

ZONING BYLAWS

The Following is the Zoning Bylaws of the Town of Phillipston, Massachusetts and is published in accordance with the provisions of Section 32, Chapter 40 of the General Laws of Massachusetts. This Zoning bylaw repeals all existing and present Zoning Bylaws of the Town of Phillipston.

ACCEPTED: A special Town Meeting, March 14, 1975.

APPROVED: By an act of The General Court of the Commonwealth of Massachusetts, Chapter 448, and signed by Governor Michael Dukakis effective July 11, 1975.

POSTED: July 30, 1975 by the Clerk of the Planning Board as an agent of the Board of Selectmen.

FIRST REVISION –

Approved: Aug. 29, 1977 by the state Attorney General

SECOND REVISION –

Approved: October 30, 1978

THIRD REVISION –

Approved: October 21, 1981

FOURTH REVISION –

Approved: August 14, 1984

FIFTH REVISION –

Approved: May 13, 1985

SIXTH REVISION –

Approved: March 12, 1986

SEVENTH REVISION –

Approved: January 8, 1987

EIGHTH REVISION –

Approved: October 26, 1987

NINTH REVISION –

Approved: May 19, 1988

TENTH REVISION –

Approved: August 31, 1988

ELEVENTH REVISION –

Approved: August 29, 198

TWELFTH REVISION –

Approved: September 24, 1990 and February 7, 1991

THIRTEENTH REVISION –

Approved: September 5, 1991

FOURTEENTH REVISION –

Approved: September 3, 1992

FIFTEENTH REVISION –

Approved: August 17, 1995

SIXTEENTH REVISION –

Approved: July 1, 1996

AMENDMENTS

JUNE 25, 1999 ATM SEC, 7

MAY 3, 2006 SECTION 22

SECTION 1

PURPOSE: To protect the health and safety of the inhabitants of Phillipston; to secure the proper growth of the Town by encouraging the most appropriate use of the land; to stabilize the value of the land; to maintain the beauty of the Town; to reduce the hazard of fire by regulating the location of buildings; in accordance with the Zoning Act.

SECTION 2

PRESENTLY EXISTING USES PERMITTED: This bylaw shall not apply to any existing building or structures, nor to the continuation of the existing lawful use of any buildings or structures, or to any land or premises or part thereof to the content of the use existing at the time of the adoption of this bylaw.

SECTION 3

DEFINITIONS: In this bylaw the following terms, unless a contrary meaning is required by the context or is specifically described, shall have the following meaning:

1. ABANDONMENT: Non use of a complete activity for a period of more than 12 consecutive months following the termination of legal proceedings, if any, concerning the status of the operation or property associated with such operation.
2. ACCESSORY STRUCTURE: A structure subordinate to the principal building on the same lot and serving a purpose customarily incidental to the use of the principal building including such structures as tool sheds, garages, swimming pools, whether in or above ground, and other recreational facilities. The term “accessory structure” shall not include barns, or guest houses, and other structures designed for human occupancy, whether or not attached to the principal buildings.
3. ACCESSORY USE: The use of a building ore premises for the purpose customarily incidental to the main or principal use.
4. AGRICULTURE: Use of land principally for the raising of crops, horticulture and gardening, for the keeping or raising of domestic animals, livestock, or fowl.
5. ALTERATION: A change in external form, shape, or size of a building or structure which involves land use.
6. APPLICANT: An owner, or his agent or representative who applies, petitions or appeals for a decision from any agent or board referred to herein.
7. AUTOMOTIVE REPAIR SHOP: Any premises used for performing such major automotive works as (a) spray painting; (b) reupholstering; (c) body, fender, clutch, transmission, differential axle, spring and frame repairs; (d) major overhauling of engines; and (e) complete recapping or retreading of tires. An automotive repair shop also may perform the functions permitted of an automotive service station.

8. AUTOMOTIVE SERVICE STATION: Any premises used for supplying gasoline and oil, tires, accessories, and services for automobiles, including the making of minor repairs, directly to the motorist consumer. With the exception of major overhauling of engines an automotive service station shall not perform such repairs associated with an automotive repair shop.
9. BUILDING: Any roofed structure, permanently located on the land, used for housing or enclosing persons, animals, or material.
10. HEIGHT (BUILDING): The vertical measurement of a building from the main level of the ground surrounding the building to a point midway between the highest and lowest points of the roof excluding chimneys, antennas, water tanks, silos, and similar structures.
11. BUILDING LINE: An imaginary line drawn parallel to the frontage of the lot from one boundary side line to the opposite boundary side line. This line shall be drawn at the point of the building nearest the frontage of the lot.
12. BUILDING (PRINCIPAL): A building in which is conducted the principal use of the lot on which it is situated.
13. BUILDING (NON-CONFORMING): Any lawful use of a building existing on the effective date of the adoption of this bylaw, but not conforming to it.
14. CAMPER OR UTILITY TRAILER: Any vehicle designed for human occupancy or for the transportation of cargo which does not conform to the definition of a mobile home and which is less than thirty feet in length.
15. COMMERCIAL LANDFILL: A landfill operation, as defined in the Regulations of the Massachusetts Department of Public Health (per Chapter III, Section 150A of the General Laws, as amended) and operated with a profit making objective. Landfill is a method of disposing of compacted solid waste in a manner certain not to endanger public health or public safety and which will neither harbor rodents, flies, or other vermin, or generate fires, smoke or other odors.
16. DAY CARE CENTER: Any institution or place with or without stated educational purposes, which receives children for temporary custody for part or all of the day and is licensed in accordance with Chapter III of the General Laws and amendments, thereto. The term "day care center" shall not include (1) kindergartens or nursery schools operating as part of organized education systems, (2) schools for religious purposes conducted by a church, (3) a summer recreation camp or (4) lawfully certified kindergartens or nursery schools operated as a state agency.
17. KENNEL: One pack or collection of dogs on a single premises whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs six months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

18. DWELLING UNIT: One or more rooms which are arranged, designed or used as living quarters for one family only and which include individual bathrooms and complete permanently installed kitchen facilities.

19. DWELLING: Any building containing one or more “dwelling units”. The term “dwelling unit” shall not include hotels, motels, rooming or nursing homes, trailers, or mobile homes.

20. DWELLING (MULTIFAMILY): Any building designed to be occupied by three or more families living independently of each other.

21. DWELLING (SINGLE FAMILY): A detached building designed to be occupied by a single family and having no party wall or walls in common with an adjacent structure.

22. DWELLING (TWO FAMILY): A detached building designed for two families.

23. EXPANSION: The physical enlargement of a structure in any direction above ground level.

24. FAMILY: One or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit, providing that unless all members are related by blood or marriage no such family shall contain over five persons.

25. FIRM AND CONTINUOUS MASONRY FOUNDATION: Poured or block wall foundation, or equal, constructed according to accepted practice and with due consideration for frost and soil conditions.

26. FUR FARM: A place for keeping fur-bearing animals for commercial purposes.

27. GARAGE (PRIVATE): A building used for the storage of one or more automotive vehicles owned or used by the owner or tenant of the premises. A private garage is considered an accessory building.

28. GOLF COURSE: An area of at least thirty acres, including customary accessory building, where tee to hole distances average not less than eighty yards.

29. HOTEL: A building in which lodging is offered for compensation in more than ten rooms not containing cooking facilities and to which a common lobby provides access.

30. JUNKYARD: An outdoor space used primarily for the storage, exchange or sale of discharged or salvage materials including two or more motor vehicles not in running condition and not being restored to operation, but not including the purchase or storage of used furniture and house-hold equipment, and used or salvaged materials as part of manufacturing operations.

31. LINE (FRONT LOT): The front lot line is the line separating the lot from the highway layout line.
32. LINE (REAR LOT): The lot line opposite and most distant from the front lot line.
33. LINE (SIDE LOT): Any lot line not a front or rear lot line.
34. LIVING AREA: The area enclosed by the outside walls of a dwelling and commonly used as living quarters by the occupants excluding heated attached garages, porches, and breezeways.
35. LOT AREA: Area within a lot.
36. LOT (BUILDING): A tract of land under separate ownership which is, or can be, occupied by a principal building and the structures and areas accessory to it, having frontage on a street and defined by measurements and/or boundaries in a deed and plan.
37. LOT DEPTH: The average horizontal distance between the front and rear lot lines.
38. LOT FRONTAGE: A continuous and uninterrupted section of the front lot line.
39. LOT LINE: A division line between adjoining properties or a division line between individual lots.
40. LAYOUT LINE (HIGHWAY): The line established by the public authority in laying out the highway upon which the lot abuts. If the layout line cannot be established it shall be considered to be a line parallel with a thirty (30) feet distant from the center line of the highway.
41. MOBILE HOME OR TRAILER: A structure unit built on a chassis containing complete electrical, plumbing, and sanitary facilities. If the unit is placed on a continuous masonry foundation so as to be immobile it shall nevertheless be considered a mobile home or trailer.
42. MOBILE HOME PARK: Any lot or tract of land upon which three or more mobile homes occupied for dwelling purposes are located, including any building, structures, fixtures, and equipment used in accordance with the General Laws and any amendments thereto.
43. MOTEL: An establishment designed primarily for transient automobile travelers, offering lodging for compensation in four or more dwelling units with access to each dwelling unit or group of dwelling units directly from the outside.
44. NON-CONFORMING USE: Any lawful use or accessory use existing at the time of the enactment or subsequent amendment of this bylaw, and not in conformance to the regulations of this bylaw.

45. PARKING SPACE: An area of not less than 200 sq. ft. in a building or on a lot available for parking one motor vehicle, exclusive of passage-way and driveways appurtenant thereto and with free access.
46. PRINCIPAL FLOOR LEVEL: The first floor that contains the primary living quarters.
47. RESIDENT OFFICE OR STUDIO: An office or studio maintained by a person resident on the premises and provided that no person not regularly residing on the premises is employed therein.
48. RETAIL STORE: A business selling commodities directly to the ultimate customer.
49. SIGN: Any writing, pictorial representation, emblem, or other figure of similar character, which (a) is a structure or any part thereof, or is attached to, printed on or in any manner represented on a building, and (b) is used to announce, direct attention to, or advertise, and (c) is visible from outside a building. A sign shall include writing, representation, or other figures of similar character within only when illuminated and located in a window.
50. STANDING SIGN: Any exterior sign that is not attached to a building.
51. STORE: Shall include any establishment, office or place of business.
52. STREET: Any public way laid out for vehicle traffic or any private way laid out or used as a public route for such traffic.
53. STRUCTURE: A combination of materials assembled at a fixed location to give support or shelter or for other purposes. Included are buildings, frameworks, sheds, platforms, towers, and similar objects.
54. VARIANCE: An authorization granted by the Board of Appeals to modify permitted use when special physical conditions affect use and where a literal enforcement of this bylaw would involve substantial hardship to the owner. Provided, also, that such authorization shall not take away from the intent or purpose of the bylaw.
55. YARD (FRONT): The space across the full width of the lot and extending from the front line of the building located on such lot to the highway layout line of such lot.
56. YARD (REAR): The space across the full width of the lot and extending from the rear foundation line of the building located on such lot to the rear line of such lot.
57. YARD (SIDE): The space extending from the front yard to the rear yard between a building and the adjacent side line of the lot on which said building is located.

58. CONDOMINIUM: A single family attached dwelling unit, with the exclusive right to use and occupy the condominium unit and to use and enjoy the common areas and any other rights and easements appurtenant to the condominium unit. For the purposes of these Zoning Bylaws, condominiums shall be considered the same as two family or multifamily dwellings.

59. APPROVED WAY: A way shown on a plan approved and endorsed in accordance with the subdivision control law, or a way in existence when the subdivision control law became effective in Phillipston. Such way must have, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. For the purposes of these bylaws, this term shall supersede the phrase “public or private way” wherever it may appear.

60. QUARRYING: An open excavation or pit for the purpose of obtaining stone by cutting, blasting, ripping or hammering.

61. EARTH: The solid part of the planet Earth existing in various forms such as soil, sod, loam, peat, humus, clay, stone, sand or gravel. (Removal of more than 100 cubic yards of earth in a calendar year is considered a commercial venture and is permitted only in the Commercial-Industrial zone and only with a special permit from the Zoning Board of Appeals).

SECTION 4

ADMINISTRATION: This bylaw shall be administered by the Building Inspector. A permit shall be required before any building shall be erected or altered, in accordance with the Massachusetts state building code.

1. Applications for permits shall be accompanied by two prints of a plan of the lot, drawn to scale, showing the actual dimensions of the lot, exact locations and size of any existing or proposed buildings, and the streets and ways adjacent to the lot. Applications shall contain such other information as may be required to be supplied on forms provided for that purpose.

2. A building permit shall become void unless construction is commenced within six (6) months of the date of issue and completed within two years of the date of issue or such later time as may be allowed by the granting authority.

3. A building permit shall be required for any accessory building(s), in accordance with the Massachusetts state building code.

4. Any violation of any provision of this Bylaw after receiving notice thereof by the Board of Selectmen shall be punishable by a fine of not more than \$100.00. Each violation and each day of violation shall constitute a separate offense, punishable by fine as aforesaid.

5. No building permit shall be issued until a permit for a proper septic system has been approved and issued by the Board of Health.

SECTION 5

GENERAL PROVISIONS FOR NEW BUILDINGS:

1. Any building or structure hereafter erected and used for dwelling purposes shall conform to the following:
 - a. Be built on firm and continuous masonry foundation.
 - b. Contain running water, flush toilet, and be provided with a sewage disposal system which conforms to the Commonwealth of Massachusetts sanitary code.
 - c. Be covered with a permanent siding. This specifically excludes roll paper, and any metal subject to rust.
 - d. Any building containing three or more family units shall be provided with a fire hole or other suitable source of water for fire protection by the builder. Such fire hole or other facility to be approved by the Chief of the Fire Department.
 - e. All buildings for which a permit may be issued after the effective date hereof shall conform in all respects to the Massachusetts Building Code.

SECTION 6

OFF-STREET PARKING AREA REQUIREMENTS:

Any use, established or expanded following the adoption of this Bylaw, must provide adequate off-street parking area for parking demands created by such use. This parking area shall be either on the same premises as the use it serves, or within 125 feet on a separate parcel. Such parking area may be jointly used with other premises but may not include a municipal parking area. The following minimums must be met unless reduced by special permit from the Zoning Board of Appeals, upon determination that special circumstances exist so that a lesser requirement shall be adequate for all parking needs created by the proposed expanded use.

TABLE OF REQUIREMENTS

USE	PARKING SPACES REQUIRED PER UNIT OF MEASUREMENT
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RESIDENTIAL

Single-family.....	2 for each dwelling unit
Two-family.....	2 for each dwelling unit
Three- family or more.....	2 for each dwelling unit
Motel, Hotel.....	1 for each sleeping room

Parking spaces or parking lots of multifamily dwellings shall be located not closer than 40 feet from the building and not farther than 125 feet, measured from the nearest point. Such parking spaces or parking lots shall be located at the side or rear of the building.

OFFICES, BANKS, STORES.....1 for every 200 sq. ft. of area

RESTAURANTS, THEATERS, PLACES OF ASSEMBLY

.....1 for each 3 seats plus 1 for each employee on the largest shift

INDUSTRIAL-COMMERCIAL.....1 for each 1.2 employees on largest shift

HOSPITAL, NURSING HOMES AND OTHER

HEALTH INSTITUTES.....1 for each 2 beds plus 1 for each Employee on the largest shift

BOWLING.....3 for each lane

OTHERS.....by special permit from the Board of Appeals

No entrance or driveway leading to a public way shall be constructed until proper provisions for the disposal of surface water which might otherwise flow onto said public way has been made. Such drainage provision to be approved by the Highway Superintendent.

THE MINIMUM DIMENSIONS OF COMMERCIAL-INDUSTRIAL PARKING SPACES

The minimum dimensions of Commercial-Industrial parking spaces shall be as follows:

- a. space width shall be at least ten (10) feet.
- b. Space depth shall be at least twenty (20) feet for all angle parking and twenty-two (22) feet for parallel parking.

All open off-street parking areas for more than four (4) cars located in all districts, shall provide a planting strip from the street line to the parking lot line. Landscape design for the planting strip shall be approved by the Planning Board.

SECTION 7

USE DIMENSIONAL AND INTENSITY REGULATIONS

Accept as provided in this Bylaw, no building or structure shall be constructed, and no building, structure or land, or part thereof shall be used for any purposes or in any manner other than for one or more of the uses hereinafter designed as permitted in the district in which such buildings, structure or land is located, or designated as permissible by special permit by said district and so authorized.

In the following table, the letters “Y”, “N”, “SP”, and “PSP” shall indicate the following.

Y.....a use permitted as a matter of right, upon compliance with all the applicable provisions of this Bylaw.

N.....a prohibited use.

SP.....a use permitted only by special permit from the Board of Appeals after a public hearing.

PSP...a use permitted only by a special permit granted b the Planning Board after a public hearing.

Key for districts on the Use Regulation Schedule:

RA.....Residential-Agricultural

CI.....Commercial-Industrial

REC....Recreation

1. The above districts are locate and bounded as shown on a map entitled “Zoning Map” on file in the office of the Town Clerk. The Zoning Map with all explanatory matter thereon is hereby made part of this Bylaw.
2. Except when labeled to the contrary boundary or dimension lines shown approximately following or terminating at street center lines, boundary or lot lines or the channel of a stream, are actually those lines; when shown approximately parallel, perpendicular, or radial to such lines, are exactly parallel, perpendicular, or radial thereto. When not located in any other way, boundaries shall be determined by the graphic scale on the map.
3. Where a district boundary line divides any lot or parcel of land in existence at the time the district is established, of the two districts involved, the owner has the right and option of extending the district of his choice fifty (50) feet into the other district.

PERMITTED USES

Use Key: Y= permitted SP = special permit only
 N= prohibited PSP= planning board special permit only

<u>USE</u>	<u>DISTRICT</u>		
<u>RESIDENTIAL</u>	<u>RA</u>	<u>CI</u>	<u>REC</u>
Single family dwelling.....	Y	Y	Y
Two family dwelling.....	Y	Y	Y
Multifamily dwelling.....	PSP	PSP	N
Residential office or studio or workshop.....	Y	Y	Y
Private garage for storage or more than three vehicles or more than one truck, not to exceed a rating of more than one ton.....	Y	Y	Y

<u>USE</u>	<u>DISTRICT</u>		
	<u>RA</u>	<u>CI</u>	<u>REC</u>
<u>COMMERCIAL</u>			
Indoor eating places; drugstores, self-service Laundromats; retail stores selling food or alcohol not intended for consumption on the premises, smoking supplies, periodicals, books, stationery, toys, hardware, electrical appliances, sport equipment, art and craft supplies, shoes and clothing; service businesses, including banks, barber, hairdressing and beautician shops, shoe or clothing repair shops, laundry and dry cleaning establishments and electrical appliance repair shops, business and professional offices.....	N	Y	N
Any combination of the above category for which the total floor space exceeds 3,750 sq. ft.....	N	SP	N
Hotel, motel, or outdoor eating places.....	N	Y	N
Automotive repair shop, new or used car or marine craft sales establishment; commercial car wash facilities.....	N	Y	N
Establishment for the sale of farm and other heavy machinery and vehicles.....	N	Y	N
Light manufacturing including metal stamping, assembling precision machine shops, and laboratories engaged in research experimental and testing activities.....	N	Y	N
Mortuaries, funeral homes.....	N	Y	N
Automotive service station.....	N	Y	N
Establishment for the sale and storage of building equipment, or supplies not considered to be hardware; warehouses.....	N	Y	N
Veterinary hospital or pet shop..... (A special permit for this category automatically grants a special permit for a Class B kennel)	N	SP	N
All forms of commercial use not specifically mentioned above.....	N	SP	N

(This section of the bylaw is not intended to prohibit the overnight parking of commercially registered vehicles used in connection with commercial uses for which the land is zoned or those vehicles used by private parties in connection with their employment).

USE

DISTRICT

INDUSTRIAL

RA CI REC

Textile and paper mills, iron, steel and metal foundries, concrete manufacturing and washed sand and gravel plants; sale and storage of concrete products.....	N	SP	N
Removal, storage and/or sale of sand, gravel, loam, clay or other earth (over 100 cubic yards in a calendar year).....	N	SP	N
Quarrying.....	N	N	N
All forms of manufacturing, storage and assembly not specifically mentioned above.....	N	SP	N

INSTITUTIONAL AND PUBLIC

Church, rectory, parish house or structure for religious use; or school which is sectarian, denominational, public or non-profit.....	Y	Y	Y
Non-religious, sectarian or denominational, school which is profit making, non-profit library, museum, art gallery.....	Y	Y	Y
Day care center.....	SP	SP	N
Non-profit building, park, structure or area dedicated to municipal community or governmental use or service.....	Y	Y	Y
Hospital or nursing home.....	SP	Y	N
All forms of institutional and public uses not mentioned above.....	SP	SP	N

SCIENTIFIC RESEARCH & DEVELOPMENT

(a) Activities connected with scientific research or scientific development or related production.....	N	Y	N
(b) Accessory use connected with scientific research or scientific development or related production.....	N	Y	N

USE

DISTRICT

AGRICULTURE LIVESTOCK AND FOWL

RA CI REC

Commercial farm, orchard, nursery, or truck garden and building and And structures and associated therewith.....	Y	Y	N
Raising, boarding, breeding or keeping of livestock and fowl for Family use and buildings and structures associated therewith.....	Y	Y	Y
Commercial raising, boarding, breeding or keeping of livestock and Fowl and buildings and structures associated therewith.....	Y	Y	SP
All forms of agriculture, livestock and fowl uses not mentioned.....	SP	SP	SP

DOGS AND CATS

Class A kennel (4 dogs, 6 months old or over).....	SP	SP	SP
Class B kennel (5-10 dogs, 6 months old or over).....	SP	SP	N
Class C kennel (11-25 dogs, 6 months old or over).....	N	SP	N
Class D kennel (over 25 dogs, 6 months old or over).....	N	N	N
Dog and cat shelter or refuge..... (A special permit for this category automatically grants a special permit for a Class B kennel).	N	SP	N

RECREATIONAL

Parks, campgrounds and facilities for recreation.....	SP	SP	Y
Indoor places of commercial amusement.....	N	Y	SP
Outdoor places of commercial amusement.....	N	Y	SP
Golf courses.....	SP	Y	Y
Historical sites.....	Y	Y	Y
Cemetery and operations associated therewith.....	Y	Y	N
All forms of recreational uses not mentioned above.....	SP	SP	SP

DIMENSIONAL REQUIREMENTS

<u>USE</u>	<u>DISTRICT</u>		
<u>MINIMUM LOT REQUIREMENTS FOR SINGLE FAMILY DWELLING UNIT</u>			
	<u>RA</u>	<u>CI</u>	<u>REC</u>
Area, in square feet.....	80,000	80,000	80,000
Frontage, in linear feet on a public or private way.....	200	200	200
Depth, in linear feet.....	110	110	110
<u>MINIMUM LOT REQUIREMENTS FOR DUPLEX DWELLINGS</u>			
Area in square feet.....	160,000	160,000	N/A
Frontage, in linear feet on public or private way.....	400	400	N/A
Depth, in linear feet.....	110	110	110
<u>MINIMUM LOT REQUIREMENTS FOR COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, AND PUBLIC BUILDING</u>			
Area, in square feet.....	40,000	40,000	40,000
Frontage, in linear feet on a public or private way.....	125	125	125
Depth, in linear feet.....	110	110	110
<u>MINIMUM LOT REQUIREMENTS FOR MULTIFAMILY DWELLING</u>			
Area, in square feet			
Three family dwelling unit.....	240,000	240,000	N/A
Each additional family unit.....	80,000	80,000	N/A
Frontage, in linear feet on a public or private way			
Three family dwelling unit.....	600	600	N/A
Each additional family unit.....	200	200	N/A
Depth, in linear feet			
Three family dwelling unit.....	350	350	N/A
Each additional dwelling unit through 6 units.....	50	50	N/A
Over 6 dwelling units.....	500	500	N/A

USE

DISTRICT

MINIMUM YARD REQUIREMENTS

Front yard: linear feet between any building and the front lot line...35	50	35
Side yard: linear feet between any building and the side lot line.....20	20	20
Rear yard: linear feet between any principal building and the rear lot line.....35	35	35

MAXIMUM BUILDING

Coverage of lot in square feet by percent %.....25	40*	25
Height in feet from ground line.....35	50	35

The maximum height given under the residential-agriculture zone refers to dwellings only and shall in no way prevent or limit farm use such as silos or barns, etc.

*The percentages noted above are applicable to industrial or business buildings only, coverage percentages for homes are to be the same as set out in column captioned "RA" Residential-Agricultural.

SECTION 8

SPACE REQUIREMENTS AND DIMENSIONS:

No lot used for dwelling purposes shall contain more than one dwelling structure, together with accessory buildings. The following minimum requirements (see intensity of use schedule) for lot frontage, area and open spaces adjacent to building shall be required.

The MAXIMUM HEIGHT of dwelling shall be two and one half stories or thirty-five (35) feet from the ground line excluding chimneys, vents, or ornamental spires, etc.

The MINIMUM LIVING AREA shall be seven hundred (700) square feet for each family.

ACCESSORY BUILDING whether detached or attached to the principal building are subject to the same front and side yard clearances applicable to the principal building. A detached accessory building in a rear yard may be located as close as ten (10) feet to a side or rear lot line but may cover no more than forty percent (40%) of the area of the rear yard.

Every lot used for MULTIFAMILY DWELLING purposes shall conform to the regulations set forth in the intensity of use schedule.

Each building lot must be accessible by its own individual driveway. The distance between the edge of the driveway and the side lot line shall be no less than two (2) feet.

SECTION 9

MINIMUM LANDSCAPING:

1. All disturbed or excavated areas shall be landscaped, except the parking and driveway area.
2. Such minimum landscaping shall be completed in a reasonable period of time not to exceed four (4) years from the start of house or building construction.

SECTION 10

SIGNS OR SIGN LIGHTS:

With the exception of municipal or governmental signs and lights, no signs or lights shall be erected, installed or maintained except in accordance with the provisions of this section.

1. PERMITTED SIGNS:

- A. Each family residing on the premises may have two signs not exceeding an area of four square feet, indicating the name of the owner or occupant.
- B. An accessory use or home occupation may be indicated by the use of not more than two signs, provided that a single sign shall not exceed an area of six (6) square feet. If two signs are erected the area of each shall not exceed four (4) square feet. Two signs back to back shall be considered one sign.
- C. A driveway entrance or exit may be indicated by the use of not more than two signs of not more than two (2) square feet each.
- D. A church, school, library or other public building may erect a single or double faced sign not to exceed an area of eighteen (18) square feet.
- E. The sale, lease or rental of a building or lot may be advertised by the use of not more than two signs, provided that a single sign shall not exceed twelve (12) square feet and if two signs are erected neither shall exceed six (6) square feet. Two signs back to back shall be considered one sign.
- F. During the construction of a building, a stand sign may be erected on the premises to identify the building, the owner, the contractors, the architects, the engineers but such sign shall not exceed thirty two (32) square feet or ten (10) feet in any one dimension. such sign shall be removed promptly after completion of the building or project as the case may be.

- G. The sale of products or services may be advertised by off-premises signs not exceeding thirty two (32) square feet each. (Provided that a permit has been granted by the Mass. outdoor advertising board in accordance with sections 29 through 33, chapter 93 of the general laws and such permit is valid and outstanding).

2. BY SPECIAL PERMIT:

- A. Stores or other uses may advertise goods sold or services rendered on the premises by a single sign not exceeding forty (40) square feet, or two signs not exceeding thirty two (32) square feet each.
- B. Gasoline stations and garages may be allowed one permanent oil company trademark sign in addition to a name sign, plus the customary lubrication, washing and other service signs displayed in the positions to which they apply and one "A Frame" or easel-type sign at the property frontage. So-called specialty signs may be permitted on the side or heads of gasoline pumps only. Each sign use is subject to the approval of the zoning agent.

3. PROHIBITED SIGN USE:

- A. Flashing, animated, noise-making or intermittently illuminated.
- B. Companion sign, advertising successively or repetitively.
- C. Reflectors which are parts of letters of a sign.
- D. Exposed neon or gas-filled tube type signs.
- E. Any signs tacked, painted, posted or otherwise attached to a public utility pole, tree, fence, rock wall, or other objects.
- F. Billboards or other "off-premises" signs or devices, except as may be permitted in other parts of this section (provided that a permit has been granted by the Mass. Outdoor advertising board in accordance with section 29 through 33, chapter 93 of the general laws and such permit is valid and outstanding).
- G. Streamers, "whirligigs" or other similar advertising devices.
- H. Pylon signs, or special ground signs supported by tall mastlike members, or pyramidal tower supports.
- I. Sold sign usually erected to indicate a completed sale of property, must be removed no later than fifteen (15) days after the date of sale.
- J. Unshielded sign illumination, including flood-lighting which results in high intensity light shining onto any street or adjoining property.

4. MAINTENANCE OF SIGNS:

Any sign which is dangerous, unsafe or unsightly shall be repaired and made safe, or be removed by the owner, leaser, agent or occupant of the building, land or property upon which it is located.

SECTION II

SWIMMING POOLS:

All outdoor swimming pools having a capacity of 4,000 gallons or more shall be subject to the following requirements:

1. Such pools shall be completely surrounded at all times by a fence or wall not less than four (4) feet in height above grade. The pool wall itself may serve as a fence.
2. Every such fence or wall shall be so constructed as to not have openings, holes or gaps larger than four inches in any dimension except for doors, gates and picket fences; in the latter case, however, the gaps between pickets shall not exceed four inches.
3. All gates or doors opening through such enclosure shall be of not less than four feet in height and shall be equipped with a self-closing and self-latching device located at least (4) four feet above the under-lying ground and inaccessible from the outside to small children. Every such gate or door shall be kept locked at all times when the swimming pool is not in use, and any ladders shall be removed.
4. A natural barrier, hedge, pool cover or other protective device approved by the Zoning Agent may be used in lieu of a fence or wall so long as the degree of protection afforded by the substitute device or structure is not less than the protection afforded by the enclosure, gate and latch described herein.
5. Such pools must observe all yard requirements as they apply to structures. Permits are required from the Building Inspector and from the Board of Health for their erection.
6. All permanent electrical installations installed at any outdoor swimming pool for any purposes what-ever shall be installed by a competent licensed electrician only. Before any use, all permanent electrical installations shall be required to pass an inspection by the Wiring Inspector.

SECTION 12

MOBILE HOMES, TRAILERS, AND CAMPERS:

1. 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. A camper or travel trailer may be occupied in a duly licensed campsite. The Board of Appeals may, however, after a public hearing, grant a temporary permit for such occupancy 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 by a permanent structure.

2. Campers may be regularly stored within a structure and a single camper may be regularly stored in the open accessory to a permitted use in any district, provided that it is not within a required front yard or within 5 feet of a side or rear lot line, except when loading or unloading. Mobile homes may only be stored within a mobile home park.

MOBILE HOME PARKS:

Mobile home parks shall conform to the following minimum requirements:

1. Parcel minimum of ten acres.
2. Each mobile home plot shall have an area of not less than 60,000 sq. ft. inclusive of parking and exclusive of access drives.
3. Mobile homes shall not be closer to each other or other structures than fifteen feet end to end, or twenty-four feet laterally.
4. Each plot shall be serviced with water, electricity, and sanitary drainage suitable for permanent connection.
5. No mobile home shall be placed within 100 feet of a street line, or 100 feet of any other lot line.

A condition for Board of Appeals approval of a Special Exception to permit mobile home parks shall be that park be developed and operated in accordance with a site plan which has been reviewed by the Planning Board, designated plots, trailer stands, vehicular access, auto parking facilities, and water and sewer systems.

COMMERCIAL CAMPING

Commercial camp grounds shall conform to the following minimum requirements.

1. Parcel minimum of ten acres.
2. Each rental plot shall have an area of not less than 2,000 square feet, inclusive of parking and exclusive of access drives.
3. If each plot is not serviced with water and sanitary drainage, common sanitary facilities shall be provided.
4. No unit for overnight occupancy shall be placed within 100 feet of a street line, or 60 feet of any other lot line.

SECTION 13

EARTH REMOVAL:

A. GENERAL PROVISION

The excavation in any one calendar year of more than 100 cubic yards of soil, sod, loam, peat, humus, clay, stone, sand, or gravel (herein "earth") shall not be permitted in the residential-agricultural (RA) zone or the recreational (REC) zone except when incidental to and in connection with the construction of a structure or incidental to the grading of contiguous property. It shall be permitted in the commercial-industrial (C-I) zone only after obtaining a special permit from the Zoning Board of Appeals (ZBA). In addition, earth removal in excess of 100 cubic yards in a calendar year relative to the construction of a subdivision shall not be permitted in any zone until a subdivision definitive plan has been approved by the Planning Board and a special permit from the Zoning Board of Appeals has been obtained.

B. EXEMPTIONS

1. Excavations incidental to the construction of building for which all other permits have been issued, or installation of walks, driveways, septic systems, swimming pools or other accessory uses to such buildings.
2. Any continuous, legally permitted earth removal activities in actual operation at the time this bylaw is adopted may continue until abandoned or discontinued for more than twelve (12) consecutive months. However, the following conditions apply to existing operations:
 - a. The depth of excavation shall not be allowed below five (5) feet above maximum high water table.
 - b. The earth removal operation shall be contained within the current property limits of such operation the effective date of this bylaw. Expansion to additional property must be authorized by a new permit.
 - c. Where current earth removal operations are closer than 100 feet to abutters property lines or to a public way, no further expansion shall be permitted unless specifically authorized by the Zoning Board of Appeals.
 - d. Unless the Zoning Board of Appeals deems it infeasible, operations will not leave slopes with a grade steeper than two (2) foot horizontal to a one (1) foot vertical (2:1), and reforestation and/or reseeding of the excavated area should be completed within one (1) year after ceasing the operations.

C. APPLICATION AND PROCEDURE

1. An application for an Earth Removal Permit shall be accompanied by a plan describing the premises and the proposed operation. The plan shall be prepared by a registered Land Surveyor or Engineer showing property lines, current names and addresses of all abutters, name and address of the operator, name and address of land owner, existing contours at five (5) foot intervals in the area which the excavation will take place and surrounding areas; natural features such as wetlands, flood plain, ground water elevation; a topographical map showing drainage facilities, existing and final grades, an erosion-sediment control plan and proposed restoration.
2. The maximum water table elevation shall be determined by test pits and soil borings created during the months of April and May. A log of all borings shall be included, taken to the depth of the proposed excavation.
3. Consulting fees and expenses incurred by the Zoning Board of Appeals in processing the Earth Removal Application shall be billed to and paid by the applicant.
4. The Conservation Commission shall perform a complete review of the proposed operation as the first step in the application review process.
5. Upon receipt of the application for an earth removal permit, a public hearing shall be conducted by the Zoning Board of Appeals within ninety (90) days following the public hearing. The applicant as well as other town departments, abutters, to the proposed site, and other interested individuals shall have the opportunity for public questioning and comment at this hearing. The Conservation Commission shall provide at this public hearing their written and verbal report of findings and recommendations.
6. The Massachusetts Wetlands Protection Act shall be one of the standards used in determining the appropriateness of the proposed operation and in developing performance standards.

D. SECURITY REQUIREMENT

1. A performance bond in an amount determined by the Zoning Board of Appeals shall be filed with the Town Treasurer assuring satisfactory performance of the requirement of the bylaw and of such other conditions as may be imposed in the permit. No performance bond or other security shall be released in whole or in part unless and until the Zoning Board of Appeals determines that all the conditions of the permit have been satisfied.

E. PERMIT FOR EARTH REMOVAL

1. All permits shall conform to the minimum restoration and performance standards contained herein and such other conditions as the Zoning Board of Appeals may deem necessary. No permit for earth removal shall be issued for more than five (5) years duration and may, at the discretion of the Zoning Board of Appeals, be renewed thereafter. All subsequent permits expire on December 31st.

2. Said permit shall allow the working of up to five (5) acres at any one time, the specific amount of area to be determined by the Zoning Board of Appeals. Upon completion of the earth removal operation on each permitted parcel and substantial restoration of said parcel according to the restoration standards and permit conditions, application may be made to the Zoning Board of Appeals for a permit renewal. This procedure shall be followed until the operation is completed.
3. The permit shall be considered a nontransferable, revocable permit to remove earth materials. If it is found that incorrect or misleading information was submitted in the application, or that conditions of the permit are being violated, or that the governing regulations are not being followed, the permit may be revoked or suspended at any time. Failure of the permit holder to comply within the time specified by the Zoning Board of Appeals for correction of violations shall be cause for revocation of the Permit and forfeiture of the performance bond to the Town.
4. Compliance Review – The Zoning Board of Appeals shall discuss and review the permit annually. Said board, or its designated agent, shall have the authority to inspect the operation at reasonable hours at any point of the operation.
5. Before granting a permit, the Zoning Board of Appeals shall give due consideration to the location of the proposed earth removal and its effect on natural resources, including but not limited to the recharge of the water table. No permit shall be issued if the Zoning Board of Appeals determines that there is reasonable expectation that such earth removal will:
 - a. Endanger general health, safety, or welfare or constitute a public nuisance, or
 - b. Result in detriment to the normal use of adjacent property by reason of objectionable noise, dust, erosion, vibration, or other objectionable factors.
6. In determining the effect upon the town, the Zoning Board of Appeals may require that independent consultants be retained (fees for which to be paid by the applicant) for hydrological testing, noise analysis, general review of engineering plans submitted, or for other analyses deemed necessary.

F. PERFORMANCE STANDARDS

1. The Zoning Board of Appeals may set conditions including, but not limited to the following:
 - a. Duration of the permit
 - b. Specific days and hours of the days when operation is permitted
 - c. Hours during which vehicles may be permitted to enter or leave the premises
 - d. Drainage
 - e. Restoration

2. The following standards of operation shall apply to every permitted operation:
 - a. No excavation shall be closer than 100 feet to a public way or to adjacent property lines unless approved by the Zoning Board of Appeals. Natural vegetation shall be left and maintained on the undisturbed land for screening noise and reduction of dust.
 - b. No areas shall be excavated so as to cause accumulation of standing water.
 - c. No earth shall be removed closer to the maximum high water table than five (5) feet. This level shall be related to a permanent monument on the property and shall be indicated on the topographical plan.
 - d. Hours of operation shall be between 7:00 AM and 5:00 PM on weekdays only. However, the Zoning Board of Appeals may alter hours and days of operation if it determines the public good will be served.
 - e. No earth removal operation shall create excessive amounts of dust or allow roads leading to or from a site to become excessively dust producing. All access roads leading to public ways shall be treated or paved with suitable material to reduce dust for a distance of 200 feet back from the public way. The operator shall clean up any spillage or tracking of earth onto the public way. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing onto the public way or nearby property.
 - f. Prior to any excavation or earth removal, adequate siltation basins shall be constructed to prevent the run off of silted water from the site. Drainage shall not lead directly into streams or ponds nor shall drainage from access roads drain directly onto public ways.
 - g. All wood and brush from tree clearing must be removed or chipped. Wood chips may remain on the site if uniformly scattered. Chips may be stored in mounds of no greater than 100 cubic yards if the mounds are removed in 30 days. No trees are to be buried on the site. Stumps shall be disposed of in accordance with state and local regulations, and as directed by the Board of Health, Conservation Commission and/or independent consultant.
 - h. No earth removal operation shall create damage to town roads which provide access to the earth removal operation especially during critical seasons or weather related periods of the year (e.g. Springtime "mud season", excessive rains, etc.). The earth removal operation may receive an order to temporarily cease earth hauling activity over said roads until the weather, season, and/or conditions have sufficiently abated in order to avert damage to town roads. The Highway Superintendent will routinely inspect all access roads throughout the duration of the earth removal operation, and shall have the authority to judge when the operation may be halted and when it may resume. Verbal and subsequent written notice by the Highway Superintendent or Selectmen shall constitute the official order to cease or to resume operations.

G.RESTORATION STANDAR D

1. Following expiration or withdrawal of a permit, or upon cessation of operations, all land shall be graded leaving no slopes with a grade steeper than a two (2) foot horizontal to a one (1) foot vertical (2:1). A 4:1 ratio is preferred for erosion control and shall be required in sensitive areas.
2. Topsoil shall be spread or left over the disturbed area to a minimum depth of no less than four (4) inches. This soil shall be treated with three (3) tons of lime per acre and 1,000 pounds of 10-10-10 fertilizer per acre and seeded with a grass or legume mixture as prescribed by the Zoning Board of Appeals.
3. Trees and shrubs species, as prescribed by the Zoning Board of Appeals, will be planted in order to provide screening, natural beauty, and to reduce erosion. The planted area shall be protected from erosion during the establishment period using good conservation practices.
4. Final restoration work must be completed within sixty (60) days after the termination of an Earth Removal Permit or by the first of June if the permit is terminated between December first through March thirty-first.

SECTION 14

NON-CONFORMING BUILDING AND USES:

1. Any lawful use of any structure or land or both may be continued although non-conforming in use, with the provisions of this Bylaw, but no such lawfully non-conforming use shall be changed, extended or enlarged in any manner except as permitted by the Board of Appeals. Any existing non-conforming use may be expanded up to twenty-five percent, or for a greater percentage with the approval of the Board of Appeals, of the existing space, provided the lot on which it is located has the same area and frontage requirements for the district in which the use would be permitted and further provided all off-street parking and yard requirements are met.
2. If any non-conforming use of any structure or land or both is changed to a conforming use it shall not thereafter be put into any non-conforming use.
3. If any non-conforming development or use of land or of a building be discontinued for a period not less than twenty-four (24) consecutive months, then this shall be evidence of abandonment of such non-conforming usage and such land or building shall thereafter be use or developed only in accordance with the terms of the Phillipston Zoning Bylaw governing the zoning district in which such property is located.

4. Any non-conforming building or structure destroyed or damaged by fire, flood, lightning, wind or other natural cause may be restored only to the extent of its former non-conforming use and status providing that before a building permit be issued plans of the restored building and the site be reviewed with the Planning Board and further providing that all work of restoration be completed within a period of not more than two years from the date of such destruction of damage.

SECTION 15

BOARD OF APPEALS

There shall be a Board of Appeals, which Board shall act as the Permit Granting Authority under the provisions of these Bylaws, consisting of three members and two associate members to be appointed for terms of three years by the Board of Selectman except that the terms of not more than one member (excepting associate members) shall expire in any one year.

The Board shall annually, within thirty days after the appointment of the member whose term shall commence with that year, elect a chairman and a clerk.

No member shall be removed except for cause by the appointing authority and only after written charges are made and a public hearing held.

Vacancies shall be filled in the same manner as appointments.

1. APPEALS: To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of Chapter 40A, General Laws, or by any officer or board of the Town, or by any person aggrieved by any order or decision of the inspector of buildings or other administrative official in violation of any provision of the Zoning Law.
2. VARIANCES: To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon, a variance from the terms of this Bylaw where, owing to conditions especially affecting such parcel or such building but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the appellant and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw, but not otherwise.
3. POWER TO GRANT USE VARIANCES: The Board of Appeals may grant a variance for a use not otherwise permitted in the District in which the land or structure is located.

4. APPLICATION FOR SPECIAL PERMITS: No special permit shall be issued until a public hearing has been held which must be within sixty-five (65) days after the effective date of filing of a special permit application. All such applications shall be filed with the Town Clerk who shall forthwith transmit the application to the Special Permit Granting Authority retaining a copy thereof for his files. The effective date of filing shall be the date of such filing with the Town Clerk.

5. TIME LIMIT OF SPECIAL PERMITS: The exercise of all building or special permits shall be commenced within six months after the granting thereof. If construction or operations has not begun within the time period, or if construction is not continuing towards completion in as continuous and expeditious manner as reasonable, after the required time period, the construction or operation must conform to any amendment to the Bylaw. The Time of Granting of a special permit shall mean the date of the vote authorizing its issuance.

6. REVIEW OF SPECIAL PERMIT APPLICATIONS: All applications for special Permits shall be submitted to and reviewed by one or more of the following as the Board of Appeals shall determine (1) Board of Health (2) Planning Board and (3) Conservation Commission. The reviews may be held jointly and the reviewing agencies who desire to make recommendations shall forward a written copy thereof to the permit granting authority and to the applicant within thirty-five (35) days of receipt of application. Said reports may be supplemented by further reports as deemed advisable as a result of matters brought out at the hearing.

SECTION 16

BAN OF REPETITIOUS APPEALS: No appeals, application, or petition which has been unfavorably and finally acted upon by the Board of Appeals shall be acted favorably upon within two years after the date of final unfavorable action unless the Board of Appeals finds, by a vote of three members, specific and material changes in the conditions upon which the previous unfavorable action was based, and describes such changes in the record of these proceedings, and unless all but one of the members of the Planning Board consent thereto and after notice is given to the parties in interest of the time and place of the proceedings when the question of such consent will be considered.

SECTION 17

AMENDMENTS: This Zoning Bylaw may be amended by one of the following, submitting the proposed amendment to the Board of Selectmen:

- A. The Board of Selectmen

- B. The Zoning Board of Appeals

- C. An individual owning land to be affected by the amendment
- D. Request of registered voters of a town pursuant of Section 10, Chapter 39 of M.G.L.
- E. The Planning Board
- F. The Regional Planning Agency
- G. The Conservation Commission
- H. The Board of Health

The Board of Selectmen shall , within 14 days of the receipt of a proposed amendment, submit it to the Planning Board for review, public hearing, and report with recommendations, pursuant to Section 5, of Chapter 40A of M.G.L.

SECTION 18

VALIDITY: The validity of any section or provisions of these Bylaws, or of any district or part thereof as shown on the bylaw map shall not affect the validity of any other section or provisions of said bylaws, or of another district or part thereof as shown on said map.

SECTION 19

NON-ADDRESSED USES: Any use not specifically addressed in these zoning bylaws shall not be permitted.

SECTION 20

FLOODPLAIN DISTRICT

I. STATEMENT OF PURPOSE

The purposes of the Floodplain District are to:

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

II. EXISTING REGULATIONS

All development in the district including structural and non-structural activities whether permitted by right or by special permit must be in compliance with the following:

-780 CMR 2102.0, of the Massachusetts State Building Code which address floodplain and coastal high hazards areas;

-310 CMR 10.00, Wetlands protection, Department of Environmental Protection (DEP);

-302 CMR 6.00, Inland Wetland Restriction, DEP;

-310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP,

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

III. DEFINITIONS FOR FLOODPLAIN SECTION

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

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

3) DISTRICT means floodplain district.

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

5) FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood have been designated as Zone A.

6) FLOOD INSURANCE STUDY means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

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

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

9) MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles.

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

11) NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

12) ONE-HUNDRED-YEAR FLOOD see "Base Flood".

13) REGULATORY FLOODWAY see "Floodway".

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

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

16) SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

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

18) ZONE A1 – A30 and ZONE AE means the 100-year floodplain where the base flood elevation has been determined.

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

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

IV. FLOODPLAIN DISTRICT BOUNDARIES AND BASE FLOOD ELEVATION DATA

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Phillipston Flood Insurance Rate Map (FIRM) issued by FEMA for the administration of the NFIP dated July 16, 1984 as Zone A, AE, AH, AO, A1-30, A99 and the Federal Emergency Management Agency Flood Boundary & Floodway Map dated July 16, 1984, both maps which indicate the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance study booklet dated January 16, 1984. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the Planning Board, Building Inspector, and Conservation Commission.

V. FLOODWAY DATE

In “A” Zones (i.e. un-numbered A Zones), the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zones A1-30 and AE, along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood. In Zones A1-30 and AE, along watercourses that have a regulatory floodways designated on the Phillipston FIRM and Flood Boundary Floodway Maps, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

IV. PERMITTED USES

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

1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.

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

VII. USE REGULATIONS

The Floodplain District is established as an overlay district to all other districts. All developments, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (currently Section 2102).

- 1) Within Zones AH and AO on the FIRM, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures will be required.
- 2) Existing contour intervals of site and elevations of existing structures must be included on the plan proposal.
- 3) There shall be established a “routing procedure” which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Town Engineer, and Building Inspector for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

VIII. NOTIFICATION OF FLOODWAY ALTERATION

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

- Adjacent Communities
- NFIP State Coordinator
Massachusetts Office of Water Resources
100 Cambridge Street
Boston, MA 02202
- NFIP Program Specialist
FEMA Region I, Room 462
J.W. McCormack Post Office & Courthouse
Boston, MA 02109

SECTION 21

Wireless Communications Facilities

Purpose

The purpose of these regulations include: 1) minimizing adverse impacts of wireless communications towers, antennas, and facilities (hereafter referred to as “WCF”) on adjacent properties and residential neighborhoods, 2) minimizing the overall number and height of such facilities to only what is essential, 3) to promote shared use of existing facilities thereby reducing the need for new facilities, 4) to regulate the siting of towers in an effort to aid the provision of communication services, 5) discourage discrimination amongst competing providers, and 6) to protect the health, safety and promote the general welfare of the citizenry of the Town of Phillipston. This section does not apply to satellite dishes and antennas used solely in residential application.

General Requirements

No wireless communication facility shall be erected or installed except when in compliance with the provisions contained in the Phillipston Zoning By-Laws. In cases when a Special Permit is required by the Phillipston Zoning Board of Appeals (ZBA), Section 15 of the Zoning By-Laws shall apply to all permit applications for WCF. Any subsequent proposed extension in the height addition of cells, antenna or panels, or construction of a new or replacement facility shall be subject to a new permit process.

Notwithstanding any provision to the contrary in this section, wireless communication antennas or panels may be mounted on or attached to existing structures providing they are properly screened and are finished in a manner designed to be consistent with the exterior of the structure.

WCF’s shall be suitably screened from abutters and residential neighborhoods.

In all cases, approval of radio link equipment shall be conditioned upon the agreement of the applicant to reasonably cooperate with other WCF service providers in permitting collocation of antennas or panels on said structure on commercially reasonable terms, unless: 1) there are structural or other limitations making such an arrangement unfeasible, 2) the proposed facilities would impair existing communications.

The permit holder shall remove structures within six (6) months of cessation of use, and the site shall be restored to its original condition. Failure to use a structure for one (1) year shall be deemed cessation of use.

The By-Laws approved June 25, 1999 STM

Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission (FCC), Federal Aviation Administration (FAA), the American national Standards Institute (ANSI), and required maintenance shall be filed with the Building Inspector by the Special Permit Holder. Failure to demonstrate continuing compliance shall result in loss of necessary permits.

Application Process

All applications for WCF shall be made and filed according to all Special Permit procedures detailed in the Zoning By-Laws, Section 15, in addition to the following requirements:

- 1) Submission of a locus plan on a scale of 1" = 1000'
- 2) A color photograph of an existing WCF which is identical (or as similar as possible) to the proposed WCF
- 3) The following shall be prepared by one or more professional engineers, and submitted by the applicant:
 - a) A description of the WCF and the technical, economic, and other reasons for the proposed location, height, and design
 - b) Certification that the WCF complies with all Federal and State standards
 - c) A Description of the capacity of the WCF including the number and type of panels, antenna, and/or transmitter receivers that it can accommodate, and the basis for these calculations
 - d) A complete set of construction documents detailing the proposed method of installation
 - e) A copy of the manufacturer's recommended installation instructions, if any
 - f) A plan to scale showing the location of the WCF, property, and setback lines, easements, power lines, all structures and distances from all residential zoning districts and the nearest residential structures

The applicant shall submit a written statement that the proposed WCF complies with, or is exempt from, applicable regulations administered by the FCC, FAA, Massachusetts Aeronautics Administration, the Massachusetts Department of Public Health, and the Metropolitan District Commission.

Design Guidelines

The following guidelines shall be used when preparing plans for the siting and construction of all WCF:

All WCF shall be constructed at the minimum height necessary to accommodate the anticipated and future use. The setback of a WCF from the property line of the lot on which it is located and from the nearest existing WCF shall be at least equal to the height of the WCF.

No WCF shall exceed ninety (90) feet in height as measured from ground level at the foot of the WCF. In an effort to encourage co-location of antennas or panels on any one WCF, the height of the WCF may be increased by ten (10) feet for each co-location up to a maximum height of one hundred twenty (120) feet.

All WCF shall be sited to minimize the view of the facility. Color schemes shall be utilized which blend in with the landscape, including the skyline.

Landscaping shall be required to screen as much of the support structure as possible. Existing on-site vegetation shall be preserved to the maximum extent possible.

WCF shall be designed to accommodate the maximum number of users technologically feasible. Any new proposed WCF shall be constructed to support a minimum of two (2) antenna arrays from no less than two (2) antenna system providers or users.

Applicants shall submit a report inventorying existing nearby WCF, documenting why the existing facilities cannot accommodate the applicant's requirements. No new WCF shall be permitted until the applicant demonstrates to the reasonable satisfaction of the ZBA that no existing WCF can accommodate the applicant's requirements.

Fencing shall be required to control access to the WCF, and shall be compatible with the scenic character of Phillipston.

Any and all signage shall comply with Section 10 Signs or Sign Lights of these By-Laws.

Night lighting of any WCF shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

Special Permit Process in Review

Applications for special permits shall be approved or approved with conditions upon fulfillment of the conditions contained in these By-Laws.

New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed uses(s).

SECTION 22

SECTION A. Commercial and industrial Site Plan Review

1. Purpose

The purpose of this Section and any Site Plan Review Regulations adopted or amended by the Planning Board is to establish uniform procedures and requirements for Commercial and Industrial Site Plan Review.

2. Site Plan Review Regulations

The Planning Board may adopt and amend Site Plan Review Regulations by a concurring vote of three of its members after a public hearing.

3. Scope of Planning Board Review

Site Plan Review establishes criteria for the layout, scale, appearance, safety, and environmental impacts of commercial or industrial developments in an attempt to integrate commercial and industrial projects into the community. Therefore, in reviewing a site plan, the Planning Board shall consider the following:

- (a) convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property or improvements;
- (b) adequacy of the methods of disposal for sewage, refuse, and other wastes resulting from the uses permitted on the site;
- (c) methods of drainage for surface water;
- (d) adequacy of space for off-street loading and unloading;
- (e) adequacy of parking provisions;
- (f) lighting;
- (g) landscaping;
- (h) screening;
- (i) roadway construction;
- (j) signage; and
- (k) utilities
- (l) alternative energy

4. Uses and Structures Requiring Site Plan Review.

The following Commercial and Industrial uses and structures shall require Site Plan Review by the Planning Board:

- a) New construction of a single structure or a group of structures in common ownership that contain 2,500 square feet or more in Gross floor area.
- b) Re-construction, exterior alteration or expansion of any existing structure or a group of structures in common ownership that contains 2,500 square feet or more gross floor area.
- c) Any use or change in use of any structure or group of structures in common ownership that require 10 or more parking spaces under the Zoning Bylaw, or the construction, reconstruction, alteration or expansion of a stand-alone parking area that has 10 or more parking spaces.
- d) Any new industrial use, new commercial use or change in use to commercial or industrial use.
- e) Any structure or use that includes a drive-through or drive-up feature.
- f) Any grading or re-grading of land, or disturbance of land, of more than 1 acre in the Commercial-Industrial Zoning District.

5. Definitions.

For the purposes of Site Plan Review, the following definitions shall apply.

Applicant: Any person who files an application for Site Plan Review under this Section, whether or not governed by any other federal, state, or local regulations, laws, permits, variances, approvals, or programs.

Application: All plans, forms, reports, studies or other documents that are submitted by the Applicant to the Planning Board in accordance with this Section and the Board's Site Plan Review Regulations.

Bylaw: The Zoning Bylaw of the Town of Phillipston, as amended.

Decision: The vote by three members of the Planning Board to approve, approve with conditions or deny an Application. Final action by the Planning Board on an Application for Site Plan Review shall be the filing of the Decision with the Phillipston Town Clerk.

Earth: Sod, loam, soil, clay, sand, gravel, stone, peat or humus.

Gross floor area: The sum of the floor area of the several floors of all buildings on the same lot, measured from the exterior surface of exterior walls and including their thickness. It includes cellars, elevator shafts and stairwells at each floor, interior balconies and mezzanines, and drive-through or drive- up canopies, but does not include areas having less than 6 feet floor to ceiling height.

Parties in Interest: The Applicant; the landowner; abutters; owners of land directly opposite on any private or public street or way; and abutters to abutters within three hundred (300) feet of the property line of the Applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town; and the Planning Board of every abutting city or town.

Section: Section 22, Site Plan Review, of the Bylaw.

6. Application and Plan Requirements

Applications for Site Plan Review shall be submitted to the Planning Board on the forms approved by the Planning Board and shall contain the information required by this Section and any Site Plan Review Regulations that may be adopted by the Planning Board. Any plan submitted in connection with a Site Plan Review application must conform to these requirements.

Section B. Contents of an Application

An Application that lacks information or is incomplete in any manner may be rejected or delayed. It is the responsibility of the Applicant to assure the accuracy and completeness of all information submitted to the Planning Board as part of the Application. The Applicant shall be responsible for factually supporting all points relied upon in the Application including references or methodologies used in design calculations.

A complete Application for Site Plan Review shall include the following items:

1. Application Form

A properly completed “Application for Site Plan Approval” the form of which shall be provided by the Board and available at the Town Clerk’s office.

2. Plans

Five full size copies of the application form and plan shall be submitted. Five (or more) reduced size (11” x 17”) copies of the final, approved plan shall be required. Each copy of the plan shall be folded so that it will fit neatly into a letter-sized folder. A copy shall also be submitted in electronic format.

Plans shall be legibly drawn to detail fully and explain adequately the intentions of the Applicant. Site plans shall be prepared by a Registered Professional Engineer and a Registered Surveyor at a scale of one inch equals forty feet. All plans shall include a reasonable numbering system with an appropriate title block containing a Planning Board I.D. block of 3 inch by 3 inches, North arrow, and legend identifying any representative symbols used on the sheet.

The plans shall include, at a minimum, the following information described in (a) through (r) below:

(a) Use Descriptions

Detailed description of the existing and proposed use. The Applicant shall declare whether the facility in question is expected to generate, store, use or dispose of hazardous materials or wastes.

(b) Certified Abutters List

A list of abutters and abutters to abutters that are defined, taken from the most recent tax list of the Town and certified by the Town Assessor.

(c) Other Permits and Variances

List and copies of variances, permits, and special permits, if any, issued for the existing use by other Town Boards or State and Federal agencies, and a list of any variances or permits required to complete the proposed work and/or for the proposed use.

(d) Recorded Plans

A copy of the most recently recorded plan(s) for the lot(s) on which the work will take place bearing the book number(s), page number(s), and date(s) of recording(s) or registration(s).

(e) Support Documentation

Documentation shall be provided that adequately addresses each of the following:

i. Vehicular and pedestrian movement:

A traffic impact study shall be required in all applications where the proposed uses will, in the opinion of the Board, be likely to produce an additional 30 trip ends per peak hour (A.M. or P.M. or weekend, whichever is higher based on average figures) or an average of 400 additional trip ends per weekday based on the most recent edition of the Institute of Transportation Engineers' publication "Trip Generation". If the proposed uses are not listed in said publication, the Board may approve the use of trip generation rates for another listed use that is similar in terms of traffic generation to the proposed use(s). If no such listed use can be found, then a study prepared by a

Registered Professional Engineer experienced and qualified in traffic engineering shall be submitted. Said traffic study shall examine the following:

a. Existing traffic conditions including roadway geometries, traffic volumes, safety delays and levels of service for streets and intersections (whether in Phillipston or another town) affected by the proposed uses.

b. Projected traffic conditions including trip generation, trip distribution, volume to capacity ratios, and levels of service for existing streets and intersections (whether in Phillipston or another town) affected by the proposed project at the time of anticipated completion and five (5) years beyond anticipated completion, taking into consideration the impacts of other previously approved projects and projects pending approval on the same streets. Approach and departure route assignments shall be based on existing traffic patterns, minimum time paths, or market studies. Trip generation for the proposed uses shall be based on average statistics from Trip Generation as above and must include both A.M. and P.M. peak hours, weekend peaks if applicable, as well as average total daily trips. Any anticipated reduction in trips due to special characteristics of the proposed uses must be fully explained and documented. Sight distances for turning movements to and from the site must be analyzed using American Association of State Highway and Transportation Officials (AASHO) standards. The adequacy of vehicular queuing storage at the site entrances shall also be demonstrated. The impact of any planned phasing of the project shall be discussed.

c. The means of providing safe and convenient pedestrian movement within the site and in relation to adjacent streets, property or improvements shall be fully discussed and shown on the site plan.

ii. Waste Disposal Facilities

The type and location of any solid waste disposal facilities shall be shown and described. Dumpsters shall be screened with a stockade fence not less than 6 feet in height, four sides and gated.

The perimeter outline of any existing or proposed on-site sewage disposal systems including any required reserve areas shall be shown. The type of sewage disposal system shall be identified by a simple notation. Actual design and construction specifications for a sewage disposal system are not required, although the Applicant is required to provide proof of compliance with the Board of Health's regulations for on-site septic disposal prior to final approval of the site plan. The proposed location of the sewer main running from any building to the sewage disposal system must be shown. If a sewage system other than an on-site sewage disposal system is to be used, the location of any sewer main to be installed on the property in question must be shown and adequate capacity at the off-site system demonstrated. If the proposed development includes the construction of a sewage treatment plant, then the location of the plant and the sewer main to serve the facility in question must be shown.

iii. Methods of Drainage for Surface Water

Storm drainage runoff calculations used for the drainage system design must be prepared by and display the seal of a Registered Professional Engineer. These calculations shall be based on a recognized standard method (usually the Rational Formula or Soil Conservation Service Method). The calculations shall contain a written summary explaining the rationale of the design so that a lay person can understand the basic design approach and its validity for the site in question. Furthermore, the calculations shall be fully documented, including copies of charts or other reference sources to make review possible. The pre and post-development runoff rates shall be provided. The use of computer generated reports is acceptable, so long as the source of the software is identified.

Calculations shall be provided to support the sizing of all drainage structures and pipes. The system design shall not result in serious flood hazards during a 100-year storm. If the site plan includes a “Reserve Parking Area,” the storm drainage system for this area shall be included in these calculations.

Location and types of storm water drainage facilities, including notes on the construction materials of any pipes, culverts, catch basins or any other system component, shall be included. Sufficient information relating to placement of the drainage system components (rim and invert elevations, pipe slopes, amount of cover, etc.) shall be shown so that the operation of the system can be evaluated. Any drainage ponds intended to be constructed shall be shown, fully dimensioned. If a “Reserve Parking Area” is proposed, the plan shall show the storm water drainage structures intended for construction should the Reserve Parking Area be built in the future.

A typical detail of proposed catch basin, diversion box, emergency slide gate, manhole, headwall, retaining wall, walkway, sub-drain, waterway, leaching basin, drainage pond, or other similar structure, if any, must be shown. Pre-cast catch basins must show gas traps and construction joints sealed with a minimum of one (1) inch butyl-rubber gastight sealant or equivalent caulking material.

iv. Off-street Loading and Unloading

All provisions for off-street loading and unloading shall be shown on the plan. A detailed description of the loading/unloading needs of the proposed use shall be provided and shall include at a minimum: the number of deliveries/departures expected per day; the size and type of vehicles loading/unloading at the site; the type of goods, materials being loaded/unloaded. Location of loading/unloading areas at the site and access/egress to/from the site shall be shown on the plan.

v. Parking Provisions

Parking shall be provided as required under Section 6 of the Bylaw. A parking plan shall include the number of employees on each shift.

All parking facilities shall be shown with proper dimensions. Parking spaces must be identified as either standard sized, handicapped, or small-car parking spaces.

A typical detail of each type of parking space to be used on the site showing the dimensions of the “Parking Stall Length and Line” and the “Width of Parking Stall” so that compliance with the parking area design standards of the Zoning Bylaw is evident.

vi. Lighting

Outdoor Lighting Structures – The location of any existing or proposed outdoor lighting facilities shall be shown.

All parking areas which are proposed to be illuminated shall provide an illumination level of at least one foot candle at ground level. All illumination shall be shielded so as to not shine directly onto a public or private way or onto any property in a residential district.

vii. Landscaping

Landscaping information shall be shown on a separate plan sheet or sheets. In addition to showing landscape treatments planned for the site, a Landscape Plan shall include general site features such as lot lines, existing and proposed structures, parking areas, curbs, walkways, loading areas, land contours, water bodies, wetlands, streams, ledge outcroppings and large boulders so that it may be easily related to the other plans. Any area intended to meet parking lot landscaping area requirements of the Zoning Bylaw shall be fully dimensioned and its area noted so that compliance with the Zoning Bylaw may be determined. The screening of parking areas facing public ways and residential zones or uses shall be required. The Landscape Plan shall contain the following:

a. Planting Table – The botanical and common name of each species, its height (at planting), its spread (at maturity) and the quantity intended to be planted shall be listed in a table along with the symbols used to represent the plans on the plan.

b. Landscaping Details – A typical detail of a tree well, tree planting, and specialty planting area, if applicable, shall be shown.

c. Limits of Work – Any area where existing conditions may reasonably be expected to be disturbed during construction shall be shown and identified on the Landscape Plan.

d. Perimeter of Trees – The perimeter of any existing wooded areas on the site shall be shown. Existing wooded areas intended for preservation shall be noted. The location, size, and proposed fate of any existing trees larger than 16 inches in diameter shall be shown.

viii. Screening

Appropriate landscaping and fencing buffers to protect neighboring properties from lighting and noise and to restrict public access to the adjacent properties is required.

ix. Roadway Construction

Roadway construction shall be in accordance with the Planning Board's Rules and Regulations regulating the subdivision of land and the Town's General Bylaws, Article VIII, Section 2.

x. Signage

The outline or footprint of any existing or proposed signage shall be shown on the site plan. The final disposition of existing signage shall be noted. Each sign shall also be fully described on a separate sheet. Said description shall include, at a minimum, dimensions, materials of which it/they is/are to be constructed, and how and where they are to be displayed, etc. All signage must conform to the Bylaw. The outline or footprint of any existing shall be shown and their final disposition must be noted.

xi. Utilities

a. The location of any underground storage tanks for fuel or other chemical storage, including the tank types, capacities, and conditions shall be shown. If existing underground storage tanks are present at the site, their location, size, capacities, type and date of installation shall be given.

b. The locations and type of existing and proposed water services to serve the facility (including abandoned wells) shall be shown. If the site is to utilize an on-site well, its proposed location must be shown in addition to its setbacks from any building, structure, or sewage disposal system. The location of wells servicing the site on abutting properties shall be shown on the plan. If public water services are to be utilized, then the water main which will service the site must be shown and identified.

c. All fire hydrants on the site or off the site but within 500 feet of the principal building on the site shall be shown. If no fire hydrants are located within 500 feet of the principal building on the site, then a note shall appear clearly explaining how the Applicant will provide fire protection to the site. The location of any proposed municipal fire alarm boxes or other warning systems and any proposed fire lanes shall be clearly shown and identified. Any underground conduit for municipal fire alarm connections shall be shown.

d. The locations and type of any other underground utilities including, but not limited to, electric, gas, telephone, or cable television services shall be shown and identified. Any emergency power facilities shall also be shown.

(f) General Site Characteristics

All lot lines and boundaries of the site, with ownership of abutting properties, including properties across the street or right-of-way from the land affected by the site plan, shall be indicated; access and utility easements; all required setbacks for buildings, structures. All zoning district boundaries shall be shown.

Any special site features including, but not limited to, stone walls, fences, wells, historic structures, and historic buildings shall be indicated.

(g) Natural Site Characteristics

All site features, including but not limited to, flood plains, waterways, drainage courses, and ledge outcroppings shall be indicated.

Existing and proposed contours of the land shown at two-foot intervals. Topography shall be referenced to the National Geodetic Vertical Datum of 1929 with the location and elevation of the starting bench mark plus at least two additional temporary bench marks on the site.

Location and results of any field tests to determine the maximum groundwater elevation shall be indicated.

All wetlands and wetland buffer area boundaries shall be shown.

(h) Site Improvements

Tabulations: A table shall show the legal requirements (minimums, maximum) of the zoning district (where applicable), existing conditions (where applicable) and the proposed site conditions for the following characteristics: lot size, total lot coverage, open space, percent wetlands, percent flood plain, developable site area, front yards, side yards, rear yard, any buffers, building height, minimum distance to groundwater, pre and post-developmental runoff rates and groundwater recharge, net floor area and the number of parking spaces (including numbers of reserve parking, handicapped, and small car spaces) with supporting calculations. The table shall give the percentage of reserved parking spaces with respect to the total number of spaces provided.

(i) Plan Notes

Plan notes shall be provided that: (1) forbid the use of fill containing hazardous materials, (2) require the marking of the limits of working in the field before the start of construction or site clearing, (3) require the cleaning of catch basins, sumps and storm water basins following construction and annually thereafter, (4) restrict the hauling of earth to or from the site to the hours between 9 a.m. and 4 p.m. on weekdays if earth materials are to be removed from or brought to the site, (5) describe materials to be used in the construction of impermeable surfaces such as sidewalks and driveways (as a minimum, the Board requires 12 inches of gravel and three inches of bituminous concrete paving laid in two courses).

(j) Earth Removal Calculations

Calculations for determining the amount of Earth to be removed or the amount of fill to be brought to the site shall be prepared by and show the seal of a Registered Professional Engineer.

(k) Water Balance Calculations

A yearly hydrologic water balance calculation for pre- and post-development conditions based on annual precipitation that quantifies evapotranspiration, runoff, recharge and septic flow shall be included. Compliance with applicable portions of the Bylaw, if any, shall be demonstrated.

(l) Building Elevations

The front, sides and rear elevations of each building shall be shown at an appropriate scale, generally not less than one-eighth (1/8) inch equals one (1) foot.

(m) Phasing

If the project is to be built in phases, a plan or series of plans showing specific limits of construction for each phase and detailing the work to be accomplished in each phase shall be provided. Interim curbing and landscaping shall be shown as needed between phases.

(n) Locus Plan

A locus plan showing an area a minimum of one mile diameter at a scale of one inch equals 1200 feet. Major streets, buildings, brooks, streams, rivers and other landmarks shall be shown on the locus plan with sufficient clarity to be easily discernible.

(o) Design Certifications

Each plan sheet shall show the seal of a Registered Professional Engineer, Registered Land Surveyor, Registered Landscape Architect, Registered Professional Architect, or some combination of these as appropriate to the data on the sheet.

(p) Other

The plan shall show the following, where applicable:

(i) Clear identification of each area intended to be used as OPEN SPACE on the site with the square footage of each such area shown. A separate sheet may be necessary to show these areas adequately.

(ii) Sidewalks with a note on the construction materials to be used.

(iii) All driveway entrances dimensioned so that compliance with the access requirements of the General Bylaws may be determined. The size of the largest truck expected to use the site shall be noted. All the drives and entrances must be designed to accommodate the designated size of truck. The smallest size for the design shall be the SU-30 design vehicle so that fire trucks may maneuver on the site.

(iv) Intersections and driveway entrances on other lots within 75 feet of the site with the distance between driveways dimensioned.

(v) Areas intended for open (outdoor) storage with identification label and dimensions.

(vi) Erosion and sedimentation control measures with a brief written description of the methods used shall be included.

(q) Additional Information

The Application may contain whatever additional information the Applicant deems necessary to inform the Board properly about the development including legal opinions, copies of deeds, historical data, studies and reports.

(r) Waiver

An Applicant for Site Plan Review may request a waiver from one or more requirements of this Section. Any such request shall be submitted to the Planning Board, in writing, at the time of filing the Application. The request shall clearly identify the specific subsection for which the waiver is requested and the reason(s) for the request.

The Planning Board may grant a waiver from one or more requirements herein if it finds that the specific information for which the waiver is sought is irrelevant to the project that is the subject of the Application and that the waiver is consistent with the intent of the Bylaw.

Any requests for waivers shall be reviewed by the Planning Board at the public hearing held for consideration of the Application. A waiver shall be granted only by an affirmative vote of three (3) members of the Planning Board.

SECTION C. FILING PROCEDURES

1. Consent by Owner to Application

Anyone may file an Application for Site Plan Review provided that the property owner of record has signed the Application, thereby granting his/her consent to the filing of the Application.

2. Application Fees

Any Application shall be incomplete unless accompanied by a fee to cover the expenses incurred by the Board in reviewing and processing the Application. The fee is not refundable even if the Application is withdrawn. The fee shall be submitted in check form and made payable to the Town of Phillipston. The fee is that which the Planning Board may, by regulation, set from time to time. An advertising fee for the public hearing shall also be submitted with the Application. A separate check for the advertising fee shall be made out to the Town of Phillipston.

(a) Additional Review Fee Deposits

So that the Planning Board may make the findings required under this Section and insure that the public safety will be protected, the Planning Board may hire outside traffic, engineering, legal, or planning consultants to review an

Application. To cover the cost of these reviews, a review fee deposit may also be required of an Applicant at the time of submission or at any appropriate time in the review process. The amount of the fee deposit shall reflect the anticipated consultant fee(s) plus ten (10) percent. An additional fee may be charged if significant impacts or problems are found during the review. Any amount of the fee deposited that is remaining after issuance of a building permit(s) for the proposed construction, plus any remaining accrued interest, shall be repaid to the Applicant or the Applicant's successor in interest. The Applicant may choose the consultant for any such review from a pre-approved list maintained by the Planning Board. Otherwise, the Planning Board shall choose the consultant.

(b) Appeal from the Selection of the Consultants

The Applicant may appeal from the selection of an outside review consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications of an educational degree in or related to the field at issue or a related field. The Applicant must specify the specific grounds that the Applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements.

3. Submission to the Planning Board

The Applicant shall submit the complete Application and five (5) copies to the Planning Board at a regularly scheduled meeting of the Board. The Planning Board shall certify the date and time of the filing. The Applicant may request and shall be entitled to a written receipt for the materials submitted.

Information submitted after the initial filing of the Application may not be accepted except at the public hearing. If significant information that was not included in the Application is presented at the public hearing, the hearing may be continued to allow for review of the new material. At least five (5) copies of any additional materials submitted at the hearing shall be given by the Applicant to the Clerk of the Board at the hearing.

4. Review of Application

The Planning Board shall transmit a copy of the Application to various other Town departments, boards, committees, agencies, or independent consultants to ensure full and qualified review of the Application. Sixty (60) days will be provided for such reviews; failure to submit comments, except by an independent consultant, on the Application within that time period shall be deemed an approval by the reviewing party. The Planning Board shall provide to the Applicant upon request a copy of any comments or recommendations received.

5. Site Plan – Additional Information

The Planning Board may request such additional information as it deems necessary in connection with a Site Plan Review. This may include, but not be limited to: traffic studies; legal opinions; copies of documents; historical data; geological, soil, groundwater, and/or other analyses and reports.

SECTION D. PUBLIC HEARING

1. Public Hearing Notice

The Planning Board shall set the date, time and place of the public hearing, which shall be held within seventy-five days of the Application filing date.

A notice of the hearing shall be sent by mail to all Parties in Interest at least fourteen (14) days prior to the date of the public hearing. Such notice shall contain:

(1) name of the Applicant, (2) a description of the area or the premises including street address, if any, or other adequate identification of the location such as Assessors Map number and parcel number, (3) date, time and place of the hearing, (4) the subject matter of the hearing, and (5) the nature of the action requested.

Notice of said hearing shall be published twice in a newspaper of general circulation within the Town and the first notice of the hearing shall appear no less than fourteen days prior to the date set for the hearing.

2. Public Hearing Presentation

An Applicant may appear on his/her own behalf or be represented by an agent or attorney. It is the responsibility of the Applicant or the agent of the Applicant to present the Application to the Planning Board and to the public. In the absence of an appearance, the Planning Board may decide the matter using the information it has received.

Presentation of the Application by the Applicant should not exceed ten (10) minutes in duration except for good reason. The Applicant may be requested to answer questions raised by the Planning Board or the public.

The Planning Board shall retain any evidence that has been introduced at the hearing for reference in its deliberations on the case.

In no case may the Planning Board allow new evidence to be admitted after the close of the public hearing.

3. Withdrawal of Application

Any Application for site plan approval submitted hereunder may be withdrawn without prejudice by notice in writing to the Planning Board before the notice of public hearing is published or mailed, whichever occurs first, pursuant to Section E-1 above. Withdrawal of any Application thereafter requires Planning Board approval.

4. Time Period of Deliberation

The Planning Board shall make its Decision and file the Decision with the Town Clerk on each Application for Site Plan Review within ninety (90) days of the close of the public hearing, unless such Application has been withdrawn from consideration as set forth in Section E-3 above, or as the time may be extended as set forth below.

(a) Continuation and Extension

The period within which the Planning Board shall make its Decision and file the Decision with the Town Clerk may be extended for a defined period of time by written agreement between the Planning Board and the Applicant. If the Board determines that the Application is inadequate for the Board to make a finding, the Board may, at its discretion, continue the hearing to a later date to permit the Applicant to submit a revised application. Such a continuation may not automatically extend the 90-day period within which the Board must make its Decision and file the Decision with the Town Clerk unless the extension is agreed upon by both the Board and the Applicant.

5. Decision

The Planning Board may reject a site plan that fails to furnish adequate information required by this Section. The Board may impose reasonable conditions in connection with the site plan approval (even at the expense of the Applicant). The Board may also reject a site plan that, although proper in form, may be so intrusive on the needs of the public in one regulated aspect or another that rejection by the Board would be tenable.

The concurring vote of three (3) of the five (5) members of the Planning Board shall be necessary to decide in favor of approving, approving with conditions or denying the Application.

Only those members of the Planning Board who were in attendance at the public hearing may vote on the application in question.

The Planning Board shall file its Decision with the Town Clerk within ninety (90) days following the close of the public hearing and send a copy to the Applicant by certified mail. The Planning Board shall also send a notice of its decision to the property owner, Parties in Interest, and those who have requested such notice at the public hearing.

(a) Provision of Security

The Planning Board may require in its Decision that security be posted with the Town in such form and amount as is required by the Board to secure the satisfactory completion of all or any part of the work authorized under the site plan approval. The form of security may be generally as allowed under G.L. chapter 41, sect. 81-U.

6. Recording of Decision

The Applicant must record the Decision. The Recording shall be in the in the Worcester County District Registry of Deeds or the Land Court, as may be applicable. A copy of the recorded Decision, certified by the Registry of Deeds, must be submitted to the Planning Board and the Building Commissioner before issuance of a building permit or the start of any work for which Site Plan Review is approved. The site plan approval is not effective unless so recorded.

7. Appeal of Decision

Any person aggrieved by a Decision of the Planning Board, whether or not previously a party to the proceeding, may appeal the Decision in accordance with G.L. Chapter 40A§8 and 15 to the Board of Appeals; thereafter any appeal shall be in accordance with G.L. Chapter 40A, §17.

8. Time Limit for Approval

Any site plan approval granted by the Planning Board shall lapse within two years from the date of filing of the Decision of the Planning Board with the Town Clerk unless substantial use for construction under the approval has begun, except for good cause, or if the Planning Board has specified a shorter time period in the Decision. A reasonable extension of said time may be granted by the Board where good cause is shown. Any request to the Board for such an extension of time must be submitted to the Planning Board and a copy thereof to the Town Clerk at least thirty (30) days before the date when the site plan approval is due to lapse. Failure to submit such a request shall constitute just cause for the Planning Board to deny the requested time extension.

9. Limitation of the Decision

The approval of a site plan constitutes approval only under the pertinent sections of the Bylaw. Other permits or approvals required by other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied. The Planning Board may condition any site plan approval hereunder on satisfactory demonstration of compliance with the requirements of other governmental bodies having jurisdiction prior to the start of any work on the site, the issuance of a building permit, or any other appropriate step in the development process.

10. Amending an Approved Site Plan

A previously approved site plan may be amended by written request to the Planning Board or on the Planning Board's own motion. The Planning Board shall determine whether any request for further alterations to a site constitutes a minor amendment or if such request should be considered a new application requiring a public hearing. The Planning Board may amend an approved site plan without a new public hearing provided that the amendment is not significant to the public interest and is consistent with the purpose and intent of the Bylaw. A fee may be charged, as set by the Planning Board in its regulations, for such amendment.

11. Deviation from an Approved Plan

Any deviation from an approved site plan without prior approval of the Planning Board shall constitute a violation of the Bylaw.