

# TOWN OF PLYMPTON GENERAL BYLAWS



2017

**This revision of the Town of Plympton Bylaws includes the following additions or changes voted at the May 17, 2017 Annual Town Meeting:**

**GENERAL BYLAWS**

**Approved by the Attorney General: September 19, 2017**

**Article 9-Insertion of Revolving Funds Bylaw Article XXXI**

Inserting a new bylaw, Article XXXI, establishing various revolving funds, specifying the departmental receipts to be credited to each fund, the departmental purposes or programs for which each fund may be expended, and the entity authorized to expend each fund

**Article 25– Amendment to Bylaw Article XXI Rules and Regulations Relative to the Control of Dogs** in the Town of Plympton so that the local Town of Plympton Bylaws coincide with the following State Regulations: M.G.L. Chapter 140 Sections 141, 145, and 157

**Article 26 Amendment to Bylaw Article IV, Sections 1 and 2** by inserting language, deleting language, and renumbering sections of Section 2

**These Bylaws replace the 2016 version of the General Bylaws dated July 28, 2016.**

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# TOWN OF PLYMPTON GENERAL BYLAWS

## Article I BYLAWS

**Section 1.** All Bylaws or part of Bylaws heretofore adopted, which are consistent with the provisions of the following Bylaws are hereby repealed and annulled: but the provisions of these Bylaws, insofar as they are the same as the provisions of Bylaws heretofore adopted shall be construed as a continuation of said Bylaws and not as new enactments.

## Article II TOWN ELECTION

**Section 1.** The annual election of officers shall be held on the third Saturday in May, the Annual Town Meeting for the transaction of municipal business shall be held on the preceding Wednesday.

Polls will be open at 8 o'clock a.m. for the election of the officers and shall be continuously open for voting until 6 o'clock p.m.; the meeting for the transaction of business shall be called at 7 o'clock p.m.

**Section 2.** At State Elections the polls shall be open from 7 o'clock a.m. until 8 o'clock p.m.

**Section 3.** Notice shall be given of every Town Meeting by posting an attested copy of the Warrant calling the meeting at the main entrance of the Town House and at four other locations in the Town designated by the Selectmen. These copies shall be posted not less than seven (7) days before the appointed time for the meeting and the officer posting the Warrant shall immediately make return to the Town Clerk stating the manner in which the Warrant was posted, on the original Warrant

**Section 4.** The Warrant for the Annual Town Meeting shall be closed on the last Monday in March.

**Section 5.** In conjunction with each petitioned article made a part of the Warrant for a Town Meeting, there shall be inserted in such Warrant the name of the first person signing such petitions and the words "and others".

**Section 6.** Department heads or petitioners submitting articles for the warrant shall furnish a copy to both the Selectmen and Finance Committee at the same time.

## **Article III TOWN MEETING**

- Section 1.** The opening and procedure of Town Meeting for the transaction of Town Business:  
Every Town Meeting held for the transaction of town business shall be called to order by the Moderator at the appointed time or as soon thereafter as a quorum of registered voters is in attendance. In the absence of the Moderator the meeting shall be called to order by the Town Clerk, who shall preside until a temporary Moderator has been chosen who will preside during the absence of the Moderator.
- Section 2.** The presence of 35 registered voters of the Town shall constitute a quorum; however, a number less than 20 may adjourn a meeting from time to time.
- Section 3.** A Checklist shall be used in admitting voters to the Town Meeting, excepting non-voters may be seated in a defined and separate portion thereof and non-voters may address the Meeting if the Meeting so votes.
- Section 4.** All articles in the Warrant shall be acted upon in the order of their arrangement unless the Meeting votes otherwise.
- Section 4A.** With respect to any article pertaining to the annual operating budget, or subsequent revisions to the annual budget at the same or subsequent town meetings, the Moderator shall give the Finance Committee the opportunity to offer the main motion.
- Section 5.** Any person desiring to speak shall arise, address the chair and upon recognition shall stand while speaking and confine himself to the question.
- Section 6.** All votes, unless otherwise provided by law, or otherwise directed by the Moderator, shall be taken by a show of hands. If in doubt by the Moderator, or if seven (7) voters immediately question the vote, the Moderator shall call for a standing vote.
- Section 6A.** Whenever a two-thirds vote is required by statute, such vote may be declared as such by the Moderator without a count and be recorded as such by the Clerk upon such declaration, provided however that if seven or more members doubt the vote, a counted vote shall be taken.
- Section 7.** If the majority of the Town Meeting requests a vote by ballot on any question, or if the Moderator feels the need of a written vote, such vote shall be taken with the Town furnishing printed ballots.
- Section 8.** On the day of Town Meeting, no business activity not directly related to the Town Meeting Warrant may take place inside the locale where the meeting is or will be convened or within fifty (50) feet of the building

entrance. Business activity includes, but is not limited to; sale of any product or service, solicitation of signatures for any reason, the handing out of promotional brochures or political information, or organized demonstration. Exceptions can only be granted by the Town Moderator when requested in writing at least two weeks prior to the date of Town Meeting.

## **Article IV FINANCE**

**Section 1.** Section 1. The Town shall have a Finance Committee (the “Committee”) consisting of five (5) members to be elected on the Annual Ballot for a term of three (3) years. Two (2) members of such committee to be elected annually, except every third year when one member shall be elected. No elected or appointed official shall be eligible to membership to this committee. No town employee shall be eligible to membership to this committee except as approved by the Board of Selectmen. The only exceptions that can be made by the Board of Selectmen are for individuals not employed by the Town for more than 19 hours per week.

**Section 2.** The Finance Committee shall also serve as and have the duties and responsibilities of the Capital Improvement Planning Committee as set forth under this by-law and in accordance with Chapter 321 of the Acts of 2012, entitled, “An Act Authorizing Certain Development Parcel Tax Revenues to be Deposited in a Special Fund in the Town of Plympton”. For purposes of said Chapter 321, a vote of the Finance Committee shall be sufficient to constitute a vote of both the Finance Committee and the Capital Improvement Planning Committee provided that the meeting notice posted under G.L. c.30A, §18-25 lists both the Finance Committee and Capital Improvement Planning Committee.

**Section 2.1** Capital Improvement Defined  
For the purpose of the By-law a “capital improvement” is defined as any acquisition or lease, tangible asset or project that costs at least twenty thousand dollars (\$20,000) and has a useful life greater than five (5) years as determined by the Committee.

**Section 2.2** Duties of Committee: Town Meeting

1. Department Heads and Chairpersons of all Boards, Commissions and Committees of the Town, whether elected or appointed, shall submit to the Committee, at a time designated by rules and regulations of the committee, recommendations and statements of needs and/or proposed plans involving Capital expenditure requirements for the subsequent five (5) years.
2. The Committee shall present to the Board of Selectmen each year on or before the date identified by said board for the close of the annual town meeting warrant, its proposed capital plan for the next fiscal year for possible inclusion in the Annual Town Meeting Warrant.

3. The Committee shall publish an annual report. The report shall include the Committee's recommendations for the scheduling of Capital expenditures. The Committee shall assist the Town Meeting with regard to priorities of projects, financing costs, debt schedules and other related matters.

**Section 2.3** This bylaw shall not apply to emergency capital improvements. The Board of Selectmen shall be responsible for determining what constitutes an emergency.

## **Article V LICENSES (BUSINESS)**

- Section 1.** The Selectmen may license suitable persons to be collectors, dealers in or keepers of shops for the purchase, sale or barter of junk, old metal or second hand articles; and no persons shall be a dealer in or keeper of a shop as aforesaid without a license.
- Section 2.** The Selectmen may require that any place, vehicle, or receptacle used for collecting or keeping of the articles aforesaid may be examined at all times by the Selectmen or any persons authorized by them to make such examination. Licenses may be revoked for the violations at the discretion of the Selectmen.
- Section 3.** The Selectmen may sell, either by advertised bid or auction public sale, any Town owned personal property valued at \$1,500.00 or less, without a vote of Town Meeting.

## **Article VI CONSTABLES**

- Section 1.** Constables or specially appointed Police may direct or divert either vehicles or pedestrians when necessary for public safety or convenience and no persons having charge of a vehicle shall refuse or neglect to act as directed by a Constable or specially appointed Police Officer.

## **Article VII REMOVAL OF SOIL, LOAM, SAND OR GRAVEL AND FEES**

- Section 1.** No person shall remove any soil, loam, sand or gravel from any land in Town not in public use, unless such removal is authorized by permit issued by the Selectmen except in conjunction with the construction of a building on the parcel and except for the continued operation on the same parcel of an existing sand and gravel pit. No such permit shall be issued until an application therefore is filed with said board and said board shall hold a public hearing on the application and notice of the filing of such application and the date and time of the public hearing thereon shall be advertised in a paper published in the County, seven (7) days at least before the public hearing.



**Section 2.** The Board of Selectmen shall establish reasonable, standardized inspection fees to be paid by the permittee for inspections which, at the discretion of the Board of Selectmen, are necessary to determine that all requirements of the permit are being complied with. The Selectmen shall have the further power to amend said fees when, in their discretion, it becomes necessary due to economics.

## **Article VIII PLANNING BOARD**

### **Organization, Powers and Duties of the Plympton Planning Board**

**Section 1.** The Planning Board of the Town of Plympton shall consist of five (5) members to be elected as provided in Section 81A of Chapter 41 of the General Laws, as amended.

**Section 2.** The duties of the Board shall be such as are provided in Sections 81B to 61 G.G. inclusive to Chapter 41 of the General Laws, as amended, and further to consider, advise upon, and recommend municipal improvements either at the request of other officials, departments or committees of the Town, or upon request of the Town as evidenced by its vote at the Annual or Special Town Meeting, or upon its own initiative.

**Section 3.** The Board shall meet at regular intervals which shall be at least as frequently as monthly. It shall have access at all times to all public documents, plans, or information in the possession, custody, or control of any Town official, department, board or committee, except as otherwise provided by law.

**Section 4.** The Board shall examine and review the plans for the exterior of any public building, bridge, monument, memorial, or similar feature or structure, and for the grounds around the same, and may make thereon in writing such recommendations relative thereto as it may deem pertinent and proper.

**Section 5.** All plans and all Town Meeting Warrant articles providing for:

1. acquiring by purchase, gift, or taking, any land or buildings for public use;
2. selling, abandoning, or leasing any public lands or buildings; or
3. laying out, extending, revising, or discontinuing any portion of any street, way, park, square, or playground shall be referred to the Board for its study and recommendations, and no action shall be taken by the Town until such Board has reported thereon or has allowed forty-five (45) days to elapse after such reference without submitting a report.

**Section 6.** In addition to holding meetings, the Board may provide for lectures or other educational programs in connection with the performance of its duties, conduct or examinations and studies, and submission of its recommendations relative to any matter properly within the scope of its work.

**Section 7.** The Board shall approve the names of all new streets and public ways, and all changes of name proposed for any existing street, public way, park, square, or

playground, and no sign or marker designating any street, public way or other such public area, shall be ordered or erected until the Board shall have first indicated in writing its approval of the name therefore and filed the same with the Town Clerk.

**Section 8.** The Board shall render to the Town at the Annual Town Meeting a report in writing, signed by a majority of the members of the Board, which shall be a public document on file thereafter with the Town Clerk. Said report shall include:

1. a review of the Board's activities during the year immediately preceding the date thereof;
2. a detailed account of any expenditures of the Board's appropriations for the same period;
3. information regarding the condition of the Town and any plans or proposals for its development and estimates of the cost thereof;
4. its recommendations if any supported by reasons, for special projects or studies to be undertaken or commenced in the ensuing year; and
5. such additional information or material as the Board may deem pertinent.

**Section 9.** The Board of Appeals authorized by and existing under the Town Building Laws shall constitute the Board of Appeals required by Section 81Z of Chapter 41 of the General Laws, as amended.

**Section 10.** The invalidity of any section or provision of these Bylaws shall not effect the validity of any other section or provision thereof.

## **Article IX RECORDS AND REPORTS**

**Section 1.** When submitting their Annual Budget Estimates to the Finance Committee, all officers and committees shall file therewith an inventory list with approximate date of purchase of all equipment under their jurisdiction.

## **Article X BYLAW AMENDMENTS**

**Section 1.** Except as otherwise required by general or special law, the Bylaws may be amended by a majority vote at any town meeting.

## **Article XI UNREGISTERED/UNFIT MOTOR VEHICLES**

**Section 1.** No individual or entity shall allow or permit two (2) or more unregistered motor vehicles which are unfit for vehicular use on a public way, to be placed or set, open to public view, on premises within the Town of Plympton, unless

said premises are licensed under and in compliance with Chapter 140, Section 54 and 57 of the General Laws of the Commonwealth of Massachusetts. A motor vehicle shall be deemed to be unfit for vehicular use on a public way if it is either inoperable or if it does not meet the standards of automobile inspections as promulgated by the Massachusetts Registry of Motor Vehicles.

This Bylaw shall not apply to:

1. Motor vehicles in use for agricultural, horticultural or forestry purposes;
2. Motor vehicles set or placed on premises of gasoline service stations waiting for repairs;
3. Up to three (3) unregistered, unfit motor vehicles on premises of an automobile repair business; and
4. Up to three (3) unregistered, unfit antique motor vehicles being restored on the premises.
5. Vehicles registered for seasonal work.

Penalty or breach hereof shall be in an amount not in excess of \$20.00 for each offense. Each day that such violation continues shall constitute a separate offense, which may be recovered by indictment or on complaint before a District Court.

## **Article XII TOWN SEAL**

**Section 1.** The design of the seal of the Town of Plympton may be changed by a vote of the Town at an Annual Town Meeting.

## **Article XIII MGL CHAPTER 140 SECTION 59-SELECTMEN LICENSING**

**Section 1.** In accordance with Chapter 140, Section 59 of the General Laws, as amended, the Board of Selectmen *shall* adopt and *may* from time to time amend, reasonable rules and regulations relative to individual licenses granted under Chapter 140, Section 58 of the General Laws, as amended, not inconsistent with any provisions of State Law or of any valid bylaw of the Town of Plympton; such rules and regulations may proscribe the location of the premises to be occupied by the Licensee for the purpose of carrying on the license business, the positioning of the vehicles, parts, tires or other materials connected with the business of the Licensees, the situation of the premises of the Licensee with Class III, as defined in Section 58 of Chapter 140, the positioning of all vehicles, parts, tires, or other materials connected with the business of the Licensee under Class III, the fencing of property of the Licensee for the purpose of alleviating unsightly views or nuisances to the surrounding areas and residents, the number of vehicles allowed in any one area. A true copy of the rules and regulations, with their most recent

amendments shall be kept on file, available for inspection, in the office of the Board of Selectmen and in the office of the Town Clerk.

**Article XIV  
PIPED WATER OR LIQUID RESTRICTIONS AND CURB CUTS**

**Section 1.** No person shall pipe or otherwise deposit in or upon any public place, any water or other substance that may freeze and hereby create a hazardous condition.

**Section 2.** In the interest of public safety, no person shall make an entrance or curb cut onto an existing public way without first obtaining written approval of the Highway Surveyor.

**Articles XV  
TRANSIENT BUSINESS**

Every person who engages in a temporary or transient business selling goods, wares, periodicals or merchandise or who goes door-to-door for any commercial selling purposes, either as principal or agent, shall, before commencing business in the Town of Plympton, make written application, under oath, for a license to the Chief of Police stating his or her name and address, the name and address of the owner or parties in whose interest said business is to be conducted, their business address, and a brief description of the business he wishes to conduct in Plympton. He shall submit a photograph to the police department and allow them to take his fingerprints for the purpose of identification.

No later than two (2) weeks after filing of such application the Police Chief shall issue him a license, authorizing him to do the business described in his application subject to the Bylaws of the Town of Plympton and the Laws of the Commonwealth of Massachusetts. The fee for such a license shall be ten dollars (\$10.00) and said license shall expire within 30 days, or on the day of its surrender of the filing of an affidavit for its loss if it is earlier surrendered or if such affidavit is earlier filed.

Such license shall be affixed in a prominent place to the outer garment of each licensee whenever he or she shall be engaged in such business so that it may readily be seen by all prospective customers. Failure to display the license shall be punishable by revocation thereof and a fine not to exceed \$50.00.

The provisions of this section shall not apply to any person who engages in a temporary or transient business at a town function upon written invitation of a town committee or official, nor shall it apply to any person who engages in a temporary or transient business on private property with the permission of the owner.

The provisions of this section shall not apply to any person conducting a "garage sale", not to any person who goes door-to-door to sell goods, wares, periodicals or merchandise on behalf of any group organized for any of the purposes described in MGL Ch.180, Sec.4. However, neither the activities described in this article, nor so called door-to-door approaches for charitable purposes, shall be allowed in the Town of Plympton after sunset. Violation thereof shall be punished by a fine not to exceed \$50.00.

**Article XVI**  
**LICENSES AND PERMITS OF DELINQUENT TAXPAYERS**

**Section 1.** The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve (12) month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

**Section 2.** The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector, provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any finding made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except of any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

**Section 3.** Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditional upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

**Section 4.** The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in Section 1 of Chapter 268 of the General Laws, in the business or activity conducted in or on said property.

**Section 5.** The Bylaw shall not apply to the following licenses and permits: open burning, MGL Ch.48, Sec.13; bicycle permits, MGL Ch. 85, Sec. 11A; sales of articles for charitable purposes, MGL Ch.101 Sec.33; children work permits, MGL Ch.149 Sec. 69; clubs, associations dispensing food or beverage licenses, MGL Ch. 140 Sec.21E; dog licenses, MGL Ch.140 Sec.137; fishing, hunting, trapping licenses, MGL Ch. 131 Sec.12; marriage licenses, MGL Ch. 207 Sec. 28; and theatrical events, public exhibition permits, MGL Ch. 140 Sec. 81.

**Article XVII  
PUBLICATION OF DELINQUENT TAXPAYERS**

**Section 1.** The Tax Collector or other municipal official responsible for maintaining records of real estate payment shall annually, on or before May 1st either post at the public bulletin board at the Plympton Town House, and/or publish in any newspaper in general circulation in the Town of Plympton the name, parcel and delinquent amount of any person or entity who has failed to pay any real estate tax which was due on the May 1st of the prior year, unless such delinquent taxpayer has entered into a written payment commitment approved by the Tax Collector on or before April 1st of the current year.

**Article XVIII  
FIRE DEPARTMENT FEES**

**Section 1.** A committee comprised of the Board of Selectmen with the Chief of the Fire Department (“ The Committee”) may establish a schedule of fees to be charged for transportation in the Fire Department Ambulance(s). The fee schedule shall reflect the cost to the Town of operating the Ambulance and Emergency Medical Services and said fees may be periodically amended to reflect changing costs. The Committee shall be authorized to collect such fees and to enter into contracts to facilitate the payments of such fees and charges by users, insurance companies and government agencies. The Committee shall have the right to waive fees and charges in the case of users without insurance or other coverage or for any other reason deemed adequate to “the Committee”.

**Section 2.** The owner of any multi-unit dwelling of four (4) residential units or more, commercial or industrial building, public or private school, or a church shall be subject to a fine of two hundred fifty dollars (\$250) after three (3) fire alarms activations which are deemed to be either false alarms, system malfunctions or alarms activated due to lack of maintenance in any calendar year. The property owner shall be fined for the fourth fire department response and each response after until the end of the calendar year. Said fine shall be collected and deposited to the Fire Department Receipts Reserved Account.

**Article XIX  
TOWN ADMINISTRATOR**

**Section 1** The Board of Selectmen is hereby authorized and empowered to appoint a town administrator for a term of one or three years and to remove said administrator at its discretion pursuant to the provisions of G.L. c.41, section 23A.

**Article XX  
DEMOLITION DELAY**

Demolition Delay Bylaw for Historically or Architecturally Significant Buildings

**Section 1. Intent and Purpose**

Intent and purpose: The Demolition Delay bylaw is enacted for the purpose of preserving and protecting significant buildings within the Town of Plympton which are outside Local Historic Districts. Such buildings reflect distinctive features of the architectural, cultural, economic, political or social history of the Town, and their preservation promotes the public welfare by making the Town a more attractive and desirable place to live and work. The intent of the bylaw is to provide an opportunity to develop preservation solutions for significant, preferably preserved properties threatened with demolition. The bylaw is intended to encourage owners and townspeople to seek out persons who might be willing to purchase preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town. To achieve these purposes, the Plympton Historical Commission (“the Commission”) is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this bylaw, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.

**Section 2. Definitions**

- 2.1 Building** - A structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials to form a structure for the shelter of persons, animals or property.
- 2.2 Demolition** - Any act of pulling down, destroying, removing, razing or moving a building or commencing the work of moving or of total or substantial destruction with the intent of completing the same.
- 2.3 Building Inspector** - The administrative chief of the building department who is charged with the administration and enforcement of the State Building Code, 780 CMR, and is authorized to issue demolition permits.
- 2.4 Commission** - The Plympton Historical Commission.
- 2.5 Demolition Permit** - The permit issued by the Building Inspector as required by the State Building Code for a demolition, substantial demolition or removal of a building.

- 2.6 Historically or Architecturally Significant Building** – Any building, in whole or in part, which is at least 75 years old, or is of unknown age and:
- (a) which is listed on, or is a contributing building within an area listed on the National Register of Historic places, or which is the subject of a pending application for such listing, or is eligible for such listing; or
  - (b) is included in the Cultural Resources Inventory prepared by the Commission; or
  - (c) has been determined by vote of the Commission to be a significant building after a finding by the Commission that the building meets one or more of the following three criteria:
    - i. **Historical Importance.** The building meets the criteria of historical importance if it:
      - a. Has character, interest or value as part of the development, heritage or cultural characteristics of the town of Plympton, the Commonwealth of Massachusetts or the nation, or;
      - b. Is the site of an historic event, or;
      - c. Is identified with a person or group of persons who has some influence on society, or;
      - d. Exemplifies the cultural, political, economic, social or historic heritage of the community.
    - ii. **Architectural Importance.** The structure meets the criteria of architectural importance if it:
      - a. Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or;
      - b. Embodies those distinguishing characteristics of an architectural type, or;
      - c. Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town, or;
      - d. Contains elements of architectural design, detail, materials or craftsmanship, which represents a significant innovation.
    - iii. **Geographic Importance.** The structure meets the criteria of geographic importance if:
      - a. The site is part of, related to, a square, park, or other distinctive area, or;



**b.** The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.

### **Section 3. Procedure**

- 3.1** No permit for the demolition of a significant structure or part thereof shall be issued except as provided in this bylaw, as well as in conformity with the provisions of other laws and ordinances applicable to the demolition of buildings and the issuance of permits generally.
- 3.2** Application contents: Every application for a demolition shall be filed with the Building Inspector and shall contain the following information: (i.) the address of the building to be demolished, (ii.) the owner's name, address and telephone number, (iii.) a brief description of the type of building and the condition requiring issuance of the permit; (iv) date of building as established by the Board of Assessors, deed or documentation verifying year of construction, and (v) a brief description of the proposed reuse, reconstruction or replacement on the premises upon which the building is located.
- 3.3** Within seven (7) working days from receipt of any application for demolition permit, the Building Inspector shall forward a copy to the Plympton Historical Commission. No demolition permit shall be issued during this time.
- 3.4** Within ten (10) working days after receipt of the application for demolition permit by the Commission, the Commission or its designee shall make a Determination of Architectural and/or Historical Significance. Upon determination by the Commission that the building is not architecturally and/or historically significant, the Commission shall so notify the Building Inspector in writing. Upon receipt of such notification, or after the expiration of fifteen (15) working days from the date of submission to the Commission, if the Building Inspector has not received notification from the Commission, the Building Inspector may issue the demolition permit.
- 3.5** Upon determination by the Commission that the building is historically and/or architecturally significant, the Building Inspector and applicant shall be so notified in writing, and a demolition permit shall not be issued. The Commission shall hold a public hearing within thirty (30) days of the Determination of Significance to determine whether the building should be preferably preserved. Public notice of the time, place and purpose of the hearing shall be published by the Building Department at the expense of the applicant in a newspaper of general circulation in the Town not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the day of said hearing.
- 3.6** If after a public hearing the Commission determines that the significant building should not be preferably preserved, the Commission shall notify the Building Inspector may issue a demolition permit upon receipt of the written decision.

- 3.7** If after a public hearing the Commission determines that the significant building should be preferably preserved, the Commission shall so notify the Building Inspector in writing within five (5) working days of the hearing, and no demolition permit may be issued until eighteen (18) months after the date of the determination by the Commission.
- 3.8** Notwithstanding anything contained in paragraph 3.7, the Building Inspector may issue a demolition permit for a preferably preserved building at any time after receipt of written advice from the Commission to the effect that either:
- (i) the Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
  - (ii) the Commission is satisfied that for at least eighteen (18) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

#### **Section 4. Responsibility of Owners**

Once a significant Building is determined to be a preferably preserved building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the eighteen (18) month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this bylaw.

#### **Section 5. Emergency Demolition**

Notwithstanding the above provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health and safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector shall inspect the building and document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of his intention to allow demolition before he issues a permit for emergency demolition.

No provision of this bylaw is intended to conflict with or abridge any obligations or rights conferred by Massachusetts General Laws, Chapter 143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

#### **Section 6. Enforcement and Remedies**

- 6.1** The Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.

- 6.2** The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof.
- 6.3** No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of two (2) years after the date of the completion of such demolition. As used herein, “premises” refers to the parcel of land upon which the demolished significant building was located and all adjoining parcels of land under common ownership or control.
- 6.4** Notwithstanding the foregoing, whenever the Commission shall, on its own initiative or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this bylaw better serves the intent and purpose of this bylaw, it may, prior to the expiration of said period of two years, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this bylaw, and may so notify the Building Inspector pursuant to Section 3.8 of this bylaw.

#### **Section 7. Historic District Act**

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this bylaw do so conflict, that act shall prevail.

#### **Section 8. Severability**

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

### **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 1<sup>st</sup> and December 31<sup>st</sup> 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 1<sup>st</sup> following to December 31<sup>st</sup> for any overdue license, as provided for hereunder.

“Non-Criminal Citation for Violation of Dog Control Bylaws” may be pursued by the Dog 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-rabies 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 license 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**  
**CRIMINAL COMPLAINT AND NON-CRIMINAL DISPOSITION**

**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.

## **ARTICLE XXIII BURGLAR ALARMS**

### **Caretakers:**

The owner of a dwelling house which is equipped with a burglar alarm system shall be required to provide the police department with alternate phone numbers to include work and cellular phone numbers, if applicable for the purpose of contacting the owner in the event of an alarm activation at the dwelling while the owner is away. Additionally, the owner of a dwelling and the owners of any businesses equipped with an alarm system shall provide the names and phone numbers of a minimum of two persons whom have access to the residence or business and have the ability to shut off or reset the alarm system on the demand of the police department. In the case of a dwelling house caretakers should not be a resident of the dwelling house in question. Caretakers shall be available to respond to the dwelling house or business in a reasonable period of time when summoned by the police. The owner of a dwelling house or business which is equipped with a burglar alarm system shall be required to ensure that information provided to the police departments is up to date and accurate.

### **Penalties; Non-Compliance - Caretakers:**

Whoever violates 23.1.1 of the bylaw by failing to provide the information required shall be subject to a fine of \$50.

### **False Alarms:**

The Plympton Police will respond to all reported burglar alarms. In the event of a false alarm, the police department will make a notation in the log. After the police have logged three (3) false alarms in a calendar year at the same location the owner shall be subject to a fine of \$100 for each additional response to a false alarm.

## **ARTICLE XXIV ORDERLY CONDUCT, TRAFFIC SAFETY**

### **ORDERLY CONDUCT**

#### **24.1.1 Prohibited Acts:**

A person shall be guilty of violation of the orderly conduct by-law if he or she willfully does any of the following acts in a public place. For the purpose of this by-law public place shall be defined as any place, structure or building to which the general public has access to resort to for business, entertainment or other lawful purpose, but does not necessarily mean a place devoted solely to the uses of the public. It shall also include all public ways and public buildings, public grounds and public parks.

- 24.1.2** Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger or fear of personal injury.
- 24.1.3** Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
- 24.1.4** Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the health and or property of another.
- 24.1.5** Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way or public place when ordered to do so by the police.
- 24.1.6** Possesses or knowingly transports alcoholic beverages on any way before he or she has reached the age determined by the General Court of the Commonwealth as being the lawful age for the consumption of alcohol.
- 24.1.7** Drinks or consumes any alcoholic beverages or possesses any open container thereof in the immediate place where he or she is located in any vehicle upon a public way or while on any public area or in any public places not duly licensed for such purposes by the Town of Plympton.
- 24.1.8** Maliciously or without good cause interrupts, harasses or molests the speaker or speakers at any lawful assembly, meeting or gathering, or impairs the lawful rights of others to participate in such assembly, meeting or gathering when such conduct is calculated or likely to provoke disorderly conduct and procedure of the same or cause turmoil or disturbance at same, after being warned to refrain from such conduct by a person in charge of the assembly, meeting or gathering.
- 24.1.9** Prowls or wanders in or upon private property of another, or without good reason or visible or lawful business with the owner or occupant thereof, peeks, peeps, or peers in any door or window of any building or structure thereon.
- 24.1.10** Smokes, consumes or ingests marijuana or tetrahydrocannabinol in any vehicle upon a Public way or while present in any public place for which the public has the right of access as invitees or licensees, or while on any public grounds, parks or buildings.
- 24.1.11** Whoever is found in violation of subsection **24.1.10** shall, when requested by a police officer, immediately state his/her true full name, address and date of birth.

**24.1.12 Penalties; Non-Criminal Dispositions:**

Any person who violates any prohibited acts **24.1.2** through **24.1.9** inclusive shall be fined \$175 and may be arrested without a warrant by a police officer if the violation is committed in the officer's presence. Any person who violates prohibited acts **24.1.10** & **24.1.12** of this bylaw shall be subject to a fine of \$250 for a first offense and \$300 for each subsequent offense. A police officer is not authorized to arrest a person found solely in violation of **24.1.10** & **24.1.11**.

## TRAFFIC SAFETY

### 24.2.1

#### **Prohibited Acts:**

A person shall be guilty of a by-law traffic safety violation when they have operated a vehicle in one of the below listed prohibited manners.

**24.2.2** Operates a motor vehicle on any public way recklessly in a manner which endangers the public or which is likely to cause the destruction or damage to the personal property of another.

**24.2.3.** Trespasses on the private property of another or on public grounds where prohibited while operating a vehicle, motor vehicle, or recreational vehicle or anyone who abandons a vehicle, motor vehicle, recreational vehicle..

#### **24.2.4. Penalties; Non-Criminal Dispositions:**

Whoever violates **24.2.2 & 24.2.3** may be subject to a \$200 fine for a first offense and a \$300 for each subsequent offense.

## ARTICLE XXV RIGHT TO FARM BY-LAW

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

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations there under including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Plympton restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Plympton by allowing agriculture uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the town.

### **Section 2. Definitions**

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

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- a) farming in all its branches and the cultivation and tillage of the soil;
- b) dairying;
- c) production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural or horticultural commodities;
- d) growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- e) keeping and raising of livestock including horses;

- f) keeping of horses as a commercial enterprise; and
- g) keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

“Farming” shall encompass activities including, but not limited to, the following:

- a) operation and transportation of slow-moving farm equipment over roads within the Town;
- b) control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- c) application of manure, fertilizers and pesticides;
- d) conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing and agricultural output or services of the farm;
- e) processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto;
- f) maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the agricultural products; and
- g) on-farm relocation of earth and the clearing of ground for farming operations.

This definition shall not include the removal for sale of water.

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

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

### **Section 4. Disclosure Notification**

Within 30 days after this By-law becomes effective, the Select Board shall prominently post in the Town Hall and make available for distribution the following disclosure:

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



In addition to the above, a copy of this disclosure notification shall be available in a public area at the Town Hall.

**Section 5. Resolution of Disputes**

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

The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

**Section 6. Severability Clause**

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

**ARTICLE XXVI  
FIRE PROTECTION  
TEMPORARY FIRE WATCH PATROL**

a. Purpose

In order to avoid relocating persons from, or evacuation of, any building, structure, place of business, place of habitation or vacant or abandoned building or structure which in the judgment of the Head of Fire Department or Fire Marshal is imminently dangerous or presents the existence of conditions likely to cause fire or explosion, the Head of the Fire Department or Fire Marshal may order the owner, agent, or manager of such building, structure, business or place of habitation to provide a temporary fire watch patrol if the Head of the Fire Department or Fire Marshal determines a reasonable level of fire or life safety may be obtained.

b. Rules and Regulations

1. The temporary fire watch personnel shall be specially trained in fire prevention and in the use of fire extinguishers and occupant hose lines, in sounding building fire alarms, in understanding the particular fire safety situation for public education purposes, be able to instantly communicate with the fire alarm office by radio, and remain alert and undistracted during his/her assigned hours.
2. The owner or any building, structure, place of business, place of habitation or vacant or abandoned building or structure shall be responsible for any and all costs associated with the temporary fire watch patrol.

c. Penalties

If such costs are not reimbursed to the Town, it shall constitute a lien upon the property upon which the temporary fire watch patrol was provided.

## **ARTICLE XXVII COMMUNITY PRESERVATION COMMITTEE**

### **Chapter 1 Establishment**

There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to the provisions of G.L. c. 44B, section 5. The composition of the committee, the appointing authority and the term of office for the committee members shall be as follows:

- 1) One member of the Conservation Commission as designated by the Commission;
- 2) One member of the Historical Commission as designated by the Commission;
- 3) One member of the Planning Board as designated by the Board;
- 4) The Highway Surveyor whose responsibilities include the duties of the board of park commissioners established under G.L. c45, section 2, or his designee;
- 5) One member of the Council on Aging as designated by the Council.

The Board of Selectmen shall appoint four at-large members.

Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier.

Should any of the officers and commissions, boards, or committees, who have appointing authority under this bylaw, be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place.

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

### **Chapter 2 Duties**

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

2) The community preservation committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition, preservation, rehabilitation and restoration of historic resources; for the acquisition, creation, and preservation of land for recreational use; for the acquisition, creation, preservation and support of community housing; and for rehabilitation or restoration of such open space, land

for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

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

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

### **Chapter 3 Requirements for quorum and cost estimates**

The community preservation committee shall comply with the provisions of the Open Meeting Law, G.L., c. 39, section 23B. The committee shall not meet or conduct business without the presence of a majority of the members of the community preservation committee. The community preservation committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the committee's anticipated costs.

### **Chapter 4 Amendments**

This by-law may be amended from time to time by a majority vote of the Town Meeting consistent with the provisions of G.L., c 44B.

### **Chapter 5 Severability**

In case any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force.

### **Chapter 6 Effective Date**

Provided that the Community Preservation Act is accepted at the 2008 Annual Town Election, this by-law shall take effect upon approval of the Attorney General of the Commonwealth, and after all requirements of G.L., c.40, section 32, have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

## **Chapter 7.**

Applications for exemption from the Community Preservation Act surcharge must be filed with the Board of Assessors no later than three months after the actual tax bills are mailed for the fiscal year.

# **ARTICLE XXVIII TOWN OF PLYMPTON WETLANDS PROTECTION BYLAW**

## **I. PURPOSE**

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Plympton. The bylaw will control activities determined by the Commission likely to have a significant or cumulative effect on resource area values. These include but are not limited to the following (collectively known as the “resource area values protected by this bylaw”):

- public or private water supplies
- groundwater supply
- flood control
- erosion and sedimentation control
- storm damage prevention
- water quality
- prevention and control of pollution,
- fisheries, wildlife habitat, rare species habitat and rare plant and animal species,
- agriculture and aquaculture values that are important to the community

This bylaw is intended to utilize the Home Rule authority of the Town of Plympton so as to protect the resource areas under the Massachusetts Wetlands Protection Act (M.G.L. Ch.131 §40) to a greater degree, and to protect all resource areas for additional values beyond those recognized in the Wetlands Protection Act. It provides local regulations and permits additional standards and procedures stricter than those of the Wetlands Protection Act and regulations hereunder (310 CMR 10.00).

## **II. JURISDICTION**

Except as permitted by the Commission or as otherwise prohibited in this bylaw, no person will commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise make any alteration in or within 100 feet of the following resource areas (collectively the “resource areas protected by this bylaw”):

- freshwater wetlands
- marshes
- wet meadows
- bogs
- swamps
- vernal pools
- banks
- lakes

- ponds
- lands under water bodies
- intermittent brooks, creeks and streams
- lands subject to flooding or inundation by groundwater or surface water

Except as permitted by the Commission or as otherwise prohibited in this bylaw, no person will commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise make any alteration in or within 200 feet horizontally from the mean annual high water boundary on each side the following resource areas (“riverfront area”):

- perennial rivers, streams, brooks and creeks

These resource areas shall be protected whether or not they border surface waters.

Except as authorized by the Commission as otherwise prohibited in this bylaw, no activity or alteration shall be permitted within a twenty-five foot (25’) “no touch zone” between any wetland resource area protected by this bylaw and any proposed site disturbance. Nothing herein shall preclude the maintenance of an existing structure located within the “no touch zone.”

The Commission may allow activities upon an express determination that the applicant has made a clear and convincing showing that the proposed work in the “no touch zone” will not adversely affect the resource area protected by this bylaw.

The jurisdiction of this bylaw does not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture. This includes work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act Regulations (310 CMR 10.04).

### **III. EXEMPTIONS AND EXCEPTIONS**

The applications and permits required by this bylaw will not be required for work performed for normal maintenance or improvement of land in agricultural and aqua cultural use as defined by the Wetlands Protection Act regulations (310 CMR 10.04).

The applications and permits required by this bylaw will not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw.

The applications and permits required by this bylaw will not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, or work ordered to be performed

by a state or federal agency, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (M.G.L. Ch. 131 §40) and Regulations (310 CMR 10.00) shall not apply under this bylaw.

#### **IV. APPLICATIONS AND FEES**

##### **Applications**

Written permit applications shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The application shall include such information and plans as are required by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. The Applicant shall commence no activities until receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (M.G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act will include information and plans as are deemed necessary by the Commission.

##### **Fee Schedule**

###### **Application Fees**

At the time of application, the applicant will pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations.

###### **Consultant Fees**

Pursuant to M.G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds will be deposited with the town treasurer, who will create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected will be paid from this account, and expenditures may be

made at the sole discretion of the Commission. Any consultant hired under this provision will be selected by, and report exclusively to, the Commission. The Commission will provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice will be deemed to have been given on the date mailed by certified mail or hand-delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be reason for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the select board, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications will consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant will make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal will extend the applicable time limits for action upon the application.

## **V. NOTICE AND HEARINGS**

Any person filing a permit application, RDA, ANRAD or other request with the Commission will at the same time give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors. This includes owners of land directly opposite on any public or private street or way, and abutters to the abutters within 200 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date, if known. The notice to abutters also states where copies may be examined and obtained by abutters. An affidavit from the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself will be sent by the Commission to the owner as well as to the person making the request.

The Commission will conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission will commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion.

The Commission will issue a permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (M.G.L. Ch.131 §40) and regulations (310 CMR 10.00).

#### Coordination with Other Boards

Any person filing a permit application or RFD with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Board of Selectmen, Planning Board, Board of Appeals, Board of Health, Director of Public Works, and Building Inspector. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RFD pertains to property within 200 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

## **VI. CONDITIONS AND PERMITS**

### **Issuance of Permits**

If the Commission, after public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area, values protected by this bylaw, the Commission, within 21 days of the close of the hearing will issue or deny a permit for the activities requested. The Commission may also take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission may also take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities. The Commission may impose conditions which the Commission deems necessary or desirable to protect the resource area values, and all activities will be conducted in accordance with those conditions.

### **Denial of Permits**

Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. The Commission may also deny a permit for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw.

### **Revocation of Permits**

For good cause the Commission may revoke any permit, or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §V and §VI, and after a public hearing.



### **Presumed Importance of the Buffer Zone**

In reviewing activities within the buffer zone, the Commission will presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat.

### **Presumed Importance of Riverfront Area/Practicable Alternatives**

In reviewing activities within the riverfront area, the Commission will presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission will regard as practicable an alternative which is reasonably available and capable of being carried out after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

### **Limited Waiver of Performance Standards**

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after a public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

### **Avoidance of Wetlands Loss or Alteration**

The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

To prevent resource area loss, the Commission will require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

### **Wildlife Habitat Study**

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision will be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work will be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

### **Vernal Pools**

The Commission will presume that all areas meeting the definition of "vernal pools" under §VIII of this bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.

### **Expiration**

A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) will expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed for an additional three-year period, provided that a request for a renewal is received in writing by the Commission thirty (30) days prior to expiration. Notwithstanding the above, a permit may identify requirements which will be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and will apply to all present and future owners of the land.

Amendments to permits, DOAs, or ORADs will be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

### **Coordination with Other Permits**

The Commission in an appropriate case may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

### **Recording**

No work proposed in any application will be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

## VII. REGULATIONS

After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law will not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose filing and consultant fees.

## VIII. DEFINITIONS

Except as otherwise provided in this bylaw or in associated regulations of the Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (M.G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

The following definitions shall apply in the interpretation and implementation of this bylaw.

**Agriculture** shall refer to the definition as provided by M.G.L. Ch. 128 §1A.

**Alter** shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

**Bank** shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

**Person** shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

**Plans** means such data, maps, engineering drawings, calculations, specifications, schedules and other materials, if any, deemed necessary by the Commission to describe the site and the activity, to determine the applicability of the Bylaw or to determine the impact of the proposal upon the interests identified in the bylaw. It is the responsibility of the applicant to ensure that the plans accurately depict all wetland resource areas.

**Pond** shall follow the definition of 310 CMR 10.04, except that the size threshold of 5,000 square feet will apply.

**Rare Species** will include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

**Vernal Pool** will include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools will be 100 feet outward from the mean annual high-water line defining the depression, but will not include existing lawns, gardens, landscaped or developed areas.

## **IX. SECURITY**

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

- A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.
- B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions will be performed and observed before any lot may be conveyed other than by mortgage deed. This method will be used only with the consent of the applicant.

## **X. ENFORCEMENT**

No person will remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized

fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

With approval of the owner, The Commission, its agents, officers, and employees will have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission will have authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the select board and town counsel will take legal action for enforcement under civil law. Upon request of the Commission, the chief of police will take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, will have authority to assist the Commission in enforcement.

Any person, who violates any provision of this bylaw, or regulations, permits, or administrative orders issued there under, will be punished by a fine levied by the Commission. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, will constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this bylaw or in violation of any permit issued pursuant to this bylaw will forthwith comply with any such order or restore such land to its condition prior to any such violation; provided, however, that no action, civil or criminal, will be brought against such person unless commenced within three (3) years following date of acquisition of the real estate by such person.

## **XI. BURDEN OF PROOF**

The applicant for a permit will have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden will be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

## **XII. APPEALS**

A decision of the Commission shall be reviewable in the superior court in accordance with M.G.L. Ch. 249 §4.

### **XIII. RELATION TO THE WETLANDS PROTECTION ACT**

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. Ch. 131 §40) and regulations (310 CMR 10.00) there under. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements will be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

### **XIV. SEVERABILITY**

The invalidity of any section or provision of this bylaw will not invalidate any other section or provision thereof, nor will it invalidate any permit, approval or determination which previously has been issued.

## **ARTICLE XXIX UNLAWFUL DISPOSAL OF REFUSE**

(1) It shall be unlawful for any person, directly or indirectly, to dump, place, throw, deposit or discharge any refuse, rubbish, garbage, household goods, appliances or furniture, construction debris, landscaping debris, scrap, trash, tires or other material of any kind on the property of another or on any way, public or private, that appears on the assessor's map of the Town of Plympton, or within 20 yards thereof, or any land owned or controlled by the Town.

(2) It shall be unlawful for any person to cast, throw, sweep, sift or deposit in any manner in or upon any public way or other public place in the Town or any river, canal, culvert, drain or receiving basin within the jurisdiction of the Town any kind of dirt, rubbish, waste, article, thing or substance whatsoever.

## **ARTICLE XXX STRETCH ENERGY CODE**

### Section 1. Definitions

International Energy Conservation Code (IECC) 2009 - The International Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing July 1, 2010, the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained herein.

## Section 2. Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

## Section 3. Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61, or 93, as applicable.

## Section 4. Authority

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix. 780 CMR 115 AA may be adopted or rescinded by any municipality in the commonwealth in the manner prescribed by law.

## Section 5. Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115 AA, including any amendments or modifications, is herein incorporated by reference into the Town of Plympton Municipal Bylaws, Chapter XXX.

The Stretch Code is enforceable by the inspector of buildings or building commissioner.

## **ARTICLE XXXI REVOLVING FUNDS**

- A. There are hereby established in the Town of Plympton pursuant to the provisions of M.G.L. c.44, §53E½, the following Revolving Funds, from which the specified department head, board, committee, or officer may incur liabilities against and spend monies from without appropriation in accordance with the limitations set forth in this by-law.
- B. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- C. No liability shall be incurred in excess of the available balance of the fund.
- D. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting or any increase therein as may later be authorized by the Board of Selectmen and Finance Committee in accordance with M.G.L. c.44, §53E½.

E. Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the General Fund.

F. Authorized Revolving Funds:

<b>Revolving Fund</b>	<b>Authority to Spend</b>	<b>Revenue Source</b>	<b>Use of Fund</b>	<b>Spending Limit</b>
Recreation Commission	Recreation Commission	Sign Sponsorship Program, fees charged to individuals participating in any Recreation Commission sponsored programs and any private sponsorship of said programs. Any fees charged for use of any other recreational facilities under the jurisdiction of the Recreation Commission.	The Support of youth sports programs, community activities and special events.	\$20,000
Tax Title	Treasurer/Collector	Miscellaneous and legal fees collected on Tax Title accounts when paid. In addition, said account shall also be credited with miscellaneous fees and legal fees related to Tax Possession from the sale or auction of said Tax Possession.	Processing Tax Titles and Tax Possessions, including legal fees, miscellaneous expenses and salaries of staff in the Treasurer/Collectors department and Land Court fees.	\$20,000

G. Procedures and Reports. Except as provided in M.G.L. c.44, §53E½ and this bylaw, all applicable state and local laws and regulations that govern the receipt, custody, expenditure and payment of town funds shall apply to the use of revolving funds established and authorized by this by-law.

And, further, to establish the following fiscal year spending limit for such funds:

Recreation Commission	\$20,000
Tax Title	\$20,000



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