

# **CHARTER**

## **TOWN OF ORANGE**

Approved by voters on \_\_\_\_\_, 202\_\_\_\_

Effective \_\_\_\_\_, 202\_\_\_\_

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## TOWN OF ORANGE CHARTER

### **PREAMBLE**

We the people of the Town of Orange Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the home rule amendment of the constitution of the Commonwealth and General Laws Chapter 43B, do hereby adopt the following home rule Charter for this town. It is the intention of this document that it reflects a gender nonspecific approach. Any references to masculine gender are intended to reflect both masculine and feminine gender, and should not be otherwise construed.

### **CHAPTER 1 – POWERS OF THE TOWN**

#### ***Section 1 Incorporation***

1-1-1 The present Town of Orange, Massachusetts, within its territorial limits as now or may hereafter be established by law, is hereby reincorporated and continued as a body politic and corporate under the name: Town of Orange.

#### ***Section 2 Scope of Town Powers***

1-2-1 The Town shall possess, exercise, and enjoy all powers possible under the constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were expressly enumerated in this Charter.

#### ***Section 3 Form of Government***

1-3-1 This Charter provides for the Open Town Meeting-Select Board-Town Manager form of government.

#### ***Section 4 Construction of Charter***

1-4-1 The powers of the Town under this Charter, shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any measure the general powers of the Town as stated in this charter.

#### ***Section 5 Intergovernmental Relations***

1-5-1 Consistent with any constitutional or statutory provisions, the Town may exercise any of its powers or perform any of its functions, and may participate in the financing thereof,

jointly or in cooperation, by contract or otherwise with any one or more municipalities, civil division, subdivision, or agencies of the Commonwealth, other state, or of the United States government.

## **CHAPTER 2 – TOWN MEETING**

### ***Section 1 Organization***

- 2-1-1 The legislative powers of the Town shall be exercised by a Town Meeting, open to all registered voters of the Town.
- 2-1-2 The Quorum for the conduct of business at Town meetings shall be a minimum 75 of the town's voters.
- 2-1-3 Upon the challenge of the presence of a quorum, a smaller number than the established quorum shall adjourn any such meeting forthwith to a stated date, time, and place.
- 2-1-4 In all procedural matters the Town Meeting shall follow the latest revised edition of Town Meeting Time as the procedural handbook, except as otherwise provided by general laws, established practices, or this Charter.
- 2-1-5 Rules of Parliamentary procedure in simplified form shall be prepared by the Moderator and the Town Clerk and shall be made available for distribution to those requesting them, and on the town website.

### ***Section 2 Powers and Responsibilities***

- 2-2-1 The Town Meeting shall consider and act upon with or without amendments, all proposed operating and capital improvement budgets, bond issues, and other financial proposals of the Town.
- 2-2-2 The Town Meeting shall possess and may exercise all powers possible under general law.

### ***Section 3 Procedures***

- 2-3-1 The Annual Town Meeting shall be held according to town bylaw on the second Monday of May, to consider and adopt an annual operating and capital budget, and to act on financial and other matters. The meeting shall be continued on other days, until all articles in the warrant shall have been acted upon.
- 2-3-2 A special Town Meeting may be called by the Select Board, and shall be called by said Board upon request, in writing, of at least two hundred of the town's voters.

- 2-3-3 All proposed operating expenditures shall be included in a single, omnibus type article in the Town Meeting warrant. In addition, all regular proposed capital improvements expenditures shall be included in an omnibus-type article.
- 2-3-4 The Select Board shall prepare the warrant for all Town meetings.
- 2-3-5 The warrant for the Annual Town Meeting shall be closed sixty (60) days prior to the date of the Town Meeting and the date for the closing of the warrant for any other Town Meeting shall be at the discretion of the Select Board. The warrant for every Town Meeting shall be posted on the town website and posted in at least four public places within the Town at least fourteen days prior to the date of the meeting.
- 2-3-6 Articles involving an expenditure of Town funds shall not be voted on by the Town Meeting unless the Finance Committee shall have considered them previously. The Chairman of the Committee, or his/her designated representative, shall be present at the meeting to provide verbal explanations of the committee recommendations.
- 2-3-7 Articles involving planning, zoning, subdivision control, land acquisition, conservation, extension of sewer lines, and all other matters relating to the environment shall not be voted on by the Town Meeting unless the Finance Committee and/or the Planning Board and Community Development shall have considered them previously. The Chairman of the respective boards, or their designated representatives, shall be present at the meeting to provide verbal explanations of the board's recommendations.
- 2-3-8 The order of consideration of articles as printed in the warrant may be changed only by a majority vote of the Town Meeting or at the discretion of the moderator. The decision of the moderator takes precedence.
- 2-3-9 Any warrant article or motion, other than those initiated by citizen petition, thereunder defeated at any session of the annual Town Meeting shall require a two-thirds vote for adoption at a special Town Meeting called during the ensuing twelve months. This restriction shall apply when an article or motion presented at a special Town Meeting contains the same subject matter or would produce the same effect as one acted on at a previous meeting. A request for a different sum of money shall not be construed as changing the subject matter of such an article or motion.
- 2-3-10 No proposed ordinance or bylaw which has been unfavorably acted upon by a Town Meeting shall be considered by the Town Meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or bylaw is recommended in the final report of the Planning Board and/or the Select Board.
- 2-3-11 At least fourteen days prior to the date of any Town Meeting, a notice therefore shall be made available by the Selectboard. Said notice shall include the date, time and location of the Town Meeting and methods of ways to obtain copies of the warrant. A copy of the warrant shall be e-mailed or delivered by the Select Board to the Moderator, Department Heads, Town Counsel, and to each member of the Finance Committee, Planning Board,

and Board of Planning and Community Development. Any registered voter may file a written request with the Town Clerk annually to have a copy of the warrant mailed or delivered by the Select Board to their residence.

2-3-12 Except as otherwise provided in sections 2-3-11 and 2-3-12, any ten voters of the Town may secure by written petition to the Select Board, the inclusion, of an article in the warrant for the annual Town Meeting, and at least one hundred registered voters may secure the same for any special Town Meeting.

### ***Section 4 Presiding Officer***

- 2-5-1 A Moderator shall be elected for a term of three years and shall preside at all sessions of the Town Meeting.
- 2-5-2 The Moderator shall have the power to declare a secret written ballot on any motion under any article when the Moderator deems such action to be in the best interests of the Town.
- 2-5-3 The Moderator shall appoint: (a) seven members of the Finance Committee; (b) a Deputy Moderator for a one year term who shall preside in the Moderator's absence; the two Orange members of the Franklin County Technical School Committee; and (c) Any Ad-Hoc Committee created by the Town Meeting, unless another appointive authority shall be specified in the article establishing such Committee.

### ***Section 5 Compulsory Attendance***

- 2-6-1 All Town Officials, including elected officials, the Chairs of Boards, Commissions, and Committees, and Department Heads, or their duly designated representatives, shall attend all sessions of the Annual and Special Town Meetings.

## **CHAPTER 3 – SELECT BOARD**

### ***Section 1 The Select Board***

- 3-1-1 A Select Board of five members shall be elected at large for three-year overlapping terms. The regular election for the Office of Select Board shall be held in accordance with chapter seven.
- 3-1-2 Vacancies in the Office of Select Board shall be filled by special elections in accordance with provisions of general law.

## ***Section 2 General Powers***

- 3-2-1 All executive powers of the Town, except as otherwise provided in this Charter, shall be vested in the Select Board. The Board shall exercise control over Town affairs by recommending major courses of action to the Town Meeting.
- 3-2-2 The Board shall have the power to enact rules and regulations relating to the conduct of Town elections and for the establishment of Town policies, not otherwise governed by statute, or this Charter, provided, however, that whenever an appropriation shall be necessary to implement such action, the vote of the Board shall be effective only if such appropriation shall be made by the Town Meeting.
- 3-2-3 The Board shall establish written policies and procedures to be adopted within six months of the appointment of a Town Manager. These policies and procedures shall cover the functions and duties of the Select Board, Town Manager and other Officers, Boards, and Commissions appointed by the Select Board or Town Manager, not previously specified in the Charter. In the event of conflict between these policies and procedures and the Charter, the Charter prevails.
- 3-2-4 The policies and procedures shall be reviewed and updated within ninety days of each annual election.

## ***Section 3 Powers of Appointment***

- 3-3-1 The Board shall have the power to appoint: (a) a Town Manager as provided in chapter five; (b) three members of a Board of Registrars of voters for three year overlapping terms; (c) five members of a Zoning Board of Appeals for terms of such length and so arranged that the term of one member shall expire each year, and three associate members in a like manner; (d) Election Officers.

# **CHAPTER 4 – ELECTED OFFICERS AND TOWN BOARDS**

## ***Section 1 General Provisions***

- 4-1-1 The Officers and Boards to be elected by vote of the town shall be: a Town Clerk, Moderator, a Board of Library Trustees, a Select Board, a Board of Health, Water Commission, A Cemetery Commission, a Housing Authority, an Elementary School Committee; the Mahar Regional School Committee; Soldiers' Memorial Trustees; and Constables for three year overlapping terms.
- 4-1-2 Boards and Commissions established or continued under this chapter shall perform their functions and duties in accordance with the constitution, general law, and this Charter.

4-1-3 During the term for which a person is elected, and for one year following expiration of the term, no Officer or member of any Board or commission established under this chapter shall be eligible to accept any appointed, paid Town position placed under the jurisdiction of the respective Office or Board vacated.

## ***Section 2 Vacancies***

4-2-1 Except as otherwise provided, vacancies in elected Town Boards established under this chapter shall be filled by the Select Board together with remaining members of the respective Board, in accordance with the provisions of general law.

## ***Section 3 School Committees***

4-3-1 The members of the Mahar Regional School Committee and the Orange Elementary School Committee shall be elected for three year overlapping terms, in accordance with the terms of the Mahar Regional School District agreement.

4-3-2 The Mahar Regional School Committee and the Orange Elementary School Committee shall submit to the Town Manager the budget as adopted by the School Committee no later than February 1 to enable the Town Manager to consider the effects of the School Department's requested assessment upon the total Town budget.

## ***Section 4 Library Trustees***

4-4-1 A Board of Library Trustees of six members shall be elected for three-year overlapping terms.

4-4-2 The Board shall be responsible for the administration and operation of the Town Library, acquisition of books, journals, periodicals, and other materials relating to the library function, and the promulgation of library rules and regulations.

## ***Section 5 Housing Authority***

4-5-1 There shall be a Housing Authority of five members, one of whom shall be appointed under authority of the Commonwealth and four of whom shall be elected. All members shall serve five year overlapping terms.

## ***Section 6 Town Clerk***

4-6-1 The Town Clerk and the Board of Registrars shall recommend the appointment of election Officers to the Select Board, and shall carry out such duties as are, and may be, provided by general law, this Charter and by vote of the Town Meeting. In the event that sometime in the future the town votes to make the position of Town Clerk appointed, the Town Clerk shall be appointed by the Town Manager and approved by a majority of the

full Select Board. The Town Clerk shall reside within twenty-five (25) miles of the Town and be able to fulfill duties in a timely manner within one year of said appointment and any vacancy in said Office shall be filled in a like manner.

## **CHAPTER 5 – THE TOWN MANAGER**

### ***Section 1 Appointment***

- 5-1-1 The Select Board, by an affirmative vote of at least four members shall appoint a Town Manager for an indefinite term to serve at its pleasure.

### ***Section 2 Qualifications***

- 5-2-1 The Office of the Town Manager shall be filled based solely on educational, executive, and administrative qualifications and experience. The educational qualifications shall consist of at least a bachelor's degree preferably in public administration, granted by an accredited degree granting college or university, or professional experience that shall include at least three years of prior full-time, compensated executive service in public or business administration.
- 5-2-2 In selecting a Town Manager, the Select Board shall conduct a search for candidates, including an advertisement in a then current publication serving the municipal management profession. The Town Manager shall not have held an elective Office of the Town of Orange within two years immediately prior to appointment.
- 5-2-3 The Town Manager need not be a resident of the Town at the time of appointment but shall reside within twenty-five (25) miles of the Town and be able to fulfill duties in a timely manner within one (1) year following appointment. Legal residence or domicile shall be the Town Manager's true home or principal residence and shall be the center of their domestic, economic, social and civic life. The Town Manager shall not choose to make their home one place for the general purposes of domestic, economic, social, and civic life as defined above and in another for employment.

### ***Section 3 Powers and Duties***

- 5-3-1 The Town Manager shall be the chief administrative Officer of the Town and shall be directly responsible to the Select Board for the performance of their duties. The Select Board shall be responsible for setting the salary of the Town Manager, within the limits of the appropriation provided by the Town Meeting.
- 5-3-2 The Town Manager shall devote their full working time to the duties of the Office; and shall not become a candidate for or hold any elective Office during their term of appointment.
- 5-3-3 The Town Manager shall attend all Meetings of the Select Board, except when excused, and shall have the right to speak but not to vote.

- 5-3-4 The Town Manager will keep the Select Board fully informed regarding departmental operations, general problems, and administrative actions, and to this end shall submit written periodic reports to the Select Board.
- 5-3-5 The Town Manager shall be responsible for negotiating contracts with employee bargaining units with final review and approval by the Select Board.
- 5-3-6 The Town Manager shall be responsible for the oversight of the Divisions of (a) Finance (b) Public Safety (c) Public Service, and (d) The Departments of Highway, Parks and Public Spaces, Cemetery, Sanitation, Forestry, Water and Waste Water. At such time that the Town of Orange adopts the creation of a Division of Public Works, the above Departments shall become The Division of Public Works and oversight shall be the responsibility of the Town Manager.
- 5-3-7 The Town Manager shall be the chief procurement Officer for all Town Offices and departments, except the library department, unless so requested, respectively, by the Library Trustees.

The Town Manager may, subject to the approval of the Select Board, establish, reorganize, consolidate, or abolish any Department, Board, Commission, Committee, Office, or Agency under their direction and supervision, except as specifically prohibited by general law.
- 5-3-8 The Town Manager shall have the power to appoint and except as otherwise may be provided by applicable civil service and tenure provision, this Charter, or collective bargaining agreements, may suspend or remove: (a) a Fire Chief; (b) the Chief of Police; (c) Accountant; (d) a Town Collector; (e) a Town Counsel with approval of a majority of the full Select Board; (f) a Town Treasurer; (g) all Division and Department Heads; (h) members of such Boards, Commissions, Committees, and individual Town Officers or employees as are authorized by general law, Town by-law or this Charter, and for whom appointment is not otherwise provided.
- 5-3-9 The Town Manager shall perform such other duties as may be required by this Charter, bylaws, policy and procedure, vote of the Town Meeting, or vote of the Select Board.

#### ***Section 4 Removal***

- 5-4-1 During the first six months after the initial appointment, the Select Board may remove the Town Manager by an affirmative vote of at least four members.
- 5-4-2 After the Town Manager has been in Office longer than six months, the Select Board may initiate removal by adoption of a resolution to that effect, provided that no such resolution shall be adopted within ninety days following any Town election that has resulted in a change in the incumbents on the Board.

- 5-4-3 The adoption of said resolution shall serve to suspend the Town Manager for a period of no more than forty-five days, during which their salary shall continue to be paid. A copy of such resolution shall be delivered forthwith to the Town Manager in person, or sent by registered mail to their place of residence.
- 5-4-4 Within five working days following the adoption of such resolution, the Town Manager may file with the Select Board and the Town Clerk, a written request for a public or private hearing. If such hearing is requested, the Board, shall schedule it within two weeks of such request and it shall be held in a public place. The Board shall advertise the hearing on the town website, social media and post a notice in four public places in the Town.
- 5-4-5 The Moderator, or if unable to be present, the Deputy Moderator, shall preside at any such hearing.
- 5-4-6 At any such hearing, the reason for the removal shall first be read aloud. The Town Manager shall then have the right to respond, either personally or through counsel. The Select Board and the Town Manager shall have the right to call and cross-examine witnesses and to subpoena any and all Town records.
- 5-4-7 Final removal of any Town Manager recruited under this Charter shall be effective by the affirmative vote of at least four members of the Select Board at a public Meeting of the Board held within seven days of such public hearing, if the Town Manager has so requested one. If a hearing was not requested, final removal may be effective by at least four affirmative votes of the Board held not earlier than fourteen days after the vote initiating the removal. The salary of the Town Manager shall continue to be paid as provided by an employment contract, if any, between the Board and the Town Manager, or in the absence of such a contract, as the Select Board shall determine, provided however that in no instance shall the amount paid after the Manager's removal from Office exceed the equivalent of one month's salary for each year served up to a maximum of six months.
- 5-4-8 A copy of all notices, requests, and motions adopted by the Select Board, and a transcript of the public hearing, if one is held, shall be filed in the Office of the Town Clerk, and shall be a public record.

## ***Section 5 Resignation***

- 5-5-1 The Manager shall provide the Select Board with sixty days written notice of their intention to resign.

## ***Section 6 Acting Town Manager***

- 5-6-1 The Select Board shall designate a qualified person to exercise the powers and perform the duties of the Town Manager during any temporary vacancy caused by their absence, suspension, removal or resignation. The appointment shall be for a period not to exceed

ninety days, and it may be renewed only once for an additional period not to exceed ninety days. Members of the Select Board and members of their families, including the spouse and children of a Select Board and the parents, brother, sisters, nephews and nieces of a Select Board and their spouse, shall be ineligible to serve in this capacity.

## **CHAPTER 6 – TOWN ADMINISTRATIVE ORGANIZATION**

### ***Section 1 General***

- 6-1-1 The administrative functions of the Town government shall be performed within the organizational framework of three Divisions: (a) a Division of Finance, (b) a Division of Public Safety, (c) a Division of Public Service, and (d) The Departments of Highway, Parks of Public Spaces, Cemetery, Sanitation, Forestry, Water and Waste Water. At such time that the Town of Orange adopts the creation of a Division of Public Works, the above Departments shall be carried out within the Division of Public Works.
- 6-1-2 Responsibility for the functions administered within the four Divisions shall be vested within the Town Manager, except as provided in section 3-2-1.
- 6-1-3 The Town Manager shall designate those Divisions to be supervised by a director and those, if any, to be supervised by the Manager. If the Manager is designated to act as director of one or more Divisions, the Town Manager shall serve in such dual capacity without additional compensation. A division director, other than the Manager, may be designated as head of one or more departments within the respective Divisions, should any such departments be established under section 5-3-8 of this Charter.

### ***Section 2 Division of Finance***

- 6-2-1 The administrative functions of assessment, tax collections, receipts and disbursements, and others of a fiscal nature shall be carried out within a Division of Finance.

### ***Section 3 Division of Public Safety***

- 6-3-1 The administrative functions of Emergency Management, Fire, Police, Public Health, Public Safety in general, Inspection Services, and such other public safety services as may be assigned by this Charter or bylaw shall be carried out within a Division of Public Safety.

### ***Section 4 Division of Public Services***

- 6-4-1 The administrative functions of general Town services, recreation, the Town Clerk, the town Library, Veterans' Services, and such other public services as may be assigned by this Charter or bylaw shall be carried out within a Division of Public Services.

## ***Section 5 Division of Public Works***

6-5-1 At such time that the Town of Orange adopts the creation of a Division of Public Works, the administrative functions of Departments of Highway, Parks and Public Spaces, Cemetery, Sanitation, Forestry, Water, Waste Water and such other public works function as may be assigned by this Charter or bylaw shall be carried out within a Division of Public Works.

## ***Section 6 Personnel System***

6-6-1 All appointments and promotions of Town Officers and employees shall be made based on merit and fitness demonstrated by an examination and/or other evidence of competence.

6-6-2 The Town Manager, except as otherwise provided by general law, shall propose Personnel Policies and Procedures to include: (a) the classification of all positions, based on the duties, responsibilities and authority of each position, with adequate provisions for reclassification of any position whenever warranted by changed circumstances; (b) a salary and pay plan for all positions; (c) methods of determining the merit and fitness of candidates for appointment and promotion; (d) policies and procedures regulating reduction in force and removal of employees; (e) hours of work, attendance regulations, and provisions for sick, vacation, military, family medical and other leave; (f) policies and procedures governing persons holding provisional appointments; (g) policies regarding in service training programs; (h) grievance procedures including procedures for the hearing of such grievances; and (i) such other practices and procedures as may be necessary for the administration of the Personnel system. The proposed rules shall be presented for discussion and comment to the Select Board convened in a public session. Upon vote of the Select Board, the policies shall become immediately effective. A copy of such policies shall be filed for record purposes with the Town Clerk and shall be made available to all Town employees. Said policies may, from time to time, be amended or revised following the same procedure of adoption stated above.

# **CHAPTER 7 – ELECTIONS**

## ***Section 1 Town Election***

7-1-1 The regular election for all Town Offices shall be held according to town bylaw on the first Monday of March.

## ***Section 2 Elections to be Nonpartisan***

7-2-1 All elections of Town Officers shall be non partisan, and election ballot for Town Offices shall be printed without any party mark, emblem, or designation whatsoever.

### **Section 3 Eligibility of Town Voters**

7-3-1 Any registered voter of the Town shall be eligible for election to any elective Office or Board of the Town.

### **Section 4 Time of Taking Office.**

*7-4-1 Any person duly elected to any Office or Board shall take up the duties of their Office immediately following certification, provided that they first shall have been sworn to the faithful performance of their duties by the Town Clerk.*

### **Section 5 Recall of Elected Offices**

7-5-1 Any holder of an elective Office in the Town of Orange may be recalled by the registered voters of said Town as herein provided.

7-5-2 Any one hundred and fifty registered voters of the Town of Orange may initiate a recall petition by filing with the Town Clerk an affidavit containing the name of the official sought to be recalled and a statement of the grounds for such a recall. Said Town Clerk shall thereupon deliver to such voters making the affidavit copies of petition blanks demanding such recall, copies of which printed forms said Town Clerk shall keep available. Such blanks shall be issued by said Town Clerk, with said Town Clerk's signature and official seal attached thereto. Such petition shall be dated, shall be addressed to the Select Board and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought and the grounds for such recall as stated in the affidavit, and they shall demand the election of a successor in said Office. A copy of such petition shall be entered in a record book to be kept in the Office of said Town Clerk. Said recall petition shall be returned and filed with said Town Clerk within twenty days after the filing of the affidavit, the precinct designated petition shall have been signed only by the registered voters residing in the appropriate voting precinct and shall have been signed by at least ten percent of the number of the registered voters who shall add their signatures and the street number of their residences.

The Town Clerk of the Town of Orange shall, within three business days of receipt of the recall petition, submit such petition to the registrars of voters in said Town, and said registrars shall, within five working days, certify thereon the number of signatures which are names of registered voters of said Town.

7-5-3 If the petition shall be found and certified by the Town Clerk of the Town of Orange, said Town Clerk shall submit the same with the Town Clerk's certificate to the Select Board within five working days and said Select Board shall, within five working days, give written notice of the receipt of the certificate to the official sought to be recalled and shall, if the official does not resign within seven days thereafter, order an election to be held on a date fixed by them not less than sixty days and not more than one hundred and twenty days after the date of the Town Clerk's certificate that a sufficient petition has been filed; provided, however, that if any other Town election is to occur within ninety

days after the date of the certificate, said Select Board shall postpone the holding of the recall election to the date of such other election.

7-5-4 An official sought to be removed may be a candidate to succeed themselves and, unless they request otherwise in writing, the Town Clerk of the Town of Orange shall place their name on a ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election and the conduct of the same shall be in accordance with the provisions of law relating to elections, unless otherwise provided in this section.

7-5-5 The incumbent shall continue to perform the duties of their Office until the recall election. If not recalled the incumbent shall continue in Office for the remainder of the unexpired term subject to recall as before, except as provided in section seven. If recalled in the recall election, the incumbent shall not hold Office during the remainder of the unexpired term. If the successor fails to qualify within five days after receiving notification of their election, the incumbent shall thereupon be deemed removed and the Office vacant.

7-5-6 Ballots used in a recall election shall submit the following propositions in the order indicated: For the recall of (name of official), Against the recall of (name of Official).

Immediately at the right of each proposition there shall be an oval in which the voters, by filling in the oval, may vote for either of the said propositions. Under the propositions shall appear the word "Candidates", the directions to the voters required by section forty-two of chapter fifty-four of the General Laws and, beneath this, the names of candidates nominated in accordance with provisions of law relating to elections.

If a majority of the voters cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question are in the negative, the ballots for candidates need not be counted.

7-5-7 No person shall be subject to recall if his/her term of Office expires within six months of the filing of the certificate. If a vacancy occurs in said Office after a recall election has been ordered, the election shall proceed as provided hereunder.

No recall petition shall be filed against an official within ninety days after such official takes Office nor, in the case of an official subject to recall election and not recalled thereby, until at least ninety days after such recall election.

## **Section 6 Apportionment**

7-6-1 The Select Board, in consultation with the Town Clerk, shall divide the Town into voting precincts, which shall be convenient, compact, contiguous, and substantially equal in population.

# **CHAPTER 8 – FINANCIAL PROVISIONS AND PROCEDURES**

## ***Section 1 Applicability of State Law***

8-1-1 In all matters concerning finances and financial procedures of the Town, the provisions of general law shall apply, together with such other requirements as are provided by this Charter.

## ***Section 2 Fiscal Year***

8-2-1 The fiscal year of the Town shall be as determined by General Law.

8-2-2 All Town Department budgets for the new fiscal year shall be submitted to the Town Accountant as prescribed by general law, who shall transmit to the Town Manager according to the Manager's policies and procedures.

## ***Section 3 Submission of Budget and Budget Message***

8-3-1 At least sixty days prior to the start of the Annual Town Meeting, the Manager shall submit at a joint Meeting of the Select Board and the Finance Committee a proposed budget for the ensuing year and an accompanying message, unless otherwise provided for by general law.

8-3-2 The Manager's message shall explain the budget both in fiscal terms. It shall: (a) outline the proposed financial policies of the Town for the ensuing fiscal year; (b) describe the important features of the budget; (c) indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes; (d) summarize the town's debt position; and (e) include such other material as the Manager deems appropriate.

8-3-3 The budget shall provide a complete financial plan for all Town funds and activities and shall be in such form as the Finance Committee may require, but it shall indicate proposed expenditures for both current operations and capital projects during the ensuing year, detailed by Divisions, Departments, Offices, Boards, Commissions, Committees, and purposes.

## ***Section 4 Action on Proposed Budget***

8-4-1 The Finance Committee shall conduct one or more public Meetings on the proposed budget and shall issue its recommendations in print and make copies available to the

voters at least fourteen days prior to the Annual Town Meeting. In preparing its recommendations, the Committee may require any Town Division, Department, Board, or Office to furnish it with appropriate financial reports and budgetary information.

- 8-4-2 The Town Manager shall be responsible for presenting the budget to the Town Meeting.

## ***Section 5 Budget Adoption***

- 8-5-1 The Town Meeting shall adopt the budget, with or without amendments, at the spring session of the annual Town Meeting.

## ***Section 6 Capital Improvement Program***

- 8-6-1 A Committee to be known as the Capital Program Committee shall be composed of one member from and appointed by the Finance Committee, one member from and appointed by the Planning Board, and five additional members appointed by the Town Manager. The Finance and Planning Board members shall be appointed for two years. All other members for four year terms in such manner that one shall expire every year. No Town employee or Town Officer shall be appointed. The Town Finance Director and the Town Accountant and Town Manager shall be ex-officio members without the right to vote. Any vacancy shall be filled for the unexpired term in the manner of the original appointment.
- 8-6-2 The Committee shall study proposed capital outlays involving the acquisition of land or an expenditure of twenty-five thousand (\$25,000) or more having a useful life of at least three years. All Officers, Boards and Committees including the Select Board, and School Committee, shall by December first of each year give to the Capital Program Committee on forms prepared by it, information concerning all projects anticipated by them as needing Town Meeting approval during the ensuing five years. The Committee shall study the need, timing and cost projection of these projects and the effect each will have on the financial position of the Town.
- 8-6-3 The Capital Program Committee shall prepare an annual report containing a budget for such outlays for the first year for presentation to the Finance Committee and to the Select Board at a joint budget meeting. They shall submit a report to Town Meeting. It may make such investigations and hold such hearings as it may deem necessary.

## ***Section 7 Notice of Public Hearing on Capital Program***

- 8-7-1 The Capital Program Committee shall post on the town website, traditional media, the general summary of the capital program and a notice stating: (a) the times and places where copies of the capital improvements program are available for inspection; and (b) the date, time, and place, not less than seven days following such publication, when the committees shall conduct a public hearing on said program.

8-7-2 The Select Board shall present the capital improvements program to the Annual Town Meeting for its adoption, with or without amendments.

## ***Section 8 Public Records***

8-8-1 The budget and capital improvements program shall be public records, and copies shall be kept available for inspection at the Office of the Town Clerk and at the Public Library.

## ***Section 9 Collection and Disbursements***

8-9-1 Except as otherwise provided by general law, all monies and fees received by the Town or by any Division, Department or Office thereof, shall upon their receipt by such Division, Department or Officer, be paid forthwith into the Town Treasury.

8-9-2 Warrants for the payment of Town funds, prepared and signed by the Town Accountant in accordance with general law procedures, shall be submitted to the Town Manager to be analyzed and forwarded to the Select Board for their approval and signature.

## ***Section 10 Lapse of Appropriations***

8-10-1 Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if five years pass without any disbursement from or encumbrance of the appropriation.

8-10-2 In the final month of any fiscal year, no Division, Department, Commission, Office, or Agency may expend, except for amounts previously encumbered, more than one-twelfth of its annual appropriation.

## ***Section 11 Finance Committee***

8-11-1 A Finance Committee of seven members shall be appointed by the Moderator for three year overlapping terms. Appointments shall be made annually within ten days after the adjournment of the Annual Town Meeting.

# **CHAPTER 9 – PLANNING AND THE ENVIRONMENT**

## ***Section 1 Powers and Duties of the Office of Planning and Community Development***

9-1-1 The Board of Planning and Community Development of five members shall be appointed by the Town Manager. Board members shall serve for five year overlapping terms, so arranged that the terms of as nearly and equal number as possible shall expire each year.

The Town Manager may appoint an associate member as provided for under M.G.L. c. 40A §9.

9-1-2 The Board shall serve as the Planning Board for the Town and may exercise such powers and duties as prescribed by General Law, bylaw and this Charter.

9-1-3 The Board shall meet with the Town Manager and Select Board and make recommendations on all matters concerning the physical, economic, and environmental development of the Town, sixty days prior to a Town Meeting.

## ***Section 2 Long Range Comprehensive Plan***

9-2-1 The Board shall be responsible for the development and periodic updating of a master or comprehensive plan, which shall be utilized as the basis for review and evaluation of all major developments in the Town.

## ***Section 3 Planning Staff***

9-3-1 The Town Manager may appoint a planning director and support staff, provided that funds have been appropriated for that purpose.

9-3-2 Any director so appointed shall be professionally qualified for the duties of their Office by reason of education, training, and experience.

9-3-3 The Planning Director who shall be appointed and supervised by the Town Manager, shall receive general policy guidance from the Board of Planning Community Development.

## ***Section 4 Conservation Commission***

9-4-1 A Conservation Commission of three members shall be appointed by the Town Manager for three-year overlapping terms.

9-4-2 The commission shall exercise such powers and duties as prescribed by general law, bylaw and this Charter.

9-4-3 The commission shall recommend to the Town Meeting bylaws dealing with the environment and its impact on the growth of the Town.

## **Section 5 Zoning Board of Appeals**

9-5-1 A Zoning Board of Appeals, as provided in chapter three, shall exercise such powers and duties as prescribed by general law, bylaw and this Charter.

## **Section 6 Coordination of Activities**

9-6-1 It shall be the general responsibility of the Town Manager, to coordinate the activities of the Planning Board, Conservation Commission, and other Boards, Commissions, and Committees, except the Board of Appeals, concerned with the physical, economic, and environmental development of the Town. All Committees shall make annual reports to the Town Manager and the Select Board.

# **CHAPTER 10 – GENERAL PROVISIONS**

## **Section 1 Definitions**

10-1-1 Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the Charter shall have the following meanings: (a) Charter- The word ‘charter’ shall mean this charter and any amendments to it which may hereafter be adopted; (b) Days- The word ‘days’ shall refer to business days, not including Saturdays, Sundays and legal holidays. When the time set is seven days or more all days should be counted; (c) Emergency- The word ‘emergency’ shall mean a sudden, unexpected, unforeseen happening, occurrence or condition which necessitates immediate action; (d) General Law- The words ‘General Laws’ (used with initial capital letters) shall refer to the General Laws of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently enacted; (e) general laws- The words ‘general laws’ (all lower case letters) shall mean laws which apply alike to all cities and towns, or to all towns, or to a class of municipalities of which Orange is a member; (f) Local Newspaper- the words ‘local newspaper’ shall mean a newspaper of general circulation in the Town of Orange; (g) Majority Vote- The words ‘majority vote’ shall mean a majority of those present and voting, provided a quorum is present when the vote is taken, unless a higher number is required by law; (h) Multiple Member Body- these words shall mean any Town body consisting of two or more persons, whether elected, appointed, or otherwise constituted, but not to include the Town Meeting: (i) The word ‘Town’ shall mean Orange; (j) The words ‘Town Agency’ shall mean any board, Commission, Committee or other multiple member body, Department, Division, or Office of the Town of Orange (k) The words ‘Town Bulletin Board’ shall mean the bulletin board in the Town Hall on which official notices are posted, and those at such other locations within the Town which may, from time to time, be established by the Select Board; (l) the words ‘Town Officer’ when used without further qualification or description, shall mean a person having charge of an Office or Department of the Town who in the exercise of powers or duties exercises some

portion of the sovereign power of the Town; (m) the word ‘voters’ shall mean persons who are registered to vote in the Town of Orange.

## **Section 2 Amendment**

10-2-1 This Charter may be replaced, revised, or amended in accordance with the provisions of the constitution and General Law.

## **Section 3 Criminal Offense**

10-3-1 Any elected Office holder who has been finally convicted of a criminal offense involving misconduct in any elective or appointive public Office, trust or employment at any time held by them shall be deemed to have vacated Office and shall not be eligible to serve in any other elective or appointive Office or position under the town.

## **Section 4 Specific Provisions to Prevail**

10-4-1 To the extent that any specific provisions of this Charter shall conflict with any provisions expressed in general terms, the specific provision shall prevail.

## **Section 5 Severability**

10-5-1 If any provision of this Charter is held invalid, the remaining provisions shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected thereby.

## **Section 6 Town Boards, Commissions, and Committees**

10-6-1 All Boards, Commissions, and Committees of the Town shall: (a) organize annually and elect a Chair and other necessary Officers; ((c)adopt rules of procedure and voting; (d) maintain minutes, copies of which shall be a public record filed regularly with the Town Clerk; and (e) give reports at any session of any Town Meeting upon the request of the Select Board or the Town Manager.

10-6-2 The votes of each Town Board, Commission, and Committee shall be recorded and made a part of its official proceedings.

## **Section 7 Rescinding Power**

10-7-1 Any appointive authority under this Charter shall have the power to rescind, for cause, any appointment made thereby, provided that the appointee shall first have been served with a written notice specifying the appointive authority’s intention, the reason therefore, and informing the appointee of his/her right to a public hearing, if requested.

10-7-2 A copy of the written notice, and a transcript of the public hearing, if any, shall be filed in the Office of the Town Clerk and shall be a public record.

## ***Section 8 Vacancies in Appointed Boards***

10-8-1 Vacancies arising in appointed Town Boards, Commissions, and Committees shall be filled by the respective appointive authority for the unexpired portion of the term.

10-8-2 Whenever a vacancy shall occur in the membership of an appointed multiple member body, the remaining members shall forthwith give written notice of such vacancy to the appointing authority. If, at the expiration of thirty (30) days following delivery of such written notice to the appointing authority, said appointing authority has not appointed some person to fill the vacancy, the remaining members of the multiple member body may recommend a replacement to fill such vacancy to the appointing authority for the remainder of the unexpired term.

10-8-3 If any person appointed to serve as a member of a multiple member body shall fail to attend four (4) consecutive meetings, or more than one-quarter of all meetings held during one (1) calendar year, the appointing authority may declare the office of such person vacant; provided, however, that prior to the vote on such question written notice of an intention to do so shall be given by the appointing authority in hand, or mailed to the last known address of such person by regular first class mail and by certified mail.

## ***Section 9 Investigations***

10-9-1 The power to make investigations shall be vested in the Town Meeting, acting through a duly constituted special Committee, the Select Board or the Town Manager. The Select Board may also initiate investigations and may empower the Town Manager to act on its behalf.

10-9-2 The investigating authority may investigate the conduct of any Town Division, Department, Board, Commission, Committee, Office or Function, including any doubtful claims against the Town. For this purpose, the investigating authority may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of such investigation shall be placed on file in the Office of the Town Clerk, and a summary thereof shall be printed in the next Annual Town Report.

## ***Section 10 Filing of Notice***

10-10-1 All appointive authorities of the Town shall file with the Town Clerk a copy of each notice of the appointment to a Town Office, or any rescinding of appointment thereto, and the same shall be a public record.

## **Section 11            *Computing of Time***

10-11-1 In computing time under this Charter, every calendar day shall be counted.

# **CHAPTER 11 – TRANSITIONAL PROVISIONS**

## **Section 1 *Effective Date***

11-1-1 Upon adoption by the voters, this Charter shall become effective on July 1 next following the Town Election.

## **Section 2 *Continuation of Government***

11-2-1 Appointed or elected Town officials holding Office on the effective date of this Charter shall continue to serve until reelected, reappointed, their successors have been qualified, or their duties have been transferred or abolished. No regular full-time or part-time employee of the Town shall forfeit his pay grade or longevity as a result of the adoption of this Charter.

11-2-2 No Officer holding on the effective date of this Charter, tenure of Office by act of the legislature, or vote of the Town Meeting, or both, shall have the same set aside as the result of the adoption of this Charter.

## **Section 3 *Continuation of Bylaws***

11-3-1 All special acts, bylaws, resolutions, rules, regulations, and votes of the Town Meeting in force on the effective date of this Charter, not inconsistent with its provisions, shall continue in force until amended or repealed, including, if any, bylaws which have been passed and have been approved by the Attorney General but have not been published.

11-3-2 The Town's acceptances of Massachusetts General Laws, chapter 41, section 97A and chapter 48, section 42 are retained to the extent said provisions are not in conflict with the provisions of this Charter or subsequent amendments thereto.

11-3-3 Within thirty days of the vote adopting this Charter, the Select Board shall appoint a bylaw revision Committee of five members, to revise, codify and submit a revised set of bylaws. Such bylaws shall be voted on at the next regular Town Meeting held after the adoption of this Charter.

11-3-4 Beginning the year following the adoption of the proposed Charter, it shall be the responsibility of the Town Clerk to ensure that the bylaws of the Town shall be revised,

codified, and republished at the discretion of the Town Clerk and that copies shall be made available to all registered voters requesting them.

#### ***Section 4 Transfer of Records and Property***

11-4-1 All records, property, and equipment whatsoever of any Office, Department, or Agency or part thereof, the powers and duties of which are assigned in whole or in part to another Office or Agency, shall be transferred forthwith to the Office, Department, or Agency to which such power and duties are assigned.

#### ***Section 5 Continuance of Contracts and Other Obligations***

11-5-1 All leases, contracts, franchises, and obligations entered into by the Town or for its benefit prior to the effective date of this Charter shall continue in full force and effect.

#### ***Section 6 Pending Actions and Proceedings***

11-6-1 No action or proceedings, civil or criminal, in law or in equity, pending at the time this Charter takes effect, brought by or against the Town or any Office, Department, or other Agency thereof, shall be affected or abated by the adoption of this Charter.

#### ***Section 7 Continuation of Elective Offices***

11-7-1 Beginning upon the adoption of the proposed Charter, those elective Offices which continue in accordance with this Charter, the terms of which would expire in March, shall continue to serve until the next election, or until their successors have been qualified.