a distance of 71.31 feet to a concrete bound to be set;

thence S. 21° 07' 29" E. a distance of 134.19 feet to an iron pin to be set, the last two courses being along Lot 11 on the Plan;

thence S. 21° 07' 29" E. a distance along Lot 12 on the Plan a distance of 200.00 feet to an iron pin to be set;

thence S. 21° 07' 29" E. a distance of 180.65 feet to a concrete bound to be set;

thence along a curve to the right having a radius of 275.00 feet a distance of 129.59 feet to a concrete bound to be set;

thence S. 05° 52' 31" W. a distance of 52.98 feet to an iron pin to be set, the last three courses being along Lot 13 on the Plan;

thence S. 05° 52' 31" W. along Lot 39 on the Plan a distance of 150.00 feet to an iron pin to be set on the northerly sideline of Pine Avenue;

thence S. 84° 07' 49" E. along the northerly sideline of Pine Avenue a distance of 50.00 feet to the iron pin to be set at the point of beginning.

Together with an easement to install, maintain, repair and replace a fire cistern approximately as shown as Fire Cistern Easement on the Plan.

Together with easement to install drainage systems as shown as Drainage Easement #1, Drainage Easement #2, Drainage Easement #3, Drainage Easement #4, Drainage Easement #5 and Drainage Easement #6 on the Plan and to repair and replace said drainage systems, or take any other action relative thereto or thereon.

## ARTICLE 29: AIRPORT EASEMENT PROJECT

To see if the Town will vote to raise and appropriate, borrow, accept grant monies or transfer from available funds the sum of Seven Hundred Thousand Dollars (\$700,000.00) for the Airport

Aviation easement project for the purchase of property interests and related costs; Six Hundred Sixty-five Thousand Dollars (\$665,000.00) to come from a grant from the Federal Aviation Administration; Seventeen Thousand Five Hundred Dollars (\$17,500.00) to come from a grant from the Massachusetts Aeronautics Commission; and, Seventeen Thousand Five Hundred Dollars (\$17,500.00) to be transferred from the Airport Revolving Account or take any other action relative thereto or thereon.

#### ARTICLE 30: AIRPORT EASEMENT PROJECT

To see if the Town will vote to authorize the Orange Airport Commissioners to purchase, take by eminent domain, accept a deed or deeds, or otherwise acquire a perpetual right of way and easement, for the unobstructed passage of all aircraft by whomsoever owned and operated in and through the airspace above the surface of the property of Shirley A. Bickford, said easement being for property located at 26 Daniel Shays Highway, Orange, MA and more particularly described in a set of plans entitled Aviation Easement Runway 32, Orange Municipal Airport, prepared by Marchionda & Associates, L.P; dated November 10, 2007, the appropriation for said acquisition (\$30,000.00) having been voted in Article 29 at the Annual Town Meeting or take any other action relative thereto or thereon.

#### ARTICLE 31: AIRPORT EASEMENT PROJECT

To see if the Town will vote to authorize the Orange Airport Commissioners to purchase, take by eminent domain, accept a deed or deeds, or otherwise acquire a perpetual right of way and easement, for the unobstructed passage of all aircraft by whomsoever owned and operated in and through the airspace above the surface of the property of L. Doris Olson, said easement being for property located at 218 Prentiss Street, Orange, MA and more particularly described in a set of plans entitled Aviation Easement Runway 14, Orange Municipal Airport, prepared by Marchionda & Associates, L.P; dated November 10, 2007, the appropriation for said acquisition(\$50,000.00) having been voted in Article 29 at the Annual Town Meeting or take any other action relative thereto or thereon.

#### ARTICLE 32: AIRPORT EASEMENT PROJECT

To see if the Town will vote to authorize the Orange Airport Commissioners to purchase, take by eminent domain, accept a deed or deeds, or otherwise acquire a perpetual right of way and easement, for the unobstructed passage of all aircraft by whomsoever owned and operated in and through the airspace above the surface of the property of The Ralph C. Mahar Regional School District, said easement being for a portion of the property located at 507 South Main Street, Orange, MA and more particularly described in a set of plans entitled Aviation Easement Runway 14, Orange Municipal Airport, prepared by Marchionda & Associates, L.P; dated November 10, 2007, the appropriation for said acquisition (\$140,000.00) having been voted in Article 29 at the Annual Town Meeting or take any other action relative thereto or thereon.

#### ARTICLE 33: AIRPORT EASEMENT PROJECT



To see if the Town will vote to authorize the Orange Airport Commissioners to purchase, take by eminent domain, accept a deed or deeds, or otherwise acquire in fee for the airport aviation project property of Fred L. Heyes consisting of approximately 56.5 acres on E/S South Main Street, Orange, MA, which includes those portions of the following deeds North of Route 2 contained in the following deeds recorded in Franklin County Registry of Deeds, Book 1442, Page 145; Book 1903, Page 22; portion of Book 2601, Page 167 and Book 2001, Page 133, the appropriation for said acquisition (\$370,000.00) having been voted in Article 30 at the Annual Town Meeting or take any other action relative thereto or thereon.

#### ARTICLE 34: THE POINT AT LAKE MATTAWA

To see if the Town will vote to transfer the care, custody, management and control of “The Point” so-called at Lake Mattawa, more particular described in a plan of land entitled “Plan of Land in Orange, Massachusetts Prepared for the Water Department” dated November 1, 2006, prepared by Berry Engineering, Inc. to the Board of Selectmen for general municipal purposes including resale, as voted by the Water Commissioners at their meeting on July 23, 2007 or take any other action relative thereto or thereon.

#### ARTICLE 35: THE POINT AT LAKE MATTAWA

To see if the Town will vote to authorize the Board of Selectmen to convey at fair market value and to seek special legislation pursuant to Article 97 of the Massachusetts Constitution for permission for said conveyance by lot or otherwise, “The Point” so-called at Lake Mattawa, more particular described in a plan of land entitled “Plan of Land in Orange, Massachusetts Prepared for the Water Department” dated November 1, 2006, prepared by Berry Engineering, Inc., the proceeds from the sale shall be returned to the Water Department Enterprise Account minus any expenses related to the sale of the property or take any other action relative thereto or thereon.

#### ARTICLE 36: THE POINT AT LAKE MATTAWA

To see if the Town will vote to authorize the Board of Selectmen to seek special legislation notwithstanding the provisions of M.G.L. c. 30B to convey by lot or otherwise, “The Point” so-called at Lake Mattawa, more particular described in a plan of land entitled “Plan of Land in Orange, Massachusetts Prepared for the Water Department” dated November 1, 2006, prepared by Berry Engineering, Inc. for fair market value to the current lease holders, or take any other action relative thereto or thereon.

#### ARTICLE 37: GALE HILLTOP FARM CONSERVATION

To see if the Town of Orange will vote to appropriate, and authorize the Treasurer with the approval of the Board of Selectmen to borrow and or transfer from available funds the sum of \$400,000, more or less, pursuant to Chapter 44, Section 7(3) of the General Laws, as amended, or any other enabling authority, to pay costs of acquiring for conservation and passive recreation purposes through negotiated purchase or otherwise, the value of a 69.5 acre conservation

restriction in a 70.5 acre tract of land known as the Gale Hilltop Farm described in a deed conveyed to Mount Grace Land Conservation Trust, Inc located at 485 Tully Road and further identified as the property shown on Orange's Assessor's Map 205 Lot 4, including all incidental costs related thereto, that said conservation restriction be conveyed to the Town under the provisions of Massachusetts General Law, Chapter 40, Section 8C, and as it may hereafter be amended, and other Massachusetts statutes relating to conservation, to be managed and controlled by the Conservation Commission of the Town of Orange, and the Conservation Commission be authorized to file on behalf of the Town of Orange any and all applications for grants and/or reimbursements from The Commonwealth of Massachusetts deemed necessary under the Self-Help Act (Chapter 132A, Section 11) and/or any other state and/or federal programs, including those in aid of conservation land acquisition, and to receive and accept such grants or reimbursements for this purpose such that the town is reimbursed for the total project cost, and be authorized to accept conservation restrictions, enter into all agreements and execute any and all instruments including a Self-Help Program Grant Agreement with The Commonwealth of Massachusetts, which may contain restrictions and covenants, as may be necessary on behalf of the Town to effect said acquisition, or take any other action relative thereto or thereon.

#### ARTICLE 38: STARRY STARRY NIGHT

To see if the Town will vote to raise and appropriate or take from available funds, the sum of \$2,000.00 to help fund the Starry Starry Night Celebration in Orange on December 31, 2008, provided to the community through the sponsorship of the Orange Revitalization Partnership and the support of local businesses, individuals, and cultural councils; or take any other action relative thereto or thereon.

#### ARTICLE 39: RIVER RAT RACE POLICE DETAIL

To see if the Town will vote to raise and appropriate or take from available funds, the sum of \$1,500.00 to help fund the River Rat Race Celebration in Orange for Police detail, coverage provided to the community through the sponsorship of the Athol Lions Club and the support of local businesses and individuals, or take any other action relative thereto or thereon.

#### ARTICLE 40: 200TH ANNIVERSARY CELEBRATION

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$1,000.00 to help fund the 200TH Anniversary Celebration of the Town of Orange for the calendar year 2010, or take any other action relative thereto or thereon.

#### ARTICLE 41: BUFFER ZONE BYLAW (PETITION)

To see if the Town will Vote to accept a Buffer Zoning Bylaw and further that no substantive changes to the numbering of the bylaw be permitted in order that it be in compliance with the numbering format of the Code of Orange as described below;

##### Introduction

The purpose of this Bylaw is to minimize any impact proposed work might have on a resource area and to preserve and exercise jurisdiction over protected resource areas and adjoining land areas in the Town of Orange, Massachusetts. Wetlands contribute to a number of public interests

and are therefore protected by this Bylaw. The Bylaw includes and identifies additional interests not recognized by the Massachusetts Wetland Protection Act. These interests include but are not limited to; erosions and sedimentation control, groundwater levels, groundwater runoff, flooding, avoidance of water and soil pollution, protection of rare species, agriculture, aquaculture, and recreational values. Any permit issued under this Bylaw must therefore not adversely affect any of these additional public interests.

#### Purpose

The alteration of land immediately adjacent to a wetland invariably results in the alteration of the wetland itself. Wetland alterations observed during construction have been siltation, over-grading, and the deposit of construction debris. Alterations observed after construction include unregulated filling, and disposing of yard waste. Such alterations have in most instances resulted in increased run-off, siltation, and nutrient loading. Since the Town of Orange Massachusetts cannot allow unregulated alterations of the wetlands, strict buffer zone restrictions are necessary for all projects. In projects abutting the area of critical environmental concern the Town of Orange, Massachusetts may impose more severe restrictions than outlined here.

This Bylaw is intended to use the authority of the Town under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Statutes to protect additional resource areas, independent of, and to provide more stringent protection by the Town of Orange than that provided by M.G.L. Chapter 131, Section 40 (the Wetlands Protection Act, and the regulations issued there under, 310 CMR 10.00 (the Wetlands Protection Regulations). This section shall extend protection to vernal pools, isolated vegetated wetlands in excess of ½ acre, intermittent streams, and land subject to flooding. Under these Regulations Buffer Zones adjacent to protected wetland resources have additional protection not afforded under the Wetlands Protection Act.

#### Definitions

1. The Undisturbed Buffer Area (UBA) is defined as an area extending 25 feet from the Resource Area, with the exception of a vernal pool. The UBA line shall be established by calculating the UBA every 25 feet along the resource area at right angles to the resource area delineation line. Additionally the UBA shall be delineated using any points, which protrude, into the project site. The Orange Conservation Commission reserves the right to revise the UBA delineation should the Commission feel that utilizing different points for calculation would result in a more restrictive UBA. The UBA extends for the entire buffer of a vernal pool.
2. No Build Area (NBA) is an area defined as between 25 and 75 feet from the edge of a resource area.
3. A Tree Filter Zone is defined as the area between 25 and 100 feet measured horizontally from the edge of the resource area. Tree cover is measured for the purpose of this section as the basal area of trees with a 6" diameter at 3 feet above ground level.
4. The Buffer Zone for a Vernal Pool or for a Pond Under 10,000 Square Feet of surface area shall extend 125 feet horizontally outward from the mean annual high water line defining the depression, or one-half of the distance between the mean annual high water line and any existing (house) foundation, whichever is smaller. In either case the Buffer Zone for vernal pools shall not extend over existing lawn, gardens, landscaped areas, or developed areas.
5. The Buffer Zone for Isolated Land Subject to Flooding shall extend 25 feet horizontally outward from the boundary of the resource area.
6. The Buffer Zone for All Other Resource Areas shall extend 100 feet horizontally from the boundary of the resource area.

7. Vernal Pools all seasonal ponds shall be considered vernal pools unless shown not to be according to the Commonwealth of Massachusetts Division of Fisheries and Wildlife.

8. Endangered Species shall include both plant and animal species both listed and non-listed.  
Performance Standards

1. No work shall be conducted with the Undisturbed Buffer Area (UBA) with the exception of removal of debris, or maintenance / restoration work as instructed or approved by the Conservation Commission or its Agent. Such exceptions may be granted for planting and landscaping within this area. In the UBA no trees over six (6) inches in caliper at a height of three (3) feet above the existing ground shall be cut except for those associated with a storm-water management system or drainage basin located outside of the UBA.

2. In a No Build Area (NBA) no construction or removal of vegetation is allowed. Building construction prohibited in this area includes, but is not limited to, porches, decks, and sheds. .

3. In the tree filter zone no more than 50% of the tree cover can be removed. Tree cover is measured for the purpose of this section as the basal area of trees with a six (6) inch diameter at three (3) feet above ground level.

4. All underground recharge systems shall be tested by artificially discharging the amount of water that would be generated by the first inch of rainfall in the 100-year storm. The recharge systems would need to be qualified prior to the issuance of a Certificate of Compliance, and then re-tested every five (5) years. Re-testing will insure the systems have not deteriorated. This shall be required as an ongoing condition.

5. All existing underground recharge systems shall be tested as outlined above. The testing of all existing systems shall be qualified within the first 2 years (24 calendar months) after adoption, and re-tested every five (5) years.

#### Enforcement

Failure to follow this Bylaw may subject the violator to fines and / or restoration of disturbed area under Massachusetts General Law, Federal Law, and the Town of Orange and/or Orange Conservation Commission guidelines, policies, and Town of Orange Bylaws.

#### Plan Specifications

This section defines the specification requirements for the plans submitted with a Notice of Intent.

1. Scale of main plan. The main plan must be suitable for detailed study and measurement of the proposed work, not more than forty (40) feet to the inch. Existing and proposed contours at an interval of not more than two (2) feet should be shown. Each plan shall show both a numerical indications of the scale as well as a graphical scale.

2. Supplementary plans. More than a single plan may be necessary to clearly and legibly represent the relevant information. Supplementary maps particularly likely to be needed are total watershed including the site and off site areas draining into or over any part of the site, sub-watersheds, soil and cover. Where the information on such supplementary plans can be presented legibly on a reduced size plan, a scale of more than forty (40) feet per inch may be submitted.

3. Specific data required on plans. The following are minimum data requirements for all filings and drawings. Drawings failing to provide all applicable data from this list may cause the filing to be considered incomplete. The Commission may return incomplete filings and the twenty-one (21) day period for scheduling of the public hearing will be considered not to have started. The Commission may impose additional site-specific data requirements if it finds they are needed to evaluate the impact of the proposed project on the interests mentioned in the Bylaw. These

requirements are in addition to those requested in the guidelines issued from time to time by the Department of Environmental Protection, Wetland Division.

1. Title Block. The title block must be located at the lower right hand corner of the drawing. It must identify the project name, owners/agents name and address, map and lot number, sheet number and total number of sheets, scale and date of submission of the plan.
2. Revision Block. All drawings shall have a revision block located above the title block, with provisions for dates and explanations for all changes. Revision information shall be kept current and complete.
3. North Point. All drawings shall have an indication of true north on each page.
4. Scale Statement. The scale shall be shown both by a statement of scale and a graphical scale. If insets have a different scale than the main plan, this must be clearly indicated. If vertical and horizontal scales differ, this must be clearly indicated.
5. Identifying Information. The stamp and signature of a registered professional engineer responsible for the plan is required. When property line locations are material to the Commission's Deliberations, they must be attested to by a registered land surveyor. When wetland lines are shown, the name of the person making the delineation shall be included on the plan.
6. Notes and Legend. Notes shall be included giving the source of all information on the plan, including the names of any professional contributing data to the plan (e.g. wetlands botanist). The vertical datum and benchmarks used shall be clearly stated.
7. Legend. A legend shall show the meaning of all line types, and symbols used on the plan.
8. The Commission requires two (2) complete sets of plans, one of which is to be kept on file at the Orange Town Hall.

#### Endangered Species

The developer is required to make a full and complete survey of the proposed site for endangered plant and animal species. All endangered species are to be considered whether or not they are listed on the state list.

#### Effective Dates

All land lots existing or brought into existence on or after the date and time of adoption of this Article shall be subject to the buffer requirements of these regulations. Lots subject to any determination by the Orange Planning Board, including but not limited to zoning changes, or new subdivisions after adoption shall be subject to these regulations. In addition all projects requiring / obtaining zoning variances after adoption are subject to these regulations.

#### Severability

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof. Nothing in the By-Law shall preclude the Board of Selectmen, or any other Town Commission, Committee, or Board from establishing conditions that are more stringent than this Article, or take any other action relative thereto or thereon.

### ARTICLE 42: OUTDOORS LIGHTING BYLAW (PETITION)

To see if the Town will Vote to accept an Outdoor Lighting Bylaw and further that no substantive changes to the numbering of the bylaw be permitted in order that it be in compliance with the numbering format of the Code of Orange as described below;

#### Sec. 1 OBJECTIVES

The regulation of outdoor lighting is intended to: enhance public safety and welfare by providing

for adequate and appropriate outdoor lighting, provide for lighting that will complement the character of the town, reduce glare, minimize light trespass, and reduce the cost and waste of unnecessary energy consumption.

## Sec. 2 APPLICABILITY, TERMINOLOGY

The requirements of this section shall apply to outdoor lighting on lots and parcels in all districts but shall not apply to: one and two family dwellings on lots on which they are the principal use, or street lighting, lights that control traffic or other lighting for public safety on streets and ways. When an existing outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this section.

### Sec. 2.2 TERMINOLOGY

The following words, which are technical terms applying to lighting, which are set forth below, shall have the meaning indicated below.

**COLOR RENDERING INDEX (CRI):** A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100, where 100 represents incandescent light.

**CUTOFF ANGLE:** The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

**DIRECT LIGHT:** Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**FIXTURE:** The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

**FULLY-SHIELDED LUMINAIRE:** A lamp and fixture assembly designed with a cutoff angle of 90°, so that no direct light is emitted above a horizontal plane.

**GLARE:** Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

**HEIGHT OF LUMINAIRE:** The vertical distance from the finished grade of the ground directly below to the lowest direct light emitting part of the luminaire.

**INDIRECT LIGHT:** Direct light that has been reflected off other surfaces not part of the luminaire.

**LAMP:** The component of a luminaire that produces the actual light.

**LIGHT TRESPASS:** The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located.

**LUMEN:** A measure of light energy generated by a light source. One foot candle is one lumen per square foot. For purposes of this By-Law, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

**LUMINAIRE:** A complete lighting system, including a lamp or lamps and a fixture.

## Sec. 3 LIGHTING PLAN

Wherever outside lighting is proposed, every application for a building permit, a special permit, a special permit with site plan review, a variance, or an electrical permit, shall be accompanied by a lighting plan which shall show: the location and type of any outdoor lighting luminaires, including the height of the luminaire; the luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles; the type of lamp such as: metal halide, compact fluorescent, high pressure sodium; a photometric plan showing the intensity of

illumination at ground level, expressed in foot candles; and that light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross section drawings, or other means.

#### Sec. 4 CONTROL OF GLARE AND LIGHT TRESPASS

4.1 Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting luminaire.

4.2 All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.

4.3 Paragraph 4.1, above, shall not apply to any luminaire intended solely to illuminate any freestanding sign or the walls of any building but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.

#### Sec. 5 LAMPS

5.1 Lamp types shall be selected for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color rendering index lower than 50 are not permitted. This paragraph shall not apply to temporary decorative lighting, which may include colored lamps, such as holiday lighting.

#### Sec. 6 HOURS OF OPERATION

6.1 Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m. with the following exceptions:

if the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases; low level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 am, provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.

#### Sec. 7 SPECIAL PERMITS

The Special Permit granting authority of the Town of Orange Massachusetts may grant a special permit modifying the requirements of this Section, provided it determines that such modification is consistent with the objectives set forth in Sec. 1, in the following cases: where an applicant can demonstrate, by means of a history of vandalism or other objective means, that an extraordinary need for security exists. Where an applicant can show that conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas. Where a minor change is proposed to an existing non-conforming lighting installation, such that it would be unreasonable to require replacement of the entire installation. Where it can be demonstrated that for reasons of the geometry of a lot, building, or structure, complete shielding of direct light is technically infeasible.

#### Sec. 8 Severability

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof. Nothing in this By-Law shall preclude the Board of Selectmen, and/or any other Commission, Committee, or Board from establishing conditions that are more stringent than this By-Law, or take any other action relative thereto or thereon.

## ARTICLE 43: NOISE BYLAW (PETITION)

To see if the Town will Vote to accept a Noise Bylaw and further that no substantive changes to the numbering of the bylaw be permitted in order that it be in compliance with the numbering format of the Code of Orange as described below;

### Sec. 1 Definitions.

Except as may be specified herein, acoustical terminology used throughout this By-Law is that approved as American National Standard Acoustical Terminology [ANSI S1.1-1994] by the American National Standards Institute (ANSI). The following words, phrases and terms as used in this By-Law shall have the meanings as indicated below:

- (a) **BACKGROUND SOUND LEVEL** shall mean the sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.
- (b) **CONSTRUCTION** shall mean those activities requiring a building permit, and shall also include any site preparation, cemetery burial and caretaking operations, seismic surveys, grading, assembly, erection, substantial repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.
- (c) The abbreviation **dba** shall mean the A-weighted sound pressure level expressed in decibels and referenced to 20 micropascals.
- (d) **EMERGENCY VEHICLE** shall mean any vehicle operated in an effort to protect, provide or restore public safety, including, but not limited to, ambulances, police vehicles and fire vehicles.
- (e) **EMERGENCY WORK** shall mean any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service.
- (f) **ENFORCING PERSON** shall mean any police officer of the Town or any other Town employee designated by the Selectmen for this purpose. For complaints under Section 4 an enforcing person shall also include any authorized employee of the Office of Community Development.
- (g) **IMPACT DEVICE** shall mean a construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as a part of the device, as in the case of a moil on a paving breaker or the drill steel of a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver. Examples of impact devices are pile drivers, paving breakers, power impact hammers, impact wrenches, riveters and stud drivers.
- (h) **INTRUDING NOISE** shall mean the total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.



(i) Leq, equivalent sound level, is the level of a constant sound which, in a given situation and time period, would convey the same sound energy as does the actual time-varying sound during the same period, as measured with a sound level meter measuring Leq.

(j) PERSON shall mean a person, firm, association, co-partnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

(k) RESIDENTIAL PROPERTY shall mean a parcel of real property which under the By-Law is in whole or in part in a Single Residence, General Residence or Apartment House or Senior Living or Residential.

(l) SOUND LEVEL shall mean the instantaneous A-weighted sound pressure level, in decibels, as measured with a sound level meter set to the "A" weighting scale, slow response.

(m) SOUND LEVEL METER shall mean an instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

#### Sec. 2 Designated Noise Zones.

The properties hereinafter described are hereby assigned to the following noise zones:

NOISE ZONE I: All residential properties and the grounds of any school, hospital or similar health care institution, house of worship or library while the same is in use, and any Cemetery or Open Space Subdistrict.

NOISE ZONE II: All other properties.

#### Sec. 3 Exterior Noise Standards.

It shall be unlawful for any person at any location within the area of the Town of Orange Massachusetts to create any loud noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on any other property to exceed the greater of:

(a) The maximum allowable exterior sound level outlined in Table I; or

(b) Five dB over the background sound level.

#### Table I. Maximum Allowable Exterior Sound Level

| Day Level    | Night Level                      |
|--------------|----------------------------------|
| Noise Zone 1 | 7:00 AM-10:00PM 10:01 PM-6:59 AM |
| 55dBA        | 45dBA                            |
| Noise Zone 2 |                                  |
| 65dBA        | 60dBA                            |

If the intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level

obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.

#### Sec. 4 Construction Noise Standards.

(a) Noise associated with construction is permitted between 7:00 AM and 8:00 PM on weekdays and Saturdays provided the sound level from:

(1) non-impact devices does not exceed 70 dBA as measured over a time interval of 10 minutes with a sound level meter set to Leq located on any other property, but at least 50 feet from the construction activity;

(2)(a) impact devices does not exceed 90 dBA as measured with a sound level meter set to slow response located on any other property, but at least 50 feet from the construction activity.

(b) Between the hours of 8:00 PM and 7:00 AM on weekdays and Saturday, and at any time on Sunday or a legal holiday, noise associated with construction, shall be limited by the standards of Section 3.

#### Sec. 5 Maintenance Noise Standards.

(a) Noise associated with maintenance is permitted between 7:00 AM and 8:00 PM on weekdays and Saturdays and between the hours of 9:00 AM and 8:00 PM on Sunday, provided the sound level does not exceed 80 dBA as measured with a sound level meter set to slow response on any other property, but at least 50 feet from the maintenance activity;

(b) If it is not possible to make an accurate sound level measurement at the specified distance of 50 feet, measurements made at an alternate distance can be used, if the level is re-calculated for an equivalent expected sound level at 50 feet. Calculations shall be made in accordance with established engineering practices for noise measurement and assessment, including those established or recommended by the USEPA.

(c) Between the hours of 8:00 PM and 7:00 AM on weekdays and Saturday, and between the hours of 8:00 PM and 9:00 AM on Sunday or a legal holiday, noise associated with maintenance, shall be limited by the standards of Section 3.

#### Sec. 6 Special Provisions.

Noise associated with the following activities shall be exempted from the provisions of this By-Law:

(a) Emergency work or emergency vehicles.

(b) The operation of any vehicular alarm, provided it terminates within 15 minutes of the initially recorded complaint.

(c) Activities, other than construction, conducted in public parks, public property and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction, including but not limited to school athletic and school entertainment events.

(d) Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events.

(e) Snow removal performed by snow blowers, snow throwers or snow plows when appropriately outfitted with a muffler.

(f) Any activity to the extent regulation thereof has been preempted by State or Federal Law.

#### Sec 7 Prima Facie Violation.

Any measured noise exceeding the sound level standards as specified in Sections 3, 4 and 5 shall be deemed to be prima facie evidence of a violation of the provisions of this By-Law.

#### Sec. 8 Penalties for Violations.

(a) Violations under this Bylaw, in the discretion of the enforcing person, may be enforced by non-criminal disposition as provided in Chapter 40, Section 21D of the General Laws (“Section 21D”).

(b) The penalty for a violation under Section 3 or 5 shall be \$25 for a first offense next after the first warning, \$100 for a second offense, \$200 for a third offense, and \$300 per offense, without limit, for each succeeding offense. Each day or part thereof shall constitute a separate offense.

(c) The penalty for a violation under Section 4 shall be \$50 for a first offense next after the first warning, \$100 for a second offense, \$300 for a third offense, and each succeeding offense. Each day or part thereof shall constitute a separate offense. Additionally under Section 4, at the discretion of the enforcing person, all construction activities may be suspended following initial warning until the violation is cleared to the reasonable satisfaction of the enforcing person.

(d) An enforcing person taking cognizance of a violation of this Article or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof for the non-criminal disposition thereof in accordance with the provision of Section 21D. The provisions of Section 21D are incorporated by this reference.

#### Sec. 9 Manner of Enforcement.

(a) Violations of this Article shall be prosecuted in the same manner as other violations of the Orange General By-Laws provided, however, that in the event of an initial violation of the provision of this Article, a written notice shall be given the alleged violator, which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed or fully-corrected within the time period specified in the written notice.

(b) In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred in which event the specified time period for abating the violation shall

commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a complaint.

Sec 10 Severability

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof. Nothing in the By-Law shall preclude the Board of Selectmen, or any other Town Commission, Committee, or Board from establishing conditions that are more stringent than the existing By-Law.

And you are hereby directed to serve this Warrant by posting attested copies thereof at the Town Hall, the Post Office in Orange and the Library in North Orange, seven days at least before the time of holding said meeting.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this 28th day of May 2008.

\_\_\_\_\_  
Robert F. Andrews, Chairman

\_\_\_\_\_  
Richard P. Sheridan, Vice-Chairman

\_\_\_\_\_  
Steven E. Adam, Clerk  
BOARD OF SELECTMEN

A true copy.

ATTEST:

Posted as Directed

\_\_\_\_\_  
Constable of Orange, Massachusetts

Franklin SS.

Pursuant to the within warrant, I have notified and warned the inhabitants of the Town of Orange, by posting up attested copies of the same at the Town Hall, Post Office in Orange and the Library in North Orange 7 days at least before the time of holding said meeting.

\_\_\_\_\_  
Constable of Orange

\_\_\_\_\_  
Date