

TOWN OF PLYMPTON

**ZONING
AND MUNICIPAL
BY-LAWS**



2016 EDITION

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TOWN OF PLYMPTON

ZONING BY-LAWS



TOWN OF PLYMPTON ZONING BY-LAWS

SECTION 1

AUTHORITY AND PURPOSE

1.1 Title

This By-law shall be known and may be cited as the Zoning By-law of the Town of Plympton, Massachusetts.

1.2 Authority

This By-law is adopted under the authority of Massachusetts General Laws, Chapter 40A.

1.3 Purpose

The purposes of this By-law include but are not limited to the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the city or town, including consideration of the recommendations of the master plan, if any, adopted by the Planning Board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the agency; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Said regulations may include but are not limited to restricting, prohibiting, permitting or regulating:

1. uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;
2. size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of Sections twenty-nine through thirty-three inclusive of Chapter ninety-three, and to Chapter ninety-three D;
3. uses of bodies of water, including water courses and underground water;
4. areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courtyards and open spaces;
5. density of population and intensity of use;
6. accessory facilities of use, such as vehicle parking and loading, landscaping and open spaces; and
7. the development of the natural, scenic and aesthetic qualities of the community.

SECTION 2

ADMINISTRATION

2.1 Enforcement

This By-law shall be enforced by the Zoning Enforcement Officer, who may be the Building Inspector. The Zoning Enforcement Officer shall be appointed annually by the Board of Selectmen and shall serve under their authority and supervision.

No permit or license shall be granted for a building, structure, or land which use is in violation of this Bylaw. If the Zoning Enforcement Officer is requested in writing to enforce this By-law against any person allegedly in violation of the same, and s/he declines to act, s/he shall notify in writing, the party requesting enforcement of any action or refusal to act, and the reason therefore, within fourteen (14) days of receipt of such request.

2.2 Penalties

Penalties. The penalty for violation of any provision of this Bylaw, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals, any special permit granting authority, or the site plan approval board shall be three hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

2.3 Six Month Rule

Construction or operations under a building permit of special permit authorized by this By-law shall conform to any subsequent amendment of this By-law unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the building permit or the special permit, and unless the construction is continued to completion as continuously and expeditiously as reasonable.

2.4 Board of Appeals

There is hereby established a Board of Appeals of three (3) members and two (2) associate members to be appointed by the Selectmen as provided in Chapter 40A of the General Laws. The Board of Appeals shall act on all matters within its jurisdiction under this By-law in the manner prescribed in Chapter 40A of the General Laws. No Selectman shall be eligible to serve as a member of the Board of Appeals. No member of the Board of Appeals shall take part in any case which he or any member of his family has a personal or financial interest, as associate member being designated to act in such cases by the Chairman of the Board of Appeals.

The Board shall elect annually a chairman and a clerk from its members, and may, subject to appropriation and the availability of funds, employ experts and clerical assistants.

The Board of Appeals shall have the following powers:

2.4.1 Rules

The Board shall adopt rules, consistent with this By-law and with Chapter 40A of the General Laws, for the conduct of business and shall file a copy with the Town Clerk.

2.4.2 Appeals

The Board shall hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of Chapter 40A, General Laws, or by any officer or board of the Town, or by any person aggrieved by any order or decision of the Building Inspector or other administrative official in violation of any provision of Chapter 40A, General Laws, or of this Bylaw.

2.4.3 Variances

The Board shall authorize upon appeal or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon a variance from the terms of this By-law where owing to conditions especially affecting such parcel; or such building but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this By-law would involve substantial hardship to the appellant and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the By-law, but not otherwise. No variance may be authorized for a use or activity not otherwise permitted in the zoning district in which the land or structure is located. If the rights authorized by a variance are not exercised within one year of the date of the grant of such variance, they shall lapse.

Notwithstanding the foregoing paragraph, the Zoning Board of Appeals may issue a use variance to allow a wireless communications tower, in a non-industrial district, provided, however, that no such variance shall be issued under this provision unless, in addition to the normal criteria set forth under G.L. c.40A, §10:

- (1) The tower shall not exceed 120 (one hundred twenty) feet in height, as measured from the original ground level, including antennae;
- (2) The tower lot shall have a minimum area of 200,000 (two hundred thousand) square feet;
- (3) The tower shall be set back: (a) a minimum of 300 (three hundred) feet from any existing way, excluding the driveway that is to be used to serve the tower; (b) a minimum of 170 (one hundred seventy) feet from all property lines; and (c) a minimum of 800 (eight hundred) feet from any existing dwelling or dwelling for which a building permit has been issued at the time of the application for the use variance;
- (4) The parking at the site shall not exceed one space per antenna or other wireless device that could be developed on the tower.
- (5) The new tower shall not be located closer than one linear mile to any other tower located in a non-industrial district.

2.4.4 Special Permits

Except as may be provided otherwise, the Zoning Board of Appeals shall be the special permit granting authority (SPGA) under this By-law.

2.4.5 Comprehensive Permits

The Board of Appeals shall hear and decide single applications to build housing submitted under the authority of Chapter 40B of the General Laws.

2.4.6 Subdivision Control Law

The Board of Appeals shall have jurisdiction and authority as the Board of Appeals provided under Chapter 41 of the General Laws (Subdivision Control Law).

2.4.7 Zoning Administrator

A Zoning Administrator may be appointed by the Board of Appeals, subject to confirmation by the Board of Selectmen, to serve at the pleasure of the Board of Appeals pursuant to such qualifications as may be established by the Board of Selectmen. The Board of Appeals may delegate to said Zoning Administrator some of its powers and duties of all members of the Board of Appeals consisting of three members, and a concurring vote to all except one member of a board consisting of five members. Any person aggrieved by a decision or order of the Zoning Administrator whether or not previously a party to the proceeding, or any municipal office or board, may appeal to the Board of Appeals, as provided in Section 14, Chapter 40A of the General Laws, within thirty (30) days after the decision of the Zoning Administrator has been filed in the office of the Town Clerk. Any appeal, application or petition filed with said Zoning Administrator as to which no decision has been issued within thirty-five (35) days from date of filing shall be deemed denied and shall be subject to appeal to the Board of Appeals as provided in Section 8, Chapter 40A of the General Laws.

2.5 Judicial Appeals

Any person aggrieved by the decision of the Board of Appeals or Special Permit Granting Authority may appeal to the Court by bringing an action within twenty (20) days after the decision has been filed in the office of the Town Clerk.

2.6 Public Hearing and Notice

In the case of every appeal made to the Board of Appeals and of every application for permit or variance made to it under the provisions of this By-law, the Board of Appeals or other SPGA shall hold a public hearing to consider the appeal or application in question and shall cause a notice thereof to be published in a newspaper in general circulation in Plympton once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the date set for hearing and on the bulletin board of the Town House and shall cause a copy of the notice to be sent by mail, postage prepaid to all abutting land owners as shown by the latest records of the Assessors of the Town of Plympton and to the Plympton Planning Board and to every other person or persons who, in the opinion of the Board of Appeals, may be interested in said application or appeal. All expenses involved shall be paid by the applicant.

2.7 Amendment to Zoning By-law

This By-law may be amended from time to time at any annual or special town meeting in accord with the provisions of General Laws, Chapter 40A, Section 5.

2.8 Validity

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof. This Zoning By-law shall not interfere with or annul any other By-law, or regulation in effect in the Town of Plympton upon its adoption.

2.9 Effective Date.

So much of this Zoning By-law as is approved by the Attorney General shall take effect as of the date of enactment by the Town Meeting, except as is otherwise provided by MGL Chapter 40, Section 32.

SECTION 3 DISTRICTS

3.1 Use Districts

For purposes of this By-law, the Town of Plympton is hereby divided into the following types of use districts:

1. Agricultural-Residential
2. Business
3. Light Manufacturing
4. Industrial

3.2 Overlay Districts

Overlay districts shall be considered to be superimposed over any other district established by this By-law. Land in such overlay districts may be used for any purpose permitted in the underlying district subject to the special conditions and requirements of the overlay district.

3.3 Flood Plain and Watershed Protection District

The Flood Plain and Watershed Protection District is an overlay district which is shown on the Town of Plympton Zoning Map.

Use and structures in the Flood Plain and Watershed Protection District are to regulations as provided in Section 8.1 of this Bylaw.

3.4 Historic District

The Historic District at Harrub's Corner is an overlay district which is shown on the Town of Plympton Zoning Map.

Any uses and structures in the Historic District shall be subject to regulations as provided in Section 8.2 of this By-law.

3.5 Groundwater Protection Districts

The Groundwater Protection Districts are overlay districts shown on a supplement to the Town of Plympton Zoning Map. Uses and structures in the Groundwater Protection Districts are subject to regulations as provided in Section 8.3 of this By-law.

3.6 Zoning Map

The aforesaid districts are shown on a plan of Vautrinot and Webby Co. dated 1980, as most recently revised. Said plan shall be the Zoning Map of the Town of Plympton.

SECTION 4 USES

4.1 General Provisions

Except as expressly provided herein, no building or structure shall be constructed, and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or as set forth as permissible by special permit in said district and so authorized.

4.1.1 In the Agricultural-Residential, Business, and Light Manufacturing districts no building, premises, or land shall be used for any purpose detrimental, injurious, or offensive to the neighborhood, whether in the same or adjoining districts.

4.1.2 In the Industrial District no building, premises, or land shall be used for any purpose detrimental, injurious, or offensive by reason of the emissions of odors, fumes, dust, smoke, noise, explosion or other cause.

4.2 Schedule of Uses

Districts	Uses
AR = Agricultural Residential	P = Permitted Use
B = Business	SP = Permitted Use by Special Permit
LM = Light Manufacturing	X = Expressly Prohibited
I = Industrial	N/A = Not Applicable

	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
Acid Manufacturing	X	X	X	X
Accessory Use in Connection with Scientific Research or Development	SP	SP	SP	SP
Adult book stores	X	X	X	SP
Adult clubs	X	X	X	SP

	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
Adult mini motion picture theaters	X	X	X	SP
Adult motion picture theaters	X	X	X	SP
Adult paraphernalia stores	X	X	X	SP
Adult video stores	X	X	X	SP
Agriculture	P	P	P	P
Animal Raising and Sale, Fur Bearing	SP	SP	SP	SP
Airport or Heliport	SP	SP	SP	X
Airstrip or Helipad, Personal	SP	SP	SP	SP
Asphalt Manufacturing	X	X	X	X
Bank	X	P	P	P
Boat or Canoe Livery	SP	SP	SP	SP
Bowling Alley	X	P	P	P
Business Office	X	P	P	P
Business, Retail	X	P	P	P
Business, Sales and Service	X	P	P	P
Car Wash, Commercial	X	X	X	X
Cemetery	SP	SP	SP	SP
Cement Manufacture	X	X	X	X
Church, Religious Use	P	P	P	P
Club or Lodge, Private, Not For Profit	SP	SP	SP	SP
Commercial Place of Amusement	X	P	P	P
Commercial Riding Stable	SP	SP	SP	SP
Commercial Vehicle Storage (more than three)	SP	SP	SP	N/A

	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
Commercial Vehicle Storage (more than ten)	N/A	N/A	N/A	SP
Contractor Yard	X	X	P	P
Convalescent Home	SP	SP	SP	SP
Conversion of Single Family to Two Family Dwelling	SP	SP	SP	X
Distribution Facility, Merchandise	X	X	P	P
Dogs: Breeding, Boarding, Kennel or Sale	SP	SP	SP	SP
Dwelling; Detached, One-family	P	P	P	X
Dwelling; Detached, Two-family	P	P	P	X
Dwelling; Multi-Family, For Elderly and Handicapped Persons	SP	SP	SP	X
Educational Facility	P	P	P	P
Explosives Manufacture	X	X	X	X
Farm	P	P	P	P
Feed Store	X	X	P	P
Fertilizer Manufacture	X	X	X	X
Fuel Establishment	X	X	P	P
Funeral Home	SP	SP	SP	SP
Garden	P	P	P	P
Gas Manufacturing	X	X	X	X
Gasoline Service Station	X	P	P	P
Glue Manufacture	X	X	X	X
Golf Course	SP	SP	SP	SP
Greenhouse	P	P	P	P

	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
Guest House	SP	SP	SP	X
Gypsum Manufacture	X	X	X	X
Hazardous Waste Storage, Processing or Disposal	X	X	X	X
Hospital	SP	SP	SP	SP
Hotel	X	SP	SP	SP
Ice Establishment	X	X	P	P
Junk or Salvage Yard	X	X	SP	X
Light Manufacturing	X	X	P	P
Livestock Raising	P	P	P	P
Lumber Yard	X	X	P	P
Manufacturing, Processing, Fabricating, Assembly (except where expressly prohibited)	X	X	X	P
Massage Service Establishments	X	X	X	SP
Medical Marijuana Facility	X	SP	X	X
Motel	SP	P	P	X
Municipal Use	P	P	P	P
Museum	X	P	P	P
Nursery (Plants)	P	P	P	P
Office	X	P	P	P
Open Air Theater	SP	SP	SP	SP
Overnight Cabins	X	X	X	X
Professional Office	X	P	P	P
Parking Lot or Garage	X	P	P	P

	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
Pesticide Manufacture	X	X	X	X
Petroleum Manufacture	X	X	X	X
Petroleum Refining	X	X	X	X
Radioactive Waste, Storage, Processing, Disposal	X	X	X	X
Religious Use	P	P	P	P
Renting of Rooms; Board (4 Person Limit)	P	P	P	X
Research Laboratory	X	X	P	P
Restaurant	X	P	P	P
Retail Store	X	P	P	P
Sanitarium	SP	SP	SP	SP
Sewage a/o Septage Treatment a/o Disposal Facilities-Commercial	X	X	X	X
Temporary Sawmill	SP	SP	SP	SP
Theater	X	P	P	P
Tourist Home	SP	SP	SP	SP
Trailer, Mobile Home (temporary)	SP	SP	SP	SP
Warehouse	X	X	P	P
Wireless Communications Towers	X	X	X	SP
Wireless Communications Facilities:				
Concealed Facilities:	P	P	P	P
Co-location on Water and Electric Towers:	SP	SP	SP	SP
Co-location and Existing Facilities:	SP	SP	SP	SP
All other facilities:	X	X	X	SP

4.3 In the event of a conflict between Section 4.2 above, and the provisions contained in the last three paragraphs of MGL Chapter 40A, Section 9, the provisions of MGL Chapter 40A, Section 9 shall be deemed to prevail.

SECTION 5

INTENSITY OF USE REGULATIONS

In order to provide for an on-site supply of potable water and for an on-site septic system, a dwelling hereafter erected in an Agricultural/Residential District, or in a Business District, or in a Light Manufacturing District, or in an Industrial District shall be located on a lot having not less than the minimum requirements set forth in this By-law.

- No more than one (1) dwelling shall be built upon any lot.
- No existing lot shall be changed as to size or shape so as to result in the violation of the requirements set forth below:
- Lots, which are so distorted in configuration as to be detrimental to public health, safety, welfare or convenience, even though complying with dimensional requirements established herein, shall not be allowed.

5.1 Table of Intensity of Use

REQUIREMENTS

	<u>Agricultural Residential</u>	<u>Business</u>	<u>Light Manufacturing</u>	<u>Industrial</u>
5.1.1 Minimum Lot Dimension -				
Area in Square Feet	60,000	60,000	60,000	60,000
Frontage in Feet	200	200	200	200
Two Family Dwelling: Area in Square Feet	100,000	100,000	100,000	100,000
Retreat Lot Area Square Feet	120,000	120,000	120,000	N/A
Retreat Lot Frontage	40	40	40	N/A

A lot or parcel of land having an area or frontage of lesser amounts than required by this table may be considered as coming within the area and frontage requirements of this section, provided such lot or parcel of land was shown on a plan or described in a deed duly recorded or registered at the time of the adoption of this By-law and did not at the time of such adoption adjoin other land of the same owner, available for use in connection with such lot or parcel.

5.1.2 Minimum Yard Dimensions –	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
Front Yard in Feet	40	40	40	40
Side Yard in Feet	20	30	30	40
Rear Yard in Feet	20	30	30	40
Two Family Dwelling				
Side Yard	40	40	40	N/A
Rear Yard	40	40	40	N/A
Retreat Lot				
All Yards	100	100	100	N/A
Wireless Communication Towers/Facilities				
All sides	1x tower ht.	1x tower ht.	1x tower ht	1x tower ht.

5.1.3 Maximum Height of Buildings	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
Number of Stories	2 1/2	3	3	3
Height in Feet	35	35	35	40

5.1.4 Maximum percentage of land covered by buildings	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
	30%	30%	30%	30%

5.1.5 Maximum percentage of impervious coverage of land	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
	60%	60%	60%	60%

Also subject to the requirements of Groundwater Protection Districts, Section 8.3.

5.2 Frontage

Frontage shall be defined as and determined by a continuous, uninterrupted measurement along the right of way line of either a public way maintained by the Town and recorded at the Plymouth County Commissioners' Office or a way shown on a subdivision plan duly approved by the Planning Board under Subdivision Control Statutes, and shall preclude segmented measurements along ways.

5.3 Front Yard

Front Yard shall extend across the full width of a lot and measured from the right of way line to the nearest part of a building.

5.4 Side Yard

Side yard dimensions will be fifty (50) feet when adjacent to an Agricultural-Residential District. The mean direction of side lot lines shall be as close as possible to perpendicular to the street line or to its tangent at the point of intersection of the side lot line. In no case shall the mean direction of the side lot line form an angle of less than seventy-five (75) degrees with the street line or the aforesaid tangent.

Building, parking areas and all associated improvements shall be located no closer than fifty (50) feet to the side lot line when abutting a lot located in the Agricultural-Residential District. A screening type of landscaping or other suitable barrier of at least four (4) feet in height may be required within the rear and side of the setback area where natural vegetation is not sufficient to provide a visual screen.

5.5 Rear Yard

Rear yard dimension will be fifty (50) feet when adjacent to Agricultural-Residential District.

5.6 Lot Area

The minimum lot area shall be in addition to the required off-street parking area (Section 6.4). The portion of any lot in a Flood Plain and Watershed Protection District may be used to meet the lot area requirements for the Residence Districts over which the Flood Plain and Watershed Protection District is superimposed, provided that such portion in the Flood Plan and Watershed Protection District does not exceed fifty (50) percent of the minimum lot area in the Residence District.

5.6.1 Minimum Contiguous Upland Requirement: At least 40% of the minimum lot size required shall be contiguous upland [i.e., *not* a (1) bank, bog, dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40; river front area under the Massachusetts River Protections Act.

5.7 Building Height

The limitations on height of buildings shall not apply in any district to chimneys, ventilators, towers, spires or other ornamental features of buildings, which features are in no way used for living purposes.

5.8 Retreat Lots:

For the purpose of allowing additional, reasonable use of back land without building otherwise unneeded roads, there is hereby established a category of "retreat lots", the building upon which for residential purposes is permitted subject to the following requirements:

1. Minimum lot size shall be 120,000 square feet exclusive of the access area serving the lot.

(1a) Minimum Contiguous Upland Requirement: At least 40% of the minimum lot size required shall be contiguous upland [i.e., *not* a bank, bog,

dune, marsh, swamp, or wet meadow under the Massachusetts General Laws, Chapter 131, Section 40; or river front area under the Massachusetts River Protections Act].

2. The access area must be at least 40 feet wide at its frontage and throughout its length and Fee Simple Title to such access area shall be held in the same name as the owner of the retreat lot not separate and distinct.
3. Not more than one (1) single family dwelling shall exist on a single retreat lot.
4. Not more than one (1) lot shall be served by the access way.
5. No retreat lot access way shall abut any other retreat lot access way.
6. Each retreat lot shall have at least 60,000 square feet of land other than access area which is not in the Floodplain and Watershed Protection District
7. All structures on retreat lots shall be at least 100 feet from any lot line.
8. The Planning Board shall review requests for Approval Not Required determinations for retreat lots consistent with the purposes of the Zoning By-laws and the safe and adequate access concerns of the Subdivision Rules and Regulations.

5.9 Adult book stores, adult motion pictures theaters, adult paraphernalia stores, adult clubs, adult mini motion picture theaters, adult video stores, and massage service establishments, and all advertising signs for same shall not be located within fifty (50) feet of a public or private way and shall be set back a minimum of fifty (50) feet from all property lines. They shall not be located within one thousand (1000) feet of each other nor within one thousand (1000) feet of the nearest lot lines of:

1. Any residential district,
2. Place of worship;
3. School or pre-school;
4. Licensed day care center or facility;
5. Public beach or playground;
6. Any establishment licensed under the provisions of M.G.L. Chapter 138, Section 12.

SECTION 6 GENERAL REGULATIONS

6.1 Signs

6.1.1 Intent

It is the intent of this by-law to protect, conserve and improve the unique visual quality and historic character of the Town of Plympton while simultaneously supporting the needs of the business community. It is the intent of this section to do so

by clearly regulating all signs. The following regulations have been designed to encourage modest signs of high quality which safely identify any use or occupancy of land and structures in the Town as established under site plan review.

6.1.2 Definitions

Sign

Any word, letter, symbol, drawing, picture, design, device, article or object which advertises, calls attention to or indicates the location of any premises, person or activity; whatever its manner of composition or construction and however displayed.

Address Sign

A sign identifying the numerical street address or property name premises.

Directory Sign

A sign listing the tenants or occupants of a multiple-tenant structure or center.

Freestanding Sign

A sign that is not attached to a building and has its own support structure.

Individual Letters or Symbols

Individual letters or symbols attached to, painted, carved, engraved or projected on a surface (such as a building wall or window) shall constitute a sign.

Hanging Sign

Any sign which projects more than eight (8) inches from a wall or façade.

Historical Marker

A sign indicating historical information (e.g. date of construction, early owners, builders, significant events, etc.), located on residential and commercial buildings or property.

Off Premises Sign

Any sign that displays information for a use, occupant or owner not located on the premises on which said sign exists.

Traffic Flow Sign

A sign erected for the purpose of safely regulating, warning or guiding traffic.

Wall Sign

A flat sign mounted to a wall or other vertical surface and the face of which runs parallel to a wall.

Window Sign

A sign which is painted on, attached to or hung within 12 inches of a window. This shall include any interior and exterior placement of a sign in relation to a window.

6.1.3 Allowed Uses of Permanent Signs

A sign permit shall be required for any permanent sign, unless otherwise expressly exempted herein.

6.1.3.1 Agricultural-Residential District

- A. The display of not more than a total of two (2) unlighted signs, pertaining to an allowed principal or accessory use (including an allowed accessory professional office or customary home occupation or renting of rooms), provided that no individual sign shall exceed six (6) square feet of total area, shall be allowed upon issuance of a sign permit as provided for hereunder.
- B. No lighted sign shall be permitted in the Agricultural-Residential District.

6.1.3.2 Business & Light Manufacturing Districts

- A. The display of one or more signs to identify an allowed use of the premises shall be allowed upon issuance of a sign permit as provided for hereunder, provided that total combined area of all of the signs on a building shall not exceed fifty (50) square feet in area including wall, roof, projecting or hanging signs;
- B. Except as provided for below, in addition to the 50 square feet of signage allowed above [per building or total allowed for all buildings], the display of one (1) additional freestanding sign per building, pertaining to an allowed use of the premises shall be allowed upon issuance of a sign permit as provided for hereunder, provided that such a sign shall not exceed twenty-five (25) square feet in area, nor fifteen (15) feet in height;
- C. Premises with multiple buildings, businesses or uses shall utilize a single directory sign in lieu of one (1) or more freestanding signs. The directory sign shall not exceed twelve (12) square feet in area per allowed use and shall not be more than fifteen (15) feet in height and shall not exceed eight (8) feet in width;
- D. No wall sign shall extend beyond the corners of a building or that portion of the building occupied by the allowed use, business, industry or firm advertised, nor above the roof line (peak) of the building.
- E. No projecting or hanging sign shall extend for more than five (5) feet away from the building, nor into any street right-of-way, nor shall a projecting or hanging sign have its bottom edge less than eight (8) feet above the grade of land, or its upper edge higher than the top of the wall to which the sign is attached;
- F. Illumination of signs may be allowed during business hours and for thirty (30) minutes prior to and after regular posted (or permitted) business hours. Illumination of signs shall comply with Section 6.9 (Lighting Systems and Fixtures) of the Plympton Zoning By-law. Internally illuminated signs shall be allowed by special permit.

6.1.3.3 Industrial District

- A. The display of not more than two (2) signs pertaining to each existing establishment or occupancy in a building or office, shall be allowed upon issuance of a sign permit as provided for hereunder, provided that the total area of the resulting signage shall not exceed two hundred and fifty (250) square feet, and provided further that:

- i. Only one (1) of the signs may be free standing and it shall not exceed fifteen (15) percent of the area of the building face or sixty (60) square feet, whichever is smaller;
- ii. In the case of an unimproved lot, one (1) free standing sign not exceeding sixty (60) square feet shall be allowed to advertise the sale of the property;

B. Illumination of signs may be allowed during business hours and for thirty (30) minutes prior to and after regular posted (or permitted) business hours. Illumination of signs shall comply with Section 6.9 (Lighting Systems and Fixtures) of the Plympton Zoning By-law. Internally illuminated signs shall be allowed only allowed by special permit.

6.1.4 Window Signs

Window signs shall not exceed more than 30% of the total area of a window.

6.1.5 Temporary Sign: Allowed uses of an identification sign, which is associated with an activity of a temporary nature.

- A. One “for sale” or “for rent” signs, not exceeding six (6) square feet in area per side and advertising only the premises on which the sign is located. These signs shall be allowed as of right without a sign permit:
- B. One contractor’s sign, per contractor, advertising only the premises on which the sign is located while the same is actually under construction, not exceeding six (6) square feet in area per side, provided that not more than five (5) number of contractor’s signs are displayed at the same time. These signs shall be allowed as of right without a sign permit:
- C. Special Event Signs. Temporary signs for special events, including fairs, carnivals, holiday celebrations shall be allowed upon issuance of a sign permit as provided for hereunder, provided that they are erected in a safe manner with the permission of respective property owners and are displayed not more than a total of thirty (30) calendar days before or five (5) days after the event. Special event signs shall conform in size to the provisions for the underlying district in which they are displayed. Special event signs shall not be counted towards the total allotment provisions for the underlying district in which they are displayed, provided that only one (1) sign per event shall be displayed. The Board of Selectmen may issue a special permit to allow special event signs or signs promoting community interest events and activities, to be posted on Town property for periods longer than those specified above and for sizes not to exceed thirty two (32) square feet for one sign or a combined total of fifty (50) square feet for two, or a banner;
- D. Temporary signs pertaining to the primary agricultural, horticultural and floriculture use of the premises for seasonal purposes (e.g. farm stands and similar

products for sale) may be displayed upon issuance of a sign permit as provided for hereunder, in accordance with Massachusetts General Laws, Chapter 40A, §3.

6.1.6 Exemptions

The following signs shall be allowed as of right without a sign permit.

- A. Multiple displays of No Trespassing, Hunting, Fishing and similar signs shall be allowed as of right without a sign permit in any district, provided that any such sign so displayed shall not exceed two (2) square feet in area;
- B. Street numbers (used to identify the physical location of the property), shall be allowed as of right without a sign permit, in any district, provided that no such number shall exceed two (2) square feet in area;
- C. An unlimited number of directional signs for traffic and safety purposes shall be allowed as of right without a sign permit, provided that no such sign shall exceed three (3) square feet per sign and no such sign shall contain advertising or information other than for traffic and safety purposes and provided that each sign shall be safely displayed and shall not hinder safe traffic;
- D. Any sign owned by the Town of Plympton and located on town property shall be allowed as of right without a sign permit, provided that any such sign shall be approved by the Board of Selectmen;
- E. An historical marker shall be allowed as of right without a sign permit and shall not count against the total number of signs or the sign square foot limit allowed within the zoning district of which the sign is mounted, provided that said sign has been approved for display and placement by the Historical Commission. The Historical Commission reserves the right to adopt regulations or policies in regard to historical markers;
- F. Political signs shall be allowed as of right without a sign permit, in any district, provided that they conform in size to the provisions for the underlying district in which they are displayed, are displayed not more than a total of thirty (30) calendar days before or five (5) days after the event and provided that only one sign per candidate and per issue shall be allowed on any one premises;
- G. Any Traffic Flow Sign, as defined above, shall be allowed as of right without a sign permit.

6.1.7 Prohibited Signs

The following signs are expressly prohibited in all zoning districts and on all property in the Town of Plympton:

- A. Any sign that is placed so as to impede vehicular or pedestrian traffic or otherwise impair public safety is expressly prohibited;
- B. No sign shall be placed on or in a public way except for Traffic Flow Signs as defined above and any such signage shall be safely placed and maintained;
- C. Animated or flashing signs, LED signs, exposed illuminated gas tube (such as neon), signs containing moving parts or moving lights, and non-safety signs containing reflective elements;
- D. Illuminated features other than approved signs, on the exterior of a building that call attention to the building, product or services available within the building;
- E. Canopies illuminated from behind in such a way that light shines through canopy material creating the effect of an internally illuminated sign;
- F. Any sign advertising or identifying a business or organization which is either defunct or no longer located on the premises;
- G. Off Premises signs;
- H. Streamers, pennants, ribbons, spinners or other similar devices that are designed to attract attention and have the capacity to distract motorists and hinder public safety, provided, however, that such devices shall be allowed by special permit in conjunction with the grand opening of a business and for twenty (20) days thereafter;
- I. When visible from a public way, a sign on any permanently located and/or on any mobile unit, including a trailer regularly located for fixed display, a storage tank or any similar type of container. This prohibition shall not apply to a properly registered van, panel truck, trailer or any other business vehicle that is used on a regular basis on public ways;
- J. Any sign painted on or affixed to any tree, fence or utility pole;
- K. Any sandwich board sign (such as A-frame or similar style).

6.1.8 Non-conforming Signs

- A. Any sign that received a permit prior to the Town Meeting vote of this revised by-law (May 18, 2011) and is now out of compliance, shall not need a new permit until said permit has expired or an alteration to the sign is made, as noted in Section C below;

- B. Any sign that was in existence on or before May 18, 2001 and was compliant with section 6.1 of the zoning by-laws prior to the Town Meeting vote of this revised by-law (May 18, 2011), may be continued, even though not conforming to the provisions of the Section of this revised by-law. Any future alteration to the sign as noted below in Section C below shall then require a permit under the provisions of this by-law;
- C. Nonconforming signs shall not be altered by changing the design, wording, lighting or moving it or replacing it, except due to casualty loss and then replacement shall be identical to the original sign. Doing any of the aforementioned alterations shall trigger the immediate need for said sign to come into compliance with the provisions of this by-law.

6.1.9 Procedure for Sign Permits/Special Permit Approval

6.1.9.1 Measurement of Sign Area

- A. Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface;
- B. For a sign painted on or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols together with any background of a different color than the natural color or finish material of the building;
- C. For a sign consisting of individual letters or symbols attached to, painted, or carved or engraved on a surface, building wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols;
- D. The area of supporting framework (for example brackets, posts, etc.) shall not be included in the area if such framework is incidental to the display;
- E. When a sign has two (2) or more faces, the area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than one (1) foot from each other. In this case, the sign area shall be taken as the area of either face, and if the faces are unequal, the larger shall determine the area.

6.1.9.2 Sign Permits

- A. No sign, unless otherwise exempted above, shall be erected, displayed, altered or enlarged until a sign zoning permit for such action has been issued by the Planning Board. Applications shall be on forms prescribed by the Planning Board. At a minimum, all applications shall include a scale drawing specifying dimensions, materials, illumination, letter sizes, color, support systems, and location on land or buildings with all relevant measurements. Sign Permits shall be issued only if the Planning Board determines that the sign complies with all applicable provisions of this Sign By-Law;

- B. The Planning Board shall act on any sign permit application by majority vote within 30 days of receipt of such an application without holding a public hearing
- C. A fee of \$50.00 (fifty dollars) shall be imposed and failure to pay the required fee shall be a basis upon which to deny the sign permit

6.1.9.3 Duration of Permits

The Planning Board may limit the duration of any sign permit and may condition said permit upon continued ownership or operation of the business advertised upon the sign.

6.1.9.4 Enforcement

The Zoning Enforcement Officer is hereby authorized to enforce this by-law. The Zoning Enforcement Officer is authorized to order the repair or removal of any sign and its supporting structure which is judged dangerous, or in disrepair or which is erected or maintained contrary to this by-law.

6.1.9.5 Removal of Signs

Any sign which has been ordered removed by the Zoning Enforcement Officer, or which is abandoned or discontinued, shall be removed by the owner of the property within thirty (30) days of written notice to remove. Any sign not removed within the time limit shall be deemed a public nuisance. The Town of Plympton may seek the lawful removal of the sign and the cost of said removal, including legal fees and costs, and/or storage costs shall be borne by the property owner and may be recovered by the Town, if necessary, in an action in the appropriate court. A sign or structure removed by the Town shall be held for not less than thirty (30) days by the Town during which period it may be recovered by the owner upon payment to the Town of the cost of removal and storage, and upon payment of any fine which may have been imposed. If not recovered within said thirty (30) day period, the sign or structure shall be deemed abandoned and title thereto shall be vested in the Town for disposal in any manner permitted by law.

6.1.9.6 Penalties

Violation of any provision of this by-law or any lawful order of the Zoning Enforcement Officer shall be subject to a fine of \$300.00 per offense. Each day that such violation continues shall constitute a separate offense.

6.1.9.7 Special Permit to Exceed Requirements for Signs

The Plympton Planning Board, acting as the Special Permit Granting Authority, may issue a Special Permit to exceed the number, size, and/or illumination of signs within the zoning districts of the town. The Board's decision shall be based upon the following criteria:

- Any such signs shall be compatible with surrounding neighborhood, structure or buildings on the premise;
- Any such signs shall not cause visual pollution;
- There shall be no obstruction by the signs to traffic and no hazard to public safety.

6.1.9.8 Existing Signs

Any sign that was in existence prior to the Town Meeting vote of this revised by-law (May 18, 2011) shall come into compliance with this by-law by January 1, 2012, unless otherwise exempted as noted in Section 6.1.6 or satisfies the non-conforming provisions as noted in Section 6.1.8.

6.2 Non-conforming Uses

Except as hereinafter provided, this By-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on By-law required by MGL Chapter 40A, Section 5, but shall apply to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure or the construction of accessory building does not increase the non-conforming nature of said structure.

The Board of Appeals may permit the extension of a non-conforming building, structure or use throughout the premises, the enlargement or expansion of a non-conforming use on the same or on a contiguous lot and the change of any non-conforming use, provided such extension, enlargement, expansion or change will not be more detrimental or objectionable to the neighborhood and to the Town.

6.3 Trailers and Mobile Homes

- No mobile home or trailer shall be set upon private property in any district, for use as a dwelling, storage, sales or office space for a period of more than sixty (60) days except as authorized by special permit from the Board of Appeals.
- For use as a temporary dwelling, Board of Health approval for sewage disposal and potable water supply must be obtained prior to occupancy.
- This provision shall not prohibit the occupier of a residence destroyed by fire or natural holocaust from residing in a mobile home on the site for a period not to exceed twelve (12) months while the residence is being rebuilt.
- No lot, parcel or tract of land in any district shall be used for the purposes of a commercial trailer coach park.

6.4 Off-street Parking

6.4.1 General Provisions

Safe and convenient off-street parking shall be provided in all zoning districts in accordance with the requirement of this section. The parking criteria are directed toward lessening congestion and securing safety from personal injury or property damage on public and private ways and abutting lands in the Town of Plympton. Frequent parking of vehicles on a street adjacent to the premises shall be considered evidence of the inadequacy of the off-street spaces provided.

Any building or structure hereafter constructed for or converted to business use in any district shall be so located upon its parcel of land that there shall be provided an off-street parking area satisfactory to the Building Inspector. Such building or structure shall also be located upon its parcel of land that trucks or other vehicles

loading or unloading shall not project into the public way.

6.4.1.1 Relief by Special Permit

The Zoning Board of Appeals may grant a special permit which provides relief from portions of these regulations, if it finds that it is impractical to meet these standards and that a waiver of these regulations will not result in or worsen parking and traffic problems on the surrounding streets or adversely impact the value of abutting lands and buildings. The Zoning Board of Appeals may impose appropriate time, use or dimensional conditions on the granting of such a special permit.

6.4.2 Table of Parking Dimensions

The following standard parking dimensions shall govern the design of parking areas. All uses other than commercial (under 800 square feet gross floor area) and single family residential shall comply with these dimensional regulations, unless relief is granted by the Zoning Board of Appeals by Special Permit and subject to a Building Inspector site plan review, and it is determined that the granting of relief is consistent with the intent of this Bylaw and will not increase the likelihood of accident or impair access and circulation.

Standard Parking Dimensions

Width	Nine feet, zero inches (9'0")
Length	Nineteen feet, zero inches (19'0")

Aisle Width	AR	B	LM	I
Parking Angle	45 degrees	60 degrees	75 degrees	90 degrees
	14 feet 1	8 feet	22 feet	24 feet

Minimum Driveway Widths

One Way	12 feet
Two Way	20 feet

Parking Requirements:

Residential	2 spaces/unit
Elderly Residential	1.5 spaces/unit
Hotel/Motel	1 space/room plus 1 space/2 employees of 2 consecutive shifts
Medical & Dental	6 spaces/doctor or dentist
General Business	3.5 spaces/1000 sq. ft. of GFA*
Research & Development	3.5 spaces/1000 sq. ft. of GFA*
Sit Down & Take Out Restaurants	1 space/4 seats
Fast Food Restaurants	34 spaces/1000 sq. ft. of GFA*
Retail & Service Business	5 spaces/1000 sq. ft. of GFA*
Auditorium	1 space/3.5 seats
Clubs & Fraternal Lodges	1 space/4 seats in assembly area
Recreation	1 space/4 persons at capacity use
Manufacturing	2 spaces/1000 sq. ft. of GFA*
Warehousing & Wholesaling	1.25 spaces/1000 sq. ft. of GFA*

Banks	4 spaces/1000 sq. ft. of GFA*
Nursing & Convalescent Homes	1/4 space/bed plus 1 space/employee of 2 consecutive shifts
Churches & Funeral Parlors	1 space/4 seats
Institutions including: Hospitals, Public Building, Private Schools, Museums, Stadiums, Arenas, Transportation Terminals	1 space/4 persons at capacity use
Marinas	1 space/berth

*GFA= gross floor area

Uses not specifically identified shall be determined by a Site Plan Review

6.4.3 Additional Requirements

- a) Ample additional parking space of appropriate dimensions.
- b) Ample space shall be designated for access to loading and service doors, separate from all parking areas and without obstruction or hindrance of travel on streets, driveways and aisles.
- c) Parking areas shall be paved and graded at a 4 percent (4%) maximum slope.
- d) Parking areas for each land use shall be located on the same parcel unless a Special Permit is granted by the Zoning Board of Appeals to permit parking on a contiguous parcel.
- e) Adequate illumination and storm drainage shall be required in all commercial or institutional parking areas.
- f) Parking spaces shall be delineated by white or yellow pavement markings.
- g) Parking areas serving a clearly defined mixture of uses that do not place coincident peak demands on the parking area may have the parking space requirement reduced by 10 percent (10%) if lot size is from 50 to 99 spaces, and 15 percent (15%) if the lot size is 100 spaces or greater.
- h) Handicap spaces shall be provided in accordance with the Architectural Barriers Commission for all parking areas exceeding 24 spaces.

6.5 Accessory Buildings

No accessory building or structure in any district, except temporary produce stands, shall be located closer to the way or lot lines than the minimum distances stipulated for permitted buildings or structures in the same district.

6.6 Accessory Uses/Home Occupations

Accessory uses customarily incidental or necessarily essential to a permitted main use on the same premises including but not limited to the following:

- 1) Use of a room or rooms in a dwelling or accessory building for customary

home occupations or the practice of a recognized profession conducted by a resident of the premises.

- 2) Use of premises or buildings thereon in connection with his trade by a resident carpenter, electrician, painter, plumber, radio or television serviceman, real estate agent, or other artisan, providing that no manufacturing requiring substantially continuous employment be carried on.

Site Plans

6.7.1 Authority

A site plan shall be a prerequisite for a building permit in the Business, Light Manufacturing, and Industrial districts. Approval of a site plan by the Planning Board shall be required before any building permit may be issued with the exception of single and two family dwellings, farm buildings and accessory buildings to the same. The Planning Board shall approve a site plan that meets all the requirements of the Zoning By-law, taking into account comments received from other town authorities and citizens.

6.7.2 Submission Procedures

Applicants for site plan approval shall submit six (6) copies (or more as required) of the site plan to the Planning Board, at a regularly scheduled Planning Board meeting. The Planning Board shall note the date of filing on each plan and shall forthwith transmit one (1) copy of the plans to the Town Clerk.

The Planning Board, after determining that the application is complete, shall forward copies to other town authorities as appropriate for review and comment. Such authorities may include the Board of Selectmen, Building Inspector, Board of Health, Highway Surveyor, Police Chief, Fire Chief, Conservation Commission, Historic District Commission, and others deemed appropriate by the Planning Board.

Within forty-five (45) days of submission all comments must be returned to the Planning Board. The decision of the Planning Board shall be filed with the Town Clerk and Building Inspector within sixty (60) days of submission. This time limit may be extended by written agreement between the applicant and the Planning Board.

Approval of site plan requires a majority vote of the Planning Board. When disapproving a site plan, the Planning Board must clearly state the zoning provisions not met by the application. Failure to act on a site plan application within the required time shall be deemed to be an approval of the plan.

6.7.3 Appeals

Appeals of the site plan process shall be made with the Superior Court as provided in MGL Ch. 40A within twenty (20) days after the decision of the Planning Board has been filed with the Town Clerk.

6.7.4 Submission Requirements

Site plans shall be prepared by a registered land surveyor, professional civil engineer, or registered architect unless the project involves less than two thousand (2000) square feet of gross floor area. Site plans shall be submitted on standard 24"x36" sheets, with a 1"=20' scale preferred. The following information shall be

shown:

- The name of the project, date, names and addresses of the owners of record, developer, and seal of surveyor, engineer, or architect;
- The location and boundaries of the project, locus map showing site's location in the Town. North arrow and scale of plan, location and owners' names of all adjacent properties as found in the most recent tax list, assessors' map and lot number of property.
- All existing lot lines, easements, rights of way, zoning district boundaries, abutting land uses, the location and use of structures within two hundred (200) feet of the site on both sides of the street.
- The location and use of all existing and proposed building and structures, the percentage of building and total impervious coverage of the site, the height and floor area of all buildings, the distance of all required and proposed setbacks; front, side and rear.
- The location of all existing and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, paths, landscaping, walls, and fences, along with the location, type and screening details for all waste disposal containers.
- The location, height, bulb type and fixture type of all external lighting, the direction of illumination and methods to prevent glare onto adjoining properties.
- The location, height, size, materials, and design of all proposed signage.
- The location of all existing and proposed utility systems including: sewage or septic systems, water supply system, telephone, cable, and electrical systems, storm drainage system including drain lines, culverts, catch basins, manholes, headwalls, endwalls, drainage swales, and hydrants. Soil logs, percolation tests and storm run-off calculations may also be required by the Planning Board for environmentally sensitive projects.
- Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- The existing and proposed topography at two (2) foot contours, the location of wetlands, streams, waterbodies, areas subject to flooding, highest water table elevation and unique land features. Indicate whether the site falls into the Flood Plan and Watershed Protection District.
- Traffic flow patterns within the site, entrances and exits, loading areas, and curb cuts within three hundred (300) feet of the site on both sides of the road. Rush hour traffic counts may be required

- Areas of building to be used for a particular use such as retail operations, office, storage, etc., anticipated number of employees, anticipated seating capacity where applicable, number of parking spaces required for intended use, anticipated hours of operation
- Elevation plans at a scale of 1/4"=1' for all exterior facades of the proposed structures plus additions showing features and indicating the type of materials to be used.

6.7.5 Fees

The Planning Board shall require an application fee of one hundred (\$100) per one thousand (1000) square feet of gross floor area or three hundred dollars (\$300), whichever is greater, not to exceed the Town's actual cost of processing the application. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

6.7.6 (Reserved)

6.7.7 Waivers

The Planning Board may waive any information requirements it deems to be unnecessary to the review of a particular plan.

6.7.8 Regulations.

The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

6.7.9 Lapse

Site plan approval shall lapse after two (2) years from the grant thereof if a substantial use thereof has not sooner commenced. Such approval may be extended in writing by the Planning Board upon written request of the applicant.

6.8 Storage of Chemicals

Salt, snow melting chemicals or hazardous substances, including but not limited to pesticides, herbicides, preservatives and water soluble and volatile chemical compounds, and materials containing or coated with such chemicals susceptible to being carried into the groundwater aquifer, other than agricultural or horticultural by-products, shall be stored with sufficient protective cover so as to prevent occurrence of any leaching into the ground.

6.9 Lighting Systems and Fixtures

6.9.1 Purpose and Intent

Outdoor lighting is provided for a variety of purposes to the benefit of modern society. It enables people to see essential detail to conduct work or recreation activities at night. It facilitates safety or security of persons or property, for example through lighting on roads and pathways. Outdoor lighting may be used to emphasize features of architectural or historical significance. It is used to call attention to commercial premises by means of area lighting or signs. At times, the pursuit of these purposes through the selection of specific lighting fixture and systems might, in unintended

ways, interfere with safety and security (by causing glare that minimizes visibility), and infringe upon the ability of residents to enjoy the nighttime environment. In addition, some lighting fixtures and systems waste public and private resources by consuming more energy than is required to meet the lighting goals at hand.

The purpose of this Bylaw is to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property, through ensuring the use of appropriate lighting practices and systems. Such practices, lighting fixtures, and systems--while designed, constructed, and installed such that they maintain safety, security, and productivity--also control glare and light trespass, conserve energy and resources, minimize obtrusive light, and curtail the degradation of the nighttime visual environment. Appropriate systems, therefore, will decrease lighting costs and preserve the night sky as a natural and historical resource without negatively impacting the benefits of lighting in a modern society.

6.9.2 Applicability

The requirements of this provision shall apply to any new or replacement municipal, industrial, commercial, and special permit uses in any district. This provision also shall apply to any new sign sited in any district and also to any new multi-family uses in any district.

6.9.3 Definitions

Except as noted hereinafter, all definitions are provided in the Zoning Bylaw. Unless the context clearly indicates otherwise, certain words and phrases used in this section shall mean the following:

“Lamp” means the component of an outdoor light fixture that produces light.

“Direct Light” means light emitted directly by a lamp, off a reflector, or through a refractor of an outdoor light fixture.

“Light Trespass” means direct light emitted by an outdoor lamp fixture that shines beyond the boundaries of the property on which the outdoor light fixture is installed.

“Up-light” means direct light emitted by an outdoor light fixture above a horizontal plane through the fixture’s lowest light emitting part.

“Shielded” when referring to an outdoor light fixture means that the fixture allows no up-light.

“Filtered” when referring to an outdoor light fixture means that the fixture is to be fitted with a glass, acrylic, or other translucent enclosure of the light source.

6.9.4 Shielding

All outdoor light fixtures subject to this bylaw shall be shielded.

6.9.5 Prohibited Light Sources:

6.9.5.1 Mercury Vapor and Quartz Lamps: For the purposes of this bylaw, quartz lamps shall not be considered an incandescent light source.

- 6.9.5.2 Laser Source Light: The use of laser source light or any similar high intensity light for outdoor advertising, when projected above the horizontal, is prohibited.
- 6.9.5.3 Searchlights: The operation of searchlights for advertising purposes is prohibited.

6.9.6 Metal Halide Lighting

All outdoor light fixtures utilizing a metal halide lamp or lamps shall be shielded and filtered. Filtering using quartz glass does not meet this requirement.

6.9.7 Outdoor Advertising Signs:

Outdoor light fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure.

6.9.8 Outdoor Landscaping and Decorative Lighting

All outdoor light fixtures subject to this Bylaw and used to illuminate landscape features, and other objects shall be shielded and mounted so that they allow no up-light.

6.9.9 Outdoor Light Output Specifications

- (i) Total outdoor light output of any site, excluding street lights used for illumination of public rights-of-way, shall not exceed fifty thousand (50,000) lumens per acre, averaged over the entire property.
- (ii) No more than five thousand, five hundred (5,500) lumens per acre may be accounted for by lamps in unshielded fixtures permitted in section 6.9.10 of this bylaw.
- (iii) At no point along the property line shall the measured light exceed two-tenths (0.2) of a foot candle.
- (iv) No lamp shall be visible to a person of average height standing on the property line.

6.9.10 Exemptions

- (i) Fossil Fuel Light: All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels are exempt from all requirements of this Bylaw.
- (ii) Other Light Sources: All outdoor light fixtures using an incandescent lamp or lamps of 150 watts or less are exempt from all requirements of this bylaw. All outdoor light fixtures using any lamp or lamps of fifty (50) total watts or less are exempt from all requirements of this bylaw.
- (iii) Displays of the United States Flag: Flagpoles displaying the United States flag are exempt from this bylaw, provided that the sole objective of the illumination is the United States flag and the illumination does not fall upon

any commercial signage. For purposes of enforcement, this means that no more than 0.2 (two-tenths) foot-candles of illumination may fall upon any commercial signage.

(iv) Short-term lighting: Any site shall be allowed to exceed the specification of this bylaw, provided that all of the following conditions are met:

(a) the use of such lighting is for any 21 consecutive calendar days or partial days or less; and

(b) the total number of days that any one site may be exempted by this provision shall not exceed 45 days (or partial days) per calendar year.

6.9.11 Special Permit Alternative

Outdoor light fixtures may be allowed by special permit if it is found that: (1) significant light pollution will not be created, (2) light trespass will not exceed two tenths (0.2) of a foot-candle at the property line, and (3) no lamp is visible to a person of average height standing on the property line.

(i) Special Permit Granting Authority

The Planning Board shall be the Special Permit Granting Authority for the provisions of this section of the bylaw.

6.10 Solar facilities.

6.10.1 Purpose.

6.10.1.1 The purpose of this section is to establish general guidelines for the siting of solar photovoltaic facilities, hereinafter referred to as solar facilities. The goals of this section are to:

a. Promote the health, safety and general welfare of the community by allowing the generation of sustainable energy with as-of-right siting of solar facilities in order to reduce air pollution and greenhouse gases, protect environmental resources, and foster sustainable economic development.

b. Protect, conserve and improve the unique visual quality and historic character of the Town of Plympton while simultaneously supporting the needs of the property owners.

c. Provide standards for the placement, design, construction, operation, monitoring, modification and removal of solar facilities. Such siting standards shall address public safety, minimize impacts on natural resources, and provide adequate financial assurance for the eventual decommissioning of such facilities.

6.10.1.2 It is not the purpose of this section to prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the

collection of solar energy per M.G.L. c. 40A, § 3, except where necessary to protect the public health, safety or welfare.

6.10.2 Applicability.

6.10.2.1 These requirements apply to all solar facilities proposed to be constructed after the effective date of this section.

6.10.2.2 These requirements also pertain to physical modifications that alter the type, configuration, or size of these installations or related equipment.

6.10.2.3 These requirements do not apply to minor modifications or maintenance of a solar facility.

6.10.2.4 Solar facilities shall be allowed on parcels of land in any zoning district.

6.10.3 Definitions.

As-of-Right Siting. As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to non-discretionary site plan review by the Planning Board to determine conformance with local zoning bylaws. It will also be subject to other board review, including but not limited to the Conservation Commission, where such review is within the boards' jurisdiction, and must meet applicable state and federal law. As-of-right development projects that are consistent with all local bylaws, rules and regulations and with state and federal law cannot be prohibited.

Project site. A parcel or combination of parcels, which the solar facility operator has control of, on which the solar facility is or will be located.

Rated nameplate capacity. The maximum rated output of electric power production equipment in direct current (DC). This output is typically specified by the manufacturer with a "nameplate" on the equipment.

Site plan review. Review by the Planning Board to determine conformance with Plympton's Zoning By-laws. The Planning Board may also request review by other Town Boards, , including but not limited to, review by the Conservation Commission where such review is within that Board's jurisdiction. .

Solar Energy System. A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Ground-Mounted Solar Energy System. An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Large-Scale Solar Energy System. An Active Solar Energy System that occupies more than or equal to 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Medium-Scale Solar Energy System. An Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 – 250 kW DC).

Roof-Mounted Solar Energy System. An Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Small-Scale Solar Energy System. An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).

Solar facility. A facility comprised of one or more solar panels, as well as all access roads and appurtenant structures.

6.10.4 General requirements.

6.10.4.1 Large scale ground mounted solar facilities. Ground mounted solar facilities shall be allowed in all zones and permitted only by as-of-right site plan review from the Planning Board pursuant to this section, as well as review by other bodies, including but not limited to, review by the Conservation Commission. The review is subject to the following conditions:

a. Site plan review. No large scale ground mounted solar facility shall be constructed, installed or modified as provided in this section without first obtaining site plan review approval by the Plympton Planning Board in compliance with subsection 6.10.5 of this section, as well as review by other bodies, including but not limited to, review by the Conservation Commission.

b. Monitoring and maintenance. The solar facility shall comply with subsection 6.10.5.5 of this section.

c. Site control. The applicant shall submit with its application for site plan review, documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Notice of change of ownership shall be given to the Planning Board in compliance with subsection 6.10.5.6 of this section.

d. Parcels without frontage. Projects for landlocked parcels shall be considered as long as the following conditions can be met:

- i) The owner has demonstrated a permanent easement to a public way
- ii) The parcel was landlocked prior to May 16, 2012
- iii) The parcel is a minimum of five (5) acres

d. Financial surety. The applicant shall provide financial surety documentation if so required by the Planning Board as determined in compliance with subsection 6.10.5.7.3 of this section.

e. Compliance with laws, ordinances and regulations. The construction and operation of all large scale ground mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not

limited to all applicable safety, construction, electrical and communications requirements.

f. Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

6.10.4.2 Medium and small scale ground mounted solar facilities. Medium and small scale ground mounted solar facilities shall be allowed as-of-right with a building permit in all zones provided that they meet the following conditions:

a. Compliance with laws, ordinances and regulations. The construction and operation of all medium and small scale ground mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.

b. Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance to the building commissioner in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

c. Design standards. The solar facility shall comply with subsection 6.10.5.2 design standards and subsection 6.10.5.3 environmental standards where applicable.

d. Monitoring and maintenance. The solar facility shall comply with subsection 6.10.5.5 of this section.

6.10.4.3 Roof mounted solar facilities. Roof mounted solar facilities shall be allowed as-of- right with a building permit in all zones provided that they meet the following conditions:

a. Compliance with laws, ordinances and regulations. The construction and operation of all roof mounted solar facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical and communications requirements.

b. Proof of liability insurance. The applicant shall be required to provide evidence of liability insurance to the building commissioner in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility.

c. Structural engineering report. A structural engineering report may be required by the building commissioner illustrating the structural integrity of the structure and its ability to support the proposed roof mounted solar facility.

d. Monitoring and maintenance. The solar facility shall comply with subsection 6.10.5.5 of this section.

6.10.5 Site plan review.

6.10.5.1 Submittal requirements. The project proponent is required to provide the Plympton Planning Board with the following, which shall then be distributed to the Conservation Commission and other Town Boards:

a. Application. Two original application forms and a designer's certificate.

b. Fees. Required fees.

c. Siting and design. Eight full copies of a site plan. The plan shall be on 24" × 36" sheets at a scale of 1"=40' or 1"=200', as appropriate, on as many sheets as necessary. Site plans shall be prepared by a Massachusetts licensed professional engineer and/or a registered land surveyor, as applicable. The site plan shall include the following:

i) Location map. Copy of the most recent USGS quadrangle map, at a scale of 1:25,000, showing the proposed facility site and the area within at least two miles from the facility.

ii) Site plan. A one inch equals 200 feet plan of the proposed solar facility site, with contour intervals of no more than ten feet, showing the following:

- a) Property lines and physical dimensions of the project site and adjacent parcels within 100 feet of the project site;
- b) Location of permanent structures or buildings on the project site and on adjacent parcels of the project site;
- c) Location and details of all security measures for the site; and
- d) Location of all existing and proposed roads, both public and private, on the project site.

iii) Project plan. A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures shall include the following:

- a) Proposed changes to the landscape of the site, grading, vegetation to be removed or altered, amenities such as lighting or fencing, screening vegetation or structures, and wetlands delineation. Lighting shall be designed to minimize glare on abutting properties and be directed downward with full cutoff fixtures to reduce light pollution;
- b) Location of the ground mounted solar facility, type of mounting devices, access roads, lighting, ground equipment, fencing, electrical infrastructure, and associated equipment;
- c) Plans for accessory buildings or other structures, and location

- and details of all planned security measures;
 - d) Layout and details of surfacing for access roads and parking including temporary roads and staging areas; and
 - e) Any existing overhead utility lines.
- d. Operation and maintenance plan. The applicant shall submit a plan for the general maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the ground mounted solar facility.
- e. Schematics.
- i) Schematic or blueprints of the ground mounted solar facility signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed structures and any shading from nearby structures;
 - ii) Schematic or outline electrical diagram showing proposed solar panels, associated components and electrical interconnection methods, all with National Electrical Code compliant disconnects and overcurrent devices;
 - iii) Description of the major system components to be used including the photovoltaic panels, mounting system and inverter.
- f. Compliance documents. The applicant will provide the following with the application:
- i) A description of financial surety that satisfies subsection 6.10.5.7.3 of this section;
 - ii) A fully inclusive estimate of the costs associated with removal of the solar facility, prepared by a qualified third party expert, which shall include a mechanism for calculating increased removal costs due to inflation.
 - iii) Proof of liability insurance that satisfies subsection 6.10.4.1.g of this section;
 - iv) Name, address, and contact information for:
 - a) Proposed system installer,
 - b) The landowner,
 - c) The project proponent, as well as all co-proponents; and
 - d) Any agents representing the applicant.
 - v) The Planning Board and the other reviewing bodies, including but not limited to, the Conservation Commission may require additional information, data or evidence as it deems necessary pursuant to the site plan review process.
 - vi) Evidence of utility notification that satisfies subsection 6.10.5.1.g of this section and 6.10.5.2.7.

g. Notification.

i) Property Owners. List of property owners and their addresses for all parcels of land within 300 feet of the project site, to be obtained from the most recent property list from the Plympton Assessor's Office;

Provide stamped A10 sized envelopes representing twice the number of abutters listed above to be used by the Planning Board to mail notice of the site plan review hearing and notice of decision.

The applicant shall be responsible for the cost of publication of the public hearing notice.

ii) Utility notification. Before installation of the solar facility, the applicant shall inform the utility company that operates the electrical grid where the facility is to be located of its intent to install an interconnected generator and shall satisfy all interconnection agreements.

h. Waiver of documents. The Planning Board reserves the right to waive documentary requirements as it deems appropriate, unless required by another reviewing body, including but not limited to, the Conservation Commission.

6.10.5.2 Design standards

6.10.5.2.1 Screening

6.10.5.2.1.1 A ground mounted solar facility shall be screened from abutting properties.

6.10.5.2.1.2 Screening shall consist of landscaping, fence, grassed earthen berm, or some combination of these screening devices. If utilizing a natural buffer, it shall be maintained above the highest level of the solar panels. When a screen consists of plant materials, said materials shall provide screening at the time of planting and be of a type that will be expected to form a year-round, dense screen.

6.10.5.2.1.3 Every abutting agricultural/residential property shall be visually and acoustically screened from the installation through either existing vegetation or new plantings of not less than 8 feet in height at the time of planting staggered at a spacing of no more than 8 feet apart throughout the required setback dimensions. All required plantings shall be maintained throughout the project's life, and replaced as necessary. As an alternate to providing the required screening through vegetation, it is acceptable to increase the setback to 600 feet on the applicant's property while providing an acceptable alternate screening such as a stockade fence and single row of vegetation in close proximity to the project.

6.10.5.2.1.4 The provided screening shall obscure from view on all sides at least 50%, or 100% if the project is located in the Residential-Agricultural zoning district, of the project from adjacent properties, including upper levels of existing structures at the time of construction, within three years of the start of construction or earthwork activities. Security fences, roadways, and equipment shall not be placed within the required setback, except for that which is required to access the site from an adjacent roadway, or to transmit the generated power to the grid.

6.10.5.2.1.5 Abutting residential uses. When such facility is directly abutting existing residential uses, such screening shall consist of:

- a. Project site of less than two acres: Screening as determined to be adequate in the form of either vegetation or fencing.
- b. Project site of between two and five acres: A minimum of 75 feet of vegetation buffer with 50 feet being undisturbed closest to the residential property, and the other 25 feet being allowed to be selectively cleared in accordance with 6.10.5.3.5.
- c. Project site of greater than five acres: A minimum of 100 feet of vegetation buffer with 50 feet being undisturbed closest to the residential property, and the other 50 feet being allowed to be selectively cleared.
- d. Permit for screening reduction: An applicant may request permission to reduce such buffer requirements in such instances it is determined to not have a detrimental effect to the abutters and in such instances where the buffer will have a detrimental effect on the ability to generate power.

6.10.5.2.1.6 Abutting nonresidential uses including public accepted streets. Screening as determined to be adequate in the form of either vegetation or fencing.

6.10.5.2.2 Control of Vegetation. Mowing or the use of pervious pavers or geo-textile materials underneath the facility is the preferred method of vegetation control. Herbicides may only be used where it can be demonstrated that no danger is posed to groundwater supplies, or to local agricultural activities. The Agricultural Commission and Board of Health are to approve all proposed herbicides.

6.10.5.2.3 Signage. Signs on the solar facility shall comply with the requirements of Section 6.1 of the Plympton Zoning By-laws. Signage at all site entrances shall be required to identify the owner and provide a 24-hour emergency contact phone number. These signs shall not be used for the display of any advertising.

6.10.5.2.4 Lighting. Lighting of solar facilities shall comply with the requirements of Section 6.9 of the Plympton Zoning By-laws. Lighting shall be limited to that

required for safety and operational purposes, and shall be shielded to eliminate glare from abutting properties, shall be directed downward and shall incorporate cut-off fixtures to reduce light pollution.

6.10.5.2.5 Utility connections. Reasonable efforts should be made to locate utility connections for ground mounted solar facilities underground, depending on appropriate soil conditions, shape and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground, if required by the utility provider. All solar facility installations shall conform to the requirements of the interconnection agreement and/or such further requirements as may be promulgated from time to time, as appropriate and as approved by the connecting utility.

6.10.5.2.6 Appurtenant structures. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers and substations, shall be architecturally compatible with each other. Structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts. Appurtenance structures shall not exceed 15' in height and shall meet the regulations for accessory structures as determined by the Building Department.

6.10.5.2.7 Emergency services. The applicant shall provide a copy of the project summary and site plan to the Plympton Fire and Police Departments. The applicant shall cooperate with the Fire and Police Departments in developing an emergency response plan. All means of disconnecting the solar facility shall be clearly marked, and training required to allow emergency response personnel to safely shut down the facility in event of an emergency provided at no cost to the Town as requested by the Town. Site access shall be conducive to emergency vehicle travel to allow for unimpeded access around the site at all times. Access requirements, not limited to gating, road widths and surfaces, etc. will be reviewed during the site plan review process, with approval being at the discretion of the Fire Chief. The applicant or facility owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.

6.10.5.2.8 Unauthorized access. All solar facilities shall be designed to prevent unauthorized access in compliance with any and all federal, state and local regulations. Electrical equipment shall be locked where possible. Where installed, video surveillance cameras shall be oriented in such a fashion so as to minimize capturing activity outside the solar facility.

6.10.5.3 Environmental standards.

6.10.5.3.1 Land clearing. Clearing of natural vegetation shall be limited to what is necessary for the construction, access to, operation and maintenance of the ground mounted solar facility or otherwise prescribed by applicable laws, regulations and ordinances. Clear cutting is prohibited within the setback area unless pre-approved and with the understanding that trees and/or vegetation of significant size and

screening ability will be planted and/or fencing installed in order to mitigate any visual or environmental impact on the abutters and/or the rural nature of the Town.

6.10.5.3.2 Rare and endangered species. The applicant shall provide evidence of compliance with the Massachusetts Endangered Species Act and requirements of the Commonwealth of [Massachusetts] Natural Heritage and Endangered Species Program.

6.10.5.3.3 Wetlands. The applicant shall provide evidence of compliance with the Massachusetts Wetlands Protection Act, the Massachusetts Rivers Protection Act and the Town of Plympton Wetlands Protection Ordinance. Such evidence is subject to review and approval by the Plympton Conservation Commission.

6.10.5.3.4 Stormwater. The applicant shall demonstrate compliance with all local, state and federal stormwater management laws and regulations.

6.10.5.3.5 Selective Clearing.

6.10.5.3.5.1 Selective clearing may be done with one or more of the following conditions:

- a. If the selective removal of a species of plant, a group of species of plants, a story or group of story in whole or in part does not affect the growth of other trees or plants, and is done according to criteria regarding minimum tree size for harvesting, specifications of the number, spacing and size classes of residual trees per area, and allowable cut.
- b. If vegetation or trees to be cut, trimmed or removed are those that restrict the effective functioning of the solar collectors and/or access to the solar field by routine and/or emergency services

6.10.5.3.5.2 All trees scheduled to be removed shall be visibly marked or flagged by the Contractor prior to seeking confirmation from the Town. The Town agent/Engineer will inspect the identified trees and verify the limits of clearing and thinning prior to the Contractor proceeding with his cutting operation.

6.10.5.4 Action by the Planning Board. Site plan review shall be conducted in accordance with the notice, hearing and filing procedures set forth in [M.G.L.] c. 40A for special permits, except as otherwise set forth in this section. After determining if the site plan is in conformance with the requirements of this Bylaw, and after considering the criteria set forth in this section, the Planning Board may approve, approve with modifications, or grant leave to withdraw. Approval may be subject to any conditions, modifications and/or restrictions as the Planning Board may deem necessary. Leave to withdraw by the Planning Board must be supported by written findings.

6.10.5.5 Monitoring and maintenance.

6.10.5.5.1 Facility conditions. The applicant shall maintain the solar facility in good condition. Maintenance shall include but not be limited to vegetation upkeep,

structural repairs and the integrity of security measures. Site access shall be maintained to a level acceptable to the local fire chief, local emergency planning committee and emergency medical services. The project owner shall be responsible for the cost of maintaining the solar facility and any access road, unless accepted as a public way, and the cost of repairing any damage as a result of operation and construction. The project owner shall also be responsible for ensuring that the solar facility does not at any time lower the quality of service supplied to nearby customers or cause safety problems to the interconnected electrical grid.

6.10.5.5.2 Modifications. All modifications to a large scale ground mounted solar facility, other than regular maintenance, made after issuance of the site plan review approval shall require approval by the Planning Board as provided in this section.

6.10.5.6 Change in ownership. If the owner and/or operator of a large scale ground mounted solar facility changes, notice shall be given to the Planning Board with the contact information of the new owner/operator within one month of the change in ownership and/or operations.

6.10.5.7 Abandonment or decommissioning.

6.10.5.7.1 Removal requirements. Any large scale ground mounted solar facility which has reached the end of its useful life or has been abandoned consistent with subsection 6.10.9.2 of this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all solar panels, structures, equipment, security barriers and electrical lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping, designated below-grade foundations or service roads in order to minimize erosion and disruption to vegetation.

6.10.5.7.2 Abandonment. Absent notice of a proposed date of decommissioning, the large scale ground mounted solar facility shall be considered abandoned when the facility fails to operate for more than one year without written consent of the Planning Board. The Planning Board shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the large scale ground mounted solar facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the authority to enter the property and physically remove the facility.

6.10.5.7.3 Financial surety. The Planning Board shall require the applicant for a large scale ground mounted solar facility to provide a form of surety, either through escrow account, bond or otherwise, to cover the estimated cost of removal in the event that the Town must remove the facility, of an amount and form determined to be reasonable by the Planning Board, but in no event to be less than 75% nor to exceed more than 125 percent of the estimated cost of removal and compliance with the additional requirements set forth herein, in accordance with 6.10.5.7. Such surety will not be required for municipally or state owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, in accordance with 6.10.5.7.

SECTION 7 SPECIAL PERMITS

7.1 General Provisions

Special permit issued by the Zoning Board of Appeals or such other special permit granting authority as is provided by this By-law, shall be required for certain uses in specific districts. Such a special permit may be issued for specified uses only which are in harmony with the general purpose and intent of this By-law, shall be subject to general and specific provisions as stated herein, and such conditions, safeguards and limitations on time, space and use as the special permit granting authority, named herein, may reasonably require.

7.1.1 The special permit granting authority shall take into account the general purpose and intent of this By-law and in order to preserve community values, may impose conditions and safeguards deemed necessary to protect the surrounding neighborhood, in addition to the applicable requirements of this By-law.

Such conditions and safeguards may include but are not limited to the following:

1. Front, side or rear yards greater than the maximum required by this By-law.
2. Screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.

7.1.2 Special permits shall only be issued for uses which are in harmony with the general purpose and intent of this By-law and subject to its general or specific provisions and only if the special permit granting authority finds that the following conditions are met:

1. The use is not noxious, harmful or hazardous, is socially and economically desirable and will meet an existing or potential need.
2. The advantages of the propose use out-weigh any detrimental effects, and such detrimental effects on the neighborhood and the environment will not be significantly greater than could be expected from development which could occur if the special permit were denied.

3. The applicant has no reasonable alternative available to accomplish this purpose in a manner more compatible with the character of the immediate neighborhood.

7.1.3 No special permit shall be issued except following a public hearing within sixty-five (65) days after the filing of the application with the granting authority, a copy of which is forthwith given to the Town Clerk by the applicant.

Such special permit shall provide, as a condition thereof, that it shall lapse if a substantial use is not commenced within two (2) years, except for good cause.

7.2 Uses Authorized By Special Permit

No special permit may be issued for the following specific uses except in accordance with the conditions and requirements for each listed use as determined by the designated Special Permit Granting Authority. The Board of Appeals shall be the Special Permit Granting Authority except where otherwise specified.

Accessory Uses: In connection with scientific research or development. Use must be necessary to the permitted use, but not need by located on the same parcel.

Adult Entertainment: Special Permits for adult book stores, adult motion picture theaters, adult paraphernalia stores, adult clubs, adult mini motion picture theaters, adult video stores and massage service establishments shall not be granted to any person convicted of, admitting of sufficient facts to, or pleading nolo to the provision of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272 Section 28 or convicted of, admitting of sufficient facts to, or pleading nolo to a felony. Persons should include any permit applicant, any corporation with such a person as an officer, and any trust with such a person as a trustee.

Special Permits granted for adult book stores, adult motion picture theaters, adult paraphernalia stores, adult clubs, adult mini motion picture theaters, adult video stores, and massage service establishments shall lapse within one (1) year, excluding such time to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17, from the grant thereof if a substantial use thereof has not sooner commenced except for good cause or, in the case of Permit for Construction, if construction has not begun by such date except for good cause.

Any commercial establishment or activity that promotes or portrays, under the guise of entertainment or education, sexual abuse of or by or among men, women, and children, and any such abusive activity that threatens their health and the health of a community shall not be granted a Special Permit in the Town of Plympton. Furthermore, any such commercial establishment or activity that violates the community standards of said town shall not be granted a permit in the Town of Plympton.

Boat or Canoe Livery: Site plan showing sufficient parking area, entrance and exit, docks and beach areas.

Cemetery: Site plan showing driveways, parking areas, means of entrance

and exit. Notice to Board of Health by applicant.

Club or Lodge, not for profit: Site plan showing sufficient parking area for a stated capacity, means of entrance and exit and fences or plant screening from abutting properties.

Commercial Riding Stable: Site plan showing sufficient parking area, entrance and exit. Provision for on site storage of manure. Notice to Board of Health by applicant.

Commercial Vehicle Storage: In considering a Special Permit for storage of more than the allowed number of commercial vehicles the Board of Appeals shall consider the proposed use and the character of the surrounding neighborhood. In granting such a permit the Board may impose conditions on the number and size of additional vehicles, their hours of use, and other conditions it deems necessary.

Conversion of a Single Family to a Two Family Dwelling: Dwelling must have been existing at the time this provision of the By-law was adopted. Alterations of the structure shall not substantially increase or change the exterior size and residential character and appearance. At least two (2) off street parking spaces.

Extension of a Non-conforming Use of a Building, Structure or Land: No more than a fifty percent (50%) expansion of the original gross floor area, and a finding that the change shall not be substantially detrimental to the area than the existing use.

Flood Plain and Watershed Protection District: For uses by special permit refer to section 8.1.4.

Funeral Home: Site plan showing parking for a stated number of vehicles, means of entrance and exit. Notice to the Board of Health by applicant.

Golf Course: Site plan showing drainage, driveways, entrances and exits, location of water supply and septage disposal; said plan to be consistent with Planning Board subdivision control rules and regulations. Application of fertilizers, pesticides, fungicides, and herbicides will be in conformance with manufacturers' instructions and subject to the requirements of Section 8.3 Groundwater Protection Districts. The Planning Board is the SPGA.

Groundwater Protection Districts: For uses by Special Permit refer to Section 8.3.5 and 8.3.6.

Guest House /Tourist Home: Site plan showing adequate parking for a stated capacity. Notice to Board of Health by Applicant. Permit to be limited to a maximum period of five (5) years, with annual renewal upon application without a public hearing.

Industrial District: Any establishment which discharges into the ground,

waste water, containing chemical substances not normally present in domestic wastewater, or maintains an impervious area in excess of one (1) acre, shall require a special permit.

Kennel for Raising, Boarding, and Breeding Dogs: Permit to state maximum capacity. Notice to Board of Health by Applicant. Permit to be limited to a maximum period of five (5) years with annual renewal upon application without a public hearing.

Light Manufacturing District: Any establishment which employs over twenty (20) persons or discharges into the ground wastewater containing chemical substances not normally present in domestic wastewater; or maintains an impervious area in excess of one (1) acre, shall require a special permit. (See also Section 9).

Motel: Permit to state maximum capacity. Site plan showing adequate parking, means of entrance and exit. Notice to Board of Health by applicant. Permit limited to a maximum period of five (5) years with annual renewal upon application without public hearing.

Multi-Family Dwellings for Elderly and Handicapped Persons:

1) Authority

A building or group of buildings specifically designated for elderly and handicapped persons may be permitted by issuance of a special permit by the Board of Selectmen as the Special Permit Granting Authority.

2) Purpose

The availability of suitable housing for elderly and handicapped residents of the Town of Plympton is determined to be of public benefit, and the purpose of this section is to provide a means to meet this present and future need. It is intended that such housing may be permitted within the Town of Plympton in a density of which ever is the greater number: forty (40) dwelling units or that number of dwelling units determined as the ratio of one (1) such unit to each fifty (50) residents of the Town as determined by the latest state or federal census.

It is also intended that the special permit granting authority shall consider the effect of such use upon the present ability of the Town to provide municipal services and the relationship of such use to the capital improvement program of the Town and the continued ability to provide services.

3) Definitions:

Elderly Persons: Persons who have reached the age of sixty-two (62).

Handicapped Persons: Persons who have an impairment duration and which substantially impedes the ability to live independently in conventional housing.

Dwelling Unit: For the purpose of this section, a dwelling unit shall be a single housekeeping unit with provisions for sleeping, cooking and sanitation.

4) Required Conditions

The special permit granting authority under this section shall require the following as conditions to such special permit.

- 4.1 Lot Size:** Not less than one quarter (1/4) acre per dwelling unit with minimum lot size ten (10) acres.
- 4.2 Lot Access:** Not less than forty (40) feet in width.
- 4.3 Building Height:** Not more than two (2) stories.
- 4.4 Unit Size:** The minimum interior floor area of a dwelling unit shall not be less than four hundred eighty (480) square feet
- 4.5 Special Provisions for Handicapped Persons:** Dwelling units and common areas on the ground floor shall be constructed in such a way as to meet the special needs of the handicapped
- 4.6 Parking:** A minimum of one and one half (1 1/2) parking spaces shall be provided for each dwelling unit.

5) Site Plan Review

5.1 Site Plan - A Condition of the Special Permit: The Special Permit Granting Authority shall require a site plan, which shall be a condition to the special permit. The purpose of the site plan is to ensure that design and layout of the specially permitted use will be suitable for the purpose and will not result in a detriment to the neighborhood or to the environment.

5.2 General Review

The applicant for the special permit shall file copies of the application and the site plan in the form and quantities specified in the rules and regulations adopted by the Special Permit Granting Authority. Review of the site plan shall consider provisions that will ensure:

5.2.1 Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against light, sight, sound, dust, vibration, and preservation of light and air.

5.2.2 Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas.

5.2.3 Adequacy of the methods for disposal of wastes.

5.2.4 Protection of environmental features on the site and in adjacent areas.

5.3 Elements of the Site Plan: The site plan shall show all existing and proposed buildings, existing and proposed contour elevations, structures, parking spaces, driveway openings, driveways, service areas, facilities for sewage, refuse, and other waste disposal, and for surface water drainage, wetlands, surface water, areas subject to one hundred year flood, and landscape features such as fences, walls, planting areas, walks, and lighting, both existing and proposed. The site plan shall also show the relation of the above features to adjacent ways and properties. The site plan shall also show all contiguous land owned by the applicant or by the owner of the property which is the subject of the application.

5.4 Soil Conditions: The applicant shall submit material as may be required regarding measures proposed to prevent pollution of surface or groundwater, soil erosion, increased runoff, changes in groundwater level, and flooding.

5.5 Landscaping: The applicant shall submit such material as may be required regarding design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors.

5.6 Traffic Flow: The applicant shall submit such material as may be required regarding the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.

5.7 Water Supply: The applicant shall submit such material as may be required regarding the location of wells and other sources of potable water, together with lagoons, ponds, or water storage towers with sufficient capacity for fire protection.

6) Review by Other Town Boards: The Special Permit Granting Authority may submit applications and site plans to other boards, such as but not limited to the Planning Board, Board of Health, the Conservation Commission, and the Council on Aging. The Council on Aging may be authorized by the Special Permit Granting Authority to maintain a list of resident applicants, such a list to be reviewed annually, and it shall be a condition to any special permit that due consideration of such list shall be included in the tenancy policies of the applicant. The Special Permit Granting Authority may submit the application together with conceptual and site plans to a Housing Committee for review and recommendations as to general design. Such committee shall be composed of four (4) members from the Council on Aging, and three (3) other residents of

the Town of Plympton. Selectmen are SPGA.

Parking: For relief from parking regulations by special permit see Section 6.4.1.1.

Raising and Sale of Furbearing Animals: Notice to Board of Health by Applicant. Permit limited to maximum period of five (5) years with annual renewal upon application without a public hearing. Such activity is to be carried out at least five hundred (500) feet from any property line.

Temporary Sawmill: Site plan showing location of buildings, areas for storage of logs, lumber, and waste materials; provision for restoration of site and performance bond. Permit limited to maximum of two (2) years. Notice to Conservation Commission by applicant.

Trailers: The Board of Appeals shall require full compliance with lot area and setback requirements of this By-law and such conditions deemed necessary and appropriate in granting such special permits. No special permit shall be granted for a period in excess of one (1) year. See also the requirements in Section 6.3

Use of Land and Structure in Historic Districts Subject to requirements of Section 8.2 (Special Regulations- Special Permit may not be required under the By-law).

Wind Energy Conversion Systems: Including but not limited to windmills: Rules relative to the issuance of such a Special Permit are on file with the Planning Board and in the office of the Town Clerk. The Planning Board is the SPGA.

Wireless Communications Services District: For use by Special Permit refer to Section 8.4. The Planning Board shall be the SGA.

SECTION 8 SPECIAL DISTRICTS

8.1 Flood Plain and Watershed Protection District

8.1.1 Purpose and Applicability

The purpose of this Flood Plain and Watershed Protection District is to protect the health and safety of persons against the hazards of flooding, to conserve the value of land and buildings, to facilitate the adequate provision of a water supply through preservation and maintenance of the groundwater table, to protect and to preserve the marches, bogs, ponds and water courses and their adjoining wetlands, to encourage the most appropriate use of wetlands, to encourage the most appropriate use of the land and to preserve and increase the amenities of the Town. This section does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of the necessity of complying with other sections of this By-law or other applicable laws, regulations or by-laws.

A Flood Plain and Watershed Protection District shall be considered to be superimposed over any other district established by this By-law.

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Plympton

designated as Zone A or AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Plympton are panel numbers 25023C0214J, 25023C0218J, 25023C0326J, 25023C0327J, 25023C0328J, 25023C0329J, 25023C0331J, 25023C0332J, 25023C0333J, 25023C0334J, 25023C0337J, and 25023C0341J dated July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 17, 2012 and are shown on the Zoning District Map of the Town of Plympton. The District may include land outside of the FEMA special hazard flood areas. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission.

8.1.2 Permitted Uses

Subject to the special conditions of this section, land in a Flood Plain and Watershed Protection District may be used for any purpose otherwise permitted in the underlying district except that no building or other structure shall be constructed except duck blinds or structures necessary for the cultivation of cranberry bogs or for the propagation of fish.

1. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

8.1.3 Prohibited Uses

No dumping, filling, storage, transfer, dredging or removal of any material, which will reduce the natural water storage capacity of land or will interfere with the natural flow of water shall be permitted.

8.1.4 Uses by Special Permit

If any land in the Flood Plain and Watershed Protection District is found by the Board of Appeals not, in fact, to be subject to seasonal or periodic flooding or unsuitable because of drainage conditions, the Board of Appeals may grant a special permit for the use of such land and for the construction and erection of a building or structure for any purpose permitted in the underlying district providing such use will not endanger the health or safety of the occupants thereof.

8.1.5 Site Plan

Whenever an application is made for a building permit on land which the Building Inspector believes may involve the use of land in the Flood Plain and

Watershed Protection District, s/he shall require the applicant for such permit to provide as part of such application a plan of the lot on which such building is intended to be built showing elevations above mean sea level at two (2) foot contour levels indicating the bench marks used and certified by a Registered Land Surveyor.

8.1.6 Notification of Watercourse Alteration

In a riverine situation, The Chair of the Planning Board shall notify the following of any alteration or relocation of a watercourse:

Adjacent Communities

NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

8.1.7 Use Regulations

1. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- ~ Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
- ~ Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
- ~ Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
- ~ Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00);
- ~ Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

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

2. In Zone AE, along watercourses within the Town of Plympton that have a

regulatory floodway designated on the Plymouth County FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. All subdivision proposals must be designed to assure that:
 - a) such proposals minimize flood damage;
 - b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c) adequate drainage is provided to reduce exposure to flood hazards.

8.2 Historic District

Uses and structures shall be subject to the regulations applicable in the underlying district, subject to applicable provisions of the Historic District By-law.

8.3 Groundwater Protection Districts (GPD)

8.3.1 Purpose and Intent

To protect, preserve and maintain the existing and potential groundwater supply and recharge areas within the Town; and to promote the health, safety and general welfare of the community. To create overlay districts which circumscribe aquifers and aquifer recharge areas and impose conditions, where such are necessary to accomplish the purpose of the groundwater protection districts, for enjoying uses of the underlying land.

8.3.2 Definitions of Districts:

GPD Type I

Areas identified as stratified drift expected to have transmissivities greater than 10,000 gallons per day per foot and well yields greater than 100 gallons per minute when mapped using U.S. Geologic Survey methods; and/or areas where a combination of hydraulic conductivity in the saturated overburden materials and groundwater gradient will generate an expected groundwater seepage velocity in the overburden of more than 14 feet per day. GPD (Aquifer) Type I shall also include areas of the Town from which groundwater and surface water flow to major water supplies. These areas are based on the surface watershed boundary of Silver Lake and the groundwater contours sloping to the lake mapped in the report 'Silver Lake Hydrological and Land Use Study', Pilgrim Area Resource Conservation and Development Council, 1988.

GPD Type II

Areas identified as stratified drift expected to have transmissivities between 0 (zero) and 10,000 gallons per day per foot and well yields between 0 (zero) and 100 gallons per minute when mapped using U.S. Geological Survey methods; and/or areas of till and shallow bedrock with little or not stratified drift where a combination of the hydraulic conductivity in the saturated overburden

materials and the groundwater gradient will generate an expected groundwater seepage velocity in the overburden of more than 5 feet per day.

GPD Type III

Any portion of the Town that does not qualify as GPD Type I or II and/or areas of till and bedrock with little or no stratified drift and expected to have very low transmissivities and small well yields when mapped using U.S. Geological Survey methods; and where a combination of the hydraulic conductivity in the saturated overburden materials and the groundwater gradient will generate an expected groundwater seepage velocity in the overburden of less than 5 feet per day.

8.3.3 Boundaries of GPD:

a) The Groundwater Protection Districts (GPD) include land within the Town of Plympton which are encompassed by the areas designated on the maps entitled "Groundwater Protection Overlay Districts, Town of Plympton", dated 3/25/91, and drawn to a scale of 1" - 400', which maps also show the lot lines of the land according to the Assessor's maps, and which are intended to include aquifer areas.

b) The boundaries of the Groundwater Protection Districts are established by the vote of Town Meeting, and these boundary lines can only be changed or moved by the vote of Town Meeting. If there is dispute as to the proper location of these lines with respect to the field geologic conditions on any parcel, the owner of that parcel may seek an advisory opinion from the Special Permit Granting Authority (the Planning Board) as to suitability of petitioning Town Meeting for a relocation of boundary lines, based on newly defined relocation of boundary lines, based on newly defined geologic conditions established by competent professional opinion. If so requested by the owner, the SPGA shall employ the services of competent professionals such as hydrogeologists or soil scientists, all at the expense of the petitioner, to investigate field conditions with regard to the respective GPD type I, II or III as described in Section 8.3.2, Definitions of Districts. The evidence so produced shall be maintained in the records of the Town by the SPGA and shall be produced, along with any other pertinent evidence, whenever the issue of location of or re-delineation of the boundary of a GFD comes before the Town Meeting.

8.3.4 Permitted Uses:

Unless specifically prohibited by Section 8.3.5 hereafter, or unless a special permit is required for a conditional use under Sections 8.3.5, the uses permitted by the underlying zoning either as a matter of right or under a special permit, shall continue to be permitted or allowed in the Groundwater Protection Districts.

8.3.5 Prohibited Uses and Uses Allowed by Special Permit in GPD I, II, III:

Prohibited	Allowed by Special
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	<u>in GPD Types:</u>	<u>Permit in GPD Types:</u>
1. Disposal on-site of solid wastes, other than brush and stumps:	I, II	III
2. Storage of petroleum or other refined petroleum products except within buildings which it will heat, and except in connection with replacement of existing tanks:	I	III
4. Storage of petroleum or other refined petroleum products except in above-ground facilities with proper containment or within buildings which it will heat, and except in connection with replacement of existing tanks:	II	
4. Activities principally using, testing, storing, transporting or disposing of toxic or hazardous materials:	I	II
5. The disposal onsite of hazardous wastes, toxic or hazardous substances, or radioactive materials:	I, II, III	
6. The storage onsite of hazardous wastes, toxic or hazardous substances, or radioactive materials, except for storage of toxic or hazardous substances for agricultural purposes:	I, II, III	
7. The disposal of liquid or leachable wastes or liquids which do not meet the water quality standards of the Mass. Groundwater Discharge Permit Program, except in the pursuit of normal domestic		
	<u>Prohibited in GPD Types:</u>	<u>Allowed by Special Permit in GPD Types:</u>
activities and except as permitted into subsurface waste disposal systems subject to regulation under Title 5 of the State Environmental Code:	I, II, III	

- | | | |
|---|------------|---------|
| 8. Storage of road salt or other de-icing chemicals, except as packaged for consumer use: | I | II, III |
| 9. The discharge onsite of industrial process liquids: | I, II, III | |
| 10. The depositing of snow containing road salt or other de-icing chemicals which has been transported to a site from outside the GPD type area: | I, II | III |
| 11. The permanent removal or regarding of the existing soil cover resulting in a finished grade within ten (10) feet of the spring high water level, except for mining as permitted by the Board of Selectmen, or except as necessary for agricultural purposes: | I, II | III |
| 12. Junk and salvage yards: | I, II | III |
| 13. Trucking and bus terminals in excess of 10 vehicles: | I, II | III |
| 14. Airports and heliports: | I, II | III |
| 15. Commercial car washes: | I, II, III | |
| 16. The application of pesticides for non-domestic, non-municipal or non-agricultural uses, provided that all necessary precautions are taken to prevent hazardous concentrations of pesticides in the water and onsite as a result of such application. Such precautions include, but are not limited to erosion control techniques, the control of runoff water (or the use of pesticides | | |

**Prohibited
in GPD
Types:**

**Allowed
by Special
Permit in
GPD Types:**

having low solubility in water), the prevention of volatilization and deposition of pesticides and the lateral displacement (i.e.; wind drift) of pesticides:

I, II

- 17. The application of fertilizers for non-domestic or non-agricultural uses provided that such applications are made in such a manner as to minimize adverse impacts on surface and groundwater due to nutrient transport, deposition and sedimentation: I, II

- 18. The operation of a coin operated commercial or non-commercial laundry facility provided that no dry cleaning fluids or similar hazardous or toxic substances are discharged; I, II

- 19. Where more than 20% of any lot is hereafter proposed to be impervious, a special permit shall be required to permit such use, on condition that water shall be recharged to the aquifer to compensate for all impervious lot coverage greater than 20%; I, II

- 20. The mining of land, subject to environmental restrictions regarding the use, maintenance, storage and fueling of heavy equipment and vehicles at the site of the mining operation; appropriate restrictions on minimum mining elevations regard to groundwater (no closer than 10 feet to the seasonal high groundwater table); control of surface water runoff; and final reclamation; and I, II

- 21. The mining of land, except as incidental to the exercise of a permitted or conditional use hereunder. III

8.3.6 Special Procedures Regarding the Issuance of Special Permits in the Groundwater Protection Districts:

Conditional uses are permitted upon the issuance of a special permit by the Special Permit Granting Authority (SPGA). The SPGA is herein designated as the Planning Board.

- a) In addition to the requirements of the MGL Chapter 40A, Section 9 and the rules and regulations of the SPGA, the following additional requirements shall apply:
 1. At least five (5) copies of any proposed plan for development shall be submitted to the Town Clerk, who will transmit the materials to the SPGA.
 2. A topographic map of the site shall be provided at a scale of 1:40 or larger scale, from which surface runoff directions can be readily determined. This map shall be stamped by a registered land surveyor or a registered professional civil engineer, and shall include ground surface contours at an interval no greater than two feet.
 3. Evidence regarding the seasonal high groundwater elevation and direction of groundwater movement.
 4. A design to maintain aquifer recharge at pre-permit amounts where the impervious surface will exceed 20% of the lot area, and a design to cleanse and filter the runoff from such impervious surfaces recharged to the aquifer.
 5. For industrial or commercial uses, a spill prevention, containment, and emergency response plan to prevent contamination of soil, groundwater or surface water in the event of accidental spills or the release of toxic or hazardous substances onsite.
- b) The applicant may request in writing a waiver of any of the foregoing requirements in paragraph 6a hereof, which request shall be communicated by the SPGA within three (3) business days of its receipt, to the Board of Health and the Conservation Commission (hereinafter, the "Advisory Bodies"). Unless the SPGA or one of the Advisory Bodies communicates its decision to require the materials sought to be waived within thirty (30) days of the making of such request, the waiver may be granted by the SPGA.
- c) The SPGA shall provide copies of the application and all other submittals of the applicant within three (3) business days of filing to the Advisory Bodies for their recommendations. A public hearing on the application for a special permit may not be held prior to thirty-five (35) days following the filing of the application.

- d) In addition to any other requirements and conditions for granting a special permit, the SPGA, with respect to any application for a special permit in a GPD, shall make a find that:
1. The proposed use is consistent with the purpose and intent of the GPD.
 3. The purpose uses is appropriate to the natural topography ,soils, and other characteristics of the site to be developed.
 4. The proposed use will not, during construction or thereafter, have an unacceptable environmental impact on the groundwater supply.
 4. The proposed use will not adversely affect an existing or potential water supply.
 5. In addition to any other considerations for a special permit in the underlying zoning district, the SPGA shall, in the case of commercial and industrial uses, impose appropriate conditions which prevent compaction and siltation of soil, loss of recharge, exfiltration from sewer pipes and contamination of the soil or groundwater by oil, chemicals, and nutrients.
- e) All reports of any of the Advisory Bodies, whether favorable or unfavorable, shall be retained in the official files of the SPGA regarding the related application for a special permit and shall be made available to the public.
- f) In addition to the foregoing procedures for special permits, the SPGA may from time to time establish regulations dealing with materials required for submission, and the concerns which form the basis for decisions regarding special permit applications.
- g) Special permits shall be granted subject not only to designs approved by the SPGA and as submitted by the applicant, but also subject to performance requirements and a requirement that all designs function as intended.
- h) At the discretion of the SPGA, a suitable professional (civil engineer/hydrogeologist) may be hired to review all data and conclusions about impacts on the groundwater as submitted by the petitioner. The cost for this professional review shall be reimbursed by the petitioner to the SPGA.

8.4 Wireless Communications Towers and Wireless Communications Facilities

8.4.1 Purpose

The purpose of this By-law is to establish appropriate siting criteria and standards for wireless communications towers and facilities, while minimizing adverse impacts

on adjacent properties and residential neighborhoods, minimizing the overall height of such facilities to only what is essential, and promoting the shared use of existing facilities to reduce the need for new facilities.

8.4.2 Definitions

For purposes of this section:

1. “Wireless communications services” shall mean the provision of the following types of services: Cellular telephone service, personal communications and enhanced specialized mobile radio service. Such services, it is anticipated, will be provided via wireless communications towers, including antennas and accessory structures, if any.
2. “Wireless communications towers” shall mean a structure (with antennas, if any) designed to facilitate the following types of services: cellular telephone service, personal communications service and enhanced specialized mobile radio service.
3. “Wireless communications facility” shall mean devices (other than a “wireless communications tower”) which are mounted on top of an existing building or structure (roof-mounted), mounted adjacent to the side or rear of an existing building or structure (side mounted), or mounted to the façade of an existing building or structure (façade-mounted) designed too facilitate the following types of services: cellular telephone service, personal communications service and enhanced specialized mobile radio service.

8.4.3 Location

A wireless communications *tower* may be located by special permit only in an industrial district. A wireless communications *facility* may be located in any district as permitted under the Table of Uses.

8.4.4 Submittal Requirements

As part of the application for a permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth herein at Section 6.7, as may be amended. Applicants shall also describe the capacity of the tower, including the number and types of antennas that it can accommodate and the basis for the calculation of capacity, and any accessory structures. All calculations shall be certified by, and bear the stamp or seal of, a Professional Engineer licensed in Massachusetts. Any cost incurred by the Planning Board, its officers, Board & Committee related to each application review shall be paid by the applicant.

8.4.5 Use Restrictions – Wireless Communications Towers

A wireless communications tower (including antennas and accessory structures, if any) may be erected in an industrial district upon the issuance of a special permit by the Planning Board pursuant to Section 7, subject to site plan approval as set forth herein at Section 6.7, as may be amended (without exemption due to size of structure), and subject to all of the following conditions:

1. To the extent feasible, all service providers shall co-locate on a single tower. Towers shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten year prior) technically practicable.
2. New towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed tower.
3. a. A wireless communications use shall not be allowed in any district if the proposed use would: (i) create visual blight that would impair historic vistas; (ii) lower property values of nearby residences from which the use could be seen; (iii) cause glare by the fact of its being lit, or (iv) generate more than an aggregate decibel level of ambient noise, as measured at any existing property line, greater than 50 (fifty) decibels.

b. A wireless communications tower shall be located on a full sized lot that satisfies all applicable dimensional requirements and shall not be co-located with other existing structures or uses on the same lot.
4. Tower height shall not exceed 120 feet above the existing terrain.
5. (a) A tower shall not be erected nearer to any property line, existing building then a distance equal the vertical height of the tower (inclusive of any appurtenant devices), measured at the mean finished grade of the tower base.

(b) No way (public or private) is permitted to exist within the fall zone of a wireless communications tower as follows:
 - (1) No way other than a driveway to allow access to tower operators, their agents, and public safety and enforcement officials shall be allowed to exist within the fall zone of a wireless communications tower.
 - (2) No tower shall be constructed in a location that has an existing way within its fall zone.
 - (3) No way shall be created within the fall zone of an existing tower.
 - (4) No way shall be constructed within the fall zone of a proposed tower which has an active permit application.
6. No more than one such tower is permitted per lot.
7. Accessory structures housing support equipment for towers shall not exceed 2,400 square feet in size and 15 feet in height, and shall be subject to site plan approval.

8. To the extent feasible, all network interconnections from the communications site shall be via land lines.
9. Existing on-site vegetation shall be preserved to the maximum extent practicable.
10. The tower shall minimize, to the extent feasible, adverse visual effects on the environment. The Planning Board may impose reasonable conditions to ensure this result, including tower design and painting and lighting standards.
11. Traffic associated with the maintenance of the tower and accessory facilities and structures shall not adversely affect abutting ways.
12. Applicants proposing to erect wireless communications towers, accessory facilities and structures on municipally-owned land or structures shall provide evidence of contractual authorization from the Town of Plympton to conduct wireless communications services on municipally-owned property.
13. Any proposed extension in the height, addition of cells, antennas or panels, construction of a new facility, or replacement of a facility shall be the subject of a new application for an amendment to the Special Permit.

8.4.6 Use Restrictions – Wireless Communications Facility

A wireless communications facility (other than a wireless communications tower) may be erected in an industrial district upon the issuance of a special permit by the Planning Board pursuant to Section 7, subject of site plan approval as set forth herein at Section 6.7 as may be amended (without exemption due to size of structure), and subject to all of the following conditions:

1. Installation on existing buildings or structures shall be camouflaged or screened and designed to be harmonious and architecturally compatible with the building or structure. Any equipment associated with the facility shall be located within the building or structure to the extent feasible.
2. No facility shall project more than five feet above the existing roof line of the building or structure, or more than five feet out from the plane of the existing wall or façade to which it is affixed, provided such projections do not otherwise violate existing yard dimension or set-back requirements.
3. Any proposed addition of cells, antennas or panels or replacement of a facility shall be the subject of a new application for an amendment to the Special Permit.

8.4.7 Non Use

All unused towers or parts thereof or accessory facilities and structures which may not been used for one (1) year shall be deemed as abandoned by the Building Inspector and dismantled and removed at the owner's expense. Prior to issuance of a

Building Permit for a wireless communications tower, the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be suitable to cover demolition in the event that the Building Inspector condemns the tower (or parts thereof or accessory facilities and structures) or deems it abandoned for more than a year. The Building Inspector shall give the applicant 45 days written notice in advance of any demolition action.

8.4.8 Exemptions

The following types of wireless communications towers are exempt from this Section 8.4:

1. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that the tower is not used or licensed for any commercial purpose, and
2. Towers used for the purpose set forth in M.G.L. c.40A 3
3. Satellite dishes and antennas for residential use

SECTION 9 SPECIAL REQUIREMENTS FOR MEDICAL MARIJUANA FACILITIES

9.1 Purposes

- 9.1.1** To provide for the establishment of Medical Marijuana Facilities in appropriate places and under strict conditions in accordance with the passage of Initiative Petition 11-11 (Question #3 on the November, 2012 state ballot).
- 9.1.2** To minimize the adverse impacts of Medical Marijuana Facilities on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Facilities.
- 9.1.3** To regulate the siting, design, placement, security, safety, monitoring, modification, and removal of Medical Marijuana Facilities.

9.2 Applicability

- 9.2.1** The commercial cultivation [unless it meets the requirements for an agricultural exemption under Chapter 40A Section 3], production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as a Medical Marijuana Facility under this Section 9.
- 9.2.2.** No Medical Marijuana Facility shall be established except in compliance with the provisions of this Section 9.
- 9.2.3** Nothing in this Bylaw shall be construed to supersede federal and state laws

governing the sale and distribution of narcotic drugs.

- 9.2.4** If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section are severable.

9.3 Definitions

Medical Marijuana Facility – Shall mean a “Medical marijuana treatment center” to mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers. These facilities shall be located inside a structure or building.

Marijuana for Medical Use – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions as set forth in Citizens Petition 11-11

Marijuana –The same substance defined as “marihuana” under Chapter 94C of the Massachusetts General Laws.

9.4 Eligible Locations for Medical Marijuana Facilities.

- 9.4.1** Medical Marijuana Facilities, other than agricultural operations meeting exemption standards under Chapter 40A Section 3, may be allowed by Special Permit from the Plympton Planning Board in the Business Zone provided the facility meets the requirements of this Section

9.5 General Requirements and Conditions for all Medical Marijuana Facilities.

- 9.5.1** All non-exempt Medical Marijuana Facilities shall be contained within a building or structure.
- 9.5.2** No Medical Marijuana Facility shall have a gross floor area of less than 2,500 square feet or in excess of 20,000 square feet.
- 9.5.3** A Medical Marijuana Facility shall not be located in buildings that contain any medical doctor’s offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
- 9.5.4** The hours of operation of Medical Marijuana Facilities shall be set by the Special Permit Granting Authority, but in no event shall said Facilities be open and/or operating between the hours of 8:00 PM and 8:00 AM.
- 9.5.5** No Medical Marijuana Facility shall be located on a lot which abuts a

residential zoning district.

- 9.5.6** No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Medical Marijuana Facility.
- 9.5.7** No Medical Marijuana Facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- 9.5.8** Signage for the Medical Marijuana Facility shall include the following language: “Registration card issued by the MA Department of Public Health required.” The required text shall be a minimum of two inches in height.
- 9.5.9** Medical Marijuana Facilities shall provide the Plympton Police Department, Building Commissioner and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders to whom one can provide notice if there are operating problems associated with the establishment.

9.6 Special Permit Requirements

- 9.6.1** A Medical Marijuana Facility shall only be allowed by special permit from the Plympton Planning Board in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.
- 9.6.2** A special permit for a Medical Marijuana Facility shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:
 - a) cultivation of Marijuana for Medical Use (horticulture) except that sites protected under Chapter 40A Section 3 shall not require a special permit;
 - b) processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
 - c) retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
- 9.6.3** In addition to the application requirements set forth in Sections 9.5 and 9.6 of this Bylaw, a special permit application for a Medical Marijuana Facility shall include the following:
 - a) the name and address of each owner of the facility;
 - b) copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Facility;
 - c) evidence of the Applicant’s right to use the site of the Facility for the Facility, such as a deed, or lease;
 - d) if the Applicant is a business organization, a statement under oath

disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

- e) a certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;
- f) Proposed security measures for the Medical Marijuana Facility, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft.

9.6.4 Mandatory Findings. The Special Permit Authority shall not issue a special permit for a Medical Marijuana Facility unless it finds that:

- a) the Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;
- b) the Facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations; and
- c) the applicant has satisfied all of the conditions and requirements of Sections 9.5 and 9.6 herein;

9.6.5 Annual Reporting. Each Medical Marijuana Facility permitted under this Bylaw shall as a condition of its special permit file an annual report to and appear before the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the Facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

9.6.6 A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a Medical Marijuana Facility. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit with all information required in this Section 9.

9.6.7 The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the Medical Marijuana Facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to completely remove all the items noted in 9.7.2 and properly clean the facility at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the noted requirements. An incentive factor of 1.5 shall be applied

to all bonds to ensure compliance and adequate funds for the town to remove the facility at prevailing wages.

9.7 Abandonment or Discontinuance of Use

9.7.1 A Special Permit shall lapse if not exercised within one year of issuance.

9.7.2 A Medical Marijuana Facility shall be required to remove all material, plants equipment and other paraphernalia:

- a) prior to surrendering its state issued licenses or permits; or
- b) within six months of ceasing operations; whichever comes first.

SECTION 10 DEFINITIONS

Accessory Use: A use customarily incidental or necessarily essential to a permitted main use on the same premises including but not limited to the following:

1. Use of a room or rooms in a dwelling or accessory building for customary home occupations or the practice of a recognized profession conducted by the resident of the premises.
2. Use of premises or building thereon in connection with his/her trade by a resident carpenter, electrician, painter, plumber, radio or television serviceman, real estate agent, or other artisan, providing that no manufacturing requiring substantially continuous employment be carried on.

Adult Book Store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, photographs, videos, computer software, computer discs, laser discs and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Sec.31 Chap 272.

Adult Club: An establishment, which as a form of entertainment, allows a person or persons to perform in a state of nudity as defined in M.G.L. Chapter 272, Section 31 or allows a person or persons to work in a state of nudity as defined in M.G.L. Chapter 272, Section 31.

Adult Mini Motion Picture Theater: An enclosed building with a capacity for less than 50 persons, or single booths or video screens, used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to nudity, sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

Adult Motion Picture Theater: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chap 272, Sec.31.

Adult Paraphernalia Store: An establishment having as a substantial or significant portion of its stock in trade devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Chapter 31.

Adult Video Store: An establishment having as a substantial or significant portion of its stock in trade, videos, movies, computer software, computer discs, laser discs or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

Boarding House, Lodging House: Term means the renting of rooms or furnishing of board for not more than four (4) persons in a dwelling regularly occupied for residential purposes.

Bowling Alley, Commercial Place of Amusement, Museum, Theater: All business is to be conducted within the structure.

Commercial Vehicle Storage: Any vehicle normally garaged or parked overnight on a property which requires a commercial registration, whether or not actually registered. There shall be two (2) exceptions to this bylaw provision:

- Pickup trucks and vans which are used only for non-business purposes, and which have no commercial lettering or signs.
- Farm vehicles and equipment in use on an active farm.

Contractor's Yard: Premises used by a building contractor, general contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of operative wheeled equipment.

Farm: Term includes garden, greenhouse, nursery, display and sale of natural products raising of livestock, except as otherwise prohibited by law.

Gasoline Service Station: Repairs shall be limited to minor repairs and adjustments unless conducted in a building.

Groundwater: Subsurface water present in delineated aquifers.

Hazardous Waste: Materials as defined pursuant to MGL Chapter 21E, Section 2.

Impervious Coverage: Material that substantially restricts the penetration of surface water into the soil.

Industrial Use: Any manufacturing, processing, fabricating, and assembly. (See also Section 7.2, L.M. and Ind. District)

Leachable Wastes: Waste materials including without limitation solids, sewage sludge and agricultural residue which may release water-borne contaminants to the surrounding environment.

Light Manufacturing:

- a. Employing electricity and/or other unobjectionable motive power.
- b. Utilizing hand labor and/or unobjectionable machinery.
- c. Utilizing processes free from neighborhood disturbing odors and/or other agencies.
- d. Employing fewer than twenty (20) persons.

Massage Service Establishments:

1. **Massage:** Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids such as rubbing alcohol, liniment, antiseptics, oils, powders, creams, lotions, ointments or other such similar preparations commonly used in the practice of massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity thereof.
2. The practice of massage shall not include the following individuals while engaged in the personal performance of duties of their respective professions:
 - a. Physicians, surgeons, chiropractors, osteopaths, or physical therapists, who are duly licensed to practice their professions in the Commonwealth of Massachusetts.
 - b. Nurses who are registered under the laws of the Commonwealth of Massachusetts.
 - c. Barbers and beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

Mining of Land: The removal or relocation of geologic materials for the purpose of extracting topsoil, sand and gravel, metallic ores, or bedrock.

Parking Area or Garage: Such areas to be for the use of employees, customers, or visitors.

Process Liquids: Liquids used in cooling or in the manufacturing process which

contact raw materials, product, wastes or machinery and which because of that contact contain hazardous wastes or do not meet state drinking water standards.

Radioactive Materials: Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II of 10 CFR Part 20 (Standards for Protection Against Radiation).

Retail Store or Service Establishment: The principle activity shall be the offering of goods or services as retail within the building.

Sewage and/or Septage Treatment and/or Disposal Facilities - Commercial: Facilities for treating and/or disposing of domestic, commercial, or industrial sewage or septage (material pumped from septic tanks) when such facilities are privately owned and are operated as a business serving off-site sources. This includes mechanical treatment plants using physical, biological, or chemical processes, open lagoon systems or other facilities designed to process and/or dispose of sewage or septage as defined in the State Environmental Code.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including, without limitation, rubbish, garbage, scrap materials, junk, refuse, inert fill material, and landscape refuse.

SPGA: Special Permit Granting Authority

Temporary Sign: A sign for special events, displayed for not more than thirty (30) calendar days before or five (5) days after the event.

Toxic or Hazardous Substances: Substances as defined by MGL Chapter 111F, Section 1.

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Note: To keep this index brief no references to the Schedule of Uses (Section 4.2) is included here. Always check Section 4.2 as well as here.

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TOWN OF PLYMPTON MUNICIPAL BY-LAWS



TOWN OF PLYMPTON MUNICIPAL BY-LAWS

Article I

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

Article II

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

- 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

- Section 1.** The Town shall have a Finance 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 Selectmen. The only exceptions that can be made by the Selectmen are for individuals not employed by the Town for more than 19 hours per week.
- Section 2** There shall be established a Capital Improvement Planning Committee (hereinafter "Committee") which shall perform the duties set forth in the following sections Bylaw and shall be governed by the provisions hereof.
- Section 2.1** Members, Officers; Compensation
1. The Committee shall consist of the members of the Finance Committee.
 2. The Committee shall annually elect from its members a Chairperson and such officers as it shall deem appropriate, and shall adopt such rules and regulations affecting its governance as may be deemed necessary.
 3. Committee members shall serve with no compensation.
- Section 2.2** 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 2.3** 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 2.4 This bylaw shall not apply to emergency capital improvements. The Board of Selectmen shall be responsible for determining what constitutes an emergency.

Article V

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

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

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

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 By-laws 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

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

Article XI

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

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

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

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

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

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

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 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 five (5) dogs, six (6) months or older, that are maintained for breeding, boarding, sale, training, hunting, or any other purpose.

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

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

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

“Clerk”, the Town of Plympton Clerk.

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

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

“Selectman” shall mean the Plympton Board of Selectmen.

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

“Town” shall mean the Town of Plympton.

“License Late Fee”, a fee of twenty-five dollars (\$25.00) in addition to the license fee will be imposed after March 31st following to December 31st for any overdue license.

“Non-Criminal Citation (21-D)” a citation imposed fine (maximum) of one hundred dollars (\$100.00) in addition to all other fees for any violations of Article XXI.

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, weight, age, and special markings of the dog. Such books 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). A certified copy of such certificate on file in the office of any city or town clerk within the Commonwealth of Massachusetts may be accepted as evidence that such operation has been performed. If the Town Clerk is satisfied that the certification by the veterinarian who neutered or spayed the dog cannot be obtained, the Town Clerk may accept in lieu thereof a statement under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that he has examined such dog and in his opinion, the dog has been neutered or spayed. Until the veterinarian has examined the dog in question, license fee for the licensing period shall be at the rate of the unaltered male or female dog.

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 shall be punished by a late fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), which shall be paid to the Town. After October 1st violators shall be subject to a Non-Criminal Citation (21-D) with a fine of one hundred dollars (\$100.00) paid to the Town in addition to the license fee and any late fees.

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 not less than twenty-five dollars (\$25.00), which shall be paid to the Town.

If a dog in violation of any provision of Article XXI, was unlicensed at the time of such violation, a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) shall be imposed to be paid to the Town, and the owner or keeper of such dog will be required to immediately procure the current license and tag.

Section 6.

RABIES:

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

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

the Plympton Town Clerk, present one copy to the owner or keeper of the dog and keep one copy.

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

Unvaccinated dogs acquired or brought into the Town of Plympton shall be vaccinated within ninety days (90) or upon reaching the age of six (6) months, whichever is later. Vaccinated dogs shall be revaccinated as required in accordance with rules adopted and promulgated by the Department of Public Health. Whoever violates the provisions of this Section shall be punished by a fine of fifty dollars (\$50.00) which shall be paid to the Town.

Section 7.

DISPOSITION OF FEES AND FINES:

The Town Clerk shall issue said licenses and tags and receive the money therefore and pay it into the Town treasury not later than the first Monday of each month.

The Town Clerk shall make a record in books kept therefore of each licensed issued, the name and address of the owner or keeper of each dog so licensed, the registered number and description of each dog, and such books shall be open to public inspection during the usual office hours. The Town shall pay for all license forms, tags, record books 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 shall be punished by a fine of not less than fifty dollars (\$50.00) not more than two hundred dollars (\$200.00) payable to the Town of Plympton.

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 and shall pay to the Town a fine of not more than twenty-five dollars (\$25.00) for the first offense and not more than one hundred dollars (\$100.00) for a second or subsequent offense.

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 shall be punished by a fine of not more than twenty-five dollars (\$25) for the first offense and not more than one hundred dollars (\$100) for the second or subsequent offense.

Section 12.

COMPLAINT OF NUISANCE:

If any person shall make a complaint to the Animal Control Officer that any dog harbored within the Town of Plympton is a nuisance 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, 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, removing or disposing of such dog, dismissal of the complaint or such other action as may be deemed

necessary. 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.

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 complain in the District Court and shall pay to the Town a fine of not more than twenty-five dollars (\$25.00) for the first offense and not more than one hundred dollars (\$100.00) for a second or subsequent offense.

Animal Control Officer, Police Officer or Constable shall kill a dog or cause the dog to be killed, which the Board of Selectmen, and 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, which is living in a wild state.

Section 13.

ANY PERSON MAY KILL A DOG, WHEN:

Any person may kill a dog, which suddenly assaults him while he is peaceably standing, walking or riding outside the enclosure of its owner or keeper. Any person may kill a dog found out of the enclosure of its owner or keeper and not under his immediate care of the owner or keeper of such dog in the act of worrying, wounding or killing persons, domestic animals, livestock, or fowl. If any person shall kill or attempt to kill a dog so found, he shall not be held liable for cruelty to the dog unless it shall be shown that he intended to be cruel to the dog, or that he acted with a wanton disregard for the suffering of the dog. 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, which 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, 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, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog known to have done damage to domestic animals, livestock, or fowl, and then and there kill such dog or 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, REIMBURSEMENT:

Whoever suffers loss by the worrying, killing or maiming of domestic animal, livestock or fowl by dog(s) shall inform the Animal Control Officer who shall forthwith proceed to the scene to view the damage, who shall determine if the damage was done in fact by dog(s) and, if so, appraise the amount of the damage if it does not exceed fifty dollars (\$50.00).

If in the opinion of the Animal Control Officer the damage exceeds fifty dollars (\$50.00), the damage shall be appraised on oath by three persons, one of whom shall be the Animal Control Officer, one shall be appointed by the person alleged to be damaged and the third appointed by the other two.

The said appraisers shall consider and include in such damages the number and kind of animals damaged, the extent of the damage and the approximate weight of the killed animals. The appraisers will also note in their report whether or not any animals were sent for veterinarian treatment in an effort to save them or sent to the veterinarian to be destroyed due to extensive damage suffered, and the number and kind of such animals. Such report will be filed in the office of the Town Clerk within ten (10) days of said appraisal, who shall submit said appraisal report to the Board of Selectmen. The Board of Selectmen may require the appraisers to provide any additional information that they deem appropriate in accordance with the report of the appraiser.

Section 16.

NO REIMBURSEMENT IN CERTAIN CASES:

No owner of domestic animals, livestock or fowl shall be reimbursed for damages inflicted by his own dog or dogs, nor shall he be reimbursed if he, himself, was the owner or keeper of an unlicensed dog six months of age or older. No reimbursement shall be made in the case of damage to deer, elk, cottontail rabbit, northern hares, pheasants, quail, partridge and other livestock or fowl determined by the Department of Fisheries, Wildlife and Recreational Vehicles to be wild. No reimbursement will be made for damages unless the livestock or fowl are kept in proper houses or in suitable enclosed areas. Awards for damages in no case shall exceed the fair cash market value of such domestic animal, livestock or fowl.

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, and the Selectmen may order the owner or keeper to pay such damages after an investigation by the Animal Control Officer of the facts of the matter and an appraisal by the Animal Control Officer, one person chosen by the person sustaining the damage and a third appraiser chosen by the other two. The appraisers will submit a report to

the Selectmen stating the type of damage, the number and kind of animal damages and whether any animals required medical treatment by a veterinarian to save them or if the veterinarian destroyed the animal as a result of extensive damage suffered.

In the event that the owner or keeper of such dog known to have done damage to domestic animals, livestock, or fowl refuses to pay upon the order of the Selectmen, the Selectmen shall enter or cause to be entered a complaint in district court for the enforcement of the order.

If the owner or keeper of a dog, which has previously been ordered restrained or destroyed by the Selectmen, appeals the decision to the district court, and such dog wounds any person, or shall maim or kill any domestic animal, livestock, or fowl during the appeal process, the owner or keeper of such dog will be liable to the person injured either in body or through damage to domestic animal, livestock, or fowl in triple the amount of actual damages sustained by him.

Section 18.

EFFECTIVE DATE

Article XXI §1 through §18 inclusive shall take effect on July 1, 2003.

ARTICLE XXII

PENALTY AND ENFORCEMENT

22.1 Criminal Complaint. Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law, and as the District Court may see fit to impose, the maximum penalty for each violation, or offense, shall be \$100.00.

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.

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.

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 aquacultural 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.

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