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**Orange Zoning Bylaw**

As Adopted  
SEPTEMBER 16, 1974

**AS AMENDED**

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August 24, 1981	May 3, 1999
October 19, 1981	May 1, 2000
September 22, 1986	May 6, 2002
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## **SECTION 1. PURPOSE AND AUTHORITY**

### **1100 Purposes**

This Bylaw is enacted in order to promote the general welfare of the Town of Orange, to protect the health and safety of its inhabitants, to support the most appropriate use of land throughout the Town, and to preserve and increase the amenities of the Town, all as authorized but not limited by the provisions of the Massachusetts Zoning Act, G.L. c. 40A, as amended, and Section 2A of Chapter 808 of the Acts of 1975.

### **1200 Authority**

This Bylaw is enacted under the authority of Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts and in accordance with G.L. c 40A, as amended.

### **1300 Applicability**

All buildings or structures erected, constructed, reconstructed, altered, enlarged, or modified, and the use of all premises in the Town, after the effective date of this Bylaw shall conform with the provisions of this Bylaw. No building, structure, or land shall be used for any purpose or in any manner other than as expressly permitted within the district in which it is located. Where this Bylaw imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Bylaw shall control.

### **1400 Amendment**

This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided for in G.L. c. 40A, § 5.

### **1500 Severability**

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision herein.

## SECTION 2. 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. Any terms not specifically defined herein shall be defined according to Webster's Third New International Dictionary, Unabridged.

**Accessory Apartment** shall mean an independent, subordinate dwelling unit contained within an existing single-family detached dwelling.

**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.

**Agriculture** shall mean farming, agriculture, or forestry as defined in MGL Chapter 128 Sec. 1A.

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

**Apartment, Accessory** See "Accessory Apartment"

**Bed and Breakfast** (see "Inn")

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

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

**Campground** shall mean an area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind.

**Development** shall mean 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.

**Dog Kennel** (see "Kennel")

**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.

**Dwelling, Multifamily** shall mean a dwelling containing 3 or more dwelling units, separated by vertical walls or horizontal floors, designed for occupancy by 3 or more families.

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

**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.

**Elevation** shall mean the measurement of height above sea level.

**Family** shall mean an individual or two or more persons living together as a single household unit.

**Farm Stand** shall mean a temporary open-air stand or place for the seasonal selling of agricultural produce.

**Farming** (see “Agriculture”)

**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.

**Floodplain** shall mean the areas adjoining a watercourse at or below the water surface elevation that have been or hereafter may be covered by a 100-year flood event. Where the following terms are used in Section 7900, Floodplains, they shall have the following meanings:

Area of Special Flood Hazard shall mean 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, AI-30, or A99.

Base Flood shall mean the flood having a one percent chance of being equaled or exceeded in any given year.

Manufactured Home Park or Subdivision, Existing shall mean 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.

Manufactured Home Park or Subdivision, New shall mean 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.

Manufactured Home Park or Subdivision, Expansion to Existing shall mean 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) shall mean the agency that 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 shall mean 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) shall mean 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 shall mean 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 shall mean 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 shall mean 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.

New Construction shall mean, 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.

One-Hundred-Year Flood (see "Base Flood")

Regulatory Floodway (see "Floodway")

Special Flood Hazard Area shall mean 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 shall mean 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.

Substantial Damage shall mean 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 shall mean 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 shall mean 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 AL-A30 and Zone AE (for new and revised maps) shall mean the 100-year floodplain where the base flood elevation has been determined.

Zone AH and Zone AO shall mean the 100-year floodplain with flood depths of 1 to 3 feet.

Zone A99 shall mean 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 shall mean 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.

**Forestry** shall mean the science, the art and the practice of conserving and managing for human benefit the natural resources, including trees, other plants, animals, soil and water, that occur on and in association with forest lands.

**Front Yard** (see "Yard, Front")

**Hazardous materials** shall mean 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 products such 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.

**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.

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

**Incineration Plant** shall mean a facility for the use of enclosed devices using controlled flame combustion, the primary purpose of which is to thermally break down hazardous waste.

**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.

**Junkyard** shall mean any parcel, building, or structure used in whole or in part for the storage, collection, processing, or disposal of junk.

**Kennel** shall mean an establishment where dogs, cats, or domestic animals are boarded for compensation or where these animals are bred or raised for sale purposes.

**Light Manufacturing** shall mean a manufacturing activity which complies with the regulations for Section 5311 Home Occupation with the exception of sub-section (b).

**Lot** shall mean an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

**Lot Area** shall mean the horizontal area of the lot exclusive of any area in a street or recorded way open to public use.

**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.

**Lot Frontage** shall mean that portion of a lot fronting upon and having access to a street.

**Manufactured Home** shall mean 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.

**Manufactured Home Park or Subdivision** shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Manufacturing** shall mean the fabrication of raw materials or assembly of parts or materials fabricated offsite.

**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.

**Mobile Home Park** shall mean a site with required improvements and utilities for the long-term parking of mobile homes which may include services and facilities for the residents.

**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.



**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. Motel accommodations may have individual kitchen facilities (sink, range, refrigerator).

**Multifamily Dwelling** (see “Dwelling, Multifamily”)

**Night club** shall mean a commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment are permitted.

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

**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.).

**Personal Wireless Service Facility** shall mean a facility for the provision of personal wireless services, as defined by the Telecommunications Act. Where the following terms are used in Section 7500, Personal Wireless Service Facilities, they shall have the following meanings:

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

Antenna shall mean the surface from which wireless radio signals are sent and received by a personal wireless service facility.

Camouflaged shall mean that a personal wireless service facility is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.

Carrier shall mean a company that provides wireless services.

Co-location shall mean 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.

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

Environmental Assessment (EA) shall mean 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.

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

Fall Zone shall mean 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.

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

Guyed Tower shall mean a monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

Lattice Tower shall mean a type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

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

Monopole shall mean 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.

Mount shall mean 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.

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

Panel Antenna shall mean a flat surface antenna usually developed in multiples.

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

Radiofrequency Radiation (RFR) shall mean the emissions from personal wireless service facilities.

Security Barrier shall mean a locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

Separation shall mean the distance between one carrier's array of antennas and another carrier's array.

**Public Utility** shall mean all lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

**Recharge area** shall mean 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.

**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 a device or display is located, including billboards.

**Single-Family Dwelling** (see Dwelling, “Single-Family”)

**Storage Container** shall mean a standardized container that is:

- a. Designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; or
- b. Designed for or capable of being mounted or moved on a rail car; or
- c. Designed for or capable of being mounted on a chassis for movement by a truck trailer or loaded on a ship and is used for outside storage accessory to and in support of the principal use on the site.

Also known as a shipping container or POD (portable on demand) storage system.

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

**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.

**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.

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

**Transportation Terminal** shall mean a facility for the transfer, pickup, or discharge of people or goods without the long-term storage of such items.

**Two-Family Dwelling** (See “Dwelling, Two-Family”)

**Wireless Service Facility** (see “Personal Wireless Service Facility”)

**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.

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



## **SECTION 3. ADMINISTRATION**

### **3100 Administration**

**3110 Building Permits.** This Bylaw 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 an action is in compliance with then applicable zoning, or without review by them 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.

**3120 Enforcement.** The Building Inspector shall institute and take any and all actions as may be necessary to enforce full compliance with any and all provisions of this Bylaw and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Selectmen to the Town Counsel.

**3130 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 \$300.00 for each offense. Each day that each violation continues shall constitute a separate offense.

**3140 Amendments.** This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, S. 5, and any amendment thereto.

### **3200 Board of Appeals**

**3210 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 G.L. c. 40A.

**3220 Powers.** The Board of Appeals shall have and exercise all powers granted to it by G.L. c. 40A, 40B, and 41, and this Bylaw. The Board's powers are as follows:

**3221** To hear and decide petitions for dimensional variances from the terms of this bylaw, with respect to particular land or structures.

**3222** To hear and decide other 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 G.L. c. 40A, 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 G.L. c. 40A, or this bylaw.

**3223** 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 construction would be consistent with local needs, whether or not consistent with local zoning, building, health, or subdivision requirements, as authorized by G.L. c. 40B, SS. 20-23.

**3224** To hear and decide appeals on Performance Standards decisions.

**3225 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.

### **3300 Special Permits**

**3310 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.

**3320 Public Hearings.** Public Hearings for Special Permits shall be held and decisions rendered in accordance with G.L. c. 40A, S. 9.

**3330 Criteria.** Except as designated under Section 7400 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:

1. Social, economic, or community needs which are served by the proposals;
2. Traffic flow and safety;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Qualities of the natural environment;
6. Potential fiscal impact.

**3340 Conditions.** Special Permits may be granted with reasonable conditions, safeguards, or limitations on time or use that the Special Permit Granting Authority may deem necessary to serve the purpose of this bylaw.

**3350 Expiration.** Special Permits shall lapse 24 months following Special Permit approval (plus time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, S. 17, from the grant thereof) if substantial use thereof or construction has not yet begun, except for good cause.

## **3400 Site Plan Review**

### **3401 Purpose**

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

### **3402 Applicability**

Site Plan Review shall be required:

1. for construction projects if creating 20 or more parking spaces;
2. for the creation of 20 or more parking spaces not associated with a building permit;
3. 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;
4. For an Open Space Development (see Section 7700).

**3403 Building Permits.** 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.

### **3404 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.

### **3405 Consultant Review**

For large or complex projects, the Planning Board may 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 this advice.

### **3406 Plan Submission Requirements**

The exact form and contents of the application, fees, plans, and information shall be as required by the Rules and Regulations of the Planning Board.

### **3407 Submission Waiver**

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.

### **3408 Public Hearing & Decision**

The Planning Board shall hold a public hearing within 65 days after the filing of an application. Notice and posting of the public hearing shall comply with the provisions of G.L. c. 40A, S. 11. The Planning Board shall take final action on an application for Site Plan Review within 90 days of the close of the public hearing.

The concurring vote of a majority of the members of the Board participating and voting shall be required for any decision on a site plan application. The Board's written decision shall consist of either:

1. Approval of the site plan based on a determination that the proposed project is in compliance and consistent with the Orange Zoning Bylaw.
2. Approval of the site plan subject to conditions, modifications and reasonable restrictions necessary as the Planning Board may deem necessary.
3. Denial of the site plan based upon specific findings that there was i) insufficient information submitted with the application in order for the Board to adequately review the proposal, or; ii) a determination that the project does not meet the requirements of the Orange Zoning Bylaw.

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, and with other appropriate parties in accordance with the provisions of G.L. c. 40A.

### **3409 Review Standards**

The determination of the appropriateness of the use shall be governed by the Table of Use Regulations and the special permit review process.

The site plan shall comply with all zoning requirements for parking, loading, dimensions, Water Resource District protection, other environmental performance standards and all other provisions of the Orange Zoning Bylaw. Prior to approval of a Site Plan review, 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.

In addition, the Planning Board shall consider the following Site Plan Review standards in issuing a decision, unless waived at the Board's discretion under Section 3407:

1. Compliance with the applicable provisions of the Zoning Bylaw.
2. Protection of abutting properties through minimizing detrimental or offensive actions including but not limited to air and water pollution, flood hazards, noise, odor, dust vibration, and lighting.



3. Adequacy of the proposed sewage disposal and water supply systems within and adjacent to the site to serve the proposed use.
4. Adequacy of the proposed drainage system within and adjacent to the site to handle the increased runoff resulting from the development.
5. Adequacy of the soil erosion plan and any plan for protection of steep slopes, both during and after construction.
6. If there is more than one building on the site, the buildings should relate harmoniously to each other in architectural style, site location and building exits and entrances.
7. Screening should be provided for storage areas, loading docks, dumpsters, rooftop equipment, utility buildings and similar features
8. The site should be designed to provide for the convenience and safety of vehicular and pedestrian movement both within the site and in relation to adjoining ways and properties.
9. The location and number of curb cuts should minimize turning movements, and hazardous exits and entrances.
10. The site should be designed to provide for the convenience and safety of vehicular, pedestrian and bicycle movement both within the site and in relation to adjoining ways and properties.
11. Provision of adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage.
12. Protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and building exterior lighting, using cut-off luminaries, light shields, lowered height of light poles, screening or similar solutions.
13. A traffic impact report may be required, if not waived under Section 3407.

### **3410 Performance Guaranty**

For the purpose of securing the performance of all proposed work, including landscaping and off-site improvements, the Board may require any of the following: a performance bond, deposit of money, bank passbook, or letter of credit in an amount determined by the Board to be sufficient to cover the cost of all or any part of improvements required.

### **3411 Expiration**

Any approval of a Site Plan Review in accordance with Section 3400 shall expire in 2 years if substantial construction has not begun in that time.

### **3412 Appeal**

Any decision of the Planning Board pursuant to Section 3400 may be appealed in accordance with G.L. c. 40A, S. 17.

## SECTION 4. ESTABLISHMENT OF DISTRICTS

### 4100 DISTRICTS

**4110 Establishment.** For the purposes of this Bylaw, the Town of Orange is hereby divided into the following districts:

Business	B
Residential Village	RV
Industrial	I
Residential	R
Residential Rural	RR
Downtown	DT

The Boundaries of District B, Business, 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 Residential Village, District RV.

An additional "overlay" district is hereby created, a "Water Resource District" for the purposes of Section 7400.

The Boundaries of these districts are defined and bounded on the map entitled "Official Zoning Map, Orange, Massachusetts", dated April 28, 2010, 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 Bylaw.

**4120 District Definitions.** The Town's zoning districts are defined as follows:

Business (B): This district largely follows Route 2A and encompasses many of Orange's commercial uses. The purpose of District B is to create and maintain a thriving commercial corridor in the center of Town.

Residential Village (RV): This district comprises the areas of relatively dense residential development directly north and south of Downtown Orange. The purpose of District RV is to maintain the historic residential land use patterns found near the Miller's River.

Industrial (I): This district is home to Orange Municipal Airport and multiple industrial parks. The purpose of District I is to encourage the growth of Orange's industrial tax base in the appropriate area of Town.

Residential (R): Orange's "default" residential district is zoned for higher density than the RR District but lower density than the VR District. The purpose of District R is to encourage the development of housing while maintaining the area's natural features.

Residential Rural (RR): The majority of land in Orange falls within this district meant to preserve traditional patterns of rural settlement and agricultural uses. The RR District also contains large areas of undisturbed forests and hills.

Downtown (DT): The core of downtown Orange along the Miller's River. The DT District encourages the reuse of existing mill buildings and the strengthening of a cultural and commercial hub in the heart of Town.

**4130 Boundary Definition.** Except when labeled to the contrary, boundary or dimension lines shown approximately following or 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.

**4140 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 30 feet into the other district, and dimensional regulations may be extended not more than 200 feet.

## SECTION 5. USE AND DIMENSIONAL REGULATIONS

### **5100 Use Regulations**

**5110 General.** No structure shall be erected or used or land used except as set forth in Section 5130, "Use Regulations Schedule" or in Section 5300, "Accessory Buildings and Uses", unless exempted by Section 5140, 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 3300
- PS A use allowed provided that the Performance Standards in Section 7600 are complied with
- Spr Site Plan Review and Approval by the Planning Board is required (See Section 3400 for other uses which may be subject to Site Plan Review)

**5120 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.

### **5130 Use Regulation Schedule**

DISTRICT	RV	B	I	R	RR	DT
<b><u>5131 Residential Uses</u></b>						

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<b>DISTRICT</b>	<b>RV</b>	<b>B</b>	<b>I</b>	<b>R</b>	<b>RR</b>	<b>DT</b>
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 3400 & 7700.	Spr	Spr	Spr	Spr	Spr	Spr
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
<b><u>5132 Extensive Uses</u></b>						
Agriculture or Forestry	Y	Y	Y	Y	Y	Y
Campground, Extensive Outdoor Recreation	N	N	SP	SP	SP	N
Commercial Earth Removal (See Section 7100)	SP	SP	SP	SP	SP	N
<b><u>5133 Community Service Uses</u></b>						

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<b>DISTRICT</b>	<b>RV</b>	<b>B</b>	<b>I</b>	<b>R</b>	<b>RR</b>	<b>DT</b>
Public Utility	SP	SP	SP	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
<b><u>5134 Business Uses</u></b>						
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, 2,000 square feet or less gross floor area	Y	Y	Y	SP	SP	Y
Retail or Commercial Office Space with greater than 2,000 sq. ft. gross floor area	PS	PS	PS	SP	SP	PS

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<b>DISTRICT</b>	<b>RV</b>	<b>B</b>	<b>I</b>	<b>R</b>	<b>RR</b>	<b>DT</b>
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. or less of gross floor area	SP	PS	Y <sup>1</sup>	N	SP	PS
Manufacturing, Bulk Storage or Warehousing with more than 5,000 sq. ft. up to 10,000 sq. ft. of gross floor area	N	PS	Y <sup>1</sup>	N	N	PS
Manufacturing, Bulk Storage or Warehousing with more than 10,000 sq. ft. of gross floor area	N	SP	Y	N	N	SP
Transportation Terminal	N	SP	Y	SP	SP	SP
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

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<sup>1</sup> No Performance Standards, (Section 7600) review or submission is required in the B District for this use.

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<b>DISTRICT</b>	<b>RV</b>	<b>B</b>	<b>I</b>	<b>R</b>	<b>RR</b>	<b>DT</b>
Drive-In Theaters, Cart Tracks, Mini-Golf, Driving Ranges, Similar Commercial Outdoor Recreation	N	SP	SP	SP	SP	N
Home Occupations (see Section 5311)	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
Outdoor Marijuana Cultivation	N	N	SP	N	SP	N
<b><u>5135 Other Principal Uses</u></b>						
Other principal uses have externally observable attributes similar to a use permitted (Y or SP) above.	SP	SP	SP	SP	SP	SP

**5136 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 G.L. c. 111 and c. 140, have been complied with by the applicant, as evidenced by written approval of the Board of Health, or its agent(s).

**5137 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.

**5138 Accessory Apartments** shall consist of one additional dwelling unit created through the alteration of an existing single-family 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.

**5139 Hotels, Motels, and Inns.** A Hotel may 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.

An inn shall be located in a building 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.

A guest(s) may not stay at a Motel for more than 90 days in any six-month period.

### **5140 Nonconforming Uses, Structures, and Lots**

#### **5141 Applicability**

Nonconforming Structures, Uses and Lots – Nonconforming structures, uses, and lots shall be understood to mean structures, uses, and lots that do not conform to the Zoning Bylaw. Nonconforming structures and uses that had conformed to the Zoning Bylaw, but that became nonconforming upon adoption or amendment of the Zoning Bylaw, shall be understood to be lawful, pre-existing nonconforming structures and uses.

Continued Use – 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 requirements of this Section 2240.

State And Town Regulatory Authority – Nonconforming structures, uses, and lots are regulated by both the State Zoning Act (G.L. c.40A, S. 6) and by Town of Orange Zoning Bylaw. Unless preemptively regulated under state statute, all structures and uses within the Town shall comply with the Zoning Bylaw.

Lawful Structures/Uses Applicable – However, this Bylaw shall apply to the following:

1. a change or substantial extension of the use, or
2. a building permit or special permit issued after the first notice, or
3. a reconstruction, extension, or structural change of a structure unless the Building Inspector determines that the change does not increase the nonconforming nature of the property, or
4. any alteration of a structure begun after the first notice to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration, reconstruction, extension, or a structural change to a one-family or two-family residential structure does not increase the nonconforming nature of the structure.

Extension Or Alteration of Pre-Existing Nonconforming Structures/Uses – Pre-existing nonconforming structures or uses may be extended or altered, provided no extension or alteration shall be permitted unless there is a finding by the Planning Board that the extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use. It is the purpose of this Bylaw to discourage the perpetuity of nonconforming uses and structures when possible.

Conformance With Bylaw Amendments – Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Bylaw unless the use or construction is commenced within a period of 12 months after the issuance of the permit and, in cases involving construction, unless that construction is continued through to completion continuously and expeditiously.

#### **5142 Single and Two-family Dwelling**

As provided in G.L. v. 40A, S. 6 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 the dwelling.

#### **5143 Nonconforming Uses**

Use Extension - The Planning Board may issue a special permit to extend a nonconforming use only if it determines that an extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

Use Change - A nonconforming use may be changed from one category of a nonconforming use to another category only with the approval of a special permit finding by the Planning Board and only when the new use is deemed to be not more substantially detrimental or inharmonious with the environs than the use being replaced, as per Special Permit criteria, Section 3330.

#### **5144 Nonconforming Structures**

Special Permit Finding Required – The Planning Board may issue a special permit to reconstruct, extend, alter, or change a nonconforming structure only based on a finding that a reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

Variance Required – The reconstruction, extension or structural change of a nonconforming structure so as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Planning Board; provided, however, that this provision shall not apply to nonconforming single and two family residential structures.

#### **5145 Nonconforming Lots**

Lot Change – Any lot, or open space on a lot, including yards and setbacks, shall not be reduced or changed in area or shape such that the lot, open space, yard, or setback is made

nonconforming or more nonconforming unless Planning Board issues a special permit based on a finding that such a change shall not be substantially more detrimental than the existing nonconforming lot to the neighborhood. However, this section shall not apply in the case of a lot where a portion of the lot is taken for a public purpose.

#### **5146 Abandonment**

A nonconforming use which has been abandoned, discontinued for a continuous 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.

#### **5147 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 24 months from the date of catastrophe and if there is no extension of the nonconformity or no new nonconformity created.

### **5200 Dimensional Regulations**

**5210 Multiple Principal Buildings.** Not more than one single-family dwelling shall be erected on a lot, unless in compliance with Section 5230 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 5130, must each meet the minimum lot area requirements of the section without counting any area twice.

**5220 Flag Lots.** Flag lots must meet the following conditions:

**5221** In District I, R, and RR, 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 B and RV, 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.

**5222** The front lot must meet all dimensional requirements for its respective district as listed in Section 4330. The required frontage shall not include the access strip in its measurement.

**5223** 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.

**5224** 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.

**5225** 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.

**5226** The back line of a lot having the required frontage of Section 5230 herein shall be considered as the front lot line of the Flag lot.

**5227** There shall be no more than one Flag lot divided from a lot having frontage as required by Section 5230.

**5228** Plans submitted to the Planning Board under this section shall included the statement: "Lot \_\_\_ is a lot created under the Flag Lot Bylaw of the Zoning Bylaws."

**5230 Dimensional Schedule**

DISTRICT	B/RV	I	R	RR	DT
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	B/RV	I	R	RR	DT
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 District DT

**5231 Lot Area.** 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.

**5232 Lot Frontage** is to be measured continuously along one street line between side 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.

**5240 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 the street line 20 feet back from their point of intersection.

**5250 Special Permit for Lot Coverage Increase**

In Zone I an additional 35% lot coverage beyond the maximum 35% may be granted providing that the following criteria are met:

**5251 Building Criteria**

1. 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.
2. All structures shall be designed in a manner sufficient to prevent all hazardous materials 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.

**5252 Permeable Area Criteria**

1. 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 6 feet from the drip-line of all roofs. The permeable area shall not be less than 15% of the footprint of the structure.
2. 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.
3. Vegetation disturbance and or removal on any portion of the site shall be limited as much as possible.

**5253 Parking, Loading, and Outside Storage Area Criteria for Lot Coverage Increase.**

1. The area of lot covered by driveways, roadways, parking areas and walkways shall not exceed 25% lot coverage, inclusive of any bonus lot coverage.
2. 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 as described by this Bylaw's definition for hazardous materials.

3. 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.
4. If in the opinion of the Planning Board monitoring wells are necessary then they 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.
5. 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.

**5254 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 4250 and that existing lot coverage poses no detriment to the measures that will be required for the area that will be increased.

### **5300 Accessory Buildings and Uses**

**5310 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.

**5311 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:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
2. 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.
3. No more than four persons shall be employed on the premises.
4. 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.
5. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.
6. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
7. Parking generated shall be accommodated off-street, other than in a required front yard, and shall not occupy more than 35% of lot area.

**5312 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 I, R, or RR,

provided animals are stabled at least 25 feet from all property lines. Keeping of animals for non-commercial or non-agricultural purposes in District B and District RV is prohibited, except for the keeping of six hen chickens per property lot. Hens are to be housed outdoors in sheltered enclosures located a minimum of ten feet from any property line and based on standard and accepted modern animal husbandry practices.

**5313 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 6. GENERAL REGULATIONS**

### **6100 Parking and Loading Requirements**

**6110 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. 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.

**6120 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 Section 3330. Parking area requirements are eliminated in the Downtown District.

1. Dwellings: Two spaces per dwelling unit.
2. Motels, Hotels, Lodging Houses: One space per guest unit plus one additional space per eight guest units or fraction thereof.
3. Retail Stores, Offices: In District I, R, and RR, one space per 750 square feet of leasable floor area.
4. Industrial/ Wholesale: Four spaces per five employees on the largest shift.
5. Places of Assembly: One space per three seats, or one space per 12 square feet of seating area, whichever is greater.
6. Hospitals: One space per bed.
7. Nursing Homes: One space per four beds.
8. Bowling Alleys: Four spaces per lane.
9. All Others: As determined by the Building Inspector.

**6130 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 District B 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.

### **6200 Signs**

**6210 In Districts R and RR.** The following signs are permitted:

**6211** For a residence or permitted accessory use, one sign not over 8 square feet in area is allowed.



**6212** 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.

**6213** Temporary, unlighted signs pertaining to the construction, lease or sale of the premises are allowed provided signs do not exceed 20 square feet in total area.

**6220 In Districts B, RV, and I.** Signs advertising the name of the firm and the products and services produced or available on the premises are permitted only as follows:

**6221** 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 sign shall be allowed for each firm on the premises, but in no case shall this 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 feet in area. A business may have 50 square feet of signage per side.

**6222** One sign or other advertising device of a free-standing nature may be erected for each firm or 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 free-standing 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.

**6230 General Sign Restrictions**

**6231** 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.

**6232** No exterior sign or advertising device shall incorporate motion or be lighted by flashing or blinking lights or utilize a change in light intensity.

**6233** All illumination of signs or other advertising devices shall be shielded or indirect.

**6234** No non-accessory sign or billboard shall be allowed.

**6240 Signs Allowed on Special Permit**

The Planning Board may grant Special Permits as follows:

**6241** For changes in existing signs on nonconforming uses in District R and RR, provided the changes are within the limits established for Districts B, RV, and I and not detrimental to the neighborhood.

**6242** For a directional or identification sign in any district where the sign will serve the public convenience and not be detrimental to the neighborhood with respect to size, location or design.

**6250 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. Temporary 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.

### **6300 Erosion Control**

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

**6311** Grading or construction on, or which result in slopes of 25% or greater on 50% or more of lot area, or on 43,560 square 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 these Special Permits shall be referred to the Conservation Commission for their advisory review.

**6312** 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.

**6313** The Inspector of Buildings shall require information of the applicant in addition to that specified in Section 3400, as necessary for them 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.

**6314** 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 6311-6314 of this Bylaw.

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

6311-6314 of this Bylaw. The 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.

## **6400 Flood Plains**

### **6411 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.

### **6410 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, AI-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 January 5 1982. 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.

The floodplain management regulations found in this Floodplain Overlay District section take precedence over any less restrictive conflicting local laws, ordinance, or codes.

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

If any section, provision, or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

The Town of Orange hereby designates the position of Building Inspector to be the official floodplain administrator for the Town.

Development within the 100 year floodplain (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.

### **6420 Construction Permits**

The Town of Orange requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

The Town of Orange's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit a list demonstrating that all necessary permits have been acquired.

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- a) Such proposals minimize flood damage;
- b) Public utilities and facilities are located and constructed so as to minimize flood damage;
- c) Adequate drainage is provided.

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

### **6430 Base Flood Elevation and Floodway Data**

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor, Boston, MA 02110

And copy of notification to:  
Massachusetts NFIP State Coordinator  
MA Dept. of Conservation & Recreation,  
251 Causeway Street, Boston, MA 02114

### **6540 Notification of Watercourse Alteration**

Notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

Adjacent Communities

NFIP State Coordinator

NFIP Program Specialist

### **6450 Use Regulations**

### **6451 Reference To Existing Regulations**

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 coastal 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 other be granted in accordance with the required variance procedures of these state regulations.

### **6452 Other Use Regulations**

1. In Zones A, A1-30, and AE, 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. In A Zones, in the absence of FEMA, BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for flood proofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
3. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Orange FIRM or Floodway 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.
4. Within Zones AO and AH on the FIRM, adequate draining paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

5. In A1-30, AH, AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
6. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
7. 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.

### **6453 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 nursey 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.

### **6460 Variances to Building Code Floodplain Standards**

The Town of Orange will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town of Orange shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

## **6461 Variances to Local Zoning Bylaws Related to Community Compliance with the National Flood Insurance Program (NFIP)**

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

## **6500 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 B, RV, I or DT Districts or 40 dBA at the boundary of a property in the R or RR Districts during the hours from 9:00 p.m. to 7:00 a.m., except for warning devices, temporary construction or maintenance work, parades, recreational or agricultural activities, or other special circumstances.

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.

**6510** 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 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.

**6511** Lighting shall not produce illumination beyond the property boundaries and lighting shall be pedestrian in scale with fixtures not exceeding 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.

**6512** 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.

**6600 Solar Access**

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

**6610** Restrictions on glare shall not pertain to any solar energy system unless glare creates a hazard to safe driving on any adjacent streets or creates a direct reflection onto any building.

**6611** 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 7. SPECIAL REGULATIONS**

### **7100 Earth Removal**

The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil, or similar materials within any 12-month period shall be allowed only on Special Permit from the Planning Board, unless 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:

**7110 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.

**7120 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 6330.

**7130 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.

**7140 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 7100-7140 of this Bylaw.

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 7100-7140 of the Orange Zoning Bylaw. The 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.

### **7200 Provisions For New Buildings**

**7210** 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 bylaw or amendments thereto.

**7220** 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 12 months of the date of issue of the building permit, provided the construction starts within 12 months of the date of issue of the building permit and conforms to this Bylaw or amendments thereto.

### **7300 Hazardous Waste Disposal**

A facility for the permanent disposal of hazardous waste shall be allowed only after approval by a two-thirds vote at an Annual or Special Town Meeting.

### **7400 Water Resource District**

**7410 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.

**7420 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. 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.

**7430 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 3300 shall be required for all uses listed in the Water Resource District Overlay Use Schedule found in Sections 7431, 7432, and 7433 of the Bylaw; and for the properties or portions thereof which are determined in the manner provided for in Section 7420 to be in the Water Resource Districts, the Water Resource District Overlay Use Schedule found in Sections 7431, 7432, and 7433 of this Bylaw shall apply. Where there is no entry in the Water Resource District Use Schedule, the underlying district use schedule controls.

### **7431 Principal Uses**

ORANGE ZONING BYLAW  
 October 2022

Use	Allowable in Water Resource District?
Facilities that generate, treat, store, or dispose of hazardous waste subject to G.L. c. 21C and 310 CMR 30.00 as amended, except for:	N
very small quantity generators as defined under 310 CMR 30.000; or	SP
water remediation treatment works approved by DEP for the treatment of contaminated ground or surface	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. except the following:	N
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
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 except for:	N
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 except for:	N
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 work.	SP

**7432 Accessory Uses**

Use	Allowable in Water Resource District?
Facilities that generate, treat, store, or dispose of hazardous waste subject to G.L. c. 21C and 310 CMR 30.000 as amended, except for:	N
very small quantity generators as defined under 310 CMR 30.000; or	SP
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 G.L. c. 128, S. 64, unless:	N
storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate	SP
Storage of animal manure, unless:	N
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, except:	N
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

**7433 Other Uses.**

Use	Allowable in Water Resource District?
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

**7440 Special Permit Granting Authority.** The Special Permit Granting Authority (SPGA) shall be the Planning Board. A Special Permit shall be granted if the SPGA determines that the intent of this regulation as well as the specific criteria of Section 7450 are met. In making its 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.

**7450 Special Permit Criteria.** Special Permits under Section 7450 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.

**7460 Nonconforming Uses.** Legally pre-existing nonconforming uses and structures shall be governed as per Section 5140 in these zoning regulations.

## **7500 Personal Wireless Service Facilities**

### **7510 Purpose and Intent**

It is the express purpose of this Bylaw to minimize the visual and environmental impacts of personal wireless service facilities. The Bylaw enables the review and approval of personal wireless service facilities by the Town's Planning Board in keeping with the Town's existing Bylaws and historic development patterns, including the size and spacing of structures and open spaces. This Bylaw is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local Bylaws 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 this Bylaw are intended to mitigate any negative impacts of these facilities.

### **7520 District Regulations**

**7521 Use Regulations** A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:

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 7523(5) below. These installations shall not require a Special Permit but shall require site plan approval by the town.
2. A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a Special Permit. These 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 Bylaw.
3. A personal wireless service facility that exceeds the height restrictions of Sections 7523(1) – 7523(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 7523(6), and all of the setback and Special Permit Regulations set forth in Sections 7523 and 7530 of this Bylaw.

**7522 Location** Applicants seeking approval for personal wireless service facilities shall comply with the following:

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 the 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.
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.
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.

**7523 Dimensional Requirements** Personal wireless service facilities shall comply with the following requirements:

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.

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.
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.
4. Height, Existing Structures New antennas located on any of the following structures existing on the effective date of this Bylaw shall be exempt from the height restrictions of this Bylaw 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.
5. Height, Existing Structures, (Utility) New antennas located on any of the following existing structures shall be exempt from the height restrictions of this Bylaw provided that there is no more than a 20 foot 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.
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 these taller structures. Structures shall comply with all setback and Special Permit Regulations set forth in this Bylaw.
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:
8. 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".
9. 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 7523(8) below.
10. 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 a reduction. In making its finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

### **7530 Special Permit Regulations**

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

### **7531 Design Standards**

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

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.

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.

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.

B. Equipment Shelters



1. 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.

#### C. Lightning 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.

#### D. Historic Buildings and Districts

1. 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.
2. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
3. 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 personal wireless service facilities within an historic district or within an historic structure.

#### E. Scenic Landscapes and Vistas

1. 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.
2. 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 Bylaw will apply.

### **7532 Environmental Standards**

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.
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 those 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.
3. Stormwater run-off shall be contained on-site.
4. Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 dB at the property line.
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.

### **7533 Safety 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.

### **7540 Co-location**

**7541** 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. A 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.

**7542** 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 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.

**7543** 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.

**7544** 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.

### **7550 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:

1. 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:
  - a. a) Change in the number of facilities permitted on the site;
  - b. b) Change in technology used for the personal wireless service facility.
2. The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

### **7560 Monitoring and Maintenance**

**7561** 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. These 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 Bylaw.

**7562** 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. These measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Bylaw.

**7563** The applicant and co-applicant shall maintain the personal wireless service facility in good condition. 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.

**7570 Abandonment or Discontinuation of Use**

**7571** When a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, the carrier will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. 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 notice, the personal wireless service facility shall be considered abandoned upon discontinuation of operations.

**7572** 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:

1. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
3. 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.

**7573** If a carrier fails to remove a personal wireless service facility in accordance with this section of this Bylaw, 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.

**7580 Term of Special Permit**

A Special Permit issued for any personal wireless service facility over 50 feet in height shall be valid for 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.

**7590 Exemptions.**

The following types of Personal Wireless Facilities are exempt from this Bylaw:

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.
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)

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 another structure with such exempt uses shall be considered exempt from this Bylaw for any reason.

### **7600 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 5130 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 7600. These 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 7620). 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:

### **7610 Performance Standards**

1. 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;
2. 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 a source of sound. Unnecessary noise emissions shall be said to exist if the source:
  - a. Increases the broadband sound level by more than 5 db(a) above the hourly ambient average, or
  - b. 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 Bylaw 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.

3. 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;
4. The hours of operation must be no earlier than 7 a.m. and no later than 9 p.m.;
5. There is adequate wastewater treatment capacity to accommodate the new or expanded manufacturing use;
6. On site parking and loading areas sufficient to accommodate employees and truck deliveries must be provided;
7. A minimum 5-foot wide buffer area shall surround the parking area and shall provide adequate screening of the parking area from abutting parcels. The buffer area shall be planted with a combination of evergreen and deciduous shrubs that are at least 5 feet in height;
8. Lighting shall be pedestrian in scale with fixtures not exceeding 16 feet in height and full cut-off down lighting fixtures that direct light downward should be used;
9. Lighting shall not produce illumination beyond the property boundaries;
10. No increase in stormwater runoff to neighboring properties or roads; and
11. 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.

### **7620 Provision for Waivers**

The Planning Board may waive one or more of the requirements for Plan Filing under 7610 if the simplicity or scale of the project warrants such action.

### **7700 Open Space Development**

#### **7710 General Provisions**

#### **7711 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.

#### **7712 Purpose:**

The purpose of an Open Space Development plan is to:

1. 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 7700 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 7700 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;
2. encourage a less sprawling form of development that preserves open land and preserves the natural features of the site;
3. promote the efficient provision of municipal services and protect existing and potential water supplies;
4. maintain the rural character of the Town;
5. promote the siting of buildings that is sensitive to existing natural and historic features;
6. protect public health by siting septic systems on the most suitable soils; and
7. protect the value of real property.

### **7713 Approval Authority**

The Planning Board may approve a Site Plan for the construction of an Open Space Development in accordance with Section 3400 Site Plan Review and subject to the regulations and conditions set forth in this section.

### **7720 Criteria for Approval:**

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 Bylaws have been complied with.

### **7730 Minimum Requirements:**

1. The minimum area of land for an Open Space Development shall be 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.
2. The maximum number of dwellings for the development shall not exceed that which is normally allowed in the district under a conventional plan.
3. Each lot shall have adequate access on a public or approved private way.
4. Each lot shall comply with the minimum dimensional requirements of this Open Space Development [residential] Bylaw.
5. 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.
6. 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.
7. 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.

8. 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.
9. The amount of Open Space set aside must meet the requirements of G.L. c. 40A, S. 9, "Cluster Developments"; notwithstanding the above, at a minimum, at least 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.
10. 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.

#### **7740 Dimensional and Density Requirements**

1. 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.
2. The minimum lot size per dwelling unit shall be 10,000 square feet. The minimum frontage on an approved public or private way shall be 50 feet.
3. 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.

#### **7750 Required Conservation Land**

**7751** 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.

**7752** 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 G.L. c. 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 the 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.

**7753** Common Open Space or Open Land shall be either:

1. Conveyed to a corporation or trust owned or to be owned by the owners of lots within the development. If a corporation or trust is utilized, title to the Common Open Space shall pass with conveyance of the lots in perpetuity.
2. 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.
3. Conveyed to the Town of Orange, at no cost, and be accepted by it for passive recreation or open space use. Conveyance shall be at the option of the Town and shall require the approval of the voters at a Town Meeting.
4. 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.

**7754** In any case where 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 the 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. These 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 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.

**7755** If the Common Open Space is to be conveyed to the owners within the development, ownership and maintenance of the 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 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. 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.

**7756** 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 7753. 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 (at least 51%) of the lots are conveyed to permanent owners.

**7757** 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 the 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 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 that land and that this charge shall be paid by the property owners or the individual owning the Open Land within 30 days after the receipt of a statement therefor.

**7760 Further Requirements**

1. There shall be no amendments or changes to an approved Site Analysis/ Development Plan without review and approval from the Planning Board.
2. 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.

No use other than residential, agricultural, forestry or recreational shall be permitted

## **7800 Large-Scale Ground-Mounted Solar Photovoltaic Installations**

### **7810 Purpose and Intent**

The purpose and intent of this bylaw is to provide standards for the placement, design, construction, operation, monitoring, modification, and removal of large-scale ground-mounted solar photovoltaic installations which address public safety; minimize impacts on scenic, natural and historic resources; and enhance natural habitat. An adequate agreement of financial assurance shall be provided in the case of large-scale ground-mounted solar installations for the eventual decommissioning or termination of such installations.

### **7820 Applicability**

This bylaw applies to the construction; operation; and/or physical modifications that materially alter the type, configuration, physical size and generating capacity of commercial and residential large-scale ground-mounted solar photovoltaic (PV) installations measuring 1.25 acres (54,450 square feet) in area and not to exceed a maximum 35 acres.

Subject to the requirements of this bylaw, large-scale ground-mounted solar photovoltaic installations shall be permitted in all Zoning Districts subject to a Special Permit from the Orange Planning Board, pursuant to Section 3300, Special Permits, of the Orange Zoning Bylaw.

This bylaw does not pertain to solar photovoltaic panels installed on residential, industrial or commercial structures. Those installations are subject to the State Building Code. This bylaw also does not pertain to solar carport canopies to be built over existing rows of parking spaces. Such installations are considered Accessory Buildings and Uses under Section 5300 and are subject to the State Building Code.

### **7830 Permit Granting Authority**

The Special Permit Granting Authority shall be the Orange Planning Board for large-scale ground-mounted solar photovoltaic installations.

### **7840 General Requirements for All Large-Scale Ground-Mounted Solar Photovoltaic Installations**

The following requirements shall apply to all large-scale ground-mounted solar photovoltaic installations subject to this bylaw.

### **7841 Compliance with Laws, Bylaws and Regulations**

The construction and operation of all large-scale ground-mounted solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a large-scale ground-mounted solar photovoltaic installation shall be constructed in accordance with the State Building Code.

### **7842 Building Permit and Building Inspection**

No large-scale ground-mounted solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

### **7843 Fees**

The application for Special Permit for a large-scale ground-mounted solar photovoltaic installation must be accompanied by the fee required for a Special Permit, Site Plan Review, any peer review consultants that may be required by the Orange Planning Board and paid for by applicant pursuant to MGL Ch. 44, Sec. 53G, and all other related expenses, including the cost of mailing notices to abutters.

**7844 Site Plan Review**

a) Large-scale ground-mounted solar photovoltaic installations measuring 1.25 acres (54,450 square feet) and larger shall undergo the site plan review outlined in Section 5400 of the Orange Zoning Bylaw prior to construction, installation or modification of the facility as provided in this section. The total area of large-scale ground-mounted solar photovoltaic structures as measured shall include the areas where the solar panels are installed, all appurtenant and accessory buildings, access roads, landscaping and visual screening elements and cleared area.

b) All plans and maps shall be prepared, stamped and signed by a Professional Engineer or Professional Land Surveyor licensed to practice in the Commonwealth of Massachusetts.

c) Required Contents of Site Plan

Pursuant to the required site plan content described in Section 3400 and this section of the Orange Zoning Bylaw, the Site Plan shall include the following:

1. Property lines and physical features, including roads for the project site, wetlands, wildlife corridors, National Heritage Endangered Species Program (NHESP), and other relevant features;
2. Location and approximate height of tree cover on the subject parcel and any trees on public property that are age 75 years and older and/or with a diameter of 36 inches or greater, and any trees that are within the jurisdiction of the Tree Warden;
3. Proposed changes to the landscape of the site, including roads, grading, vegetation clearing and planting, roads, parking areas, exterior lighting, screening vegetation or structures;
4. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth showing the proposed layout of the system and any potential shading from structures and vegetation, including those on abutting property(ies);
5. Electrical diagrams detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;
6. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, battery storage, and inverter;
7. Name, address, and contact information for the proposed system installer;
8. The name, contact information and signature of any agents representing the project proponent as well as all co-proponents and property owners, if any;

9. Zoning district designation for the parcel(s) of land comprising the project site;
10. Proof of liability insurance consistent with industry standards for the proposed facility, or as specified in the Rules and Regulations promulgated by the Orange Planning Board;
11. Description of Abandonment and Decommissioning Trust Fund Account that satisfies Section 7892 below;
12. Pre- and post-construction color photorealistic visualizations of the existing site and proposed large-scale ground-mounted solar photovoltaic installation from at least four perspectives (with a total of at least 180-degree separation) specified by the permitting authority, including from the nearest residential structure and of the area(s) that are most publicly visible, with technical explanation of how visualization was produced;
13. Slopes shall not exceed 14% as measured from the bottom of the solar field to the top of the solar field;
14. Visual and Habitat Mitigation Plan; and
15. Battery storage on site including Operation & Maintenance Plan and proposed decommissioning procedures.

**7845 Additional Required Documents**

**a) Site Control**

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

**b) Stormwater Management Plan**

1. The Stormwater Management Plan submitted with the permit application shall contain sufficient information for the Stormwater Authority to evaluate the environmental impact and effectiveness of the measures proposed for reducing adverse impacts from stormwater runoff. This plan must be submitted with the stamp and signature of a Registered Professional Engineer (PE) who is licensed in the Commonwealth of Massachusetts.
2. The Stormwater Management Plan shall fully describe the project in drawings, narrative, and calculations. It shall include:
  - i. The site's existing & proposed topography with contours at 2-foot intervals;
  - ii. All areas of the site designated as open space;
  - iii. A description and delineation of existing stormwater conveyances, impoundments, environmental resources on or adjacent to the site into which stormwater flows;
  - iv. A delineation of 100-year flood plains, if applicable;
  - v. Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;

- vi. The existing and proposed vegetation and ground surfaces with runoff coefficients for each;
- vii. A drainage area map showing pre- and post-construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows, at a scale that enables verification of supporting calculations;
- viii. A recharge area analysis that calculates pre-and post-project annual groundwater recharge rates on the parcel;
- ix. A description and drawings of all components of the proposed stormwater management system;
- x. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the Massachusetts Stormwater Handbook;
- xi. Soils information from test pits performed at the location of proposed Stormwater Management facilities, including soil descriptions, depth to seasonal high groundwater and depth to bedrock. Soils information will be based on site test pits logged by a Massachusetts Certified Soil Evaluator;
- xii. Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater impact area; and
- xiii. A Stormwater Pollution Prevention Plan (SWPPP) (see Section 7845(b) below).

c) Operation & Maintenance Plan

The applicant shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation, including battery storage and estimated annual costs. An Operation and Maintenance (O & M) Plan is required at the time of application for a Special Permit. The Operation and Maintenance Plan shall include:

1. a map showing the location of the stormwater management devices including all structural and nonstructural components;
2. maintenance agreements that specify names and addresses of person(s) responsible for operation and maintenance and its financing;
3. an Inspection and Maintenance schedule, including an O & M estimated budget, maintenance tasks to be performed; and
4. a list of easements with the purpose and location of each and the signature(s) of the owner(s).

d) Stormwater Pollution Prevention Plan (SWPPP)

1. A Stormwater Pollution Prevention Plan (SWPPP) shall be provided to the Planning Board, Conservation Commission, and Building Inspector as part of the Stormwater Management Plan accompanying a Special Permit, Site Plan Review

- application or filing of a Notice of Intent (NOI), if available. If not provided as part of an initial application, the SWPPP shall be submitted prior to the issuance of a special permit for the proposed project.
2. A Stormwater Pollution Prevention Plan (SWPPP) shall include the following, consistent with the requirements of the Massachusetts Department of Environmental Protection (MassDEP) and the federal Environmental Protection Agency (EPA):
    - i. Narrative;
    - ii. Construction Period Operation and Maintenance Plan;
    - iii. Names of persons or entity responsible for plan compliance;
    - iv. Construction period pollution prevention measures;
    - v. Erosion and Sedimentation Control Plan drawings;
    - vi. Detailed drawings and specifications for erosion control BMPs, including sizing calculations;
    - vii. Vegetation planning;
    - viii. Site Development Plan;
    - ix. Construction Sequencing Plan;
    - x. Sequencing of erosion and sedimentation controls;
    - xi. Operation and maintenance of erosion and sedimentation controls;
    - xii. Inspection Schedule;
    - xiii. Maintenance Schedule;
    - xiv. Inspection and Maintenance Log Form.
  3. Periodic inspections of the construction of stormwater management devices shall be conducted by the Town, utilizing a professional engineer or a landscape architect approved by the Planning Board and paid for by the applicant, pursuant to MGL Ch. 44, Sec. 53G, if deemed necessary by the Board. Written reports shall include: the inspection date and location; evaluation of compliance with the Special Permit; any variations from approved construction specifications or violations of the Stormwater Management Plan.
  4. At a minimum, inspections shall include: Initial site inspection, prior to approval of any plan; inspection of site erosion controls; inspection of stormwater management devices prior to backfilling of any underground drainage or stormwater conveyance structures; evaluation of the system once every seven (7) days and within 24 hours of a 0.25” rain or the occurrence of runoff from snowfall sufficient to cause a discharge; and a final inspection to verify as-built features.

e) Utility Notification

No ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Orange Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation applicant’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement. Interconnection agreement must be granted by the utility company.

**7846 Waivers**

- a) The Orange Planning Board may waive strict compliance with any requirement of the Design Standards, Safety and Environmental Standards section of this bylaw, or any rules and regulations promulgated hereunder, where:
1. Such action is allowed by federal, state and local statutes and regulations. It is in the public interest; and
  2. It is not inconsistent with the purpose and intent of this bylaw; however
  3. The Orange Planning Board shall **not** waive compliance with Section 7892, Abandonment and Decommissioning Trust Fund Account.
- b) Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaws does not further the purposes or objectives of this bylaw.
- c) All waiver requests shall be discussed and voted on by the Orange Planning Board at an open meeting, duly noticed.
- d) If the Orange Planning Board deems additional time or information is required in the review of a waiver request, the Orange Planning Board may continue the request for a waiver.

### **7850 Dimension and Density Requirements**

#### **7851 Setbacks and Height Requirements**

The setbacks for large-scale ground-mounted solar photovoltaic installations, including appurtenant structures and parking areas, shall be at least 50 feet from any property boundary. The setback areas shall not be included in the calculation of the size of the large-scale ground-mounted solar photovoltaic installation. The height of a large-scale ground-mounted solar photovoltaic installation or any appurtenant structure shall be no more than 35 feet. The panels shall be a minimum of 10 feet from the fence, or otherwise as directed by Orange Emergency Preparedness Officials, including the Emergency Management Director, Fire Chief, and Police Chief.

#### **7852 Appurtenant Structures**

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall comply with the requirements of Section 5200, Dimensional Schedule, of the Orange Zoning Bylaw. All such appurtenant structures include but are not limited to equipment shelters, storage facilities, transformers, large battery units, and substations. Fences and utility poles are not considered appurtenant structures for purpose of determining setbacks.

#### **7853 Lot Coverage**

The Lot Coverage requirements included in Section 5200 do **not** apply to large-scale ground-mounted solar photovoltaic installations.

#### **7860 Design Standards**

##### **7861 Lighting**

No lighting will be permitted except for safety and operational purposes. All lighting shall face



downward and be shielded. All lighting must comply with the Orange Zoning Bylaw, Section 3332.

**7862 Signage**

- a) Signs shall comply with Section 6200, Signs. In addition, the following signs shall be required:
  - 1. Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warnings of any danger; and,
  - 2. Educational signs providing information about solar photovoltaic panels and the benefits of renewable energy.
- b) Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

**7863 Noise**

Noise levels shall comply with Orange Zoning Bylaw Section 6500, Disturbances.

**7864 Hazardous Materials**

Hazardous materials that are stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste (as defined by Massachusetts Department of Environmental Protection regulations, 310 CMR 30.000) and shall meet all applicable requirements, including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outside environment. If hazardous materials are utilized within the solar electric equipment, then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

**7865 Utility Connections**

Reasonable efforts, as determined during the site plan review, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical components for utility interconnections may be above ground if required by the utility provider.

**7866 Design Siting Criteria for Agricultural or Existing Open Space Locations**

Applicant shall show compliance with or variance from the Solar Massachusetts Renewable Target (SMART) Program (225 CMR 20.00) or subsequent guidelines. In consideration of approving large-scale ground-mounted solar photovoltaic installations on land that is in agricultural use, prime agricultural farmland, forest or other pervious open space locations, the Orange Planning Board has developed the following design criteria for siting such installations:

- a) no removal of all field soils;
- b) existing leveled field areas left as is without disturbance;
- c) where soils need to be leveled and smoothed, such as filling potholes or leveling, this shall be done with minimal overall impact with all displaced soils returned to the areas affected;

- d) ballasts, screw-type, or post driven pilings and other acceptable minimal soil impact methods that do not require footings or other permanent penetration of soils for mounting are required, unless the need for such can be demonstrated;
- e) any soil penetrations that may be required for providing system foundations necessary for additional structural loading or for providing system trenching necessary for electrical routing shall be done with minimal soils disturbance, with any displaced soils to be temporary and recovered and returned after penetration and trenching work is completed;
- f) no concrete or asphalt in the mounting area other than ballasts or other code required surfaces, such as transformer or electric gear pads;
- g) address existing soil and water resource concerns that may be impacted to ensure the installation does not disturb an existing soil and water conservation plan or to avoid creating a negative impact to soil and water conservation best management practices, such as stimulating erosion or water run-off conditions;
- h) limited use of geotextile fabrics; and
- i) maintain vegetative cover to prevent soil erosion.

#### **7867 Visual Impact and Habitat Mitigation**

The purpose of the following protocol is to lessen the visual impact while creating viable wildlife habitat:

- a) The developer shall develop a planting plan. It shall reasonably mitigate the visual impact and habitat loss of the project. The plan will be proportional to the impact on the existing habitat and be in consideration of adjacent roads and residential properties.
- b) The species mix and depth of screening shall be determined by the Planning Board during the Site Plan Review based on site specific conditions with existing natural vegetation being used to the greatest extent possible. Outside the fence, shrubland screening (in combination with existing natural vegetation) shall be no less than 30' wide. Areas outside the 30' zone shall be maintained in active agriculture or young forest unless prevented by mitigating circumstances. The Town Planning Board will have final approval on these circumstances. Inside the fence, pollinator species shall be selected from the native plant lists provided by the Planning Board, or their equivalent.
- c) Vegetation shall consist of varieties native to eastern North America. Vegetative screening should reach a mature form to effectively screen the installation within five years of installation.
- d) All plantings will be maintained to ensure survival. The site will be monitored, and an action plan developed, to control plants on the Massachusetts prohibited plant list.
- e) In developed areas, the design of the installation shall consider contextual landscaping and landscape amenities that complement the physical features of the site and abutting residential properties.
- f) The planting plan shall be proportional to the impact of the solar installation.
- g) Seeding within the installation should consist of a mix of wildlife-friendly perennial herbaceous forbs and grasses that are native to the eastern US, to support pollinators and wildlife.

#### **7870 Safety and Environmental Standards**

**7871 Emergency Services**

The owner or operator of the large-scale ground-mounted solar photovoltaic installation shall provide a copy of the project summary, electrical schematic, and site plan to the Orange Emergency Preparedness Officials. Upon request, the owner or operator shall cooperate with local emergency preparedness officials in developing an emergency response plan. All means of disconnecting the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify and provide contact information for a person who is responsible for responding to all public and emergency inquiries related to the installation. This information shall be updated as needed and shall be provided to the Town's emergency preparedness officials, as defined above.

**7872 Land Clearing, Soil Erosion and Habitat Impacts**

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws. The installation design shall minimize fragmentation of open space areas and shall avoid permanently protected open space when feasible. The installation shall also be located in a manner that does not have significant negative impacts on rare species in the vicinity. The Planning Board shall consider construction phasing to mitigate erosion.

**7873 Control of Vegetation**

Herbicides or pesticides may not be used to control vegetation at the solar electric installation. Mowing and grazing underneath the solar array are possible alternatives. In cases of controlling invasive species, herbicides or pesticides may be used that are in compliance with state and federal laws and regulations.

**7880 Monitoring and Maintenance**

**7881 Solar Photovoltaic Installation Conditions**

The applicant shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to Orange Emergency Preparedness Officials. The applicant shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

**7882 Annual Reporting**

The owner or operator of the installation shall submit a report on or before January 31<sup>st</sup> each year to the Orange Town Clerk for forwarding to the Zoning Enforcement Officer (Orange Town Building Inspector) and Town of Orange Planning Board to document that the project is in operation and in compliance with the Operation and Maintenance Plan approved by the Orange Planning Board and this By-Law.

**7890 Decommissioning and Abandonment**

**7891 Terms and Conditions**

The proposed Terms and Conditions of the Abandonment and Decommissioning Fund shall be submitted with the initial permit application. The terms and conditions shall be agreed upon prior to approval of the Special Permit and the document shall be established, executed and signed by the Developer (Tenant/Operator), the Landowner (Landlord) and the Town of Orange.

Abandonment and Decommissioning Funds will be held by the Treasurer of the Town of Orange in a project specific interest-bearing Abandonment and Decommissioning Fund Account.

### **7892 Decommissioning and Abandonment Obligations**

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned shall be removed and the site restored. The Landowner (Landlord) or Developer (Tenant/Operator) shall physically remove the installation no more than 150 days (Decommissioning Period) after the date of discontinued construction or operations. In the case of an operating system, the Landowner (Landlord) or Developer (Tenant/Operator) shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. If a project is abandoned prior to completion, upon notification to the Planning Board by the Building Inspector or Building Commissioner, the Planning Board shall notify the Landowner (Landlord) or Developer (Tenant/Operator) by certified mail of the proposed date at which time the 150-day period shall be initiated.

Decommissioning shall be as specified in the terms and conditions established by the Planning Board, but at a minimum shall consist of:

- a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and electrical lines from the site;
- b) Proper disposal of all batteries and battery storage located within the facility;
- c) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- d) Stabilization and re-vegetation of the site as necessary to minimize erosion;
- e) The Planning Board may allow the Landowner (Landlord) or Developer (Tenant/Operator) to leave landscaping or designated below-grade foundations to minimize erosion and disruption to vegetation; and
- f) The Planning Board shall allow the Landowner (Landlord) to retain poles, fencing, electric poles and materials for future use by the Landowner (Landlord).

### **7893 Abandonment and Decommissioning Fund Account**

The project proponent of large-scale ground-mounted solar photovoltaic projects shall provide funds to be deposited in the Abandonment and Decommissioning Fund Account to cover the cost of removal in the event the Town or Landowner (Landlord) becomes responsible for removing the installation and remediating the landscape. The amount and form of the surety shall be determined to be reasonable by the permitting authority, but in no event, should exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. All calculations and cost shall include calculations for Massachusetts Prevailing Wage. Such surety is not required for municipally-owned or state-owned facilities. The project proponent shall submit for review by the Town a fully inclusive estimate of the costs associated with removal prepared by a qualified engineer. The amount shall include a mechanism for

calculating increased removal costs due to inflation. No allowance shall be made for revenue from recycling of panels or other materials. The estimates shall include funds to regrade and reseed those portions of the site that have been disturbed. Access roads may be left in place and shall be finish graded with proper erosion control installed or retained.

Deposits to the Abandonment and Decommissioning Fund Account shall be provided as follows: One half of the funds shall be deposited before issuance of the building permit and one half of the funds shall be deposited at the end of the tenth (10th) year after commencement of operation. During the tenth year of operation the Developer (Tenant/Operator) shall submit updated decommissioning estimates for review by the Planning Board. The required Abandonment and Decommissioning Fund deposit may be adjusted to reflect the then current estimates. Any changes to the facility including but not limited to battery storage shall trigger a recalculation of the Fund.

Each solar facility shall have a Abandonment and Decommissioning Fund Document listing all parties and the Terms and Conditions for accessing funds from the account at the time of abandonment or decommissioning. The funds shall remain in the Abandonment and Decommissioning Fund Account during any Decommissioning Period and shall be used by the Developer (Tenant/Operator) to fund the Decommissioning Obligations hereunder, with any balance remaining returned to the Developer (Tenant/Operator) after final inspection and sign-off by the Town of Orange.

If the Developer (Tenant/Operator) fails to perform its Decommissioning Obligations by the end of the Decommissioning Period, or if the lease is terminated following a Developer (Tenant/Operator) default, or if the project has been abandoned as defined herein, the Landowner (Landlord), with approval of the Town, may elect to undertake to decommission the solar facility itself without Developer's (Tenant/Operator's) approval for release of the funds from the Abandonment and Decommissioning Fund Account, with any balance after completion of the decommissioning returned to the Developer (Tenant/Operator).

If both the Developer (Tenant/Operator) and the Landowner (Landlord) have failed to perform the Decommissioning Obligations by the end of the Decommissioning Period, for whatever reason, the Town of Orange shall have the right to access the Abandonment and Decommissioning Fund Account and use the funds to enter the Solar Facility property and complete the decommissioning process.

#### **7894 Release of Funds From the Abandonment and Decommissioning Fund Account**

Upon request from the Developer (Tenant/Operator), Landowner (Landlord), or the Planning Board for release of funds from the Fund, the Building Inspector or Commissioner shall inspect the site and report to the Planning Board on the status of the decommissioning work. Upon certification by the Building Inspector or Commissioner that the decommissioning work has been successfully completed, the Planning Board will vote to release funds to cover the work completed to date. The funds will be released pursuant to the terms and conditions of the Abandonment and Decommissioning Fund Document. The Planning Board will notify the Treasurer of the Board's decision to release funds from the Abandonment and Decommissioning Fund Account, and the Treasurer will issue checks as approved after posting and approval of a warrant.