

To see if the Town will vote to amend Municipal By-Law Article XXI, Rules and Regulations Relative to the Control of Dogs in the Town of Plympton by deleting same and substituting therefore the following language set forth below, to conform to the requirements of M.G.L. c.140, §§137-174F:

**ARTICLE XXI
RULES AND REGULATIONS RELATIVE TO THE
CONTROL OF DOGS IN THE TOWN OF PLYMPTON**

Section 1.

DEFINITIONS: The following words and phrases shall have the following meaning:

“Animal Control Officer”, any officer appointed under these Rules and Regulations for the enforcement of said Rules and Regulations.

“Keeper”, any person, corporation or society, other than the owner, harboring or having in his possession any dog.

“Kennel” single premises with a collection of four (4) or more dogs, six (6) months or older, that are maintained for breeding, boarding, sale, training, hunting, or any other purpose.

“Hobby Kennel”, single premises with a collection of six (6) to ten (10) dogs, six (6) months or older, that are maintained for any purpose, and where fewer than four litters per year are raised.

“Commercial Kennel”, single premises with a collection of eleven (11) or more dogs six (6) months or older that are maintained for any purpose, or where four (4) or more litters per year are raised, or where the boarding or grooming of dogs is performed as a business.

“License Period”, the time between January 1st and December 31st annually.

“Clerk”, the Town of Plympton Clerk.

“Livestock or fowl”, animals or fowl kept or propagated by the owner for food or recreational purposes.

“Domestic Animals” shall include but not be limited to dogs and cats.

“Selectman” shall mean the Plympton Board of Selectmen.

“Board of Health” shall mean the Plympton Board of Health.

“Town” shall mean the Town of Plympton.

“License Late Fee”, a fee of twenty-five dollars (\$50.00) in addition to the license fee will be imposed after April 1st following to December 31st for any overdue license, as provided for hereunder.

“Non-Criminal Citation for Violation of Dog Control Bylaws” may be pursued by the Animal Control Officer or the Board of Selectmen’s designee by writing and serving notice as provided for under G.L. c.40, §21D, as an alternative to initiating criminal proceedings, with the violator able to avoid an appearance before the District Court by pay an imposed amount disclosed in the writing of \$25 for the first offense and \$50 for a second offense and \$60 for a third offense and \$100 for a fourth or any additional offense, . In accordance with M.G.L. Chapter 140 Section 173A.

Section 2.

LICENSES AND TAGS

The owner or keeper of a dog kept in the Town of Plympton is subject to these Regulations when the dog attains the age of six (6) months and annually thereafter as required by M.G.L c140§145B.

The Town Clerk shall issue dog licenses and tags on a form prescribed and furnished by the Town of Plympton. The Animal Control Officer may accept applications and fees for licenses and shall transmit same to the Clerk who shall cause the license to be issued. Subject to the approval of the Board of Selectmen, the town may permit licensing to be conducted through the mail.

The Clerk shall record each license issued, the name of the owner or keeper of each dog so licensed, and the name, registered number and description of each dog. The owner or keeper of any dog so licensed shall state upon the license form the breed, color, and age of the dog. Such paperwork shall be open to public inspection during the usual office hours of such clerk.

Each tag shall include the license number, a statement that the dog is licensed in the Town of Plympton, and the year issued.

The owner or keeper shall cause said dog to wear around its neck or body a collar or harness to which the tag shall be securely attached. In the event that any tag is lost, defaced or destroyed, the owner or keeper shall obtain substitute tags from the town Clerk at a cost of two dollars (\$2.00) to be paid to the Town.

The fee for each dog licensed shall be ten dollars (\$10.00) unless a certificate from a veterinarian stating that the dog has been spayed or neutered has been presented to the clerk, in which case the fee shall be seven dollars (\$7.00).

No fee shall be charged for a dog specially trained to lead or serve a blind, deaf, or handicapped person upon presentation to the clerk of a certificate of such training and a copy of a current

rabies certificate. No fee shall be charged for dog specially trained for police work and actively serving in law enforcement.

A license fee shall not be refunded because of a subsequent death, loss, spaying or neutering, or removal from the Town of such dog, nor because a license fee has been mistakenly paid to a city or town.

The provisions of this section shall not apply to institutions licensed under Chapter 140, Section 174D of the General Laws, to shops licensed under Section 39A of Chapter 129 of the General Laws, to any person operating a licensed kennel and where otherwise provided, by law.

Section 3.

KENNEL LICENSES:

Any owner or keeper of four (4) or more dogs, six (6) months of age or over, shall obtain a kennel license; provided, however, that if necessary to operate a kennel under the Town's Zoning By-law, the written approval of the Board of Appeals or special permit granting authority must be presented to the Town Clerk prior to the issuance of such license. Kennels are defined and classified in Section 1 of Article XXI.

The fees for each classification of kennel license shall be as follows:

Kennel License:	\$30 (thirty dollars) per year
Hobby Kennel License:	\$60 (sixty dollars) per year
Commercial Kennel License:	\$150 (one-hundred fifty dollars) per year

A kennel license shall be in lieu of any other license required for any dog which may be kept in such kennel for any portion of the period for which the license is issued. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.

While at large, each dog in a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license, the name "Town of Plympton", and the year of issuance. Such tag shall be in a form prescribed and furnished by the Town of Plympton and shall be issued by the Town Clerk along with the kennel license.

If a kennel owner desires to increase the capacity of his kennel during a license period, he shall apply for a license modification to the Town Clerk, and, if necessary, present the Town Clerk with the written approval of the Board of Appeals prior to the issuance of such license modification. The Clerk shall issue such modification upon payment by the owner of the difference between his existing kennel license and the fee for the kennel license most recently approved.

The Clerk shall issue, without charge, upon written application and written approval of the Board of Appeals, a kennel license to any domestic charitable corporation incorporated in the

Commonwealth of Massachusetts exclusively for the purpose of protecting animals from cruelty, neglect or abuse.

A veterinary hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or for the boarding of dogs for other than medical or surgical purposes, in which case it shall supply to the Clerk proof of obtaining a special permit from the Board of Appeals prior to the issuance of a kennel license.

All holders of kennel licenses shall notify the Town Clerk, in writing, of the sale of any dog or pup, including a description of the animal, the age, color, identifying marks, sex and whether the dog has been spayed or neutered. The kennel owner will forward a copy of such notice, to the clerk of the city or town in which the new owner of the dog resides.

Section 4.

KENNEL INSPECTION AND REGULATION:

The Animal Control Officer or the Chief of Police of the Town of Plympton or other persons authorized under the General Laws, shall at any time inspect or cause to be inspected any kennel and if, in his or her judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, the Board of Selectmen shall by order revoke or suspend said kennel license. In the case of suspension of said license, the Board of Selectmen may reinstate such kennel license and impose conditions and regulations upon the operation of said kennel.

Upon the petition of six (6) citizens filed with the Board of Selectmen setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel located in the Town of Plympton because of excessive barking or vicious disposition of such dogs or other conditions connected with the kennel that constitute a public nuisance, the Board of Selectmen shall, within seven (7) days of the filing of such petition, give notice to all parties concerned of a public hearing to be held within fourteen (14) days after the date of such notice. Within seven (7) days after the public hearing, the Board of Selectmen shall make an order either revoking or suspending such kennel license or otherwise regulating the operation of said kennel, or shall dismiss such petition.

Any person maintaining a kennel after the license has been suspended or revoked shall be punished by a fine of not less than fifty dollars (\$50.00) per day payable to the Town of Plympton.

Section 5.

PENALTIES:

Whoever violates any provision of Article XXI §2 or §3 of these Rules and Regulations may be fined through the noncriminal disposition process or through the District Court process.

If any person(s) refuses to answer, or answers falsely, questions of a police officer or a Animal Control Officer pertaining to his ownership of a dog, he shall be punished by a fine of fifty dollars (\$50.00), which shall be paid to the Town.

Section 6.

RABIES:

The owner or keeper of a dog, which has reached the age of six (6) months, shall cause that dog to be vaccinated against rabies by a veterinarian using a vaccine approved by the Department of Public Health.

Upon vaccination, the veterinarian shall provide a tag which shall be secured to the collar or harness of the dog which shall show the year the vaccination was given and he shall prepare three copies of a form which shall specify the name and address of the owner or keeper of the dog, the name, registration number, rabies tag number, license number, life of the vaccine and the name of the company that produced the vaccine. The veterinarian shall mail one copy to the Plympton Town Clerk, present one copy to the owner or keeper of the dog and keep one copy.

The Plympton Board of Health shall furnish upon request to any uninsured resident of the Town who has been or may be exposed to rabies, anti-rabic vaccine and treatment free of charge in accordance with the rules and regulations of the Department of Public Health and accepted medical practice. Such person shall have the right to select his own physician who shall be paid by the Town at a rate established by the Board of Health. The Board of Health shall provide a rabies vaccination free of charge upon request of the Animal Control Officer.

Unvaccinated dogs acquired or brought into the Town of Plympton shall be vaccinated within ninety days (90) or upon reaching the age of six (6) months, whichever is later. Vaccinated dogs shall be revaccinated as required in accordance with rules adopted and promulgated by the Department of Public Health. Whoever violates the provisions of this Section shall pay a fine under G.L. c.40, §21D of one hundred dollars (\$100.00) which shall be paid to the Town.

Section 7.

DISPOSITION OF FEES AND FINES:

The Town Clerk shall make a record of each licensed issued, the name and address of the owner or keeper of each dog so licensed, the registered number and description of each dog, and such paperwork shall be open to public inspection during the regular office hours. The Town shall pay for all license forms, tags, printed records and all standard operating forms.

Section 8.

ANIMAL CONTROL OFFICER

The Board of Selectmen shall, from time to time, appoint one or more Animal Control Officers who shall receive an annual salary which shall be set by the Board of Selectmen within the amount appropriated by the Town. The Animal Control Officer may be a police officer or constable.

The Board of Selectmen, on behalf of the Town, may enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, to perform the duties of the Animal Control Officer.

Section 9.

ANIMAL CONTROL OFFICER — DUTIES

The Animal Control Officer shall attend to all complaints, except as assigned to the Chief of Police, or other matters regarding dogs in the Town.

The Animal Control Officer shall, at least twice in each year, inspect every premises holding a kennel license and shall issue a written report of the conditions of said kennel to the Board of Selectmen and the Board of Health, stating his opinion as to the maintenance, humane and sanitary conditions, and if records are properly kept by the owner or keeper of said kennel.

The Animal Control Officer shall be responsible for maintaining records of all animals that become the subject of any action and shall record each complaint and the nature thereof and what action, if any, was taken by the Animal Control Officer or any other authority of the Town.

The Animal Control Officer shall maintain records of each dog confined under his care and custody for any reason whatsoever, stating the reasons for such confinement, the breed and color of the dog, the date the dog came under the control of the Animal Control Officer, the final disposition of the dog and the date of this disposition.

The records maintained by the Animal Control Officer are considered public documents and available upon request.

The Animal Control Officer shall examine any premises to be used as a proposed kennel and must submit a written report to the Board of Selectmen or if a special permit is required the Zoning Board of Appeals as well, stating their opinion as to whether or not such a site would be suitable for the type of kennel license requested.

No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture and no Animal Control Officer or any representative shall sell any animal to any licensed animal dealer registered with the United States Department of Agriculture. Whoever violates the provision of this Section may be fined fifty dollars (\$50.00) under G.L. c.40, §21D.

Section 10.

DISTURBING THE PEACE:

If any person shall make a complaint in writing to the Animal Control Officer that any dog owned or harbored within the Town of Plympton is a nuisance by reason of biting, excessive barking, howling or any other manner that disturbs the quiet of the public, or is a source of annoyance to any sick person residing in the vicinity, the Animal Control Officer shall investigate or cause to be investigated such complaint which may include an examination under oath of the complainant, submit a written report to the Selectmen of his findings and recommendations, together with the written complaint. Upon receipt of such report, the Selectmen may call a hearing, giving the owner or keeper of the dog due notice to appear, to interview, under oath, the complainant and the owner or keeper of the dog. The Selectmen after the hearing may make such order concerning the restraint, muzzling, silencing, removing or disposing of such dog, dismissal of the complaint or such other action as may be deemed necessary. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable the Selectmen to issue their order following receipt of the report of the Animal Control Officer. If the Selectmen fail to act during the period of the interim order, upon expiration of the interim period, the order is automatically vacated.

Any owner or keeper who fails to comply with an order with the Board of Selectmen, Animal Control Officer, or District Court shall face a complaint in the District Court or may pay a noncriminal disposition fine to the Town of fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for a second or subsequent offense under G.L c.40, §21D.

Section 11.

RESTRAINT OR MUZZLING

The Animal Control Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen (14) days, any dog for any of the following reasons:

- A. for having bitten or threatened (worried) any person
- B. if found at large or unmuzzled, as the case may be while an order for restraint of such dog is in effect. For the purpose of this by-law, the term "at large" means a dog which is defined as any and all of the following:
 - (1) is outside the enclosure of the owner or keeper and not under the immediate care of the owner or keeper of such dog
 - (2) is not restrained by a lead or chain of less than seven (7) feet that is of suitable test for the size of the dog being restrained.
- C. if found in a school, or schoolyard or other recreational area
- D. for having killed or maimed or otherwise damaged any domestic animal, livestock, or fowl
- E. for chasing any vehicle (including bicycles) upon any public way or way open to public travel in the town
- F. for chasing people walking or running on any public way or way open to public travel in the town

All dogs must be muzzled or restrained within twelve (12) hours of issuance of such order. If the owner or keeper refuses or neglects to restrain or muzzle such dog as required, he may be fined fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100) for the second or subsequent offense under G.L. c.40, §21D.

Section 12.

COMPLAINT OF NUISANCE AND DANGEROUS DOGS AND PROCEDURE:

If any person shall make a complaint to the Animal Control Officer that any dog harbored within the Town of Plympton is a nuisance or dangerous by reason of a vicious disposition, the Animal Control Officer shall investigate or cause to be investigated such complaint which may include an examination under oath of the complainant, submit a written report of his findings and recommendations to the Board of Selectmen, together with the written complaint.

The Animal Control Officer, after his investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to enable the Selectmen to issue their order following receipt of the report of the Animal Control Officer. If the Selectmen fail to act during the period of the interim order, upon expiration of the interim period, the order is automatically vacated. If the Selectmen deem appropriate, they may call a hearing, giving the owner or keeper of the dog due notice to appear, giving sufficient notice to all interested parties, and must publish the hearing notice in accordance with the Open Meeting Law., It is recommended that the proceedings be recorded and the recording is preserved.

PUBLIC HEARING

There shall be three phases: complainant's case; owner's case; deliberation and decision. The Selectmen, after credible evidence and testimony is presented at the public hearing, shall (A) dismiss the complaint; (B) deem the dog a nuisance dog, they may further order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior; or (C) deem the dog a dangerous dog, in which case they may make such order concerning the restraint, muzzling, or euthanization of such dog, but excludes banishment and tethering, or such other action as may be deemed necessary.

The decision should be announced at the close of the hearing and the Selectmen should issue a written decision, which should be sent to the owner by certified mail. The owner may bring an appeal in the District Court within ten (10) days of issuance of a decision. The time for appeal is commonly understood to run from the date on the written notice. The District Court may issue order of confinement pending appeal.

- (a) An owner or keeper of a dog who fails to comply with a lawful order of shall be subject to a noncriminal disposition fine of \$300 under G.L. c.40, §21D or to the fine or penalty imposed by the District Court
- (b) No person over the age of 17 who has actual knowledge that a dog has been deemed dangerous under section 157 shall permit a child under the age of 17 to own, possess or have the care or custody of such dog.

(c) No person shall transfer ownership or possession of a dog which such person knows, or reasonably should have known, has been deemed dangerous under section 157 or offer such dangerous dog for sale or breed without informing the recipient of the dog of the finding of dangerousness.

A police officer, constable or animal control officer may capture, detain or, in the case of a threat to public safety, euthanize a dog in a humane manner if found to be in violation of an order of a hearing authority or a district court and may euthanize a dog, in a humane manner, if it is living in a wild state as provided for by law..

Section 13.

ANY PERSON MAY KILL A DOG, WHEN:

Any person may kill a dog as provided for by law. Any person who kills or wounds a dog under this section shall, within twenty-four (24) hours, report such action to the Animal Control Officer and police department.

Any Animal Control Officer, Police Officer or Constable shall kill a dog, as provided for by law, when the Board of Selectmen, or upon review, a magistrate or judge of the district court shall have ordered to be restrained or destroyed for vicious behavior, and if such dog is again found outside the enclosure of its owner or keeper and not under his immediate care. Any Animal Control Officer, Police Officer or Constable may kill a dog, as provided for by law, which is living in a wild state.

Section. 14.

KILLING OF DOG KNOWN TO HAVE DONE DAMAGE-BONDS:

The Selectmen or their agents duly authorized in writing, may, as provided for by law, enter upon the premises of the owner or keeper of any dog known to have done damage to domestic animals, livestock, or fowl, and cause such dog to be killed, unless such owner or keeper whose premises are thus entered shall give a bond in the sum of two hundred dollars (\$200.00), with sufficient sureties, approved by the Board of Selectmen, conditioned that the dog be under permanent restraint. If the owner or keeper declares his intention to provide such bond, he shall be allowed seven (7) business days, excluding holidays in which to provide said bond to the Town Clerk.

Section 15.

PROPERTY DAMAGE, APPRAISAL, COMPENSATION:

Whoever suffers loss by the worrying, killing or maiming of domestic animal, livestock or fowl by dog(s) shall be compensated as provided for by law.

Section 16.

NO REIMBURSEMENT IN CERTAIN CASES:

No owner of domestic animals, livestock or fowl shall be compensated for damages inflicted by his own dog or dogs, nor shall he be compensated if he, himself, was the owner or keeper of an unlicensed dog six months of age or older. Compensation shall be only in accordance with law.

Section 17.

LIABILITY OF OWNER:

The owner or keeper of a dog which has done damage to domestic animals, livestock or fowl shall be liable for such damage, as provided for by law

ARTICLE XXII

PENALTY AND ENFORCEMENT

22.1 Criminal and Non-criminal disposition/Violation of Dog Control Laws

22.1 Criminal Complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court. The penalty shall be as may be otherwise provided by law and as the District Court may see fit to impose.

22.2 Non-criminal Disposition.

22.2.1. Alternative methods of enforcement. Any duly adopted bylaw of the Town of Plympton, or Rule or Regulation of its boards, commissions, and committees and officers, the violation of which is subject to a specific penalty, may at the discretion of the town employee who is the appropriate enforcing person, be enforced by the method provided in M.G.L c.40, §21D. Each day on which any violation exists shall be deemed to be a separate offense, but each offense shall require a separate notice to be served in accordance with the requirements of G.L. c.40, §21D..

22.2.2 Enforcing person “Enforcing person”, as used in this chapter shall mean any Selectmen or any police official of the Town of Plympton with respect to any offense, and the Conservation Commission and their designees, the Board of Health and their designees, and the Zoning Enforcement Officer and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one officials has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

Whenever a complaint is sought in a district court for a violation of an ordinance or by-law, made under the provisions of section one hundred and seventy-three, the clerk shall send a written notice to the person complained against stating that such a complaint has been sought and will issue unless such person appears before such clerk and confesses the offense either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the

notice the fine provided herein. For the first offense committed by a person within a calendar year, the clerk shall dismiss the charge without the payment of a fine. For a second offense in the city or town within a calendar year, the payment of a fine of \$50 shall operate as a final disposition of the case. For a third offense in the city or town within a calendar year, payment of a fine of \$60 shall operate as a final disposition of the case. For a fourth or subsequent offense in the city or town within a calendar year, payment of a fine of \$100 shall operate as a final disposition of the case. Payment shall be made only by postal note, money order or check. Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines.

Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If a person notified to appear, as hereinbefore provided, fails to appear or pay the fine within twenty-one days of the sending of the notice, or having appeared, does not desire to avail himself of the procedure established by this section, the clerk shall issue the complaint and the procedure established for criminal cases shall be followed.

If any person fails to appear in accordance with the summons issued upon such complaint, the clerk of the court shall send such person, by registered mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued.