

# **TOWN OF PLYMPTON**

## **ZONING AND MUNICIPAL BYLAWS**



**2008 EDITION**

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# TOWN OF PLYMPTON ZONING BYLAWS

## 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**

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

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

Adult clubs	X	X	X	SP
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	<u>AR</u> SP	<u>B</u> SP	<u>LM</u> SP	<u>I</u> SP
Commercial Vehicle Storage (more than three)	SP	SP	SP	N/A

Commercial Vehicle Storage (more than ten) SP		N/A	N/A	N/A
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	<u>AR</u> SP	<u>B</u> SP	<u>LM</u> SP	<u>I</u> SP
Greenhouse	P	P	P	P

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
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	<u>AR</u>	<u>B</u>	<u>LM</u>	<u>I</u>
	X	P	P	P
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><b>Agricultural Residential</b></u>	<u><b>Business</b></u>	<u><b>Light Manufacturing</b></u>	<u><b>Industrial</b></u>
<b>5.1.1 Minimum Lot Dimension -</b>				
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.

**AR                      B                      LM                      I**

**5.1.2 Minimum Yard Dimensions –**

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
	<b><u>AR</u></b>	<b><u>B</u></b>	<b><u>LM</u></b>	<b><u>I</u></b>
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**

	<b><u>AR</u></b>	<b><u>B</u></b>	<b><u>LM</u></b>	<b><u>I</u></b>
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**

	<b><u>AR</u></b>	<b><u>B</u></b>	<b><u>LM</u></b>	<b><u>I</u></b>
	30%	30%	30%	30%

**5.1.5 Maximum percentage of impervious coverage of land**

	<b><u>AR</u></b>	<b><u>B</u></b>	<b><u>LM</u></b>	<b><u>I</u></b>
	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 Purpose**

In order to encourage the most appropriate use of the land throughout the Town of Plympton and to preserve the natural, scenic and aesthetic qualities of the community, no signs, billboards or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure, except as specifically provided herein.

### **6.1.2 Permitted Uses of Permanent Signs**

Building permits shall be required for all permanent signs in excess of six (6) square feet in area.

#### **6.1.2.1 Agricultural-Residential District – Unlighted**

- 1) Display of not more than two (2) unlighted signs pertaining to a permitted use with a total area not to exceed six (6) square feet per sign.
- 2) Such sign(s) may include identification of any accessory professional office or customary home occupation or the renting of rooms.

#### **6.1.2.2 Business, Light Manufacturing, Industrial Districts - Lighted and Unlighted**

- 1) Display of two (2) signs to identify a permitted non-residential use of the premises.  
The total combined area of both is not to exceed fifty (50) square feet in area including wall, roof, projecting or hanging and free-standing signs.
- 2) No wall or roof sign shall exceed twenty-five (25) feet square in area nor extend beyond the corners of a building or that portion of the building occupied by the permitted use, business, industry or firm advertised, nor above the roof line of the building.
- 3) Projecting, hanging or freestanding signs shall not exceed twenty-five (25) square feet in area. 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.
- 4) Display of a lighted sign not attached to the building, pertaining to the use of the premises shall not exceed twelve (12) square feet in area. Such signs shall not be more than fifteen (15) feet tall.
- 5) Illumination
  - a) Illumination shall be of continuous indirect light.
  - b) Illumination shall not be animated, traveling or flashing type. Exposed

illuminated gas tube signs are prohibited. No sign shall be illuminated so as to confuse or distract traffic, create glare or shine directly onto residential properties

- c) All illumination of signs shall be prohibited after 11:00 p.m. and before 5:00a.m.

### **6.1.3 Permitted uses of an identification sign, which is associated with an activity of a temporary nature.**

1. One "For Sale" or "For Rent" sign, not exceeding six square feet in area per side and advertising only the premises on which the sign is located.
2. One building contractor's sign maintained on a building while the same is actually under construction, not exceeding six (6) square feet in area per side.
3. Window Sign. An identification sign which is placed in one window of a building containing an activity and which occupies no more than thirty percent (30%) of the window.
4. Special Event Signs. Temporary signs for special events such as political elections, fairs, carnivals, holiday celebrations, provided that they are erected in a safe manner with the permission of respective property owners and are displayed not more than thirty (30) calendar days before or five (5) days after the event. Special event signs shall conform in size and number to the provisions for the underlying district in which they are displayed. The Board of Selectmen may issue a special permit to allow special event signs, or signs promoting community interest events and activities such as D.A.R.E., to be posted on Town property for periods longer than those specified above and for sizes not to exceed 32 feet square for one sign or a combined total 50 feet square for two, or a banner.
5. Temporary signs and advertising devices located in the Agricultural-Residential districts pertaining to the primary agricultural, horticultural and floriculture use of the premises may be displayed for no more than one hundred twenty (120) days of the year.

### **6.1.4 No Trespassing, Hunting, Fishing and Similar Signs**

Multiple display of such signs is permitted in any district provided each sign so displayed does not exceed one (1) square foot in area

### **6.1.5 Signs, General Provisions**

#### **Size**

- The size of a sign shall be determined as the area in square feet of a single rectangle which circumscribes the entire face of the sign and includes all components if there are more than one.

- A supporting structure shall not be considered to contribute to the size of a sign provided the size of said structure alone does not exceed thirty percent (30%) of the size of the supported sign alone and is not designed as an advertising or attention-getting device.
- If a double-faced sign is being measured, the size of the sign shall mean the size of one face of such a sign.

### **Height**

Except as otherwise further limited, the height of the top of a sign shall not exceed fifteen (15) feet above the ground or the height of the roof line of the building if attached thereto, whichever is smaller.

### **Off-Premises Signs**

Display of permanent sign(s), lighted or unlighted, advertising products or services not located on or not pertaining to the use of the premises on which the sign is located, is not permitted.

#### **6.1.6 Non-conforming Signs**

Permanent signs in existence at the time of adoption of this Section may be continued, even though not conforming to the provisions of this Section, but shall not be altered or expanded except by a conforming sign.

Signs associated with non-conforming uses shall be regulated on the basis of the restrictions for the district in which the non-conforming use lies.

#### **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")

<b>Aisle Width</b>	<b><u>AR</u></b>	<b><u>B</u></b>	<b><u>LM</u></b>	<b><u>I</u></b>
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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 ¼"=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.

## **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.

#### **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.

#### **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.

## **8.2 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:**

	<b>Prohibited in GPD Types:</b>	<b>Allowed by Special Permit in GPD Types:</b>
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		
	<b>Prohibited in GPD Types:</b>	<b>Allowed by Special Permit in GPD Types:</b>
the water quality standards of the Mass. Groundwater Discharge Permit Program, except in the pursuit of normal domestic 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 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.
  2. The purpose uses is appropriate to the natural topography ,soils, and other characteristics of the site to be developed.
  3. 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 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.

**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 BYLAWS

## 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 7 o'clock a.m. for the election of officers and shall be continuously open for voting until 8 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 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 Town Officer shall be eligible to membership to this Committee.

**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 will present to the Board of Selectmen on or before March 15<sup>th</sup> of each year, its upcoming capital plan 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 Town shall create the position of Town Coordinator.

### **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 six (6) 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 six (6) 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 six 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:

“Dog 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 no more than 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 July 1 and the following June 30<sup>th</sup>, both dates inclusive.

“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.

## **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 Dog 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 trained to lead or serve a blind or deaf person upon presentation to the clerk of a certificate of such training. 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 Dog 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 FOR FAILURE AND/OR TARDINESS TO LICENSE:**

Whoever violates any provision of Article XXI §2 or §3 of these Rules and Regulations shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), which shall be paid to the Town.

If any persons refuses to answer, or answers falsely, questions of a police officer or a Dog 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 the dog as to which any violation occurs was unlicensed at the time of such violation, a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) 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 Dog 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.**

### DOG OFFICERS

The Board of Selectmen shall, from time to time, appoint one or more Dog Officers who shall receive an annual salary which shall be set by the Board of Selectmen within the amount appropriated by the Town. The Dog 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 Dog Officer.

## **Section 9.**

### DOG OFFICERS — DUTIES

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

The Dog 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 Dog 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 Dog Officer or any other authority of the Town.

The Dog 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 Dog Officer, the final disposition of the dog and the date of this disposition.

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

The Dog 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 Dog Officer shall be a licensed animal dealer registered with the United States Department of Agriculture and no Dog 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 Dog 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 Dog 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 Dog 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 Dog 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, Dog 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 Dog 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 or not more than twenty-five dollars (\$25).

## **Section 12.**

### COMPLAINT OF NUISANCE:

If any person shall make a complaint to the Dog Officer that any dog harbored within the Town of Plympton is a nuisance by reason of a vicious disposition, the Dog 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 Dog 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 Dog 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, Dog 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.

Any police officer, constable or Dog Officer 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 police officer, Dog 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 killings 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 Dog Officer and police department.

Any police officer, constable or Dog Officer 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 police officer, dog 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 Dog 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 Dog Officer the damage exceeds fifty dollars (\$50.00), the damage shall be appraised on oath by three persons, one of whom shall be the dog 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 Dog Officer of the facts of the matter and an appraisal by the Dog 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:**

Whoever violates this section of the bylaw 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.

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

Whoever violates this section of the bylaw shall be subject to a fine of \$100 for each additional false alarm.

## ARTICLE XXIV

### ORDERLY CONDUCT, TRAFFIC SAFETY

#### ORDERLY CONDUCT

##### **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.

1. Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger or fear of personal injury.
2. 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.
3. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the health and or property of another.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.

**Penalties; Non-Criminal Dispositions:**

Any person who violates any prohibited acts herein shall be fined \$100 for a first offense and shall be fined \$250 for each subsequent offense. A police officer may issue a non-criminal bylaw citation for such violations or may arrest without a warrant any person found in violation of any prohibited acts in this bylaw.

**TRAFFIC SAFETY**

**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.

1. 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.
2. Operates a motor vehicle on a public way greater than the posted speed limit or at a speed greater than reasonable for the road conditions.
3. Trespasses on the private property of another or on public grounds where prohibited while operating a vehicle, motor vehicle, or recreational vehicle.

**Penalties; Non-Criminal Dispositions:**

Whoever violates this section of the bylaw shall be subject to the following fines:

- Violation of Subsection One (1) - \$150
- Violation of Subsection Two (2) - \$50
- Violation of Subsection Three (3) - \$150

A police officer may issue a non-criminal by-law citation for such violations or may arrest without a warrant any person found in violation of subsection three (3) of the prohibited acts in this by-law.

**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 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.

## **ARTICLE XXVIII**

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

#### **I. PURPOSE**

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

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

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

#### **II. JURISDICTION**

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

- freshwater wetlands

- marshes
- wet meadows
- bogs
- swamps
- vernal pools
- banks
- lakes
- ponds
- lands under water bodies
- intermittent brooks, creeks and streams
- lands subject to flooding or inundation by groundwater or surface water

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

- perennial rivers, streams, brooks and creeks

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

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

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

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

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

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

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

that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw.

The applications and permits required by this bylaw will not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, or work ordered to be performed by a state or federal agency, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

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

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

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

##### Applications

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

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

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

##### Fee Schedule

##### Application Fees

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

##### Consultant Fees

Pursuant to M.G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds will be deposited with the town

treasurer, who will create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

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

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

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

## **V. NOTICE AND HEARINGS**

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

The Commission will conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission will commence the public hearing within 21 days from receipt of a completed permit application,

RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion.

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

#### Coordination with Other Boards

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

## **VI. CONDITIONS AND PERMITS**

#### Issuance of Permits

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

#### Denial of Permits

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

### Revocation of Permits

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

### Presumed Importance of the Buffer Zone

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

### Presumed Importance of Riverfront Area/Practicable Alternatives

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

### Limited Waiver of Performance Standards

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

### Avoidance of Wetlands Loss or Alteration

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

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

safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

#### Wildlife Habitat Study

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

#### Vernal Pools

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

#### Expiration

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

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

#### Coordination with Other Permits

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

#### Recording

No work proposed in any application will be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission

may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

## VII. REGULATIONS

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

## VIII. DEFINITIONS

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

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

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

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

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

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

**Person** shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or

quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

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

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

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

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

## **IX. SECURITY**

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

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

## **X. ENFORCEMENT**

No person will remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

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

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

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

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

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

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

## **XI. BURDEN OF PROOF**

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

## **XII. APPEALS**

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

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

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

## **XIV. SEVERABILITY**

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

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