

TOWN OF PHILLIPSTON BY-LAWS

*ARTICLE I - General Provisions*

**Section 1.** The following provisions shall constitute the General By-Laws of the Town of Phillipston, which shall be in lieu of all By-Laws heretofore in force. Enacted 5/13/52

**Section 2.** The repeal of a By-Law shall not thereby have the effect of reviving any by-law theretofore repealed. Enacted 5/13/52

**Section 3.** Words and phrases specifying, or naming any officer, board, or committee of the Town, shall be construed as including the lawful successor or the person or persons having the powers, and performing the duties of such officer, board, or committee. Enacted 5/13/52

**Section 4.** When in a By-Law, anything is prohibited from being done without the license or permission of a certain officer, board, or committee, such officer, board, or committee shall have the right to license, or permit such thing to be done. Enacted 5/13/52

**Section 5.** Any violation of these By-Laws, for which no other penalty has been established, shall be punishable by fine not less than Twenty (\$20) Dollars, nor to exceed One Hundred (\$100) Dollars. Enacted 5/13/52 Amended 3/3/86

**Section 6.** Any proposed change to the Phillipston Town By-Laws will require a public hearing by the Board of Selectmen, and shall be given by publication in a local newspaper once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of such hearing. Enacted 5/5/95

*ARTICLE II - Town Meetings*

**Section 1.** The Annual Town Meeting, except the election of such officers, and determination of such matters as are required by Law to be elected, or determined by ballot, shall be held on the first Wednesday after the first Monday in May, commencing July 1, 1998. Enacted 5/13/52 Amended 2/8/57, 8/27/84, 5/9/88 and 5/8/98

**Section 2.** The election of such officers and determination of such matters as required by Law to be elected or determined by ballots shall be held on the first Monday in May, the same to become effective in the calendar year 1978. Enacted 5/13/77

**Section 3.** The polls shall be open at twelve o'clock noon, and shall remain open until eight o'clock in the evening for Town Elections. Enacted 5/13/52 Amended 5/9/88

**Section 4.** Notice of every town Meeting shall be given by posting attested copies of the Warrant therefore at the Town Hall, and in at least two other public places in the

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Town not less than seven (7) days before the day fixed for the Annual Town Meeting, and not less than fourteen (14) days before the day fixed for a Special Town Meeting; and also by inserting a notice in at least one publication of general circulation in the Town not less than seven days before the date fixed such meeting; which notice shall contain the date, time, and place of such meeting. Enacted 5/13/52 Amended 10/19/53 and 5/9/88 and 5/7/08

**Section 5.** Article of the Warrant shall be acted upon in the order in which they appear, unless otherwise determined by vote of the meeting. Enacted 5/13/52

**Section 6.** When a question is put, the sense of the meeting shall be determined by the voices of the voters, and the moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the sound of the voices, or if his decision is, in reasonable length of time, questioned by three or more voters rising in their places for that purpose, he shall determine the vote by ordering a show of hands, and he may appoint tellers to make and return the count. Enacted 5/13/52

**Section 7.** All committees shall report as directed by the Town. If no report is made within one year after its appointment, the committee shall be discharged unless, in the meantime, the Town shall have granted an extension of time. Enacted 5/13/52

**Section 8.** No motion, the effect of which would be to dissolve the meeting, shall be in order until every Article in the Warrant has been duly considered, and acted upon, but this shall not preclude the postponement of consideration of any Article to an adjournment of the meeting, at a stated time and place. Enacted 5/13/52

**Section 9.** The most current issue of TOWN MEETING TIME will be the general guideline for all procedures of Town Meetings, except those procedures already provided for by the By-Laws. Enacted 5/9/88

**Section 10.** The Selectmen shall appoint one or more checkers, who shall permit only registered voters to enter the voting area at the Annual or any Town Meeting; a restricted area shall be opened the public. Enacted 5/9/88

**Section 11. a.** A motion to reconsider any action taken by the Town Meeting shall require a two-thirds vote and shall be entertained at any time prior to the final dissolution of the meeting and when no other motion is before the meeting; and when such a motion to reconsider has been decided, that decision shall not be reconsidered.

**b.** No motion to reconsider the vote on any of the following questions shall be in order:

To adjourn

To lay on the table

To take from the table                      Enacted 5/9/88

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*ARTICLE III - Town Officers*

**Section 1.** Selectmen

**a.** The Selectmen shall have the general direction and management of the property and affairs in all matters not otherwise provided for by law on their By-Laws. Enacted 5/13/52

**b.** The Selectmen shall annually in June appoint a Town Counsel, who is a member of the Bar in good standing, to serve for the term of one year from the first day of July following, and until his/her successor is appointed and enters upon the performance of his/her duties. It shall be his/her duty to give advice on legal matters to the various Town Officials during the year, as they require it in connection with their duties. Enacted 5/13/52 Amended 5/9/88

**c.** The Selectmen shall annually in the month of June appoint a Chief of Police, who shall be some person other than one of their own number, and who shall hold office during the pleasure of the Board Amended 5/7/09

**(1).** It shall be the duty of the members of the police force to immediately make a careful examination of every case of accident or injury to property coming within their notice, in which the Town might be liable; secure the name of all witnesses thereto; and make a report to the Chief of Police, who shall report forthwith to the Selectmen. It shall be the duty of the Police Department to enforce existing traffic regulations. Enacted 5/13/52

**d.** The Selectmen shall annually in the month of June appoint a Chief of Fire Department, who shall be some person other than one of their own number, and who shall hold office during the pleasure of the Board Amended 5/7/09

**(1).** It shall be the duty of the members of the Fire Department to provide fire protection to persons and property in the Town. Enacted 5/9/88

**Section 2.** Town Clerk

**a.** The Town Clerk shall furnish all boards, committees, and officers with a copy of all votes affecting them within six (6) days of date of said votes. He shall within five (5) days after any election has been held by the Town, notify all officers required to take an oath of office, of their election. Enacted 5/13/52

**b.** The Town Clerk shall see that every conveyance to the Town of any interest in land, except as otherwise provided by law, is duly recorded in the proper registry therefore, and he shall have the custody of all such recorded instruments after the same are returned from the registry. He shall keep a true copy, filed and indexed, of all deeds or conveyances executed in behalf of the Town. Enacted 5/13/52

**Section 3.** Treasurer

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**a.** Except as otherwise provided by law, the Treasurer shall have custody of bonds, contracts, insurance policies, and other similar documents owned by the Town, except that the bonds given by the Treasurer and the Collector of Taxes to the Town shall be in the custody of the Selectmen. Enacted 5/9/88

### *ARTICLE IV - Reports*

**Section 1.** All Boards or officers shall complete their annual report in sufficient time for the Selectmen to include same in the Annual Town Report. Each Town department shall in their annual report furnish a complete inventory of equipment in their department, and they shall also furnish a statement of expenditures, differentiating between labor and material. Enacted 5/13/52

**Section 2.** All Town boards and committees shall file with the Town Clerk a copy of all rules and regulations governing the policy and procedure of such board or committee; said filing to be done within seven (7) days of the date that this By-Law becomes effective. Enacted 6/2/85

**Section 3.** The purchase of all supplies and services shall be in conformance with Massachusetts General Laws, Chapter 30 B. Enacted 5/9/88 Amended 6/27/97

**Section 4.** The procurement of design services for building projects estimated to cost more than One Hundred Thousand (\$100,000) Dollars shall be in conformance with Massachusetts General Law Chapter 7. The procurement of building construction estimated to cost more than Twenty-five Thousand (\$25,000) Dollars shall be done in conformance with Massachusetts General Law Chapter 149. Enacted 5/9/88 Amended 8/3/90 Amended 6/27/97

**Section 5.** All officers, boards, and committees of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept with their respective offices, and shall, unless otherwise provided by law, be open to public inspection at any reasonable time. Enacted 5/9/88

**Section 6.** It shall be the duty of the Selectmen to publish the Annual Report, to be made available in the office of the Town Clerk on the Monday preceding the first Monday in May. All remaining copies will be made available for distribution at the polling place. Enacted 5/9/88

### *ARTICLE V - Finance Committee*

**Section 1.** There shall be a Finance Committee consisting of seven (7) voters of the Town, who shall be appointed by the Moderator. Upon the effective date of this

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amendment (6/3/83), such additional members shall be appointed for such terms of one to three years as will cause the terms of two members of said committee to expire each year; except that every third year, the terms of three such members shall expire. Thereafter, all appointments shall be for a term of three years. Enacted 3/6/70 Amended 6/17/83/ 5/9/88, 5/8/92 and 6/27/97

**Section 2.** It shall be the duty of this committee to investigate the financial affairs of the Town and to report its recommendations on all articles contained in the Warrant for Town Meetings. Said recommendations shall be made at the Town Meeting and shall, whenever feasible, be made in writing. Enacted 3/6/70

**Section 3.** The committee shall also report to the Town in detail the appropriations it recommends the Town make to defray Town charges for the ensuing year. Enacted 3/6/70

**Section 4.** Town officials and heads of departments shall furnish the committee with their estimates of the expenses for their respective departments for the ensuing year not later than February 1 of such year. Enacted 3/6/70 /amended 6/17/83 and 5/9/88

**Section 5.** In the discharge of its duty, the Finance Committee shall have free access to all books of record and accounts, bills, and vouchers on which money has been or may be paid from the Town Treasury. Officers, boards, and Committees of the Town shall, upon request, furnish said committee with facts, figures, and any other information pertaining to their activities. Enacted 5/9/88

### ***ARTICLE VI - Building***

**Section 1 a.** No person shall occupy or permit to be occupied for either residential or business purposes, a trailer or mobile home except in a duly licensed trailer park or campsite, provided, however, the Selectmen, after a public hearing, may grant a temporary permit for such occupancy for a period not to exceed thirty (30) days, or for a period not to exceed one (1) year if said Board is satisfied that the proposed trailer or mobile home will be replaced within that period of time by a permanent structure. Nothing contained herein shall apply to any trailer or mobile home located within the Town on such effective date. Enacted 6/21/69

**b.** Any person aggrieved by the denial of such permit shall have the right of appeal to the Board of Appeals as provided for in Section 13 of Chapter 40 A of the General Laws. Enacted 6/21/68

**c.** There is hereby established a Board of Appeals which shall consist of three members who shall be appointed by the Selectmen for a term of three years, except that the one member shall be appointed in the year 1969 for a term of one year, one member for a term of two years, and one member for a term of three years. Enacted 6/21/68

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**d.** Carbon Monoxide Detectors - The purpose of this by-law is to require that carbon monoxide detectors be installed in all newly constructed buildings at each floor level to warn people that the life-threatening presence of carbon monoxide may exist on the premises. Detectors will be installed during construction, but shall not be connected to other life-safety systems required under State Building Code. The Building Inspector will inspect and approve said detectors before issuing a Certificate of Occupancy.  
5/7/2003

**Section 2.** A building permit shall be obtained before any new building or any structural alteration to an existing building is commenced, except that when the cost of said new building or alteration is estimated not to exceed One Thousand Five Hundred (\$1,500) Dollars it shall not be required. Application for a permit shall be made to the Board of Selectmen and/or through an Agent appointed by them on such form and for such fee as they may prescribe; a copy of each permit to be filed with the Board of Assessors. A building permit shall become void unless construction is commenced within six (6) months of the date of issue and completed within one and one-half (1 1/2) years of the date of issue, unless the same shall be renewed.

Any person who violates any provision of this By-Law, after written notification thereof from the Board of Selectmen, shall be punished by a fine of not more than Twenty (\$20.00) Dollars. Each day that such offense continues after the receipt of such notice shall constitute a separate offense. The Board of Appeals shall act on all matters within its jurisdiction under this By-Law in the manner prescribed in Chapter 40 A of the General Laws. Enacted 12/20/74

### ***ARTICLE VII - Queen Lake***

**Section 1.** The Selectmen shall be authorized to make rules and regulations for the operation of motor boats upon any lakes within the Town. (See Appendix A) Enacted 2/11/55 Amended

**Section 2.** No dogs, except seeing eye or hearing ear dogs, shall be allowed on the Public Beach at Queen Lake for the period commencing on Memorial Day and terminating on Labor Day. Enacted 5/11-18/84

### ***ARTICLE VIII - Highways***

**Section 1a.** Every town employee of the Highway Department who shall actually have worked for the Town for thirty (30) weeks in the aggregate during the twelve (12) months preceding the first day of June in such year, shall be granted a vacation of not less than one week without loss of pay and all regular employees of such Department shall be entitled to the following holidays without loss of pay: New Year's Day, Memorial Day, Labor Day, Columbus Day, Thanksgiving Day, Martin Luther King Day, President's Day, and Patriot's Day. When any such holiday shall fall on a non-working day, such employee shall be entitled to either the day preceding or the day following such holiday, as the Department head shall determine.

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**b.** In the calendar year in which this By-Law shall become effective, the aforesaid provision for a paid vacation shall be extended to any employee of such Department who shall be regularly employed therein on the effective date of this By-Law. Nothing herein contained shall preclude the right of said Department head to require work on any of said holidays in the event of an emergency. Enacted 6/19/64 Amended 3/7/69 and 5/11/90

**Section 2.** No person shall build or rebuild a driveway or right of way at a point where such driveway or right of way enters onto any Town Way without first obtaining permission from the Highway Superintendent, who shall grant such permission and may specify the requirements for said building or rebuilding of such driveway or right of way at the point where it enters a Town Way. Enacted 5/9/88

**Section 3.** No person shall throw, or put, or cause to be thrown or put, any snow or ice or any other debris from any privately owned property into any Public Way. Whoever violates this By-Law shall be punished by a fine of Fifty (\$50) Dollars for each offense. Enacted 5/9/88 Amended 5/8/92

### *ARTICLE IX - Junk Cars*

**Section 1a.** No person in charge or control of any property within the Town, whether as owner, tenant, occupant, lessee, or otherwise, shall allow more than one unregistered, partially dismantled, non-operating, wrecked, junked, or discarded vehicle to remain on such property, except: a vehicle in an enclosed building; a vehicle on the premises of a business operated in a lawful place and manner; when necessary to the operating of such business enterprise; a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town. This Section shall not apply to a vehicle not visible from the road or an abutter's view. This Section shall not apply to holders of Class Three (3) Licenses under General Laws, Chapter 140, Section 58. Amended 6/27/97

**b.** any person violating any of the provisions of Section 1a shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding Twenty (\$20.00) Dollars. Each day such violation is committed, or permitted to continue, shall constitute a separate offense and shall be punishable as such hereunder. Enacted 3/10/67 Amended 11/14/88

### *ARTICLE X - Dogs*

**Section 1a.** No owner or keeper of any dog shall permit such animal to run at large except on his own premises without either being restrained on a leash or under the immediate control of its owner or keeper.

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**b.** Violations of this law shall be enforced in accordance with the provisions of Massachusetts General Laws, Chapter 140, Section 173 A, and any violator shall be subject to the penalties therein provided. Enacted 6/26-7?2/85

**Section 2.** Licensing of dogs, kennel licenses, vaccination of dogs, to prohibit dogs from being allowed to run at large. (See Appendix B) Enacted 6/25/76 Amended 6/16-23/86

**Section 3a.** No person shall own, harbor, or keep any “Dangerous Dog” or any “Vicious Dog” within the Town of Phillipston for any length of time after the notification to the owner, or keeper, by the Dog Officer, Police Chief, or Board of Selectmen that the dog is a dangerous dog as determined by the definitions included in Sections 3a or 3b. These definitions do not limit the Board of Slectmen from determining, after hearing, that a dog is nuisance by reason of vicious disposition or other activity described in M.G.L. Chapter 140, Section 157.

For the purposes of Section 3, a “Dangerous Dog” Is defined by the following:

1. Any dog, regardless of breed, breeding, type, or appearance, which, when unprovoked, on two separate occasions within a 48-month period, worries, wounds, or kills Live stock or fowls when the dog is off the property of the owner, or keeper, of the dog; or
2. Is owned, harbored, or trained primarily, or in part, for the purposes of dog fighting; or
3. Any dog, regardless of breed, breeding, type, or appearance, which, when unprovoked, has killed, seriously bitten, inflicted serious injury upon, or attacked a domestic animal off the property of the owner or keeper of the dog.
4. For the purpose of Section 3 the term. “serious” and “seriously” is intended to mean that the animal that was attacked requires veterinary attention.

**b.** For the purposes of Section 3a “Vicious Dog” is defined by the following:

1. Any dog, regardless of breed, breeding, type, or appearance, which, when unprovoked, inflicts serious injury on or kills a human being; or
  2. Any dog previously determined to be, and currently listed by the Dog Officer, Board of Selectmen or Poice Chief as a dangerous dog which, after the owner or keeper has been notified of the determination, continues, or is allowed to continue, the behavior described in Section 3a.
- c.** No dog may be declared dangerous or vicious if an injury or damage is sustained by person over 7 years of age who, at the time of te injury or damage was sustained, was committing a willful trespass or other tort upon, premise occupied by the owner, or keeper, of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or was

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committing, or attempting to commit a crime. No dog may be declared dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

- d. The Town Clerk shall deny a license to anyone attempting to license a dangerous or vicious dog, as defined in Section 3a and Section 3b, and shall revoke the license of any dog that has subsequently been designated as dangerous or vicious.
- e. The Dog Officer or person charged with the responsibility of handling dog complaints for the Town of Phillipston shall be notified by the owner or keeper of any Dangerous or Vicious Dog, as defined above in Section 3a and Section 3b, that the dog is to be removed from within the town boundaries and may exercise any of the enforcement powers granted under Massachusetts General Laws, Chapter 140, or any regulation, statute or bylaw, at the request of the Board of Selectment, or other authorized entity.
- f. No person shall own, harbor, or keep any dog that molests, harasses, injures, assaults, bites, or otherwise injures any person, or animal, or which severely damages or destroys any public or private property, or which interferes with a police officer, firefighter, emergency care provider, or town inspector while performing their duties.
- g. Police dogs, while in the execution of their duties as a police dog, while under the control of police or official law-enforcement personnel with their work.
  1. A Police Dog is defined as a dog that is trained specifically to assist and is used by police and similar law-enforcement personnel with their work..
- h. Any owner, or keeper, of a dog that has been determined to be dangerous or vicious, as determined in Article X, Section 3, will be subject to a \$50 fine set forth in M.G.L. Chapter 140, Section 173, one day after official notification, to the owner or keeper, that the dog is kept within the Town of Phillipston. Each day that the dog is kept within the Town of Phillipston, after official notification to the owner, or keeper, constitutes an additional offense. Enacted 05/04/2005

### *ARTICLE XI - Miscellaneous*

**Section 1.** The Selectmen may authorize suitable persons to be collectors of, or dealers in, and keepers of shops for the purchase, sale, or barter of junk, old metals, or second hand articles. Enacted 5/13/52

**Section 2.** All owners of land on which there is located an abandoned well, or a well in use, shall provide a covering for such well capable of sustaining the weight of three-

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hundred (300) pounds, or shall fill the same to the level of the ground. Violation of this By-Law shall be subject to a penalty of not less than one-hundred (\$100.00) dollars, nor more than five-hundred (\$500.00) dollars. This By-Law shall become effective July 1, 1958. Enacted 3/3/58

### ***ARTICLE XII - Sanitary Landfill***

**Section 1.** In the best interest of the residents of Phillipston, the Sanitary Landfill, or other collection facilities, shall be used only by the residents located within the geographical limits of the Town of Phillipston. Excluded shall be the transportation of garbage and refuse from out of Town areas to the Phillipston Landfill, or other collection facilities, and/or any other properties of the Town of Phillipston. Enacted 5/9/88

**Section 2.** At such time as the Board of Health requires, in order to implement a program of recycling in conjunction with ordinary waste disposal, residents of every household whose trash is disposed of at the Phillipston Landfill, or other collection facilities, shall separate waste material into the following categories before disposing of the same at the landfill or collection facilities:

1. Glass
2. Cans
3. Paper
4. Other wastes

Any violation of the foregoing By-Law shall subject the offender to a fine of Fifteen (\$15.00) Dollars for each offense. Enacted 5/9/88

### ***ARTICLE XIII - Law Enforcement Trust Fund***

**Section 1.** Pursuant to the provisions of Massachusetts General Laws, Chapter 94 C, Section 47, there is hereby established for the Town of Phillipston, a separate trust fund to be known as the *Law Enforcement Trust Fund Account*.

**Section 2.** All funds distributed to the Town under said Section 47 of Chapter 94 C shall be deposited in such Account and may be expended without the necessity of appropriation, to defray the costs of protracted investigations, to funds to provide additional technical equipment or expertise, to provide matching funds to obtain Federal grants, or for such other law enforcement purpose as the Chief of Police in such Town deems appropriate, but such funds shall not be considered a source of revenue to meet the operating needs of the Police Department. The reasonable expenses of the forfeiture proceedings and the balance thereof shall be deposited in said *Law Enforcement Trust Fund*. Enacted 5/5-12/89

### ***ARTICLE XIV - False Alarms***

**Section 1.** Definitions:

**DEVICE:** An assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a 110 Volt AC line, arranged to signal the presence of a hazard requiring urgent attention. In addition, any device, which when

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activated: transmits a signal to a person who relays information to the Town dispatcher; or produces an audible or visible signal to which the Fire or Police are expected to respond. Excluded from this definition and the scope of this By-Law are devices which are designed to alert or signal only to persons within the premises in which the device is installed.

**ALARM USER;** Any person on whose premises an alarm system is maintained within the Town. The owner of any premises on which an alarm is used.

**FALSE ALARM;** The activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents; or any signal or oral communication transmitted to the Dispatch system requesting, or requiring, or resulting in a response on the part of the Fire or Police Department when, in fact, there has been no unauthorized intrusion, or attempted unauthorized intrusion, or fire at the premises. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes, lightning, and similar conditions.

**Section 2.** False Alarm Charges: When the Fire Chief or Police Chief determines that their department has responded to a false alarm, he shall submit a report to the Board of Selectmen, who shall impose a charge on the responsible alarm user according the following schedule:

1st-2nd False Alarm in a calendar year	- No charge
3rd False Alarm in a calendar year	- \$25.00 fee imposed
4th False Alarm in a calendar year	- \$50.00 fee imposed
5th and subsequent such False Alarms	- \$100.00 fee for each

Upon receipt of an appeal within 14 days from a False Alarm charge, the Board of Selectmen shall hold a hearing to consider the matter and shall notify the alarm user in writing of the date and place of such hearing.

**Section 3.** Responsibilities: Notwithstanding the provisions of this By-Law, the Town, its departments, officers, agents and employees shall be under no obligation whatsoever concerning the adequacy, operation, or maintenance of any alarm device or of the alarm monitoring facilities. No liability whatsoever is assumed for the failure of such alarm devices or for any other act or omission in connection with such alarm devices. Each alarm user shall be deemed to hold and save harmless the Town, its departments, officers, agents, and employees from liability in connection with the alarm user's alarm device.

**Section 4.** Enforcement of this By-Law: The Town, upon authorization by the Selectmen, may institute civil proceedings to enforce the provisions of this By-Law.

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**Section 5.** Exceptions: The provisions of this By-Law shall not apply to alarm devices on premises owned or controlled by the Town, to alarm devices installed in a motor vehicle, nor to medical alert devices. Enacted 10/16/92

### *ARTICLE XV - House Numbers*

**Section 1.** House numbers shall be attached to each dwelling, whether a business or residential, in the Town of Phillipston.

**a.** The number(s) shall be made of permanent, weather-proof materials, in contrasting color, and shall be at least three (3) inches in height, and clearly visible from the street or roadway upon which the structure fronts.

**b.** Any structure that is not visible from the street or roadway shall have the assigned number posted on a suitable support at the entrance to the driveway.

**c.** The numbers posted shall be those assigned to each structure by the Board of Assessors. The Board shall advise the owners of the property of the assigned or reassigned number in writing at the property's tax address.

**d.** It shall be the responsibility of each property owner to obtain, display, and maintain the assigned street number within ninety (90) days after the date of this By-Law.

**e.** This By-Law shall be enforced by the Phillipston Police Department.

**f.** Failure to comply with this By-Law shall subject property owners to a fine of not more than twenty (\$20.00) dollars for each offense. Each day shall constitute a separate offense. Enacted 9/16/94

### *ARTICLE XVI - Council on Aging*

**Section 1.** A Council on Aging for the Town of Phillipston is hereby established by authority of Chapter 40, Section 88 of the Massachusetts General Laws.

**Section 2.** The Council on Aging shall consist of five members who shall serve initially for a period of one year for the first member, two years for the second member, three years for the third member, four years for the fourth member, and five years for the fifth member. Upon expiration of the term of office of each member, a successor shall be appointed for a term of five years, or until a successor is duly appointed and qualified.

**Section 3.** The members of the Council on Aging shall serve without compensation from the Town and shall be appointed by the Selectmen. The members of the Council on Aging shall meet initially and choose their Chairman who will serve at the pleasure of the Council members.

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**Section 4.** The Council on Aging shall have the duty and obligation of carrying out programs designed to meet the problems and needs of the aging in coordination with the programs of the Council on Aging of the Commonwealth of Massachusetts, and/or other public or private entity servicing the needs of the aging. Enacted 5/5/95 Amended 9/8/95

### *ARTICLE XVII - Cemetery Rules and Regulations*

For the mutual protection of lot owners and the Cemetery as a whole, the following Rules and Regulations are proposed. All lot owners and visitors within the Cemetery as well as all lots sold shall be subject to said Rules and Regulations, amendments, or alterations adopted pursuant to state and local laws from time to time. Reference to these Rules and Regulations in Deed or Certificate of Ownership to a lot shall have the same force and effect as set forth in full herein.

These Rules and Regulations replace any prior rules governing the Cemeteries in the Town of Phillipston.

#### **1. General Rules**

- a) The Cemeteries are closed between sunset and sunrise.
- b) Employees of the Cemetery Commission are not permitted to do any work for lot owners except upon order of the Cemetery Commission Maintenance Superintendent or a Cemetery Commissioner.
- c) All fees and charges for services are payable through the Cemetery Commission Treasurer or a Cemetery Commissioner. Patrons of the Cemeteries are requested not to pay any fee or gratuity to Cemetery employees.
- d) Persons within the Cemeteries are only to use roads and walkways. No one is permitted to walk upon or cross lots or lawns unless it is necessary to do so to gain access to one's own lot. The Cemetery Commission expressly disclaims liability for injuries sustained by anyone who violates this rule
- e) Whoever uses as a means of passage from one point to another, not being thereupon at the time for any other purpose, the premises of the Cemetery, in any other parts than roads or walkways, shall be fined not more than twenty (\$20.00) dollars, pursuant to MGL c.114, sec. 42.
- f) Persons visiting the Cemeteries or attending funerals are prohibited from picking flowers, wild or cultivated, breaking or injuring any tree, shrub, or plant, or from writing upon, defacing or injuring any memorials, fence or other structure within the Cemetery grounds. Violation of this rule is also a violation of state laws (MGL c.272, secs. 73, 74, 75) under which violators may be subject to criminal prosecution resulting in fines and/or imprisonment.

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**g)** Motor vehicles must be kept under complete control at all times. When meeting a funeral procession, they must stop until the procession has passed. They must not pass a procession going in the same direction. Motor vehicles must not be left running and the emergency brakes must be set when the driver is not in the driver's seat. Mufflers must not be opened, nor the horn sounded within the Cemetery.

**h)** The following are prohibited:

(1) The driving of a motor vehicle through the gates or within the Cemetery in excess of 10 MPH.

(2) Driving any motor vehicle or riding any animal across or upon any lot, plot or lawn, or parking or leaving the same thereon.

(3) Parking or leaving any motor vehicle on any road or driveway within the Cemetery at such location or in such position as to prevent any other vehicle from passing. The Cemetery Commission will remove vehicles in violation of this rule at the owner's expense.

**i)** No bicycle or motorcycle will be admitted except such as may be in attendance at funerals or on official business.

**j)** Disposal of rubbish at any place, other than the waste receptacles provided, is prohibited.

**k)** In order to maintain the solemnity of the Cemeteries, the following activities are prohibited:

(1) Loud or boisterous talking.

(2) Loitering on the grounds or any of the buildings.

(3) Bringing food or alcoholic beverages into the Cemeteries and consuming them on the grounds.

(4) Peddling or soliciting.

(5) Placing of signs, notices, or advertisements of any kind.

(6) Bringing animals, other than guide dogs for the blind, deaf, or hearing impaired, into the Cemeteries.

**l)** To the extent permitted by law, all monuments, stones or other structures erected on plots shall be subject to approval of the Cemetery Commission who shall have the right to disapprove any monument, effigy, enclosure, structure, or any inscription thereon if the same shall be deemed offensive, improper or injurious to the appearance of the surrounding plots and grounds.

**m)** Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Cemetery Commission, therefore, reserves the right to make exceptions, suspensions, or modifications of these Rules and Regulations without notice when in the judgment of the Cemetery Commission such actions appear necessary.

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n) The Town of Phillipston reserves the right to add to, amend, alter, or appeal these Rules and Regulations pursuant to MGL c. 114, sec. 23. The Town Meeting Warrant will serve as sufficient notice of any rule change.

### **2. Plots and Plot Owners**

a) Persons desiring to purchase a lot, or lots, should contact a Cemetery Commissioner and schedule an appointment to visit the Cemetery. A Cemetery Commissioner will aide them with a selection and issue them the appropriate documents describing the plot purchase.

b) Before any stone, marker, memorial, or adornments are placed or planted on a plot, complete payment for the plot must be made to the Cemetery Commission for the plot, unless waived by the Cemetery Commission. Plots will be sold for cash, money order or a check presented at the time of signing the purchase order. If paid by check, the Deed will not be released to the owner(s) until the check has cleared. Plots may be purchased under a deferred payment schedule by which 30% of the purchase price must be paid upon signing the purchase order, and 10% of the purchase price must be paid no later than the 5th of each month until the balance is paid in full. If an interment is necessary in a plot or lots purchased under a deferred payment schedule, before such interment will be made, the unpaid balance for all lots purchased must be paid in full.

When the purchase price of a plot or plots is paid, a Deed for burial purposes only will be issued by the Cemetery Commission.

If a plot is purchased under a deferred payment schedule, and the purchaser fails to complete payment of the full purchase price within seven (7) months from the date of the purchase order, the said purchase order shall become null and void and the Cemetery Commission will retain all monies paid under the purchase order as liquidated damages or otherwise.

c) No Plot or lot shall be used for any other purpose than the burial of the human dead.

d) The Cemetery Commission reserves the right to:

(1) Enlarge, reduce, change platting, or change the boundaries or grading of the Cemetery, or a section or sections, from time to time, including the right to modify or change the locations or remove or regrade roads, walkways, or any part thereof.

(2) Lay, maintain, and operate, or alter or change, pipelines or gutters for sprinkle systems, drainage, etc.

(3) Use Cemetery property not sold to individual plot owners for Cemetery purposes, including interment of the dead, or for anything necessary, convenient, or incidental to the care of the Cemeteries.

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e) The Cemetery Commission reserves to itself and to those lawfully entitled thereto, a perpetual right of ingress and egress over plots for the purpose of passing to and from other plots.

f) It is the duty of the plot owner to notify the Cemetery Commission of any changes of address for contact purposes.

g) Any statement of any employee or single commissioner, unless confirmed in writing by the Board of Commissioners, shall in no way bind the Cemetery Commission.

### **3. Care of Lots**

a) The general care of the Cemeteries is assumed by the Cemetery Commission and includes the cutting of the grass at reasonable intervals and the raking and cleaning of the grounds.

b) This general care shall in no case mean the maintenance, repair or replacement of any memorial, tomb, or mausoleum placed or erected upon plots, nor the doing of any special or unusual work in the Cemetery. Additionally excluded is the reconstruction of any marble or granite work on any section or Plot, or any portion or portions thereof in the Cemetery damaged by the elements, acts of God, thieves, vandals, explosions, unavoidable accidents, or by the order of any military or civil authority, whether the damage be direct or collateral, other than herein provided.

c) The Cemetery Commission will not be responsible for the maintenance and care of any trees, shrubs, plants or flowers planted, or in containers, which have been placed by plot owners.

### **4. Correction of Errors**

The Cemetery Commission reserves the right, and shall have the right, to correct any errors that may be made either in making interments, disinterments or removals, or the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting any conveyance in lieu thereof for other interment property of equal value and similar locations as far as possible, or as may be selected by the Cemetery Commission, or in the sole discretion of the Cemetery Commission, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the Cemetery Commission reserves the right to remove or transfer such remains so interred to such other property, consistent with the law, of equal value and similar location as may be substituted and conveyed in lieu thereof.

### **5. Descent of Titles**

The laws of the Commonwealth of Massachusetts govern descent of title to Cemetery plots as well as other matters pertaining to assignments, conveyances, devises,

## TOWN OF PHILLIPSTON BY-LAWS

trust deeds, and inalienability. The Cemetery Commission will assist any plot owner who desires information or advise on questions pertaining to their plots.

### **6. Interments**

**a)** The Cemetery will be open for interments from 8:00 a.m. to 5:00 p.m. daily through the months of April to December (weather permitting) with the exceptions of Sundays, Memorial Day, July 4th, and Thanksgiving Day. When Memorial Day or July 4th falls on a Saturday or Monday, and delay will cause unreasonable hardship or inconvenience, interments may be made on such days, but an additional fee of fifty (\$50.00) dollars will be incurred. Winter interments may be conducted after the frost has set, but all additional costs of equipment rental/fees will be incurred by the individual requesting the interment.

**b)** Where immediate burial is required by state law, or under the rules and regulations of the Phillipston Board of Health, interments may be made on a Sunday or Holiday, but an additional fee of fifty (\$50.00) dollars will be incurred, and entrance to the Cemetery will be allowed only to the hearse and vehicles in the funeral procession.

**c)** Upon entering a Cemetery all funerals shall be under the charge of the Cemetery Commission.

**d)** Once a casket containing a body is within the confines of the Cemetery, no funeral director nor their embalmer, assistant, employee, or agent shall be permitted to open the casket or to touch the body without the consent of the legal representative of the deceased, or by a signed court order.

**e)** Upon arrival at the Cemetery funeral directors must present the burial permit issued by the Board of Health or Town Clerk to the Cemetery Commission Burial Agent or other Cemetery Commissioner.

**f)** Plot owners shall not allow burials in their lots for remuneration of any kind.

**g)** No interment of two or more bodies shall be made in one lot, except in the case of parent and small child or two infants in one casket.

**h)** Only two cremations may be interred in one lot unless waived by the Cemetery Commission

**i)** When an interment is to be made in a plot, the lot location of such interment shall be designated by the plot owner or their representative. Should the plot owner fail or neglect to make such determination, the Cemetery Commission reserves the right to make the interment in a location designated by a Cemetery Commissioner.

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**j)** The Cemetery Commissioners, and/or personnel employed by the Commission, are the only personnel who will be permitted to open a grave site with the following exceptions:

(1) When the Cemetery Commission is directed to make a disinterment by judicial order and a certified copy of such order has been received and filed by the Cemetery Commission.

(2) When the Coroner/Medical Examiner directs a disinterment for the purpose of holding an inquest and has filed a signed authorization with the Cemetery Commission to release the body to a lawful agent.

(3) In either case, the disinterment must be made by the Coroner/Medical Examiner, or by their lawful agent. The Cemetery Commission and employees of the Cemetery Commission will not be permitted to assist.

**k)** In order to maintain a high standard of care and to eliminate sunken graves caused by collapse of wooden boxes, it is required that all interments must be made in outside containers (vaults) made of natural stone or of metal or of reinforced concrete. All such containers must be made and installed to meet specifications established by the Cemetery Commission.

**l)** Arrangements for the payment for any remaining balance on a plot due the Cemetery Commission must be paid before an interment is made.

**m)** The Cemetery Commission reserves the right to insist on at least forty eight (48) hours notification prior to an interment and at least one week's notice prior to any disinterment or removal.

**n)** The Cemetery Commission will not be responsible for any request given by telephone or in writing, or for any mistake occurring because of a lack of precise and proper instructions as to the particular space, size of plot(s), and location of a lot where an interment is desired.

**o)** The Cemetery Commission will not be responsible for obtaining the interment permit or for identifying the person being interred.

### **7. Trees, shrubs, plants and flowers**

**a)** All shrubs/trees must be kept trimmed by the lot owner to a height no higher than the stone and approximately two feet in diameter. In the absence of a stone, shrubs/trees must be kept trimmed to no higher than three feet tall and two feet in diameter.

**b)** All plantings of any kind must be within one foot of the stone and must be cleared of grass so it does not become overgrown.

**c)** Spreading flowers such as violets, rose bushes, etc., are prohibited.

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d) The Cemetery Commission reserves the right to remove any trees/shrubs which are not kept trimmed or plantings which are not planted in accordance with these rules.

e) All pots, urns, vases, baskets, artificial flowers, and decorations must be removed in the Spring by April 15, and in the Fall by October 1st for the purpose of Spring and Fall clean up. They will otherwise be disposed of by the Cemetery Commission. All new pots, urns, vases, baskets, artificial flowers, and decorations may be placed on the lots starting in the Spring May 1st, and in the Fall October 15th.

f) No baskets or containers shall be wired or tied down.

g) No fences will be erected around any lots or plots without the expressed written permission of the Cemetery Commission.

h) The Cemetery Commission shall not be responsible for any kind of plantings damaged by vandals, thieves, or other elements beyond its control. The Cemetery Commission shall have the further authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the Cemetery as soon as they become unsightly, dangerous, detrimental, or diseased.

i) The Cemetery Commission will not be liable for floral pieces, baskets, or frames in which, or to which, such floral pieces are attached. The only exception will be agreements made between the Cemetery Commission and funeral services solely for purpose of interments.

### 8. Enforcement of Rules and Regulations

The Cemetery Commission is empowered to enforce all Rules and Regulations and to exclude from the Cemetery any persons violating the same.

### 9. Definitions

- a) **Cemetery** -- A burial Park for earth interments.
- b) **Cemetery Commissioner** -- An official elected by the Town of Phillipston to maintain and operate all Town Cemeteries.
- c) **Cemetery Commission** -- The three Cemetery Commissioners comprising the Board of Commissioners.
- d) **Cemetery Employee** -- Personnel employed by the Cemetery Commission to perform labor in the Town Cemeteries.
- e) **Plot** -- Any section of the Cemetery consisting of one or more lots.
- f) **Lot** -- An individual section, or grave, of a plot.
- g) **Interment** -- The permanent disposition of the remains of a deceased person by cremation, entombment, or burial.
- h) **Maintenance Superintendent** -- A Cemetery Commissioner elected by the Board of Commissioners to develop and execute maintenance programs to include grounds and equipment.

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- i) *Cemetery Treasurer* -- A Cemetery Commissioner elected by the Board of Commissioners to manage Cemetery Commission finances.
- j) *Burial Agent* -- A Cemetery Commissioner elected by the Board of Commissioners to be the point of contact between the Commission and funeral services for burials and to coordinate any and all arrangements associated with a burial.

### *ARTICLE XVIII-Denial or Revocation of Local License or Permit for Nonpayment of Local Taxes, Fees or other Charges*

**Section 1:** Any board, officer, or department may deny any application or revoke or suspend any local license or permit, including renewals and transfers, for any person, corporation, or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterment, or any other municipal charge.

**Section 2:** The Tax Collector or municipal official responsible for records of municipal taxes, assessments, betterments, and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as Licensing Authority, that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the Party, that has neglected or refused to pay any local taxes, fees, assessments, betterments, or other municipal charges for not less than a twelve month period, and that such Party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board.

**Section 3:** The Licensing Authority may deny, revoke, or suspend any license or permit, including renewals and transfers of any Party whose name appears on said list furnished to the Licensing Authority from the Tax Collector, provided however, that written notice is given to the Party and the Tax Collector, as required by applicable provisions of law, and the Party is given a hearing, to be held not earlier than fourteen days after said notice. The Licensing Authority shall render a decision within fourteen (14) days of said hearing. Said list shall be prima facie evidence for denial, revocation, or suspension of said license or permit to any Party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation, or suspension. Any findings made by the Licensing Authority with respect to such License denial, revocation, or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation, or suspension. Any license or permit denied, suspended, or revoked under this section shall not be re-issued or renewed until the license Authority receives a certificate issued by the Tax Collector that the Party is in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges payable to the municipality as the date of issuance of said certificate.

**Section 4:** Any Party shall be given an opportunity to enter into a payment agreement, thereby allowing the Licensing Authority to issue a certificate indicating said

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limitations shall be conditional upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit: provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**Section 5:** The Board of Selectmen may waive such denial, suspension, or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or member of his immediate family, as defined in Section One of Chapter Two Hundred and Sixty-eight A of the General Laws in the business or activity conducted in or on said property.

**Section 6:** This Section shall not apply to the following licenses and permits: open burning, Section thirteen of Chapter forty-eight; bicycle permits, Section eleven A of Chapter eighty-five; sales of articles for charitable purposes, Section thirty-three of Chapter one hundred and one; children work permits, Section sixty-nine of Chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, Section twenty-one E of Chapter one hundred and forty; dog licenses, Section one hundred and thirty-seven of Chapter one hundred and forty; fishing, hunting, trapping license, Section twelve of Chapter one hundred and thirty-one; marriage licenses, Section twenty-eight of Chapter two hundred and seven; and theatrical events, public exhibition permits, Section one hundred and eighty-one of Chapter one hundred and forty. Enacted 5/5/99

### *ARTICLE XIX-Capital Improvement Planning Committee*

**Section 1:** The Board of Selectmen may establish and appoint a committee to be known as the Capital Improvement Planning Committee (Committee), under the authority set forth in G.L. c. 41, Sec. 106 B, which shall be comprised of one member of the Board of Selectmen, one member of the Planning Board, and one member of the Finance Committee, each selected by his respective Board or Committee annually, except for the two resident town members each term to commence July 1. And also, two residents of Town, to be appointed by the Board of Selectmen, not from the previous mentioned boards, for a total of (5) voting members. These two resident members would serve (3) three year terms except for the original appointments when one would serve two years and one to serve three years.. The Committee shall choose its own officers. The members shall receive no pay for their service.

**Section 2:** The Committee shall study proposed capital projects, equipment acquisition and improvements involving major non-recurring tangible assets and projects, the construction of municipal buildings, acquisition of land or property which (a) are purchased or undertaken at intervals of not less than five years, (b) have a useful life of at least five years, and (c) cost over \$25,000. All officers, boards and committees, including the Selectmen and the School Committee, shall, by February 15 of each year, provide the Committee, on forms prepared by it, information concerning all anticipated

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projects subject to review by this Committee and requiring Town Meeting action during the ensuing six years. The Committee shall consider the relative need, impact, timing, and cost of these expenditures and the effect each will have on the financial position of the Town. This section shall not be applicable to citizen petitions placed on the warrant.

**Section 3:** The Committee annually shall prepare a report of its recommendations, which shall comprise the Capital Improvement Budget for the next fiscal year. Said report shall be submitted to the Board of Selectmen.

**Section 4:** The Committee shall prepare a Capital Improvement Program, including recommended capital improvements for the following five fiscal years. Said Capital Improvement Program shall be submitted to the Board of Selectmen.

**Section 5:** This Bylaw shall take effect upon its passage.  
Enacted 5/9/2001 Amended 5/8/02

### *ARTICLE XX-Wetlands Protection Bylaw*

Enacted 5/8/2002 Bylaw revoked in its entirety. 5/7/2003

### *ARTICLE XXI-Open Container Bylaw*

**Section 1:** No person shall have in his or her possession any open container of alcohol beverage as defined in MGL Chapter 138, Section 1 in any of the following circumstances:

- a. A building, structure, open area or any area owned or controlled by the Town.
- b. A public or private way open to the public, or any public cemetery, park, beach, or playground.
- c. Areas or buildings rented by the Town.

**Section 2:** Persons consuming alcohol at an event where a permit has been issued by the Board of Selectmen are exempt from this Bylaw, within the confines of the stated event.

**Section 3:** Any person who violates the above Bylaw shall be subject to a fine of no less than one hundred dollars (\$100) and no more than two hundred fifty dollars (\$250) for each offense. Enacted 11/5/2003

### *ARTICLE XXII – Community Preservation Act/Committee*

#### **Section 1. Establishment**

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There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to MGL Chapter 44 B. The composition of the committee, the Appointment authority and the term of Office for the committee members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.

One member of the Historical Commission as designated by the Commission for an initial term of two years and thereafter for a term of three years.

One member of the Planning Board as designated by the Board for an initial term of one year and thereafter for a term of three years.

One member of the Parks and Recreation Committee as designated by the Committee for a term of three years.

One member, to be appointed by the Board of Selectmen, representing the interest of community housing for an initial term of two years and thereafter for a term of 3 years.

One member of the Open Space Committee as designated by the Committee for an initial term of one year and thereafter for a term of three years.

One member to be appointed by the Board of Selectmen for a term of three years.

One member to be appointed by the Board of Selectmen for an initial term of two years and thereafter for a term of three years.

One member to be appointed by the Board of Selectmen for an initial term of one year and thereafter for a term of three years.

If any member of the Committee no longer serves on the Commissions, Boards, or Committees set forth above, the member shall no longer serve on the Committee and a new member shall be appointed by the Commission, Board or Committee.

If any of the Commissions, Boards, or Committees who have appointing authority under this Bylaw are no longer in existence for whatever reason, the Board of Selectmen shall appointed a suitable person to serve in their place.

Any member of the Committee may be removed for cause, after a hearing, by their respective appointing authority.

### **Section 2. Duties**

(a) The Community preservation committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the recreation committee and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

(b) The community preservation committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition,

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preservation, rehabilitation and restoration of historic resources, for the acquisition, creation and preservation of land for recreational use, for the acquisition, creation, preservation and support of community housing and for rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

(c) The Community preservation committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

(d) In every fiscal year, the community preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use); not less than 10% of the annual revenues in the Community Preservation Fund for Historic resources; and not less than 10% of the annual revenues in the Community Preservation Fund for community housing.

### **Section 3. Requirement for a quorum and cost estimates**

The community preservation committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the community preservation committee shall constitute a quorum. The community preservation committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.

### **Section 4. Amendments**

This Article may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL, chapter 44b.

### **Section 5. Servability**

In case any section, paragraph or part of this Article is for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

### **Section 6. Effective Date**

Each appointing authority shall have twenty days after approval by the Attorney General to make their initial appointments.

### **Section 7. Exemption Application Deadline**

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This application deadline for exemption from the surcharge shall be the same as for personal exemption applications, 90 days following the issuance of the actual tax bill.  
Enacted 5/09/07

### ***Article XXIII. NON-CRIMINAL DISPOSITION***

Any bylaw of the Town of Phillipston, or rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the Massachusetts General Laws. The non-criminal fine for each such violation, if not otherwise specified, shall not exceed \$300.00 per day.

“Enforcing person” as used in the bylaw, shall mean: any Town of Phillipston police officer with respect to any offense; as well as the building inspector and his designee, the members of the Conservation Commission and its designee, the members of the Board of Health, its Health Agent or other designee, the Sealer of Weights and Measures and his designee, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto. Enacted 6/13/07

### ***Article XXIII AGRICULTURAL COMMISSION***

Said Commission shall engage in activities that include, but are not limited, to the following: shall serve as facilitators for encouraging the pursuit of agriculture in Phillipston; shall promote agricultural-based economic opportunities in Town; shall act as mediators, advocates, educators, and/or negotiators on farming issues; shall work for preservation of agricultural lands; and shall pursue all initiatives appropriate to creating a sustainable agricultural community.

The Commission shall consist of five members appointed by the Board of Selectmen. The Commission shall consist of a minimum of three members who are primarily engaged in farming and another two who are interested in farming. Initial appointments to the Commission shall be three members shall be appointed for a term of three years and two members for a term of two years thereafter all appointments shall be made for three years.

The Board of Selectmen as the appointing authority shall fill any vacancy on the Commission based on the unexpired term of the vacancy in order to maintain the cycle of appointments. The Board of Selectmen shall consider recommendations of the Commission in making appointments to the Commission.

The purpose of the Agricultural Commission is to promote agricultural-based economic opportunities; preserve, revitalize and sustain the Phillipston agricultural industry, and

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encourage the pursuit of agriculture as a career opportunity and lifestyle    Enacted  
5/7/09

### *Article XXV    THE RIGHT TO FARM*

#### **Section 1 Legislative Purpose and Intent**

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations there under including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A.

We the citizens of Phillipston restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Phillipston by allowing agricultural uses and related activities to function with minimal conflict with abutters and local agencies. This By-law shall apply to all jurisdictional areas within the Town. It does not change any zoning regulations or zones within the town. It does not try to change any existing regulations or laws within the town.

#### **Section 2 Definitions**

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of agriculture, or accessory thereto.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following: farming in all its branches and the cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities; growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations; raising of livestock including horses; keeping of horses; and keeping and raising of poultry, swine, cattle, sheep, goats, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels and alpacas), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals excluding dogs.

"Farming" shall encompass activities including, but not limited to, the following: operation and transportation of slow-moving farm equipment over roads within the Town; control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals; application of manure, fertilizers and pesticides; conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to the agricultural output or services of the farm; processing, slaughtering and packaging of the agricultural output of

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the farm and the operation of a farmers' market or farm stand including signage thereto; maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and on-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3 Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Phillipston. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

### **Section 4 Disclosure Notification**

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town of Phillipston, the landowner shall present the buyer or occupant with a disclosure notification which states the following:

“It is the policy of this community to conserve, protect, and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that may cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by agricultural operations including the ability to access water services for such property under certain circumstances.”

A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town to landowners each fiscal year by mail.

### **Section 5 Resolution of Disputes**

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(Applicable only in communities that have Agricultural Commissions)

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of a grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame. The Board of Health, except in cases of imminent danger to the public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

### **Section 6 Severability Clause (Read as Section 6 Severability Clause)**

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Phillipston hereby declares the provisions of this By-law to be severable. Enacted 5/7/09