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APPENDIX

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Chapter 1

GENERAL PROVISIONS

ARTICLE I
Acceptance of Bylaw Renumbering

ARTICLE II
Definitions; Penalties

§ 1-1. Definitions.

§ 1-2. Violations and penalties.

§ 1-3. Noncriminal disposition.

§ 1-4. Fine schedule.

[HISTORY: Adopted by the Town Meeting of the Town of Plymouth as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Acceptance of Bylaw Renumbering
[Adopted 4-7-1999 ATM by Art. 35]

The Town voted to accept and approve the codification of the by-laws of the Town of Plymouth, excluding the Personnel By-law and Zoning By-law, in the format presented by General Code Publishers Corp.

ARTICLE II
Definitions; Penalties
[Adopted 4-16-1974 ATM by Art. 58 as Art. 15 of the 1974 Bylaws]

§ 1-1. Definitions.

A. Whenever the word "street" or "streets" is mentioned in these bylaws, it should be understood as meaning all alleys, lanes, courts, public squares and public places, including sidewalks and gutters, unless the contrary is expressed or the construction would be inconsistent with the manifest intent.

B. Whenever the word "person" is used in these bylaws, it shall mean any individual, firm, association or corporation, as such appellation may apply.

§ 1-2. Violations and penalties.

Any person who shall violate any provision of these bylaws, in cases not otherwise provided for herein or by law, shall pay a penalty not exceeding $50 for each offense.

§ 1-3. Noncriminal disposition. [Added 4-8-1985 ATM by Art. 46]

A. Any bylaw of the Town of Plymouth or rule or regulation of its boards, commissions and committees, the violation of which is subject to a specific penalty, may, in the discretion of the town official who is the appropriate enforcing person, be enforced in the method provided in MGL c. 40, § 21D.

B. "Enforcing person," as used in this section, shall mean any police officer of the Town of Plymouth with respect to any offense and the Airport Manager and his or her designees, Building Inspector and his or her designees, the members of the Conservation Commission and its designees, the Harbor Master and his or her designees, the Health Director and his or her designees, the Sealer of Weights and Measures and his or her designees 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 official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

§ 1-4. Fine schedule. [Added 4-11-1988 ATM by Art. 19]

Notwithstanding any other provisions of this article, when enforced pursuant to the noncriminal disposition procedures of MGL c. 40, § 21D, the following shall be the fines applicable to the listed offenses:

Bylaws

Section	**Subject**	**Fine**
1-2	General penalty for bylaw violations, each offense	$50
14-6A	False alarm service	
[Amended	First 3 offenses	No fine
11-20-1989	Fourth offense	$25
STM by Art.	Fifth offense	$50
9]	Subsequent offenses	$75
14-6C	Alarm systems	$20
18-2	Alcoholic beverages, each offense	$50
23-4B	Dog control	

Bylaws

Section	**Subject**	**Fine**
[Amended 11-19-1996 STM by Art. 13 and 4-13-2004 by Art. 44]	First offense Second offense Succeeding offense	~~$20~~ $25 ~~$40~~ $50 ~~$50~~ $75
23-7 **[Amended 11-19-1996 STM by Art. 13 and 4-13-04 by Art. 44 and 4/2/2016 by Article 9]]**	Unlicensed dogs	~~$25 $50 $75~~
23-13 **[Added 4-13-2004 ATM by Art 45]**	Kennel Licenses First offense Second and subsequent offenses	 $50 $75
23-14 D **[Amended 11-19-1996 STM by Art. 13]**	Canine waste removal, each offense	$20
23-14A **[Added 4-13-2004 ATM by Art. 44]**	Dogs Banned or Removed, each offense	$50
23-17A	Migratory waterfowl, each offense	$20
23-27 **[Amended 11-19-1996 STM by Art. 13]**	Keeping of wild animals, each offense	$100
30-22	Plymouth beaches, each offense	$100

Bylaws

Section	**Subject**	**Fine**
30-24B	Swimming and bathing, each offense	$50
51-1 **[Amended 4-10-01 by ATM Art. 31]**	Disorderly conduct and obstruction by people, each offense	[$50] $100
81-12A	Harbor, each offense	$50
85-1 **[Amended 4-10-01 by ATM Article 31]**	Hawkers, Peddlars and Transient Vendors, each offense	$50
100-4 **[Amended 4-10-01 by ATM Article 31**	Junk Collectors	$50
120-1	Noise, each offense	$50
120-2 **[Amended 4-10-01 by ATM Article 31]**	Persons Present at location where noise originates	$50
127-1 **[Added 4-16-1997 ATM by Art. 27]**	Bicycling, skateboarding, roller-blading or skating in pedestrian area or area designated for special event	$50
134-9	Ponds, each offense	$50
149-2 **[Added 10-26-2004 ATM by Art. 25**	Sewer connection, each offense per day	$300
154-3	Soil removal, each offense	$100
157-2	~~Solid waste disposal permit, each offense~~	~~$50~~
	Dumping of waste materials on public or private land without a permit	
	First Offense:	$100
	Second Offense:	$200

	Third Offense:	$300

Section	Subject	Fine
191-8B **[Added 4-6-1996 ATM by Art. 26]**	Water and hydrant usage violation, each	$200
	Regulations	
191-15 **[Added 4-6-1996 STM by Art. 11]**	Water supply emergency	
	First offense	No fine
	Second offense	$50
	Succeeding offense	$100
196-11D **[Added 4-3-1993 ATM by Art. 30]**	Wetlands protection, each offense, daily	$50

Rules and regulations for conservation properties pursuant to MGL c. 40, § 8C [Added 4-3-1993 ATM by Art. 31]

Section	Subject	Fine
2A(1)	Enforcement	
	Unless otherwise stated, each violation/offense	$50
2B(2)	Discharge of rubbish, garbage, etc.	
	Littering, each offense	$50
[Amended 5-20-2006 ATM by Art. 33]	Dumping household trash, each Offense	~~$50~~ $100
	Dumping refuse, each offense	$100
2C(3)	Vehicle usage	

	Unauthorized motorized vehicles, each offense	$100
2D(3)	Vegetation and soil alterations	
	Unauthorized alterations, each offense	$100
2E(2)	Conservation properties	
	Unauthorized alterations, each offense	$100

Plymouth Long Beach Enforcement Regulations [Added 10-26-2004 ATM by Art. 26]

Section	Subject		Fine
2 (c)	Enforcement	First:	Warning
		Second:	$ 50.00
		Third violation and Subsequent Offenses:	$100.00

Chapter 5

ADVERTISING AND GUIDES

§ 5-1. Depositing advertisements at dwellings.

§ 5-2. Soliciting business at dwellings.

§ 5-3. Motor vehicles.

§ 5-4. School children.

§ 5-5. Public guides.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1978 by Art. 58 as Art. 6 of the 1974 Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Advertisements posted on structures -- See Ch. 51, § 51-3.
Hawkers, peddlers and transient vendors -- See Ch. 85.

§ 5-1. Depositing advertisements at dwellings.

No person shall ring the door bell or gong or knock at or open the door of any dwelling house for the purpose of depositing therein, or leaving or calling attention to, any placard, show bill, handbill or other advertisement. This section shall not apply to any candidate for public office or any person officially representing such candidate for public office.

§ 5-2. Soliciting business at dwellings.

No person shall solicit business of any kind at any dwelling house without first registering his or her name and address, the products desired to be sold and the name and address of the corporation or company whose products he or she desires to sell with the Chief of Police.

§ 5-3. Motor vehicles.

No person shall deposit in or on any motor vehicle, other than his or her own, any placard, show bill, handbill or other advertisement.

§ 5-4. School children.

No person shall pass any placard, show bill, handbill or other advertisement to any child going to and from school.

[Deleted by the Special Town Meeting, 4-5-2003 by Art. 12.

§ 5-5. Public guides.

~~No person shall act as a public guide or solicit the patronage of any person or persons for the purpose of guiding them in the Town of Plymouth unless he or she has first received a license to act as a public guide from the Board of Selectmen of said Plymouth.~~

Chapter 9

ADVISORY AND FINANCE COMMITTEE

§ 9-1. Appointment; terms of office.

§ 9-2. Eligibility for membership.

§ 9-3. Organizational meeting; reorganization.

§ 9-4. Officers.

§ 9-5. Notice of organization or reorganization.

§ 9-6. Powers and duties.

§ 9-7. Warrants.

§ 9-8. Reports.

§ 9-9. Subcommittees.

§ 9-10. Investigation of town accounts and records.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 2 of the 1974 Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Capital improvements -- See Ch. 38.
Financial affairs -- See Ch. 71.
Town Meeting -- See Ch. 173.

§ 9-1. Appointment; terms of office. [Amended 4-5-1978 ATM by Art. 52]

A. An Advisory and Finance Committee of 15 members shall be appointed by the Moderator for three-year overlapping terms. There shall be at least one member from each precinct of the town. (This subsection is contained in the Town Charter.[1])

B. Appointment to this Committee shall be made by the Moderator within 30 days prior to the end of the fiscal year and within 30 days after a vacancy occurs during the year.

§ 9-2. Eligibility for membership. [Amended 6-27-1984 STM by Art. 4]

[1] **Editor's Note: See Section 6-3-1 of the Charter.**

No town officer, Town Meeting member or anyone who is not a registered voter of the town shall be eligible for membership on this Committee.

§ 9-3. Organizational meeting; reorganization. [Amended 6-27-1984 STM by Art. 4]

A. The Advisory and Finance Committee shall meet for the purpose of organization each year no later than July 31 of any fiscal year.

B. The Committee may also reorganize at any other time during the fiscal year, at any meeting of the Committee, by a majority vote of members present and voting in the affirmative calling for such reorganization.

§ 9-4. Officers.

Said Committee shall choose its own Chairperson and Secretary.

§ 9-5. Notice of organization or reorganization. [Amended 6-27-1984 STM by Art. 4]

Within 10 days after the Committee is organized or reorganized, the Secretary shall notify the Selectmen of such organization or reorganization.

§ 9-6. Powers and duties. [Amended 5-20-06 ATM by Art. 35]

~~It shall be the duty of the Advisory and Finance Committee to consider all matters proposed to be acted on at all Town Meetings, except that in no case shall the Committee make any recommendation pertaining to the candidacy of any person for any office, nor shall it make any recommendation or suggestion in regard to any question involving a license for the sale of intoxicating liquors or in regard to any article involving the adoption of constitutional amendments.~~

§ 9-6. Powers and duties.

A. It shall be the duty of the Advisory and Finance Committee to consider all matters proposed to be acted on at all Town Meetings, except that in no case shall the Committee make any recommendation pertaining to the candidacy of any person for any office, nor shall it make any recommendation or suggestion in regard to any question involving a license for the sale of intoxicating liquors or in regard to any article involving the adoption of constitutional amendments.

The Advisory and Finance Committee shall conduct one (1) or more public hearings on each Warrant Article to be acted upon at any Town Meeting and shall issue its recommendations in a detailed printed report and make copies available to each Town Meeting member and voters at least fourteen (14) days prior to the scheduled date of the Town Meeting. In order for the Committee to make its recommendation on any Warrant Article in such report the Committee may require proponents of an Article to furnish the

Committee with reasonably appropriate information at such public hearing and otherwise in a timely manner such that the Committee can reasonably meet the aforesaid 14-day deadline.

§ 9-7. Warrants. [Amended 6-27-1984 STM by Art. 4; Amended 4-5-2008 by Art. 19]

A. Annual Town Meeting warrant. The Annual Town Meeting warrant shall be closed by the Selectmen no later than the ~~last~~ third Wednesday in ~~November~~ December. It shall be the duty of the Selectmen to transmit a complete draft of the warrant to each member of the Advisory and Finance Committee and the Chairman of the Committee of Precinct Chairs within 15 days after the close of the Annual Town Meeting warrant. It shall be the duty of the Advisory and Finance Committee to transmit a complete draft of the warrant to each Town Meeting member no later than February 1 of such year.

B. Special Town Meeting warrant. It shall be the duty of the Selectmen to transmit a complete draft of any Special Town Meeting warrant to each member of the Advisory and Finance Committee within three working days of the close of such warrant. It shall be the duty of the Advisory and Finance Committee and the Chairman of the Committee of Precinct Chairs to transmit a complete draft of any Special Town Meeting warrant to each Town Meeting member as soon as possible after its receipt from the Board of Selectmen.

§ 9-8. Reports. [Amended 11-16-1987 STM by Art. 11]

The report of the Committee to the Annual Town Meeting shall be in print and shall contain a list of the regular annual departmental budget recommendations, subdivided to whatever extent seems advisable to the Committee for a vote by the town, provided that salaries and personal services shall be segregated from other expenses and that any contemplated outlay for departmental equipment in the amount of $600 or more, but not meeting the definition of "capital projects and improvements" as defined in Chapter 38, Capital Improvements, § 38-2, of this Code, shall be set forth in a consolidated departmental equipment article and subject to a separate vote. Reports of the Committee on all other Town Meetings shall be in such form as the Committee shall deem advisable. Such report of the Committee shall also contain the recommendations of the Committee on all other Town Meeting Warrant Articles. **[Last Sentence added 5-20-06 ATM by Article 36]**

§ 9-9. Subcommittees.

The Advisory and Finance Committee may appoint such subcommittees as it may deem advisable.

§ 9-10. Investigation of town accounts and records.

The Advisory and Finance Committee shall have authority at any time to investigate the town's accounts and management, and the books, records and accounts of all departments of the town shall be open to the inspection of the Advisory and Finance Committee or any of its authorized subcommittees and any person employed by it.

Chapter 14

ALARM SYSTEMS

Fire Alarms

§ 14-1. Definitions.

§ 14-2. List of persons authorized to respond to alarm.

§ 14-3. Duration of audible signal restricted.

§ 14-4. Notice required prior to tests.

§ 14-5. System to be approved by Police Chief.

§ 14-6. Violations and penalties.

§ 14-7. Severability.

Fire Alarms

§ 14-9. Definitions

§ 14-10. List of persons authorized to respond to alarm

§ 14-11. Requirement of Knox Box Installation

§ 14-12. Duration of audible signal restricted

§ 14-13. Notice required prior to tests

§ 14-14. System to be approved by Fire Chief

§ 14-15. Violations and penalties

§ 14-16. Appeal Procedure

§ 14-17. Severability

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-7-1986 by Art. 16. Amendments noted where applicable. [Replaced at Annual Town Meeting of 4-5-2010 by Article 29]

~~**§ 14-1. Definitions.**~~

~~As used in this chapter, the following terms shall have the meanings indicated:~~

> ~~BURGLAR ALARM SYSTEM — An assembly of equipment and devices or a single device, such as, but not limited to, a solid state unit which plugs directly into a one-hundred-ten-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which the police are expected to respond. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted~~

robbery at a premises are specifically excluded from the provisions of this chapter. The provisions of § 14-6 of this chapter shall apply to all users.

FALSE ALARM:

A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his or her employees or agents.

B. Any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary or attempted threat.

C. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

§ 14-2. List of persons authorized to respond to alarm.

Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Plymouth Police Department of any changes in the list of authorized employees so named in the business listing to respond to alarms.

§ 14-3. Duration of audible signal restricted.

A. All alarm systems installed after the effective date of this chapter which use an audible bell, horn or device shall be equipped with a device that will shut off such bell, horn or device within 15 minutes after activation of the alarm system. All existing alarm systems in the Town of Plymouth must have a shutoff device installed within six months of passage of this chapter.

B. Any alarm system emitting a continuous and uninterrupted signal for more than 15 minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him or her under § 14-2 of this chapter and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located shall constitute a public nuisance.

§ 14-4. Notice required prior to tests.

No alarm system which is designed to transmit emergency messages or signals of intrusion to the Police Department will be tested until the Police Dispatcher has been notified.

~~§ 14-5. System to be approved by Police Chief.~~

~~All alarm systems which are designed to transmit emergency messages or signals of intrusion to the Police Department will be of a type approved by the Police Chief.~~

~~§ 14-6. Violations and penalties [Amended 4-4-2009 STM by Art. 8] per Calendar Year.~~

~~A. A. **[Amended 11-20-1989 STM by Art. 9]** The Police Chief shall notify the alarm user either by certified mail or by service in hand by a police officer of each violation. Fines shall be paid in accordance with applicable state and local laws. Fines for false alarm service shall be as follows: **[Amended 4-4-2009 STM by Art. 8]** The Police Chief or his designee shall provide the alarm user with written notice of a violation by regular mail. Fines shall be paid in accordance with applicable state and local laws. Fines for false alarm service shall be as follows~~

~~**Offense**~~	~~**Fine**~~
~~First 3~~	~~None~~
~~Fourth~~	~~$25~~
~~Fifth~~	~~$50~~
~~Subsequent~~	~~$75~~

~~B. The owner of a system which occasions six or more false alarms within a calendar year and/or an installer who is not in conformance with this chapter may be ordered to disconnect and otherwise discontinue the use of the same by the Board of Selectmen after a public hearing.~~

~~C. Any user, owner or installer found to be in violation of any provision of this chapter for which no other penalty is specified shall be punished by a fine of $20.~~

~~§ 14-7. Severability.~~

~~In the event that any provision, section or clause of this chapter is hereafter judicially found to be invalid, such decision, invalidity or voidance shall not affect the validity of the remaining portion of this chapter.~~

Burglar Alarms

§ 14-1. Definitions.

As used in this section, the following terms shall have the meanings indicated:

BURGLAR ALARM SYSTEM -- An assembly of equipment and devices or a single device, such as, but not limited to, a solid state unit which plugs directly into a one hundred-ten-volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which the police are expected to respond.

Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this section. The provisions of § 14-6 of this section shall apply to all users.

FALSE ALARM:

A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his or her employees or agents.

B. Any signal or oral communication transmitted to the Police Department requesting or requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery or burglary or attempted threat.

C. For the purposes of this definition, activation of alarm systems by acts of God, including but not limited to power outages, hurricanes, tornadoes, earthquakes and similar weather or atmospheric disturbances, shall not be deemed to be a false alarm.

§ 14-2. List of persons authorized to respond to alarm.

Every alarm user shall submit to the Police Chief the names and telephone numbers of at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open the premises wherein the alarm system is installed. It shall be incumbent upon the owner of said premises to immediately notify the Plymouth Police Department of any changes in the list of authorized employees so named in the business listing to respond to alarms.

§ 14-3. Duration of audible signal restricted.

A. All alarm systems installed after the effective date of this chapter which use an audible bell, horn or device shall be equipped with a device that will shut off such bell, horn or device within 15 minutes after activation of the alarm system. All existing alarm systems in the Town of Plymouth must have a shutoff device installed within six months of passage of this chapter.

B. Any alarm system emitting a continuous and uninterrupted signal for more than 15 minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him or her under § 14-2 of this chapter and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located shall constitute a public nuisance.

§ 14-4. Notice required prior to tests.

No alarm system which is designed to transmit emergency messages or signals of intrusion to the Police Department will be tested until the Police Dispatcher has been notified.

§ 14-5. System to be approved by Police Chief.

All alarm systems which are designed to transmit emergency messages or signals of intrusion to the Police Department will be of a type approved by the Police Chief.

§ 14-6. Violations and penalties [Amended 4-4-2009 STM by Art. 8] per Calendar Year.

B. A. [Amended 11-20-1989 STM by Art. 9] ~~The Police Chief shall notify the alarm user either by certified mail or by service in hand by a police officer of each violation. Fines shall be paid in accordance with applicable state and local laws. Fines for false alarm service shall be as follows~~: [Amended 4-4-2009 STM by Art. 8] The Police Chief or his designee shall provide the alarm user with written notice of a violation by regular mail. Fines shall be paid in accordance with applicable state and local laws. Fines for false alarm service shall be as follows

Offense	Fine
First 3	None
Fourth	$25
Fifth	$50
Subsequent	$75

B. The owner of a system which occasions six or more false alarms within a calendar year and/or an installer who is not in conformance with this chapter may be ordered to disconnect and otherwise discontinue the use of the same by the Board of Selectmen after a public hearing.

C. Any user, owner or installer found to be in violation of any provision of this chapter for which no other penalty is specified shall be punished by a fine of $20.

§ 14-7. Severability.

In the event that any provision, section or clause of this chapter is hereafter judicially found to be invalid, such decision, invalidity or voidance shall not affect the validity of the remaining portion of this chapter.

§ 14.9. Definitions

When used in this section, unless a contrary intention clearly appears, the following words shall have the following meanings:

False Alarm: For the purposes of this regulation, a false fire alarm shall be defined as follows:

(a) The operation of a faulty smoke or heat detection device (defined as no smoke, odor, or fire observed)
(b) Faulty control panel or associated equipment
(c) A water pressure surge in automatic sprinkler system
(d) Accidental operation of an automatic sprinkler system
(e) An action by an employee of the owner or occupant of the protected premises or a contractor employed by the owner or occupant, causing accidental activation of the internal fire alarm system.

Fire Alarm System: Any heat-activated, flame-energy-activated or other such automatic device capable of transmitting a fire alarm signal to the Plymouth Fire Department by way of a Master Box, Central Station, or any other automated means.

Fire Alarm System Malfunction: The transmittal of a fire alarm to the Plymouth Fire Department by way of a master box, central station, automatic dialer or any other automated means which alarm is caused by improper installation of a fire alarm system, a mechanically defective fire alarm system, lack of maintenance or some other reasons that causes a fire alarm to sound even though there is no actual fire or situation that reasonably could evolve into a fire.

Fire Alarm System Owner: An individual or entity who owns the title to and/or has on his business or residential premises a fire alarm system equipped to send an automatic fire alarm signal to the Plymouth Fire Department.

Fire Chief: The Chief of the Plymouth Fire Department.

§ 14-10. List of persons authorized to respond to alarm

The Fire Alarm System Owner shall provide the Fire Chief with the following information:

(a) The name, address, and home and work telephone numbers of the Fire Alarm System Owner;
(b) The street address where the Fire Alarm System is located;
(c) The names, addresses and telephone numbers of the persons or businesses protected by the Fire Alarm System.
(d) The names, addresses and home and work telephone numbers of at least two persons other than the owner who can be contacted twenty-four hours a day, who are authorized by the fire alarm system owner to respond to an alarm signal and who have access to the premises in which the fire alarm system is located.
(e) Such other information as the Fire Chief may require.

§ 14.11. Requirement of Knox Box Installation:

Every commercial Fire Alarm System user shall be required to install a Knox Box by the entrance door located in the immediate vicinity of the Fire Alarm Panel. They shall be required to provide the Fire Department with a key, to be kept in the Knox Box, which will allow access to any areas that contain a fire signaling device.

§ 14.12. Duration of audible signal restricted:

Any alarm system emitting a continuous and uninterrupted exterior signal for more than 15 minutes, after the arrival of the Fire Department and has been determined to be a false alarm, which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him or her under § 15-2 of this chapter and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located shall constitute a public nuisance.

§ 14-13. Notice required prior to tests:

No alarm system which is designed to transmit emergency messages or signals of Fire System activation to the Fire Department will be tested until the Fire Dispatcher has been notified.

§ 14-14. System to be approved by Fire Chief:

A. All Fire Warning Systems which are designed to transmit emergency messages or signals of Fire System activation to the Fire Department will be of a type approved by the Fire Chief.

B. Restrictions on Tape Dialers and Similar Automatic Telephone Devices

No fire alarm system shall be equipped with a tape dialer or similar automatic telephone device which will transmit an alarm message to any telephone lines of the Plymouth Fire Department. If a fire alarm system is equipped with such a tape dialer or similar automatic telephone device, the fire alarm system owner shall have sixty (60) days to disconnect such tape dialer or similar automatic telephone device. If a fire alarm system owner fails to comply with this section, the Fire Chief may assess a fine of fifty dollars ($50).

§ 14-15. Violations and penalties:

A. The Fire Chief or his designee shall provide the alarm user with written notice of a violation by regular mail. Fines shall be paid in accordance with applicable state and local laws. Fines for false alarm activation in any twelve month period shall be as follows:

Offense	Fine
➢ First through Third false alarm	NO FINE
➢ Fourth through Sixth false alarm	$50.00
➢ Seventh through Eleventh false alarm	$100.00
➢ Each false alarm after the Eleventh	$200.00

B. Any user, owner or installer found to be in violation of any provision of this chapter for which no other penalty is specified shall be punished by a fine in accordance with M. G. L. Chapter 148A:

C. Upon the recording of the third false alarm by the Fire Department, the Fire Chief shall notify the owner of the building, in writing and by certified mail, of such fact, and at this time inform the owner of the Department's policy with regards to charging for false alarms. (Send copy of the policy at this time.)

§ 14-16. Appeal Procedure:

Any fire alarm system owner who is aggrieved by an action taken by the Fire Chief under this bylaw may, within ten (10) days of such action, file an appeal in writing, to the Assistant Town Manager who serves as the Municipal Hearings Officer (the Appeals Officer). After notice the Appeals Officer shall hold a hearing, after which it shall issue a decision in which it affirms, annuls or modifies the action taken by the Fire Chief giving its reasons thereof. The Appeals

Officer shall send her/his decision to the owner by first class mail with ten (10) days after the hearing. The decision of the Appeals Officer shall be a final administrative decision.

§ 14-17. Severability:

In the event that any provision, section or clause of this chapter is hereafter judicially found to be invalid, such decision, invalidity or voidance shall not affect the validity of the remaining portion of this chapter.

Chapter 18

ALCOHOLIC BEVERAGES

§ 18-1. Consumption on public property; consumption on private property without owner's consent.

§ 18-2. Violations and penalties.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 5, Sec. 5.7 of the 1974 Bylaws. Amendments noted where applicable.]

§ 18-1. Consumption on public property; consumption on private property without owner's consent.

No person shall drink any alcoholic beverages as defined in MGL c. 138, § 1 while in or upon any public way or any way to which the public has a right of access or any place to which members of the public have access as invitees or licensees or any park or playground, nor shall any person so drink any alcoholic beverages while in or upon private land or a private building or a private structure or a private place without the consent of the owner or person or persons in control thereof.

§ 18-2. Violations and penalties.

Any person violating this chapter shall be fined not more than $50 for each offense.

Chapter 23

ANIMALS

ARTICLE I
Dog Control

§ 23-1. Definitions.

§ 23-2. Order of restraint.

§ 23-3. Impoundment.

§ 23-4. Leash required; penalties.

§ 23-5. Owner to pay outstanding fees and penalties.

§ 23-6. License withheld for failure to pay fine.

§ 23-7. Unlicensed dogs; penalties.

§ 23-8. Enforcement; waivers.

§ 23-9. Incorporation of statutory provisions.

§ 23-10. Authority vested in town.

§ 23-11. License fees.

§ 23-12. Disposition of money.

§ 23-13. License required; kennel licenses.

§ 23-14. Waste removal.

§ 23-14A. Banned or Removed Dogs

ARTICLE II
Horses, Cattle and Swine

§ 23-15. Running at large.

ARTICLE III
Migratory Waterfowl

§ 23-16. Feeding and baiting prohibited; emergency feeding.

§ 23-17. Violations and penalties; enforcement.

§ 23-18. Copies to state officers.

ARTICLE IV
Wild Animals

§ 23-19. Permit required.

§ 23-20. Definitions.

§ 23-21. Classification.

§ 23-22. Exceptions.

§ 23-23. Conditions for permit issuance.

§ 23-24. Investigation of applicant.

§ 23-25. Inspections; fees.

§ 23-26. Limit on number of animals.

§ 23-27. Violations and penalties.

[HISTORY: Adopted by the Special Town Meeting of the Town of Plymouth 11-19-1996 by Art. 13. Amendments noted where applicable.]

GENERAL REFERENCES

Animals on beaches -- See Ch. 30, § 30-3.

ARTICLE I
Dog Control

§ 23-1. Definitions.

In this article, the following terms shall have the meanings hereinafter respectfully assigned as follows:

AT LARGE -- Unaccompanied by an owner, keeper or other responsible person.

OUT OF CONTROL -- Accompanied by a person not exerting proper control by leash.

RESTRAINED -- Being kept leashed or fenced within the bounds of the property of the owner or keeper or walked with a leash.

VICIOUS **[Added 4-9-2012 ATM by Article 20]** - - Dogs meeting the following descriptions, as determined by the Animal Control Officer, shall be considered vicious:

A. Any dog found to, without provocation, attack, threaten or terrorize any person on any public ground including streets and sidewalks.
B. Any dog with a history of attacking without provocation or has caused injury to any human being or domestic animal.

C. Any dog that bites, injures, assaults, or attacks a human being or domestic animal.
D. Any dog found to be involved or trained in dog fighting.
E. Provided, however, that notwithstanding the above criteria, no dog may be considered vicious for inflicting injury or damage to a person who:
   i. is found to be willfully trespassing or in the process of any other tort offense on the property of the animal's owner; or
   ii. teases, torments, abuses, or assaults the dog.

§ 23-2. Order of restraint.

A. The Selectmen shall, or through the Dog Officer shall, order the owner or keeper of a dog to restrain a dog for any one of the following causes:

(1) If found at large when in heat.

(2) If found at large or out of control and determined a nuisance by the Dog Officer and/or the Board of Selectmen in a school yard, public park, public playground or area zoned as a business district.

(3) If found at large or out of control in a pack.

(4) **[Amended 4-9-2012 ATM by Article 20]**~~For having bitten, injured or physically molested any person.~~ If found to be a vicious dog.

~~(5) For having bitten or injured any domestic animal.~~ **[Deleted 4-9-2012 ATM by Article 20]**

(5) For chasing any vehicle or bicycle on a public way or way open to traffic.

(6) If the dog is found to bark, howl or in any other manner consistently disturb the quiet or disturb any person.

(7) For having littered on or caused damage to the property of a person.

B. The Dog Officer and/or the Selectmen, in their discretion, may remove an order of restraint if the owner or keeper of the dog satisfies the Dog Officer and/or the Selectmen that the dog is unlikely to repeat its offense.

§ 23-3. Impoundment.

A. The Selectmen, through their Dog Officer, may cause a dog to be impounded for any one of the following causes:

(1) If found without a license when a license is required by law.

(2) For having bitten, injured or physically molested any person or domestic animal.

(3) If found at large after having been ordered restrained by a Dog Officer.

B. An impounded dog shall be released to its owner or keeper upon payment of the pound fees and on the additional conditions, if applicable:

(1) In the case of a dog impounded under Subsection A(1), upon the obtaining of a license as required by law.

(2) Except as herein provided, in this section, upon the agreement of the owner or keeper to undertake such restrictions or control of the animal as the Dog Officer shall require.

C. Dogs impounded and unclaimed by the owner or keeper after a ten-day period shall be disposed of.

§ 23-4. Leash required; penalties.

A. No dog shall be permitted in any street or public place unless it is accompanied by an owner, keeper or other responsible person and effectively restrained by a chain or leash not exceeding six feet in length, 24 hours per day.

B. Whoever violates this section shall be fined as follows:

[Amended 4-13-2004 ATM by Art. 44]

(1) First offense: $25.00

(2) Second offense: $50.00

(3) Succeeding offense: $75.00

§ 23-5. Owner to pay outstanding fees and penalties.

Notwithstanding any other provision of this article, the Dog Officer shall not release any dog which has been confined until the owner or keeper of the dog shall pay all outstanding charges, fees, expenses and penalties, of whatsoever nature, including, without limiting the foregoing in any way, all license fees, care and custody charges, citations, fines and other penalties.

§ 23-6. License withheld for failure to pay fine.

No license pursuant to MGL c. 140 shall be granted by the town, however, with respect to any dog against which a fine has been imposed pursuant to this article and remains unpaid.

§ 23-7. Unlicensed dogs; penalties.

The penalty for owning an unlicensed dog in the Town of Plymouth shall be ~~$25 $50~~ **[amended 4/13/2004 by Article 44]** $75 **[amended 4/2/2016 by Article 9]**, with each month of continued violation constituting a separate offense.

§ 23-8. Enforcement; waivers.

A. This article shall be enforced by the Selectmen, Plymouth, Massachusetts. When enforced by means of noncriminal disposition pursuant to MGL c. 40, § 21D, the enforcing person shall be a Dog Officer of the Town of Plymouth.

B. The Selectmen, through the Dog Officer, may waive prosecution of a complaint against the owner or keeper of any dog taken into the Dog Officer's custody under this article if, within 12 months next preceding this offense, the owner or keeper has not been convicted for violation of this article or a dog owned or kept by him or her has not been taken into custody for violation of this article.

§ 23-9. Incorporation of statutory provisions.

The provisions of MGL c. 140, §§ 136A through 174D, inclusive, except as modified herein, are incorporated into this article relating to the regulation of dogs, including but not limited to dog licensing, establishing dog fees, appointment of dog officers, kennel licensing and kennel regulations, procedures for the investigation of and reimbursement for damage caused by dogs, restraining of dogs and establishing penalties for a breach thereof.

§ 23-10. Authority vested in town.

Authority vested in the county, the County Commissioners and the County Treasurer under the provisions of MGL c. 140, §§ 137 to 174D, inclusive, shall vest in the town, its Board of Selectmen and Town Treasurer upon approval of this article.

§ 23-11. License fees.

A. Dog license. Notwithstanding the provisions of MGL c. 140, §§ 139 and 173, the fees for dog licenses shall be ~~[$7] $10~~ **[amended 10/23/06 by Article 26]** $15 **[amended 4/2/2016 by Article 9]** for altered males and spayed females and ~~[$10] $20~~ **[amended 4/10/01 by Article 29]** $25 **[amended 4/2/2016 by Article 9]** for unaltered males and unspayed females.

[Replaced 4-13-04 by ATM Article 45]

~~Kennel license. Notwithstanding the provisions of MGL c. 140, § 137A, the fee for each license for a kennel shall be [$25] $50~~ **~~[amended 4/10/01 by Article 29]~~**

B. ~~if not more than four dogs are kept in said kennel, [$50] $75~~ **~~[amended 4/10/01 by Article 29]~~** ~~if more than four but not more than [10] 9~~ **~~[amended 4/10/01 by Article 29]~~** ~~dogs are kept therein and [$150]~~ **~~[amended 4/10/01 by Article 29]~~** ~~if more than 10 dogs are kept therein.~~
Kennel license. Not withstanding the provision of MGL c.140, 137A, the annual renewal fees for kennel licenses shall be for Grade One Licenses: Fifty dollars ($50.00); for Grade Two License: Seventy-five ($75.00); and for Grade Three License: One hundred and fifty dollars ($150.00). Kennel licenses must be renewed annually by January 1 of each year and each is subject to continued compliance with the conditions set forth in Section D and Section E of §23-13, License Required: Kennel Licenses.

C. Substitute license tag. The fee for a substitute license tag shall be $1.

D. Certified guide dogs. There shall be no fee for licenses for certified guide dogs.

E. Charitable kennels. The Town Clerk shall, upon application, issue without charge a kennel license to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals.

F. Transfers. There shall be no fee for licenses issued pursuant to valid licenses transferred from other Massachusetts municipalities through the end of the then-current calendar year.

§ 23-12. Disposition of money.

All money received for licenses or recovered as fines under this article shall be deposited in the general fund. Money paid out for damages, license blanks or books, record books, anti-rabies vaccine or other purpose required under this article shall be subject to appropriation at Town Meeting.

§ 23-13. License required; kennel licenses. [Replaced 4-13-2004 ATM by Article 45]

~~A. All dogs six months of age or older shall be licensed with the Town Clerk on January 1 of each year. By June 15 of each year the Town Clerk shall cause a notice to be sent to the owner or keeper of record of any unlicensed dog. In addition to the license fee established by this article, said owner or keeper shall be subject to an additional charge of $5 for each dog licensed after June 15. This subsection may be enforced by any Dog Officer or any police officer of the town.~~

~~B. The Town Clerk shall not issue any kennel license until an applicant presents a certificate of approval for the kennel from the Building Inspector.~~

~~C. The Town Clerk shall not issue a dog license for any dog included in § 23-21 of this chapter until an applicant presents a certificate of approval from the Board of Selectmen.~~

A. KENNEL DEFINITION

The word kennel shall be one collection of dogs on a single premises, whether maintained for breeding, boarding, sale training, hunting or other purpose, including more than three dogs, three months old or older, provided however, that a veterinary hospital shall not be considered a kennel under the intent of this Bylaw. A commercial boarding kennel shall require a boarding kennel license. **[Sentence added 4-9-2012 ATM by Article 19]**

B. KENNEL LICENSE REQUIRED

A kennel license shall be required for all kennels and shall be classified as a Grade One License for the keeping of four to five dogs, a Grade Two License for the keeping of six to nine dogs, and a Grade Three License for the keeping of ten to twenty-five dogs. A kennel in excess of twenty-five dogs shall not be permitted. The new kennel licensing requirements shall become effective on January 1, 2005.

C. APPLICATION AND ISSUANCE OF LICENSE AND FEES

A kennel license shall be issued annually by the Town Clerk upon written application by an owner or keeper of dogs and after inspection and determination by the Animal Control Officer, or other Agent as designated by the Town Manager, that the conditions set forth in Section D are met.

a. An application fee of one hundred and fifty dollars, ($150.00), shall be required for the initial application and for any applications to make changes to an existing kennel license.

EXCEPTION: All existing kennels licensed before January 1, 2005, shall be exempt from the requirement of a new application, and be subject only to the requirement of the annual inspection and renewal fee.

D. CONDITIONS THAT MUST BE MET FOR THE ISSUANCE OF A KENNEL LICENSE

1. The Animal Control Officer, or other Agent as designated by the Town Manager, shall determine that:

a. The proposed licensed premises contains sufficient and suitable space for the keeping of the specific breed(s) and number(s) of dogs, including both indoor and outdoor areas.

b. The proposed licensed premises for a Grade One License, a Grade Two License, and a Grade Three License shall provide suitable distances from nearby residential dwellings. Suitable distances from nearby residential dwellings shall be determined by the Animal Control Officer, or other Agent as designated by the Town Manager, upon inspection of the proposed licensed premises.

c. The proposed licensed premises contain a suitable shelter for the dogs, which for a Grade Three License includes adequate running water and an impervious floor suitable for sanitary maintenance.

E. KENNEL LICENSE CONDITIONS

All kennel licenses shall be issued annually and be subject to the following conditions:

1. The licensee shall maintain a certificate of health signed by a licensed veterinarian for each dog in the kennel. The certificate of health shall be updated at least annually upon review of the kennel license, and the payment of the annual kennel license fee.

2. The licensee shall maintain a certificate signed by a licensed veterinarian that each dog in the kennel six month of age or older has a current rabies vaccination.

3. The licensee shall comply with the Town of Plymouth Leash Bylaw, Chapter 23, Section 4.

4. The licensee shall maintain compliance with the bylaw relating to noise under Town Bylaw, Chapter 120.

5. The licensed premises shall be subject to unannounced, annual inspections by the Animal Control Officer, or other Agent as designated by the Town Manager, regarding compliance with the conditions of the kennel license.

F. PENALTIES AND ENFORCEMENT

The operation of a kennel without a license shall be a violation of this Article of the General Bylaws of the Town of Plymouth. Any violation of the conditions of a kennel license as set forth in this Article, Section D and Section E, shall be

grounds for suspension, revocation, or non-renewal of the kennel license. The provision of this article shall be enforced by the Animal Control Officer, or other

Agent as designated by the Town Manager. The penalties for violating the kennel licensing provision set forth in this Article shall be fifty dollars, ($50.00), for the first offense, and seventy-five dollars, ($75.00), for each subsequent offense, each day of the violations, each day constituting a separate offense.

G. APPEAL AND WAIVER

1. Should a kennel license be denied because of the applicant's inability to meet the requirements of sufficient and suitable space, suitable distance from nearby residential dwellings, and suitable shelter for the dogs, as

determined upon inspection by the Animal Control Officer, or other Agent as designated by the Town Manager, the applicant may appeal the Town Clerk's denial to the Board of Selectmen, or their Designee, within thirty-days (30) of receiving the denial.

2. The Board of Selectmen, or their Designee, shall hold a hearing on said appeal within forty-five (45), days of receipt of the written notice of appeal.

3. Notice of the hearing shall be given by postage prepaid first class mail to the abutters of the proposed licensed premises, both to the property owner and any tenants, as appearing in the Board of Assessors most recent list, and also shall be published in a newspaper of the general circulation in the Town, at least fourteen days (14) prior to the date of the Board of Selectmen's, or their Designee's hearing. The applicant shall pay the expenses of giving said notice.

4. After hearing, the Board of Selectmen, or their Designee, may waive strict compliance with the provisions set forth in Section D, and order the Town Clerk to issue the license if:

a. The Animal Control Officer, or other Agent as designated by the Town Manager, recommends a waiver.

b. The Board of Selectmen, or their Designee, determines that there is sufficient area for the keeping of the dogs, and that the health and the safety of the public is protected.

c. In granting a waiver under this Section, the Board of Selectmen, or their Designee, may impose conditions on the waiver such that the health and the safety of the public is protected.

H. BOARDING KENNEL LICENSE

A Boarding Kennel, for temporary boarding of dogs, requires a zoning permit. Each dog boarded must be accompanied with a certificate proving up-to-date rabies inoculation and licensing from a municipality or county.

a. An application fee of one hundred and fifty dollars, ($150.00), shall be required for the initial application and for any applications to make changes to an existing kennel license.
b. The cost of a renewal license shall be $75 annually. **[Section H added 4-9-2012 ATM by Article 19]**

§ 23-14. Waste removal.

A. Duty to dispose. It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street, park or other public area.

B. Duty to possess means of removal. No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street, park or other public area without the means of removal of any feces left by such dog.

C. Method of removal and disposal. For the purpose of this regulation, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces unexposed to said person or the public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of human feces, specifically reserved for the disposal of canine feces or as otherwise designated as appropriate by the Board of Health.

D. Fines for violation. Violation of this regulation shall be punished by a fine of ~~$20~~ $50 for each occurrence. **[Amended 4-13-2004 ATM by Art. 44]**

E. Enforcement. Violation of this section shall be enforced in accordance with law; provided, however, that if, simultaneously with the issuance of a complaint hereunder, a complaint is issued pursuant to MGL c. 40, § 21D and that complaint is disposed of pursuant to said Act, the complaint issued hereunder shall be deemed disposed of.

F. Exemption. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this regulation.

G. Severability. The provisions of this regulation are severable, and if any of the provisions of this regulation shall be held unconstitutional or otherwise

invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

§ 23-14A. Banned or Removed Dogs [added 4/13/2004 ATM by Article 44]

A. Dogs “banned” or “removed” from another town or municipality may not be relocated to or be permitted to be kept within the territory of the Town of Plymouth.

B. Fines for Violation – Violation of §23-14A shall be punished by a fine of $50.00 for each offense, each day of violation constituting a separate offense.

ARTICLE II
Horses, Cattle and Swine

§ 23-15. Running at large.

No horse or other grazing cattle or swine shall be suffered to run at large within the principal inhabited parts of this town or to remain or loiter by the roadside, or the roadside of any railroad corporation, or to feed upon or root up the herbage therein, either with or without a keeper, and no person shall voluntarily permit the same to go upon any sidewalk, harnessed or unharnessed.

ARTICLE III
Migratory Waterfowl

§ 23-16. Feeding and baiting prohibited; emergency feeding.

A. No person, except the Director of the Division of Fisheries and Wildlife or his or her agent or designee, as authorized pursuant to MGL c. 131, shall feed or bait any waterfowl of the family Anatidae (including but not restricted to ducks, geese and swans) on any public property within the Town of Plymouth. As used in this subsection, "feeding" and "baiting" shall mean the placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled, shucked or unshucked corn, wheat or other grains, bread, salt or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction or enticement to, on or over any such areas where such feed items have been placed, exposed, deposited, distributed or scattered.

B. Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife or his or her agent or designee may authorize the emergency feeding of waterfowl and other birds when, in his or her opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The Director may authorize such action by

such means as he or she deems necessary and expedient, but such means shall include the immediate notification of the Selectmen thereof by first-class mail.

§ 23-17. Violations and penalties; enforcement.

A. Any person who violates any provision of this article shall be subject to a fine of $20 for each offense thereof.

B. This article may be enforced by police officers, Shellfish Constables, the Harbor Master and Assistant Harbor Masters, agents of the Board of Health, other enforcement officers of the Division of Law Enforcement and other town officials as designated by the Board of Selectmen.

§ 23-18. Copies to state officers.

Upon approval of this article, the Selectmen shall cause one copy thereof to be mailed to the Director of the Division of Fisheries and Wildlife and one copy to the Director of the Division of Law Enforcement.

ARTICLE IV
Wild Animals

§ 23-19. Permit required. [Amended 4-5-2014 ATM by Article 35]

A. It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the town any dangerous animal or reptile or carnivorous, wild animal or other animal or reptile of wild, vicious or dangerous propensities without obtaining an annual permit therefor from the Board of Selectmen.

B. Under no circumstance will a permit be issued for the possession of any animal as described in 23-19 (a) if the animal is part or a traveling exhibition or show living in a mobile housing facility. An animal is deemed to be part of a traveling exhibition or show if, during the 15-day period preceeding any proposed use in a traveling exhibition or show, such animal was traveling in a mobile housing facility.

§ 23-20. Definitions.

For purposes of this article, the following terms shall have the meanings indicated:

DANGEROUS ANIMAL -- Includes any wild mammal, reptile or fowl or a species which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, breeding, vicious nature or other characteristics, would constitute a

danger or threat to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

DANGEROUS DOMESTICATED ANIMAL -- Includes any domestic mammal, reptile or fowl which, because of its size, breeding or vicious propensity or other characteristics,

would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

§ 23-21. Classification. [Amended 4-9-2012 ATM by Article 20]

Dangerous or wild animals include the following: all poisonous animals, apes, baboons, bears, bison, cheetahs, crocodilians 24 inches or more, constrictor snakes 36 inches in length or more, coyotes, deer, elephants, game cocks and other fighting birds, hippopotami, hyenas, jaguars,

leopards, lions, lynxes, monkeys, ostriches, piranha, ~~pitbulls~~, pumas, rhinoceroses, sharks, tigers ~~and~~ wolves and **[Amended 4-9-2012 ATM by Article 20]** any dog found to be vicious under Section 23-1 of the Town Bylaws; provided, however, that the foregoing list is not deemed to be all-inclusive.

§ 23-22. Exceptions. [Amended 4-5-2014 ATM by Article 35]

The provisions of §§ 23-19, 23-20 and 23-21 shall not apply to any duly licensed ~~menagerie,~~ zoo, ~~circus~~ or bona fide educational or medical institution, including a veterinarian, or any other duly licensed place where such animals are kept for the purpose of instruction, treatment or study; provided, however, that:

A. The location and operation of the foregoing are in conformity with all applicable federal, state and local laws, bylaws, rules and regulations;

B. All animals and animal quarters are kept in a clean and sanitary condition; and

C. All animals are maintained in quarters so constructed and controlled as to prevent their escape.

§ 23-23. Conditions for permit issuance.

The Board of Selectmen may issue an annual permit for the keeping or maintenance of a dangerous animal upon the following conditions:

A. The animal is kept or maintained at all times in a safe manner and securely confined so that the keeping of such animal shall not constitute a danger to human life or the property of others.

B. Adequate safeguards are taken to prevent unauthorized access to such animal by other persons.

C. The health or well-being of the animal is not endangered in any way by the manner of keeping or confinement.

D. The keeping of such animal does not constitute a public nuisance and will not adversely affect the surrounding neighborhood.

E. The keeping of such animal will not cause a danger to the public health.

F. The quarters in which such animal is kept or confined are adequately heated, lighted and ventilated and are constructed and maintained in a safe, clean and sanitary condition.

G. The owner or keeper of such animal shall prove his or her financial responsibility by filing with the Board of Selectmen an adequate certificate of insurance or by posting an adequate surety bond with the Board of Selectmen conditioned upon the owner's or keeper's payment of all damages which may result from the keeping or maintenance of such animal.

Adequacy of proof shall be at the sole discretion of the Board of Selectmen.

§ 23-24. Investigation of applicant.

The Board of Selectmen is authorized to investigate any person who applies for a permit under this article and to consult with appropriate individuals, agencies and societies concerning the keeping of dangerous animals.

§ 23-25. Inspections; fees.

Prior to the issuance or renewal of any annual permit for the keeping of dangerous animals, and at any other time deemed appropriate, the Board of Selectmen shall cause the premises subject to

the permit to be inspected for compliance with all conditions imposed hereunder. In the event that said premises are found not to be in compliance or are not made available for inspection, the Board shall refuse to issue or reissue or shall revoke, as the case may be, the permit. The Board of Selectmen is authorized to charge a fee for the issuance of all such annual permits and a fee for all such inspections.

§ 23-26. Limit on number of animals.

In no event shall a permit be issued for the keeping of more than four dangerous animals at any single location.

§ 23-27. Violations and penalties.

Any person, corporation or otherwise violating any provision of this article shall be fined not less than $100 and not more than $300 for each offense, with each day during which a violation occurs or continues deemed to be a separate offense. Unless otherwise provided herein, **[Added**

4-13-2004 ATM by Article 44] the fine for each offense under noncriminal disposition shall be $100.

Chapter 30

~~BEACHES~~ BEACHES AND PARKS [Amended 5-20-2006 ATM by Art. 33]

§ 30-1. Beach stickers required.

§ 30-2. Motorcycles, minibikes and all-terrain vehicles prohibited; horses restricted.

§ 30-3. Domestic animals.

§ 30-4. Sand dunes and grassy areas.

§ 30-5. Garbage and rubbish.

§ 30-6. Restricted area.

§ 30-7. Parking on private property.

§ 30-8. Speed limit.

§ 30-9. Type of allowed vehicles.

§ 30-10. Camping.

§ 30-11. Glass containers.

§ 30-12. Use of grills and hibachis.

§ 30-13. Open fires.

§ 30-14. Liability.

§ 30-15. Stuck vehicles.

§ 30-16. Riding on outside of vehicle.

§ 30-17. Limitation on number of vehicles.

§ 30-18. Right-of-way to be open.

§ 30-19. Firearms.

§ 30-20. Closing hours.

§ 30-21. Blocking traffic.

§ 30-22. Violations and penalties.

§ 30-23. Parallel parking in certain areas.

§ 30-24. Swimming and bathing.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 8 of the 1974 Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 18.
Animals -- See Ch. 23.

Disorderly conduct -- See Ch. 51.
Harbor -- See Ch. 81.
Noise -- See Ch. 120.
Ponds -- See Ch. 134.
Solid waste -- See Ch. 157.
Vehicles and traffic -- See Ch. 185.

~~§ 30-1. Beach stickers required.~~

~~No persons except property owners, taxpayers and residents of Plymouth and their guests shall be allowed with vehicles on Plymouth Beach north of Manter's Point. All vehicles shall have proper Plymouth Beach stickers.~~

~~§ 30-2. Motorcycles, minibikes and all-terrain vehicles prohibited; horses restricted.~~

~~No motorcycles, minibikes or minicars or all-terrain vehicles shall be allowed on any public beach. No horses shall be allowed on any public beach between Memorial Day and Labor Day.~~

~~§ 30-3. Domestic animals. [Amended 1-9-1978 STM by Art. 9]~~

~~All domestic animals on public beaches shall be under control at all times. Dogs are to be leashed in accordance with Chapter 23, Animals, § 23-4A.~~

~~§ 30-4. Sand dunes and grassy areas. [Amended 1-9-1978 STM by Art. 9]~~

~~No person shall walk or drive any vehicle or wagon or ride a horse on the sand dunes or grassy areas or over any other type of vegetation on all public beaches. Driving is to be on designated trails only.~~

~~§ 30-5. Garbage and rubbish.~~

~~All persons on any public beach, except owners and occupants of cottages located in Plymouth, must deposit garbage and rubbish in barrels which shall be provided along the beach. Owners and occupants of cottages located in Plymouth shall provide otherwise for the proper disposal of their own garbage and rubbish.~~

~~§ 30-6. Restricted area. [Amended 4-7-1984 ATM by Art. 29]~~

~~No vehicle shall be allowed to pass on the east side of Plymouth Beach south of the crossover between Memorial Day and Labor Day, except in the case of an emergency or the established rights of Plymouth fishermen.~~

~~§ 30-7. Parking on private property.~~

~~No vehicles shall be parked on private property on any Plymouth Beach without the consent of that property owner.~~

~~§ 30-8. Speed limit. [Amended 4-7-1986 ATM by Art. 22]~~

~~No vehicle shall exceed a speed of 10 miles per hour while driving on any portion of any public beach.~~

~~§ 30-9. Type of allowed vehicles. [Amended 1-9-1978 STM by Art. 9]~~

~~All vehicles driven on Plymouth Beach north of Manter's Point shall be four-wheel-drive vehicles.~~

~~§ 30-10. Camping. [Amended 1-9-1978 STM by Art. 9]~~

~~Camping on all public beaches shall be restricted to Plymouth residents and Plymouth taxpayers and their guests, but only by a special permit issued by the Park Division.~~

~~§ 30-11. Glass containers.~~

~~Glass containers of any kind are prohibited from all public beaches.~~

~~§ 30-12. Use of grills and hibachis.~~

~~All cooking fires from grills, hibachis, etc., shall be properly extinguished. No hot coals shall be left on any public beach.~~

~~§ 30-13. Open fires.~~

~~No open fires will be allowed on any public beach without a permit from the Fire Department.~~

~~§ 30-14. Liability.~~

~~All persons using the beach do so at their own risk.~~

~~§ 30-15. Stuck vehicles. [Added 1-9-1978 STM by Art. 9]~~

The operator of a stuck vehicle is responsible for filling in ruts and holes caused by said vehicle and removing all debris.

§ 30-16. Riding on outside of vehicle. [Added 1-9-1978 STM by Art. 9]

Riding on the fenders, tailgate, roof or any other position outside of a vehicle is prohibited.

§ 30-17. Limitation on number of vehicles. [Added 1-9-1978 STM by Art. 9; amended 4-8-1992 ATM by Art. 28]

Limitations may be placed by the park police and/or the Beach Conservation Officer on the number of vehicles to be allowed on the beach at any one time.

§ 30-18. Right-of-way to be open. [Added 1-9-1978 STM by Art. 9]

Parked vehicles shall keep the right-of-way open at all times.

§ 30-19. Firearms. [Added 1-9-1978 STM by Art. 9]

Except for a property owner, the police and during the migratory waterfowl open hunting season, no firearms are allowed.

§ 30-20. Closing hours. [Added 1-9-1978 STM by Art. 9; amended 4-8-1992 ATM by Art. 28]

Except for property owners, their guests, Plymouth fishermen and campers with a special permit, the Plymouth Beach and its parking lot shall be closed to all vehicles between the hours of 9:00 p.m. and 4:00 a.m.

§ 30-21. Blocking traffic. [Added 4-7-1986 ATM by Art. 23]

No person shall block the vehicle trail by means of sporting equipment/games, four-wheel-drive vehicles, campers or tents which will impede the normal flow of beach traffic.

§ 30-22. Violations and penalties. [Added 4-7-1986 ATM by Art. 24]

A. Any person who violates § 30-4 or 30-8 of this chapter shall, for the first violation thereof, be fined $100. Any person who violates § 30-4 or 30-8 of this chapter shall, for the second and all subsequent violations thereof within a twelve-month period, be fined $100 for each violation and shall have his or her privilege of operating a motor vehicle upon Plymouth Beach suspended for one

~~year.~~

~~B. The owner of any vehicle operated in violation of either § 30-4 or 30-8, whether said vehicle was operated at the time of said violation by the owner thereof or by another person acting under the authority of or with the consent of the owner thereof, shall be given written notice of every violation of § 30-4 or 30-8 involving said owner's vehicle. The privilege of said owner to have any vehicle of his or hers operated on Plymouth Beach shall be suspended, canceled, revoked or declared forfeited for one year whenever said vehicle shall have been operated in violation of either § 30-4 or 30-8 for a second time within a period of 12 consecutive months.~~

~~C. Any person who operates a motor vehicle on Plymouth Beach without an effective permit for said vehicle or after his or her personal privilege to operate a vehicle on Plymouth Beach has been suspended, canceled, revoked or forfeited, without renewal thereof, shall be subject to arrest for trespass pursuant to MGL c. 266, § 120, as amended.~~

~~§ 30-23. Parallel parking in certain areas. [Added 4-5-1989 ATM by Art. 27]~~

~~All vehicles adjacent to the snow fence, vegetated areas or dune areas must parallel park no less than 15 feet from the frontal dune, unless the area is otherwise designated.~~

~~§ 30-24. Swimming and bathing. [Added 4-22-1991 ATM by Art. 24]~~

~~A. No person shall bathe or swim in the waters of Plymouth Beach, White Horse Beach or any coastal waters adjacent thereto or any ponds which are under the jurisdiction of the Town of Plymouth during such time as the lifeguard on duty at said beach determines conditions to be hazardous to the health, safety and welfare of swimmers and bathers. Upon posting of warning signs by the lifeguard on duty or oral notice from the lifeguard that conditions are deemed hazardous, all persons shall exit the water until it is determined that the hazardous condition has abated.~~

~~B. Violations of this section shall be punishable by a fine of $50 for each offense.~~

~~C. This section may be enforced by means of a complaint or noncriminal disposition under MGL c. 40, § 21D by any police officer of the town.~~

§ 30-1. Beach stickers required.

Only taxpayers and residents of Plymouth and their guests with proper beach stickers shall be allowed with vehicles on Plymouth Beach north of Manter's Point. All vehicles entering public parks shall have proper stickers or pay the daily entry fee set by the Board of Selectmen.

§ 30-2. Motorcycles, minibikes and all-terrain vehicles prohibited; horses restricted.

No motorcycles, minibikes or minicars or all-terrain vehicles shall be allowed on any public beach or in any park at any time except on designated travelways set by the Park Department. No horses shall be allowed on any public beach or in any public park picnic area between Memorial Day and Labor Day.

§ 30-3. Domestic animals.

All domestic animals on public beaches or parks shall be under control at all times. Dogs are to be leashed and their waste removed and disposed of in accordance with Chapter 23, Dog Control
§ 23-4 and § 23-14

§ 30-4. Sand dunes and grassy areas.

Walking or driving is restricted to designated trails and or roads only. No person shall walk, drive any vehicle or ride a horse on the sand dunes or grassy areas or over any other type of vegetation on all public beaches.

§ 30-5. Dumping and Littering

Dumping (the deposit or leaving of household or commercial trash) is prohibited. Littering (the leaving of all other trash except in designated Town receptacles) is also prohibited.

Penalty	
Littering	$50
Dumping	
First Offense	$100
Subsequent Offence's	$500

§ 30-6. Restricted area.

No vehicle shall be allowed to pass on the east side of Plymouth Beach south of the crossover between Memorial Day and Labor Day, except in the case of an emergency or the established rights of Plymouth fishermen. No vehicles are allowed to drive along White Horse Beach except in the case of an emergency or the established rights of Plymouth fishermen or at designated boat launch areas.

§ 30-7. Parking on private property.

No vehicles, other than those owned by the property owner, shall be parked on private property on any Plymouth Beach or parked without the written consent of that property owner.

§ 30-8. Speed limit.

No vehicle shall exceed a speed of 10 miles per hour while driving on any portion of any public beach or park.

§ 30-9. Type of allowed vehicles.

All vehicles driven on Plymouth Beach north of Manter's Point shall be four-wheel-drive vehicles.

§ 30-10. Overnight Camping.

Overnight camping within any Town beach or park is prohibited without a permit issued by the Parks Division, based on policies approved by the Board of Selectmen. Overnight camping on Plymouth Long Beach shall be restricted to Plymouth residents and Plymouth taxpayers and their guests, but only by a permit issued by the Parks Division based on policies approved by the Board of Selectmen.

§ 30-11. Glass containers.

Glass containers of any kind are prohibited from all public beaches and parks.

§ 30-12. Use of grills and hibachis.

Cooking fires contained in grills, hibachis and similar devices is permitted, but only in designated park and beach areas, based on policies approved by Board of Selectmen. All coals must be properly extinguished and may not be left on any public beach or park.

§ 30-13. Open fires.

No open fires (fires not contained in grills, hibachis or similar devices) will be allowed on any public beach or park without permits from both the Park Division and Plymouth Fire Department. No open fires will be allowed on a private beach unless the consent of the land owner is documented to the satisfaction of and without permit issued by the fire department. **[Previous Sentence Added 4-2-2011ATM by Article 43]**

§ 30-14. Liability. All persons using the public beaches and parks do so at their own risk.

§ 30-15. Stuck vehicles.

The operator of a stuck vehicle is responsible for filling in ruts and holes caused by said vehicle and for removing all related debris from any beach or park.

§ 30-16. Riding on outside of vehicle.

Riding on the fenders, tailgate, roof or any other unenclosed exterior portion of any vehicle is prohibited.

§ 30-17.Limitation on number and parking of vehicles.

Limitations may be placed by the Director of Public Works, the Police Chief or the Environmental Technician and their designees on the number of vehicles allowed on any beach or park at any one time or on the location of allowed parking.

§ 30-18. Right-of-way to be open.

Parked vehicles shall keep the pedestrian and vehicular rights-of-way open at all times

§ 30-19. Hunting and Firearms.

No hunting or firearms are allowed within any park or beach except for properly licensed hunters on Town beaches during the migratory waterfowl open hunting season.

§ 30-20. Closing hours.

Town beaches and parks are open from dawn to dusk. Exceptions may be made by policies approved by the Board of Selectmen. Except for private property owners on Plymouth Beach their guests, or fishermen who are residents or taxpayers of Plymouth or overnight campers with the required permit, Plymouth Beach and its parking lot shall be closed to all vehicles between the hours of 9:00 p.m. and 4:00 a.m.

§ 30-21. Blocking traffic.

No person shall block any road or any pedestrian or vehicular trail by means of sporting equipment/games, four-wheel-drive vehicles, campers or other vehicles, or tents which would impede the normal flow of beach or park traffic.

§ 30-22. Violations and penalties.

Unless otherwise specifically provided herein, any person who violates any provision of this chapter shall be subject to the following penalties:

First offense	$25.00
Second offense	$50.00
Third and subsequent	$100.00

A. Any person who violates § 30-4 or 30-8 of this chapter shall, for the first violation thereof, be fined $100. Any person who violates § 30-4 or 30-8

of this chapter shall, for the second and all subsequent violations thereof within a twelve-month period, be fined $100 for each violation and shall have his or her privilege of operating a motor vehicle in beaches and parks suspended for one year.

B. In addition to the forgoing

1. The owner of any vehicle operated in violation of either § 30-4 or 30-8, whether said vehicle was operated at the time of said violation by the owner thereof or by another person acting under the authority of or with the consent of the owner thereof, shall be given written notice of every violation of § 30-4 or 30-8 involving said owner's vehicle. The privilege of said owner to have any vehicle of his or hers operated on beaches and in parks shall be suspended, canceled, revoked or declared forfeited for one year whenever said vehicle shall have been operated in violation of either § 30-4 or 30-8 for a second time within a period of 12 consecutive months.

2. Any person who operates a motor vehicle on beaches or in parks without an current effective permit for said vehicle or after his or her personal privilege to operate a vehicle on Plymouth Beach has been suspended, canceled, revoked or forfeited, without renewal thereof, shall be subject to arrest for trespass pursuant to MGL c. 266, § 120, as amended.

§ 30-23. Parallel parking in certain areas.

All vehicles adjacent to the snow fence, vegetated areas or dune areas must parallel park no less than 15 feet from the frontal dune, unless the area is otherwise designated.

§ 30-24. Swimming and bathing.

A. No person shall bathe or swim in the waters of Plymouth Beach, White Horse Beach or any coastal waters adjacent thereto or any ponds which are under the jurisdiction of the Town of Plymouth during such time as the lifeguard on duty at said beach determines conditions to be hazardous to the health, safety and welfare of swimmers and bathers. Upon posting of warning signs by the lifeguard on duty or oral notice from the lifeguard that conditions are deemed hazardous, all persons shall exit the water until it is determined that the hazardous condition has abated.

B. Violations of this section shall be punishable by a fine of $50 for each offense.

A. This section may be enforced by means of a complaint or noncriminal disposition under MGL c. 40, § 21D by any police officer of the town.

Chapter 38

CAPITAL IMPROVEMENTS

§ 38-1. Capital Outlay Expenditure Committee.

§ 38-2. Capital improvement program.

§ 38-3. Annual report.

§ 38-4. Expenditures.

§ 38-5. Report to Town Meeting.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 3 of the 1974 Bylaws; amended in its entirety by the Annual Town Meeting 4-12-1995 by Art. 38. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Financial affairs -- See Ch. 71.

§ 38-1. Capital Outlay Expenditure Committee.

A. The town shall establish a committee to be known as the "Capital ~~Outlay Expenditure~~ Improvements Committee" to assist and advise the ~~Finance Director in preparing, and the~~ Town Manager in presenting, a five-year capital improvements program as set forth in ~~Sections 6-2-4c and 3-5-1h of~~ the Plymouth Home Rule Charter. **[Amended 4-8-2013 ATM by Art. 20]**

B. Said Committee shall be composed of seven citizens of the town. The Committee shall consist of one member appointed annually by the Chairperson of the Board of Selectmen either from among the members of the Board of Selectmen or as their designee, one member who shall be appointed annually as a representative of the Advisory and Finance Committee by its Chairperson, one member who shall be appointed annually as a representative of the Plymouth School Committee by its Chairperson and three at-large members who do not hold ~~appointive or~~ elective positions in the town, two of whom shall be appointed by the Board of Selectmen and one of whom shall be appointed by the Town Meeting Moderator. A fourth at-large member shall be a Town Meeting member appointed annually by the Moderator. ~~That appointment shall be exempt from the elective or appointive exclusion.~~ **[Amended 4-8-2013 ATM by Art. 20]** At-large members shall be from different precincts and their terms of office shall be four years. The Committee shall choose its own officers. **[Amended 11-15-1995 STM by Art. 12]**

~~The term of office for at-large members shall be for four years. The current at-large member's t erm expiring in June of 1996 shall be appointed by the Moderator for four years. One of the two at-large members' terms expiring in June of 1997 shall be appointed by the Board of Selectmen for a four-year term, and the second at-large member's term expiring in June of 1997 shall be appointed by the Moderator for a term of two years. The at-large member's term expiring in June of 1998 shall be appointed by the Board of Selectmen for a term of four years. Commencing with the term expiring in June of 1999, the appointing authority will rotate between the Moderator and the Selectmen annually, with the Moderator appointments made in odd years and the Selectmen appointments made in even years. Vacancies shall be filled by the original appointing authority. The Committee shall choose its own officers.~~ **[Amended 4-8-2013 ATM by Art. 20]**

§ 38-2. Capital improvement program.

~~The Committee shall evaluate and review proposed c~~Capital projects and improvements involving major nonrecurring tangible assets and projects which are purchased or undertaken at intervals of not less than five years, have a useful life of at least five years, and cost over ~~$15,000 $50,000.~~ **[Amended 10-24-2011 ATM by Art. 27]** $15,000 shall be submitted by~~All~~ departments~~ heads~~, boards, commissions, ~~and~~ committees, and petitioners to the Committee for evaluation and review. ~~shall, by October 1 of each year, forward to the Finance Director, on forms provided, i~~Information concerning all anticipated capital projects requiring Town Meeting appropriation during the ensuing five years will be submitted to the Procurement Officer by November 1 of each year on forms provided. ~~During its evaluation, the Committee shall consider the relative need, impact, timing and cost of these expenditures and the effect each will have on the financial position of the town.~~ **[Amended 4-8-2013 ATM by Art. 20]**

The projects to be undertaken in the next fiscal year shall be prioritized by the Committee. During its evaluation, the Committee shall consider the relative need, impact, timing, and cost of these expenditures. Projects not funded in the next fiscal year will remain on the Five-Year Plan. The requestors shall also submit a 6-20 year plan of all capital items with a $2.5 million or higher cost. These short and long term projections will assist the Finance Director in fiscal planning. **[Amended 4-8-2013 ATM by Art. 20]**

All asset or project requests shall be submitted by November 1 for the Annual Town Meeting. Any emergencies that require Town Meeting appropriation at other times of year shall be processed in the same manner. Although demand and/or financing availability may cause these requests to have a more immediate need, the requests shall be evaluated in relation to the existing fiscal year Capital Improvement Plan. **[Amended 4-8-2013 ATM by Art. 20]**

§ 38-3. Annual report.

The Committee shall rank all requests for assets and projects and prepare a prioritized Capital Improvement Plan for the next fiscal year. ~~The Committee shall assist the Finance Director in preparing an annual report recommending a prioritized capital improvement budget for the next fiscal year and a capital improvement plan listing capital project requests for the following four fiscal years.~~ The report shall be submitted to the Town Manager for funding, consideration, approval, and recommendation as required by the Plymouth Home Rule Charter~~, Section 6-2-4c~~.

The Town Manager shall submit the recommended capital improvement report to the Board of Selectmen for its consideration in accordance with ~~Section 3-5-1h of~~ the Plymouth Home Rule Charter. The recommended Capital Improvement Plan shall be presented in a single article separately listing the projects to be undertaken. **[Amended 4-8-2013 ATM by Art. 20]**

§ 38-4. Expenditures.

After its adoption, the capital improvement budget shall permit the expenditure of sums from departmental budgets on projects included therein for surveys, architectural or engineering advice, options or appraisals, but no such expenditure shall be incurred on projects which have not been so approved through the appropriation of sums in the current year or in prior years or for preliminary planning for projects to be undertaken more than five years in the future.

§ 38-5. Report to Town Meeting.

No appropriation shall be voted for a capital improvement ~~requested by a department, board or committee~~ unless the proposed capital improvement is considered in the Committee's annual report or unless the Committee shall first have submitted a special report to the Town Meeting. The Committee's report and the Selectmen's recommended capital improvement budget shall be published and made available in a manner consistent with the distribution of the operating budget. ~~The capital improvement budget shall be presented in a single article separately listing the projects to be undertaken.~~ **[Amended 4-8-2013 ATM by Art. 20]**

Chapter 41

COMMUNITY PRESERVATION COMMITTEE

§ 41-1. Establishment.

§ 41-2. Duties.

§ 41-3. Requirement for a quorum and cost estimates.

§ 41-4. Amendments.

§ 41-5. Severability.

§ 41-6. Effective Date.

[HISTORY: Adopted by the Fall Annual Town Meeting of the Town of Plymouth 10-25-2002 by Art. 28 as Art. 41 of the 1998 Bylaws.]

Community Preservation Committee By-law

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, §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) One member of the Housing Authority as designated by the Authority;

(5) One member of the Board of Selectmen (inasmuch as the Board of Selectmen has responsibility for the duties of the Board of Park Commissioners), as designated by the Board of Selectmen;

(6) – (9) Four members to be appointed by the Board of Selectmen.

Initially, each member designated by the Conservation Commission, Historical Commission and Planning Board will serve a three year term, the members designated by the Housing Authority and the Board of Selectmen and one of the members appointed by

the Board of Selectmen will serve a two year term, and the other three members appointed by the Board of Selectmen will serve a one year term, or until the member no

longer serves in the position or on the board or committee as set forth above, whichever is earlier. Thereafter, 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, boards, authorities, or committees who have appointing authority under this by-law be no longer in existence for whatever reason, the Town Manager 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 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, and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the 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 for 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 and preservation 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, historic resources, 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 (a) open space (not including land for recreational use), (b) historic resources; and (c) community housing.

Chapter 3: Requirement for a quorum and cost estimates

The community preservation committee shall comply with the provisions of the Open Meeting Law, G.L. c.39, §23B. The committee shall not meet or conduct business without the presence of a majority of the members of the community preservation. 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 and effect.

Chapter 6: Effective Date

Provided that the Community Preservation Act is accepted at the 2002 Annual Town election, this by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, §32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

Chapter 43

COUNCIL ON AGING

§ 43-1. Appointment; purpose.

§ 43-2. Membership; terms of office; compensation.

§ 43-3. Vacancies.

§ 43-4. Officers.

§ 43-5. Annual report.

§ 43-6. Appointment of staff.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 12 of the 1974 Bylaws. Amendments noted where applicable.]

§ 43-1. Appointment; purpose.

The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of the aging in cooperation with programs of the Department of Elder Affairs established under MGL c. 19A, § 1.

§ 43-2. Membership; terms of office; compensation.

The Board of Selectmen shall appoint the Council on Aging consisting of nine members. Upon acceptance of this chapter, the Board shall appoint three members for three years, three members for two years and three members for a one-year term. Members may be reappointed for successive terms. The members of the Council shall serve without pay.

§ 43-3. Vacancies.

Whenever a vacancy shall occur in the membership of the Council by reason of death, resignation, inability to act or for any other reason, the vacancy shall be filled by appointment by the Selectmen for the remainder of the term.

§ 43-4. Officers.

The Council on Aging, at its first annual meeting and thereafter annually in April of each year, shall elect from its membership a President, Vice President, Secretary and Treasurer. Each officer shall hold office until the next annual election. In the event that a vacancy occurs in any of the offices above, the Council shall hold a special meeting for the purpose of electing one of its members to fill such vacancy.

§ 43-5. Annual report.

The Council shall prepare and submit an annual report of its activities to the town and shall send a copy thereof to the Department of Elder Affairs.

§ 43-6. Appointment of staff.

The Council may appoint such clerks and other employees as it may require.

Chapter 51

DISORDERLY CONDUCT

§ 51-1. Disorderly conduct prohibited; violations and penalties.

§ 51-2. Indecent language.

§ 51-3. Indecent marks; defacing property.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 5, Secs. 5.5, 5.6 and 5.8 of the 1974 Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Alcoholic beverages -- See Ch. 18.
Noise -- See Ch. 120.

§ 51-1. Disorderly conduct prohibited; violations and penalties. [Amended 4-11-1978 ATM by Art. 74 and 4-10-01 by Art. 31]

A. It shall be unlawful for a person to conduct himself or herself in a disorderly manner.

B. A person shall be guilty of conducting himself or herself in a disorderly manner if, with intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk therefor, he or she:

(1) Engages in fighting or in violent, tumultuous or threatening behavior; or

(2) Obstructs vehicular or pedestrian traffic.

C. Whoever violates this section shall be liable to a penalty of [not more than $50] $100 for each violation. **[Amended 4-10-01 by Art. 31]**

D. The provisions of this section are severable, and if any of its provisions shall be held to be unconstitutional or otherwise illegal by any court of competent jurisdiction, the decision of such court shall not impair any of the remaining provisions.

§ 51-2. Indecent language.

No person shall use any indecent, profane or insulting language in any public place in the town or near any dwelling house or other buildings.

§ 51-3. Indecent marks; defacing property.

No person shall make any indecent figures or write any words or make any marks upon or cut, whittle or deface in any manner any wall, post, fence or building, or in any public place whatever in this town, or post or paint any advertisement[2] upon any rail, rock, bridge, wall, fence or building, without the express consent of the owner or occupant thereof and of the Selectmen of the town in case the property or structure is the property of the town.

[2] **Editor's Note: For additional provisions on advertisements and handbills, see Ch. 5, Advertising and Guides.**

Chapter 59

EMINENT DOMAIN TAKINGS

§ 59-1. Rule 1.

§ 59-2. Rule 2.

§ 59-3. Rule 3.

§ 59-4. Rule 4.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 11 of the 1974 Bylaws. Amendments noted where applicable.]

§ 59-1. Rule 1.

Whenever an article is proposed by petition to be included in any Town Meeting warrant which involves eminent domain proceedings (i.e., excluding articles submitted by departments, boards, commissions, committees, etc., of the town not requiring petitions and articles agreed to be inserted in the warrant by the Selectmen without the necessity of petition), no vote of the town shall be permitted at the meeting wherein such article is proposed, including any adjourned sessions of such meeting, except to refer such proposal to a committee of five members to be appointed by the Selectmen for study and to report its findings at the next Annual or Special Town Meeting. No members to be appointed to such committee by the Selectmen shall be parties in interest to the proposal.

§ 59-2. Rule 2.

Whenever any article by petition, after the appointment of a committee under Rule 1, or without petition is to be presented at any Town Meeting involving eminent domain proceedings, the following are required:

A. Public hearings. A public hearing shall be called by the department, board, commission, etc., of the town not requiring petition proposing a taking by eminent domain no later than three months prior to the Annual Town Meeting in any year or the date of any Special Town Meeting. In the case of a committee appointed by the Selectmen, a public hearing shall be called by such committee no later than three months prior to the Annual Town Meeting in any year or the date of any Special Town Meeting.

B. Notice of hearing. Notice of such public hearing shall be given to all owners and abutters by registered or certified mail and by publication for three successive weeks in a newspaper of general circulation in the town to be selected by the department, board, committee, etc., holding such hearing.

C. Posting of notice. Notice of the public hearing shall state the location, last known owner, size of the area and purpose of taking.

D. Use of plot plan. If it is desired to reproduce a plot plan or map for use at any hearing or any advertisement, such plot plan or map shall show the true scale of the plot plan or map, and not a photographic reduction or enlargement of an original plot plan or map, with a distorted scale. Such plot plan or map shall be examined by the Town Engineer, in the form in which it will be presented or appear, and shall bear his or her certification that the scale is correct.

E. Lot identification. Such plot or map shall show every lot in the taking area covered by such plot or map, without omissions or additions, and to that end the Assessor's Maps may be used, corrected if necessary, as a basis.

[Amended 4-5-14 by Art. 11] The requirements of this Rule shall not apply to eminent domain proceedings incidental to the acceptance of a way as public, where the way has been constructed.

§ 59-3. Rule 3.

A. Whenever any taking area is to be used for the erection of any building, parking lot, drainage canal, water collection basin or for any other construction of a building or facilities, the department, board, committee, etc., shall retain a registered architect, surveyor or engineer to draw the plans and specifications of such proposed construction, or, if in the opinion of such department, board, committee, etc., the expense is not warranted, then the Town Engineer shall either prepare such plans and specifications or certify on a plan and specifications submitted to him or her by such department, board, committee, etc., that such plans and specifications are, in his or her opinion, correct as to all measurements, including the scale thereof, if stated.

B. Examination of plans. If such plans or specifications are to be published or presented at any hearing, other than the originals or exact duplicates thereof, such plans or specifications shall be examined by the Town Engineer, in the form in which they will be presented or appear, and he or she shall certify that the scale thereof is correctly stated.

§ 59-4. Rule 4.

Prior to any taking **[Amended 4-5-14 by Art. 11]** not assented to in writing by the owners of property subject thereto, an appraiser shall be retained by the town for the purpose of establishing the fair value of the property to be taken. In establishing such fair value the appraiser shall include, but not be limited hereby, the size of the parcel to be taken, the value of all structures, improvements of every description, trees, shrubs and all other plantings, utility pipes and wires and damage to the remainder of a parcel of land where only a portion is to be taken.

The fair value of the taking as reported by the appraiser, together with his or her name and address, shall be included in the notice of taking required to be sent by the General Laws to the persons from whom land is to be taken.

Chapter 63

RIGHT TO FARM

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 10-26-2009 by Arts. 22 and 23]

§ 63-1. Legislative Intent.

§ 63-2. Definitions.

§ 63-3. Right to Farm Declaration.

§ 63-4. Disclosure Notification.

§ 63-5. Dispute Resolution.

§ 63-6. Agricultural Committee.

§ 63-7. Severability Clause.

Section 1 Legislative Intent

The purpose of this Article is to restate farm protections that already exist in state law so they are understood and implemented at the local level.

This Right to Farm ByLaw does not seek to change state laws, but to bring them together into one local bylaw to enhance local understanding of the right to farm. The Right to Farm Bylaw also encourages the pursuit of agriculture, promotes agricultural based economic opportunities, and protects farming in the Town of Plymouth by allowing agricultural uses and related activities to function in minimal conflict with abutters and town agencies. The Bylaw shall apply to all jurisdictional areas within the Town.

The benefits and protections of this Bylaw are intended to apply exclusively to those agricultural operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this bylaw shall be deemed to authorize the acquisition of any interest in land, or to impose any land use regulations, which actions are properly the subject of state statute, regulations, or local zoning law or vote of Town Meeting.

Section 2 Definitions

The word ‘farm’ shall include any parcel or contiguous parcels of land or water bodies containing at least 5 acres used for the primary purpose of agriculture, or accessory thereto.

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

- Cultivation and tillage of the soil
- Dairying

- Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- The raising and keeping of horses
- Raising and keeping of livestock including poultry, swine, cattle, ratites (such as emus and ostriches) and camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposes, including bees and furbearing animals

"Farming" shall encompass activities including but not limited to:

- Operation and transportation of slow-moving farm equipment over roads within the Town
- Control of pests, including but not limited to insects, weeds, predators and disease organism of plants and animals
- Application of manure, fertilizers and pesticides
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- Processing and packaging of the agricultural output of the farm and the operation of a farmers' market or farm stand including signage thereto;
- Maintenance, repair or storage of seasonal equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations

Section 3 Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Plymouth. 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.

Section 4 Disclosure Notification

Within 30 days after this by-law becomes effective, the Board of Selectmen shall prominently post in the Town Hall, on the official Town Website, and make available for distribution the following disclosure:

> "It is the policy of this community to conserve, protect and encourage 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 agricultural operations including the ability to access water for such property under certain circumstances."

Section 5 Dispute Resolution

Any person having a complaint about a farm or farming activity or practice about a farm or farming activity or practice is encouraged to seek an amicable solution through resolution directly with the owner or operator of the farm at issue. Such person may also, notwithstanding the pursuit of other available remedies, file such complaint with the Board of Selectmen. The Board of Selectmen will forward the complaint to the Agricultural Committee, or other appropriate board or officer, and request that recommendations for resolution be provided within an agreed upon timeframe.

Section 6 Agricultural Committee

For the purpose of this section, the term "agriculture" shall include but shall not be limited to the production of crops, livestock, horticulture, aquaculture, the keeping and boarding of horses or livestock for personal or commercial purposes, forestry, nurseries, greenhouses, and related activities.

The Agricultural Committee shall

- Serve as facilitators for encouraging the pursuit of agriculture in Plymouth
- Promote agricultural based economic opportunities
- Act as advocates, educators and/or negotiators on agricultural issues
- Work for the preservation of agricultural lands
- Pursue all initiatives appropriate to creating a sustainable agricultural community
- Encourage early and effective resolution of farm related disputes

The Committee shall consist of seven members appointed and may be removed by the Board of Selectmen. Four members shall be actively engaged in farming, and three members shall be at-large. Members shall serve staggered three-year terms, with two of the initial members serving three-year terms, two serving two-year terms, and three serving a one-year term.

Section 7 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 the By-law. The Town of Plymouth hereby declares the provisions of this By-law to be severable.

Chapter 67

FEES

ARTICLE I
Inspections and Reviews

§ 67-1. Expenses to be prepaid.

ARTICLE II
Sealer of Weights and Measures

§ 67-2. Fee schedule.

[HISTORY: Adopted by the Town Meeting of the Town of Plymouth as indicated in article histories. Amendments noted where applicable.]

ARTICLE I
Inspections and Reviews
[Adopted 4-16-1974 ATM by Art. 58 as Art. 13 of the 1974 Code; amended in its entirety 4-10-1980 ATM by Art. 74]

§ 67-1. Expenses to be prepaid.

Any person presenting any matter to any board, committee or commission of the town or any town official which entails the town's incurring of any expenses whatsoever, including, without limiting the generality of the foregoing, expenses for consultation, inspections or review of plans, may be required to prepay the town for such expenses, unless otherwise prescribed by the General Laws.

ARTICLE II
Sealer of Weights and Measures
[Adopted 4-7-1986 ATM by Art. 26; Amended 4-10-2001 by ATM Article 31; Amended10-25-05 by ATM Article 25]

§ 67-2. Fee schedule.

Fees for sealing certain weighing and measuring devices by the Sealer of Weights and Measures shall be charged according to the following schedule:

~~Description of Device~~	~~Previous Fee~~	~~Current Fee~~
~~Scale with capacity over 10,000 pounds~~	~~$50~~	~~$75~~
~~Scale with capacity of 5,000 to 10,000 pounds~~	~~$30~~	~~$55~~
~~Scale with capacity of 1,000 to 5,000 pounds~~	~~$20~~	~~$40~~
~~Scale with capacity of 100 to 1,000 pounds~~	~~$10~~	~~$20~~
~~Scales and balances 10 to 1,000 pounds~~	~~$ 6~~	~~$12~~
~~Scales and balances under 10 pounds~~	~~$ 5~~	~~$10~~
~~Liquid capacity measure (except vehicle tank) of more than 1 gallon and measures on pumps~~	~~$ 2~~	~~$ 5~~
~~Liquid measuring meter with diameter less than ½ inch~~	~~$ 5~~	~~$ 8~~
~~Liquid measuring meter with diameter ½ to 1 inch~~	~~$ 6~~	~~$10~~
~~Liquid measuring meter with diameter Over 1 inch / vehicle tank pump~~	~~$16~~	~~$30~~
~~Vehicle tank gravity~~	~~$20~~	~~$30~~
~~Bulk storage~~	~~$40~~	~~$50~~
~~Bulk storage with certified prover~~	~~$20~~	~~$30~~
~~Taxi measuring device~~	~~$ 8~~	~~$16~~
~~Device to determine linear or area measurement~~	~~$ 5~~	~~$10~~
~~Milk bottle or jar~~	~~$ 8/gross~~	~~$12/gross~~
~~Vehicle used in sale of commodities by Liquid measure, per 100 gallons~~	~~$ 5~~	~~$10~~
~~Separate tanks - same vehicle~~	~~$ 5~~	~~$ 7~~
~~All weights and other measures~~	~~$ 1~~	~~$ 5~~
~~Gasoline pumps~~	~~$ 8~~	~~$15~~
~~Avoirdupois~~	~~$ .40~~	~~$ 1~~
~~Metric~~	~~$ .40~~	~~$ 1~~
~~Apothecary~~	~~$ .40~~	~~$ 1~~
~~Troy~~	~~$ .40~~	~~$ 1~~

Device/Description	**Ply - 05**
Scales & Balances	
SCALE CAPACITY OVER 10,000 LBS.	$200.00
SCALE CAPACITY 5,000 - 10,000 LBS.	$100.00
SCALE CAPACITY 100 - 5,000 LBS.	$75.00
SCALE CAPACITY - LESS THAN 100 LBS.	$30.00

APOTHECARY SCALE	$25.00

Adjusting Fees = 1/2 of sealing fees added to sealing fee for each device adjusting

Weights ....

APOTHECARY (EACH)	$5.00
AVOIRDUPOIS (EACH)	$5.00
METRIC (EACH)	$5.00
TROY (EACH)	$5.00

Liquid Measuring Meters

LIQUID MEASURES (MISC. NON METER)	$25.00
LUBRICANT METER (LESS 1/2 INCH)	
GREASE/OIL	$25.00
LIQUID MEASURE (1/2 "FUL")	
GASOLINE METER	$30.00
VEHICLE TANK PUMP - METER	$100.00
VEHICLE TANK GRAVITY – METER	$100.00
BULK STORAGE TANK - METER	$100.00

*MECHANICAL PUMPS - EACH STOP N/A

Other Devices

ROPE/WIRE/CHAIN MEASUREMENTS	$25.00
FABRIC MEASUREMENTS & YARD STICK	$25.00
COUNTING DEVICE	$100.00
SCANNER(S)/PRICE VERIFICATION	$75/$150/$250

*ADJUSTING FEES = 1/2 OF SEALING FEES ADDED TO SEALING FEE FOR EACH DEVICE

Chapter 71

FINANCIAL AFFAIRS

§ 71-1. Fees paid to treasury.

§ 71-2. Sale of town property.

§ 71-3. Disposal of obsolete or surplus equipment.

§ 71-4. Contracts.

§ 71-5. Perpetual care funds.

§ 71-6. Budget estimates.

§ 71-7. Collection of water and sewer accounts.

§ 71-8. Reports on articles that required funding and appropriations.

§ 71-9. Bargaining agreement changes.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 4 of the 1974 Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Advisory and Finance Committee -- See Ch. 9.
Capital improvements -- See Ch. 38.

§ 71-1. Fees paid to treasury.

All town officers shall pay all fees received by them by virtue of their office into the town treasury.

§ 71-2. Sale of town property.

The Board of Selectmen is authorized to sell property taken by the town under tax title procedure, provided that the Selectmen or whomsoever they may authorize to hold such public auction may reject any bid which they deem inadequate.

A. Such sales shall be held only after first giving notice of the time and place by posting such notice of sale and listing of property or parcels in at least three convenient and public places and by publication of such notice and listing in at least one weekly issue of the newspaper published in Plymouth two weeks before such sale.

C. This section shall not be construed to prevent the town from disposing of such property under MGL c. 40, § 3, or in any other manner authorized by law. (Note:

Under Article 55 of the Annual Town Meeting of 1972 it was voted that there be no disposition of town-owned tax title land until action is taken at a subsequent Town Meeting with respect to the recommendations of the Land Use Study Committee.)

§ 71-3. Disposal of obsolete or surplus equipment.

The Board of Selectmen is authorized to sell and otherwise dispose of any equipment or material in the hands of any department which is deemed by said department to be obsolete and/or of no further use by the town. The Selectmen shall determine if the equipment or material is of sufficient value to sell. No sale or disposition of such equipment or material of sufficient value to sell shall be made until after posting of notices in three public places, together with one publication in a newspaper published in Plymouth, of the time and place of such sale with a descriptive listing of articles involved at least two weeks prior thereto. A public hearing may be held preceding such sale or disposition. The Selectmen may reject any bid which they deem inadequate.

§ 71-4. Contracts. [Amended 10-23-2006 ATM by Art. 15 – Paragraph A given "A" designation and Paragraph B added] [Amended 6-9-2007 STM by Art. 15 – Paragraph C]

A. All contracts entered into by the town or any department thereof involving the expenditure of $1,000 or more shall, prior to execution, be presented to the Town Counsel for approval as to form and legality.

B. The Town Manager is hereby authorized to enter into contracts for such periods of time as the Town Manager may determine, which may be longer than three years, but not more than ten years.

C. The School Committee is hereby authorized to enter into contracts for such periods of time as the School Committee may determine, which may be longer than three years, but not more than ten years.

§ 71-5. Perpetual care funds. [Amended 6-27-1984 STM by Art. 4]

A. The Town Treasurer is authorized to accept sums of money as perpetual care funds for cemetery lots which shall be held in trust by the town and, unless otherwise provided or directed by the donor thereof, shall be placed at interest in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation or national banks or invested by cities and towns in participation units in a combined investment fund under MGL c. 29, § 38A;

or in paid-up shares and accounts of and in cooperative banks; or in shares of savings and loan associations; or in shares or savings deposits of federal savings and loan associations doing business in the commonwealth, to an amount not exceeding $1,000; or in bonds or notes which are legal investments for savings banks.

B. If such funds in the custody of the Town Treasurer have an aggregate amount in excess of $250,000, the Town Treasurer may also invest such funds in securities, other than mortgages or collateral loans, which are legal for the investment of funds of savings banks under the laws of the commonwealth, provided that not more than 15% of any such trust

funds shall be invested in bank stocks and insurance company stocks, nor shall more than 1 ½% of such funds be invested in the stock of any one bank or insurance company. The Town Treasurer shall use the interest from such accounts for the care of such lots.

§ 71-6. Budget estimates.

The heads of all departments and other offices of the town authorized by the law to expend money shall submit to the Town Accountant, no later than 120 days prior to the scheduled date of the Annual Town Meeting, detailed estimates of the amounts necessary for the proper maintenance of the departments under their jurisdiction for the ensuing year, with explanatory statements as to any changes from the amounts appropriated for the same purposes in the preceding year, and an estimate of amounts necessary for outlays or permanent improvements.

§ 71-7. Collection of water and sewer accounts.

The Collector of Taxes shall collect, under the title of Town Collector, in addition to the accounts committed to him or her as Tax Collector, all accounts due with regard to water and sewer rates and charges.

§ 71-8. Reports on articles that required funding and appropriations. [Added 4-10-1979 ATM by Art. 74; amended 6-27-1984 STM by Art. 4]

A. Any article of any previous year's Annual or Special Town Meeting that required funding, and any appropriation within the operating budget article of the Annual Town Meeting whose funding source was either the Stabilization Fund or transferred moneys from unexpended balances, shall, no later than the December 31 preceding the next Annual Town Meeting, be accounted for by the department head responsible for funding accountability of said article or appropriation. These reports shall be submitted to the Town Manager for correlation and study by the Board of Selectmen. Said information shall be forwarded to the Advisory and Finance Committee no later than the February 1 preceding the next Annual Town Meeting. The operating budget article of the Annual Town Meeting, except as otherwise noted, will be exempt from this section.

B. A correlation of these reports will be forwarded to all Town Meeting members with other Advisory and Finance Committee reports/materials.

§ 71-9. Bargaining agreement changes. [Added 4-9-1980 ATM by Art. 49]

At least 15 days prior to any Town Meeting which will consider an appropriation to fund any bargaining agreement between the town and any of its bargaining units which is different in any respect from the prior agreement between the town and the bargaining unit, the town, acting by its duly authorized agent or representative regarding said agreement, shall notify each Town Meeting member of such differences.

Chapter 72

CIVIL FINGERPRINTING

§ 72-1. Purpose and Scope.

§72-2. Regulations.

§72-3. Definitions.

§ 72-4. Criminal History Check Authorization.

§ 72-5. Standards for Licensing Authority Use of Criminal Record.

§ 72-6. Fee.

§ 72-7. Effective Date

§ 72-1. Purpose and Scope.

To enhance public safety, this By-law authorizes the Police Department to conduct state and national fingerprint-based criminal history checks for individuals applying for specific Town-issued licenses or permits, as authorized by G.L. c.6, §172B½, provided, however, that such records shall not be disseminated to unauthorized entities and shall be maintained and disclosed in accordance with all applicable law.

§ 72-2. Regulations.

The Board of Selectmen, in consultation with the Chief of Police, is authorized to promulgate regulations to implement this By-law, which regulations may include, but shall not be limited to: establishment of submission deadlines, procedures for making recommendations to the licensing authority or making a licensing determination as a result of the criminal history check, procedures for assessing, correcting or amending any such record and establishing criteria for fitness determinations, confidentiality of information obtained and penalties for failure to comply with this By-law.

§ 72-3. Definitions.

Criminal History Check – A state and national fingerprint based criminal history background check, as authorized by G.L. c. 6, §172B½.

DCJIS – The Massachusetts Department of Criminal Justice Information Services.

FBI – The Federal Bureau of Investigation, United State Department of Justice.

License – A license or permit issued by the Town of Plymouth, or any board, officer or department thereof, which is identified in Subsection 4.A of this Bylaw.

Licensing Authority –A board, officer or department of the Town of Plymouth authorized by the General Laws of Massachusetts or Town by-law to issue a license or permit listed in §72-4 of this By-law.

Town – The town of Plymouth, Massachusetts.

§ 72-4. Criminal History Check Authorization.

A. Occupational Licenses. The Police Department shall, as authorized by G.L. c.6, §172B½, conduct state and federal fingerprint based Criminal History Checks for individuals and entities for the following occupational licenses:

(1) Hawking and Peddling or other Door-to-Door Salespeople
(2) Manager of Alcoholic Beverage Licensed Establishment
(3) Dealer of Second-hand Articles (including Junk Dealers and Collectors)
(4) Pawn Dealers
(5) Hackney and Livery Drivers and Owners or Operators of other conveyors of passengers, and
(6) Ice Cream Truck Vendors

B. At the time of fingerprinting, the Police Department shall notify the individual being fingerprinted that the fingerprints will be used to check the individual's Criminal History Records and shall obtain the individual's consent in writing prior to conducting such Criminal History Checks.

C. Following receipt of an applicant's executed consent form and payment of the applicable fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this By-law to the Identification Section of the Massachusetts State Police, DCJIS, and/or the FBI or the successors of such agencies to conduct a Criminal History Check.

D. The Town authorizes the Massachusetts State Police, DCJIS and the FBI, or the legal successor of each, to conduct fingerprint-based state and national Criminal History Checks consistent with this By-law.

E. The Town authorizes the Police Department to receive and utilize state and FBI records in connection with such Criminal History Checks, consistent with this By-law and the Town's implementing Regulations.

F. In accordance with applicable implementing regulations, the Police Department shall communicate the results of fingerprint-based Criminal History Checks to the appropriate Licensing Authority.

§ 72-5. Standards for Licensing Authority Use of Criminal Record.

A. A Licensing Authority is authorized hereunder to utilize the results of fingerprint-based Criminal History Checks exclusively for the limited purpose of determining the suitability of a License applicant in connection with an application for a License identified in Subsection 4.A of this By-law or for its renewal or transfer.

B. A Licensing Authority may, at its sole discretion, deny a license application on the basis of the results of a fingerprint-based Criminal History Check if it determines that the results of the check render the subject unsuitable for the proposed licensed activity. The Licensing Authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination.

C. A Licensing Authority is hereby authorized to deny an application for any license specified herein, including renewals and transfers of said licenses, from any person who is determined to be unsuitable for the license due to information obtained pursuant to this By-law.

D. Factors that shall be considered in making a determination of suitability shall include conviction of, or under pending indictment for, a felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, a sex-related offense, or other crime that bears upon the subject's ability or fitness to exercise such license.

§ 72-6. Fee.

The fee for conducting a fingerprint-based Criminal History Check shall be one hundred dollars ($100) for each check. That portion of the fee specified in G. L. c.6, §172B½, shall be deposited into the Commonwealth of Massachusetts Firearms Fingerprint Identity Verification Trust Fund. The remainder of the Fee is to be applied by the Town for costs associated with the administration of the fingerprinting program.

§ 72-7. Effective Date

This By-law shall take effect in accordance with G. L. c.40, §32.

Chapter 74

FIRE LANE

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-7-1999 by Art. 34.]

§ 74-1. Establish Fire Lanes.

Under the authority of Massachusetts General Laws Chapter 148 sections 10 and 28, and 527 CMR the Board of Fire Prevention Regulations**,** sections 1 and 10.03:, the Fire Chief or his designated representative is authorized to establish fire lanes to be located on private and public property devoted to or used in whole or part by the public in the Town of Plymouth, or on such other property where the establishment of fire lanes shall be determined by the Fire Chief to be necessary to allow access of fire apparatus or emergency equipment for the protection of public safety. The Fire Chief or his designated representative shall establish the specific locations and dimensions of all fire lanes after consideration of the following factors:

A. The nature of the use of the premises
B. The volume of motor vehicle traffic on or about or near the designated premises.
C. The size and type of fire apparatus and emergency equipment available and necessary for the protection of the premises.
D. The area of the land and the size of the building or buildings to be protected.

§ 74-2. Location

Fire lanes authorized pursuant to Section 1 may be located at entrances and exits from parking areas, driveways, and buildings, other areas of public ingress and egress, common drives, in or within areas surrounding post indicator valves, hydrants and Fire Department connections and at other locations determined by the Fire Chief or his designated representative.

§ 74-3. Marking

Fire lanes shall be a minimum width of eighteen (18) feet. Unless the Fire Chief should indicate otherwise, Fire lanes shall be marked by yellow lines a minimum of four (4) inches in width, spaced no more than three (3) feet apart and extending a minimum of six (6) feet on the diagonal from the curb. The legend (FIRE LANE) shall be included within the striped area. Signs with the legend " FIRE LANE – NO PARKING AT ANY TIME – VIOLATOR SUBJECT TO FINE – VEHICLE MAY BE TOWED AT OWNER'S EXPENSE" shall be erected at a ratio of one per fifty (50) linear feet of fire lane. Signs shall be at least twelve (12) inches in width and sixteen (16) inches in height, and shall be securely mounted at least four (4) feet but no more than six (6) feet above grade.

§ 74-4. Written Notice

The Fire Chief or his designated representative shall give written notice of the establishment of a fire lane to the owner of the property which is the subject of such establishment and direct the owner to post fire lanes at the owner's expense. The property owner shall erect fire lanes as established within sixty days of the giving of the notice of such establishment. The signs shall be

erected at the location established and shall conform to the specifications designated by the Fire Chief.

§ 74-5. Obstruction

No person shall park or leave unattended a motor vehicle in or within any part of an area established and posted or marked as a fire lane pursuant to this By-law. No person shall otherwise obstruct any such fire lane or place any obstruction within a fire lane. An owner of property which has any such fire lane shall keep such fire lane free of snow.

§ 74-6. Fines for § 74-4

Whoever violates §74-4 of this By-law shall be liable to a fine of not more than $50.00 for each offense. Each day that any violation continues shall constitute and be a separate offense.

§ 74-7. Fines for § 74-5

Whoever violates §74-5 of the By-law shall be liable to a fine established in accordance with the provisions of Section 20A1/2 of Chapter 90 of the Massachusetts General Laws. Fire Department and Police Department personnel are hereby authorized to cause motor vehicles which are parked in violation of §74-5 to be towed or otherwise removed pursuant to the provisions of Section 120D of Chapter 255 of the Massachusetts General Laws.

§ 74-7. Specialized Fire Codes [Added 4-4-2009 ATM by Art. 14]

The following specialized fire codes published by the National Fire Protection Association, as such codes may be amended from time to time, shall be applicable in the Town of Plymouth:

NFPA 140	"Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities and Production Locations", *2008 or most recent edition.*
NFPA 160	"Standard for the Use of Flame Effects Before an Audience" *2006 or most recent edition.*

Chapter 77

GRAFFITI AND LITTER

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-5-2010 by Art. 27.]

§ 1 **Definition**

(a) Graffiti. Any unauthorized writing, printing, marks, signs, symbols, figures, designs, inscriptions, or drawings that are written, scratched, painted, drawn, or otherwise placed on any exterior surface of:

a. Any part of any building or any appurtenance thereof,
b. Any fence, post, flagpole, tree, streetlight, tower, tank, sign, or other freestanding structure,
c. Any monument, gravestone, tablet, vase, statue or other device erected to mark a public place or to commemorate an historic event,
d. Any street sign, guard rail, road, bridge, tunnel, retaining wall, utility apparatus, or playground apparatus,

and which have the effect of defacing same.

§ 2 **Findings, Purpose, and Declaration**

(a) Findings. The town meeting finds and determines that:

1. Graffiti on public and private objects and structures is offensive.
2. Unless graffiti is promptly removed, nearby properties become the target of graffiti, resulting in neighborhoods becoming less desirable places in which to reside and do business.
3. Graffiti is inimical and destructive of the rights and values of private property owners as well as the total community.

(b) Purpose. The purpose of this bylaw is:

1. To help prevent the spread of graffiti.
2. To further educate the public, in conjunction with the town's "Take Pride, Town Wide" program, and with the assistance of the town's neighborhood associations, on the importance of removing graffiti from public and private property.
3. To provide additional enforcement tools to protect public and private property from acts of vandalism and defacement.

(c) Declaration. The town meeting declares that graffiti is a public and private nuisance which must be abated according to the provisions and procedures herein contained.

§ 3 Removal of Graffiti from Public and Private Property

(a) Duty. People may report the discovery of graffiti anytime by calling the Office of Community Development (508-747-1620 X148). Removal of graffiti from public property is the responsibility of the town. Removal of graffiti from private property is the responsibility of the owner. Notwithstanding the foregoing, however, the perpetrator shall remain liable under § 51-3. Upon receipt of notification of the existence of graffiti on public property or private property, the Office of Community Development is authorized to forward to the Police Chief a copy of the completed "Initial Graffiti Removal Request- Site Information" form for purposes of potential criminal proceedings against the perpetrator.

(b) Removal of Graffiti from Public Property. Upon receipt of notification of the existence of graffiti on public property, the Office of Community Development is authorized to notify the department of public works to remove the graffiti.

(c) Removal of Graffiti from Private Property.

i. **No Cost Graffiti Removal.**

Upon receipt of notification of the existence of graffiti on private property, the Office of Community Development is authorized to notify the assessed owner of the property by certified mail and by first class mail. The notice shall contain the following information:

1. One or more Photograph(s) of the graffiti;
2. A copy of the completed "Initial Graffiti Removal Request- Site Information" form;
3. A copy of the "Removal of Graffiti Agreement and Release of Liability" form ("Agreement and Release");
4. A copy of the town manager's "Take Pride Town Wide" brochure; and
5. A copy of this bylaw.

If the Agreement and Release is signed and returned within thirty (30) days of the date of mailing, the Office of Community Development is authorized to engage a third party contractor to remove the graffiti within two (2) days thereafter at no cost to the owner.

ii. **Assessed Cost Graffiti Removal.**

If the Agreement and Release form is not signed and returned by the owner within said thirty (30) days, and if the graffiti has not been removed by said date, the Office of Community Development is authorized to so advise the town manager or his designee, who is thereupon authorized to notify the owner by certified mail and by first class mail that if the Agreement and Release is not signed and returned by the owner within fifteen (15) days, and if the graffiti has not been removed by said date, the town manager or his designee is thereupon authorized to assess to the owner an initial fine of $250.00 and additional fines of $100.00 per month until the graffiti has been removed . Said fines, include interest at the rate of eight per cent per annum from the date said fines were assessed.

§ 4 **Severability.** If any provision(s) of this bylaw or the application of such provision(s) to any person or circumstance shall be held invalid, the validity of the remainder of this bylaw and the applicability of such provision to other persons or circumstances shall not be affected thereby.

Chapter 81

HARBOR

§ 81-1. Definitions.

§ 81-2. Speed limit; signs to be posted.

§ 81-3. Water-skiing.

§ 81-4. Pollution.

§ 81-5. Berthing.

§ 81-6. Float, pier and ramp areas.

§ 81-7. Noise; reckless operation of vessel.

§ 81-8. Fees.

§ 81-9. Regulations of the Harbor Master.

§ 81-10. Mooring applications and permits.

§ 81-11. Mooring specifications; minimum requirements.

§ 81-12. Violations and penalties.

[HISTORY: Adopted by the Special Town Meeting of the Town of Plymouth 6-3-1985 by Art. 12. Amendments noted where applicable.]

GENERAL REFERENCES

Beaches -- See Ch. 30.

§ 81-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ANCHOR -- To secure a vessel to the bed of a body of water by dropping an anchor therefrom which is designed or intended to be hauled back aboard when said vessel is not at anchor.

HARBOR MASTER -- The Harbor Master and Assistant Harbor Masters duly appointed by the Board of Selectmen. In addition to duties and responsibilities under the General Laws, the Harbor Master shall patrol the harbor, provide services and render assistance to boaters, conduct investigations of boating crimes and assist in the prosecution of those crimes and enforce the law in the harbor and perform related duties. **[Added 9-19-1988 STM by Art. 11]**

HEADWAY SPEED – Headway speed shall mean the slowest speed at which a vessel may be operated at and still maintain steering. Headway speed is also known as steerageway speed. **[Added 4-5-2003 STM by Art. 13]**

MOORINGS:

A. The place where buoyant vessels are secured, other than a pier.

B. The equipment and/or process used to secure a vessel, other than by anchoring, consisting of a block of anchor placed on the bed of a body of water, to which is affixed a buoy or float, to which is affixed a pennant.

PLYMOUTH HARBOR -- All areas of the harbor and municipal waterways contiguous thereto over which the Town of Plymouth may exercise its powers, excepting, however, those areas under specific lease to private persons or owned privately.

§ 81-2. Speed limit; signs to be posted. [Substituted 4-5-2003 STM by Art. 13]

~~A. Check your wake at all times.~~

~~B. The maximum speed limit is six miles per hour in Plymouth Harbor. A speed regulations sign reading "Speed Limit - 6 MPH" will be placed on the west side of the channel, 1,000 feet southwest of Nun No. 14. A sign reading "Welcome to Plymouth, Check Your Wake at All Times" will be placed at the entrance of the harbor, locus about 1,000 feet north of Nun No. 8. These signs will be placed at these locations from June 1 to October 1 of each year.~~

A. You are responsible for your wake at all times when operating within Plymouth Harbor and for all damage to public or private property which may be caused by excessive wake coming from your vessel.

B. Maximum speed is headway speed within any and all mooring areas within Plymouth Harbor.

§ 81-3. Water-skiing.

Water-skiing will not be permitted in posted areas or anchorages.

§ 81-4. Pollution.

A. Oil shall not be dumped or pumped overboard in any harbor area.

B. ~~Untreated sewage, rubbish, debris, garbage or dead fish shall not be discharged into Plymouth Harbor.~~ **[Deleted 4-6-2013 STM by Article 10]**
Treated or untreated sewage from a Type I and Type II marine sanitation device, rubbish, debris, garbage or dead fish shall not be discharged into Plymouth Harbor. **[Added 4-6-2013 STM by Article 10]**

C. Boats or vessels shall not run their engines with propellers engaged while tied to the docks. Boats requiring dock trials may do so with permission of the Harbor Master in each instance.

D. Derelict boats, motors, etc., shall not be allowed in the harbor or on the shores.

§ 81-5. Berthing.

A. Tie-up periods at town floats will be limited to 15 minutes. A tie-up time limit at the town floats or piers for visitors at night, or boats with breakdowns, will be limited by discretion of the Harbor Master.

B. All visiting craft entering Plymouth Harbor are subject to the direction of the Harbor Master, who shall be consulted before anchoring or tying to any of the facilities or moorings.

C. ~~All draggers, while moored at docks, shall have their trawl boards swung inside rails at all times.~~

All draggers, gill-netters, or other fishing vessels moored at the docks must have their trawl board, hauling gear, or other fishing gear secured inside the rails at all times. **[Substituted 4-5-2003 STM by Art. 13]**

D. Boat moorings cannot be rented out by owners and are assignable, when not in use, by the Harbor Master.

E. Boats shall not be tied to docks in dead storage without special permission from the Board of Selectmen. Any boat so illegally tied up for over four weeks' time will, upon notice from the Harbor Master, be removed [at the owners expense. **[Final four words added 4-5-2003 STM by Art. 13]**]

§ 81-6. Float, pier and ramp areas.

A. Fishing gear, equipment or any other matter shall not be allowed to remain on the docks or floats for over 24 hours without permission of the Harbor Master.

B. Swimming will not be allowed from the state pier, town pier or floats attached to public docks or the launching ramp area in Plymouth Harbor.

C. There will be no soliciting from town-owned piers, floats, launching ramp and parking areas unless authorized by the Board of Selectmen.

D. ~~Rules.~~

~~(1) Rules for the ramp and adjacent parking area shall be as follows:~~

~~(a) No public drinking.~~

~~(b) No open fires.~~

~~(c) No camping.~~

~~(d) No cleaning of fish.~~

~~(e) No littering.~~

~~(f) No swimming.~~

~~(g) No unattended boats, floats, gear, etc.~~

~~(h) No soliciting.~~

~~(2) A sign shall always be posted listing the above.~~

[Deleted 4-6-2013 STM by Article 10]

Rules for Town owned or managed boat ramps or boating access areas

1. No person shall build or maintain a fire for any purpose.
2. No person shall remove, destroy, or deface any vegetation, sign, poster, building or other property.
3. Parking areas are for the sole use of motor vehicles parking in conjunction with the intended use of the facility.
4. Camping, swimming, sleeping, and picnicking activity shall not be permitted within the boundary of the boat ramp/ access area.
5. Water-skiing shall not be conducted from or within 300 feet of any boat ramp/ access area. The operation of personal watercraft shall not be conducted from any boat ramp/ access area, except for initial embarkation and final disembarkation.
6. No fishing activity shall be conducted from within a fifty (50) foot radius of any boat launching ramp.
7. At no time shall a person deposit or leave any refuse on land or adjacent waters under the control of the Town of Plymouth. The deposit of sanitary waste is also strictly prohibited.
8. The washing of motor vehicles, flushing motors or other equipment is prohibited.
9. No person shall carry on any business or commercial calling or trade, sell or otherwise deal in wares of any sort, advertise any such business or commercial calling, hold any public meeting, or conduct any tournament contest or organized event, unless he shall have received a written permit from the Town of Plymouth. Posting of any sign or notice (commercial or otherwise) without the prior approval of the Town of Plymouth is prohibited. .
10. Disorderly conduct, gambling, drinking of alcoholic beverages, use of illegal drugs, obscene or indecent language or behavior is prohibited.

[Added 4-6-2013 STM by Article 10]

§ 81-7. Noise; reckless operation of vessel.

A. Unmuffled noise from engines, outboards, amplifying systems, radios and the like shall be kept at a minimum when in the proximity of piers, floats, anchorages or ramp areas.

B. No person shall operate any motorboat or any vessel in a reckless or negligent manner so as to endanger the life, safety or property of any person.

§ 81-8. Fees.

A. Commercial interest, party boats, fishing boats, associations or companies using the town pier for permanent moorings, float access or gangways will pay an annual fee fairly determined by the Board of Selectmen.

B. All persons tying tenders at the town pier shall be charged an annual fee to be fairly determined by the Board of Selectmen.

§ 81-9. Regulations of the Harbor Master. [Added 4-13-1988 ATM by Art. 25]

The Harbor Master, with the approval of the Board of Selectmen, may from time to time promulgate rules and regulations relating to the matters within his or her powers and jurisdiction under MGL c. 102, §§ 19 through 26.

§ 81-10. Mooring applications and permits.

A. No person shall place, maintain or use a mooring within Plymouth Harbor without a permit for said mooring having been issued by the Harbor Master. The fee for such permit shall be set by the Board of Selectmen. **[Amended 9-19-1988 STM by Art. 12]**

B. Applications for moorings in Plymouth Harbor shall be submitted to the Harbor Master, on forms approved by the Harbor Master, which shall include whatever information may be required in the discretion of the Harbor Master for the purpose of properly administering this chapter.

C. Said applications shall be date stamped upon receipt by the Harbor Master, who shall consider permit applications in the order of their submission. The Harbor Master shall grant permits in the order of submission of the applications, provided, however, on the basis of the availability of suitable mooring space for the particular boat.

D. Moorings shall be assigned by the Harbor Master according to the specific requirements of the particular boat, including its length, draft, type, rig or other pertinent requirements.

E. Any applicant [or mooring holder **[Added 4-5-2003 STM by Art. 13]**] aggrieved by a decision of the Harbor Master with respect to any decision regarding any application or forfeiture may receive a hearing before the Board of Selectmen by filing a written request therefor within 30 days following said decision, unless the time for filing such request shall be extended by the Board for good cause shown.

F. All moorings shall be placed at the location designated by the Harbor Master.

~~G. A mooring is not transferable under any circumstances [, except from spouse to spouse **[Added 4-5-2003 STM by Art. 13]**].~~ **[Deleted 4-6-2013 STM by Article 10]**

~~H. A mooring is deemed forfeited upon its being abandoned or otherwise left unused for any unreasonable period of time.~~ **[Deleted 4-5-2003 STM by Art. 13]**

§ 81-11. Mooring specifications; minimum requirements.

A. Dredged areas.

(1) ~~Block or mushroom~~. Hairpins or eyes in blocks must be 25% heavier than chain specification.

Length of Boat (feet)	**~~Mushroom (pounds)~~**	**Cement Block or Equivalent (inches)**
16 to 20	~~150~~	28 x 28 x 18
21 to 26	~~250~~	32 x 32 x 18
27 to 32	~~500~~	36 x 36 x 20
33 to 38	~~800~~	36 x 36 x 24
39 to 42	~~1,000~~	42 x 42 x 24
43 to 55	~~2 to 1,000 on bridle or 1,500~~	48 x 48 x 24

[Deleted 4-5-2003 STM by Art. 13]

56 and over	Subject to ruling by Harbor Master

(2) Chain size.

Length of Boat (feet)	**Diameter (inches)**
16 to 20	$^{1}/_{2}$
21 to 26	$^{1}/_{2}$
27 to 32	$^{5}/_{8}$
33 to 38	$^{5}/_{8}$
39 to 42	$^{3}/_{4}$
43 to 55	$^{7}/_{8}$
56 and over	Subject to ruling by Harbor Master

(3) Pennant diameter.

Length of Boat (feet)	**Nylon or Equivalent (inches)**
16 to 20	$^{1}/_{2}$
21 to 26	$^{5}/_{8}$
27 to 32	~~1~~ 3/4
33 to 38	~~1 $^{1}/_{8}$~~ 7/8
39 to 42	~~1 ¼~~ 1
43 to 55	~~1 $^{3}/_{8}$~~ 11/4

[Substituted 4-5-2003 STM by Art. 13]

56 and over	Subject to ruling by Harbor Master

(4) Scope.

(a) Length of chain for flotation buoys: ocean floor to two feet above maximum high water.

Length of pennant: ~~2/3~~ ½ of length of boat measured in a straight line from extreme bow chock to stern of boat. This method of

(b) measurement shall be used with cans, balls or synthetic flotation buoys. **[Substituted 4-5-2003 STM by Article 13]**

B. Nondredged areas (flats).

(1) Block or mushroom.

Length of Boat (feet)	**~~Mushroom (pounds)~~**	**Cement Block or Equivalent (inches)**
~~Under 16~~	~~50~~	~~18 x 18 x 12~~
~~17 to 20~~	~~100~~	~~20 x 20 x 12~~
~~21 to 26~~	~~150~~	~~28 x 28 x 18~~
~~27 to 32~~	~~200~~	~~32 x 32 x 18~~
~~33 and over~~	~~Subject to ruling by Harbor Master~~	
Up to 26’		36”x36”x12”

[Substituted 4-5-2003 STM by Art. 13]

(2) Chain size.

Length of Boat (feet)	**Diameter (inches)**
Under 16	3/8 to 1/2
17 to 20	1/2
21 to 26	1/2
~~27 to 32~~	~~5/8~~
~~33 and over~~	~~Subject to ruling by Harbor Master~~

[Deleted 4-5-2003 STM by Art. 13]

(3) Pennant diameter.

Length of Boat	**Nylon or Equivalent**

(feet)	**(inches)**
Under 16	$^{1}/_{2}$
17 to 20	$^{1}/_{2}$
21 to 26	$^{5}/_{8}$
~~27 to 32~~	~~$^{3}/_{4}$~~
~~33 and over~~	~~Subject to ruling by Harbor Master~~

[Deleted 4-5-2003 STM by Art. 13]

(4) Scope.

Length of Boat (feet)	**Scope (feet)**
Under 16	~~30~~ 10
17 to 20	~~34~~ 10
21 to 26	~~38~~ 12
~~27 to 32~~	~~40~~
~~33 and over~~	~~Subject to ruling by Harbor Master~~

[Substituted 4-5-2003 STM by Art. 13]

(5) Boats moored on flats at two feet below mean low water shall have their moorings completely buried.

C. Special areas: moorings in channels, Hobs Hole, Saquish Head, Goose Point, Cordage Channel or equivalent tidal areas.

(1) Present moorings may stay at existing overall scope. If the harbor conditions in these areas become congested in the future, moorings shall be shortened in these tidal areas with chain two feet above mean high water and the length of the pennant equal to the length of the boat.

~~(2) Special area moorings for small boats inside the Plymouth town wharf basin and directly opposite the westerly jetty are to have the following regulations:~~

~~(a) Moorings: to be spaced 20 feet apart and to have an overall length of scope of 14 feet from exposed flat to the bow chock of the boat.~~

~~(b) Mushroom: fifty-pound block, 18 inches by 18 inches by 12 inches.~~

~~(c) Chain: 3/8 inch to 1/2 inch.~~

~~(d) Scope: 14 feet.~~

~~(e) Diameter of pennants, nylon or equivalent: 1/2 inch.~~

[Deleted 4-5-2003 STM by Art. 13]

D. All areas.

(1) The use of spars or stainless steel floats for chain flotation shall be prohibited. Only cans, balls or styrene-type chain flotation shall be used. In all types of chain flotation buoys, other than metal, chain or a metal rod must be passed through the buoy connecting the mooring pennant to the mooring chain.

(2) All chain flotation buoys shall be plainly and clearly visible above any tide level at all times.

~~(3) The above-described moorings shall be painted white with a blue band, the owner's or boat's name and the length of the boat on the can or buoy, and also the owner's name on the mooring block or mushroom anchor.~~
The above described moorings shall be painted white with a blue band and must display the owners last name and mooring number on the can or buoy. **[Substituted 4-5-2003 STM by Art. 13]**

(4) All new complete moorings placed or replaced in any location in Plymouth Harbor after April 1, 1963, shall conform to the regulations and will be placed at a locus designated by the Harbor Master.

(5) Winter spars must be installed on all moorings. They shall be painted and identifiable at all times except during ice conditions.

(6) Winter spars or buoys shall not be installed prior to September 1 and must be removed by June 1.

(7) The Harbor Master will inspect all moorings regularly, commencing June 1 through September 1 of each year, for flotation of cans, balls or buoys and notify owners, in writing, by certified mail, if their cans, balls or buoys do not conform to this chapter.

(8) All pennants shall be nylon or equivalent with adequate mooring devices, approved by the Harbor Master, to eliminate the hazard of chafing.

(9) Owners with defective moorings shall be allowed seven days after receiving notice from the Harbor Master to correct the defective conditions. If the defect is not corrected after this time, the owner will be subject to penalty in conformance with this chapter. The Harbor Master, upon finding a defective mooring, shall properly mark said mooring to show danger or obstruction.

(10) ~~The Harbor Master shall order owners of moorings to have said moorings lifted, at the owner's expense, once each five years for visual inspection by the Harbor Master to determine their condition. In lieu of lifting moorings, replacements may be made. Upon certification of mooring fitness or replacement, the owner may replace the mooring at the original locus.~~ **[Deleted 4-5-2003 STM by Art. 13]**

(11) The Harbor Master shall keep a detailed description of all moorings, their locus, the owner's name, telephone number and home and business address, date of mooring and length and rig of the boat.

§ 81-12. Violations and penalties.

A. A fine not to exceed $50 may be imposed for first offense infractions or disobedience to this chapter when state or federal penalties do not apply. All other fines that are applicable are defined in MGL c. 40, § 21.

B. Offenders will be prosecuted by the Harbor Master and all other enforcement agents.

C. Violations of this chapter may be sufficient cause for the Harbor Master to refuse an individual or his or her vessel the use of town-owned or town-controlled facilities for such period of time as may be determined by the Harbor Master or the Board of Selectmen, in addition to necessary court action in cases of violation of the Motorboat Law.[3]

[3] **Editor's Note: See MGL c. 90B.**

Chapter 85

HAWKERS, PEDDLERS AND TRANSIENT VENDORS

§ 85-1. License required.

§ 85-2. Compliance with Selectmen's regulations.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-8-1976 by Art. 10. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising and guides -- See Ch. 5.
Junk dealers and collectors -- See Ch. 100.

§ 85-1. License required.

A. All hawkers and peddlers of meats, butter, cheese, fish or fresh fruits and vegetables in this town shall be licensed by the Selectmen, unless otherwise duly licensed by the Director of Standards in the Executive Office of Consumer Affairs or exempt by law.

B. No person, whether hawker, peddler or transient vendor, shall sell, barter, carry for sale or barter or expose therefor any goods, wares or merchandise, the sale of which is licensed by the Director of Standards, unless such person shall have been so licensed.

C. Whoever violates this section shall be liable to a penalty of $50 for each offense. **[Amended 4-10-2001 by ATM Article 31]**

§ 85-2. Compliance with Selectmen's regulations.

All hawkers, peddlers and transient vendors shall be subject to all regulations promulgated by the Selectmen from time to time.

Chapter 87

BOARD OF HEALTH

§ 87-1. Acceptance of Easements and Restrictive Covenants.

§ 87-2. Eliminating public exposure to tobacco smoke in restaurants, bars, and lounge/bar areas [Adopted 4-10-2001 ATM by Art. 32]

§ 87-3. Bodywork [Adopted 10-18-2014 by Article 6]

§ 87-1. Acceptance of Easements and Restrictive Covenants.

The Board of Health is authorized on behalf of the Town to accept easements and restrictions in land in connection with its approval of sub-surface sewage disposal systems under Title 5 of the State Environmental Code, provided no appropriation of funds is necessary for the acquisition.

§ 87-2. Eliminating public exposure to tobacco smoke in restaurants, bars, and lounge/bar areas [Adopted 4-10-2001 by Article 32]

A- AUTHORITY

There exists conclusive evidence that tobacco smoke causes cancer, respiratory diseases, various cardiac diseases, negative birth outcomes, allergies and irritations to the eyes, nose and throat to both the smoker and nonsmoker exposed to secondhand smoke. Therefore, the Town of Plymouth has adopted a by-law pursuant to eliminating the public exposure to tobacco smoke in restaurants, bars, and lounges/bar areas to protect and improve the health of patrons and employees of above-mentioned areas in the Town of Plymouth effective September 1, 2001.

B - DEFINITIONS

As used in this by-law:
Bar means an establishment whose business is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

Board of Health shall mean the Plymouth Board of Health.

Lounge/bar Area means an area primarily dedicated to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

Food service establishment means a place where food is prepared intended for individual portion service, and includes the site at which individual portions are provided. The term includes such places regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes, but is not limited to, restaurants, take-out food establishments, delicatessens, doughnut shops, and kiosks.

Restaurant means any establishment serving food for consumption on the premises, which maintains tables for the use of its customers. This includes cafeterias in the workplace.

Smoking means the lighting of any cigar, cigarette, pipe or other tobacco product or having possession of any lighted cigar, cigarette, pipe, or other tobacco product.

C – PROHIBITION ON SMOKING IN BARS, FOOD SERVICE ESTABLISHMENTS, LOUNGE/BAR AREAS, AND RESTAURANTS.

As of September 1, 2001 no person shall smoke in any bar, food service establishment, lounge/bar area, or restaurant, nor shall any proprietor(s) or other person(s) in charge of a bar, food service establishment, lounge/bar area, or restaurant permit any person to smoke.

D – ENFORCEMENT

(1) Any person who smokes in a bar, food service establishment, lounge/bar area, or restaurant, shall be subject to a fine of $100.00 for each violation.

(2) Any proprietor(s) or other person(s) in charge of a bar, food service establishment, lounge/bar area, or restaurant who fail(s) to comply with this by-law shall be subject to a fine of $100.00 for each violation.

(3) As an alternative to initiating criminal proceedings, violations of this by-law may be enforced in the manner provided in Massachusetts General Law, Chapter 40, Section 21D, by the Board or its agents. Any fines imposed under the provisions of Section D (1) or Section D (2) shall inure to the Town of Plymouth for such use as the Town may direct.

(4) One method of enforcement may be periodic, unannounced inspections of those establishments subject to this regulation.

E - NON-CRIMINAL DISPOSITION

Whoever violates any provision of this regulation, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by the filing of a criminal complaint at the appropriate venue.

Each day on which any violation exists shall be deemed to be a separate offense.

Penalty : $100.00 for each separate offense.

Enforcing Persons: Plymouth Board of Health and its designees
Plymouth Police Department

F – SEVERABILITY If any provision of this by-law is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force.

§ 87-3. Bodywork [Adopted 10-18-2014 by Article 6]

PLYMOUTH BODYWORK BY-LAW

PURPOSE……..…..2

AUTHORITY……..……2

DEFINITIONS……..……...2

BODY ESTABLISHMENT& INDIVIDUAL BODYWORK THERAPIST LICENSES ….…..3

LICENSE RENEWAL……..…….5

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1.0 PURPOSE:

The purpose of this by-law is to maintain a standard of health minded practices, as well as, to protect victims of human trafficking who are exploited within commercial businesses offering legitimate services such as Bodyworks, Therapy, Reflexology, Spa Services, and others. This by-law is intended to help protect the health, safety, and consumer interests of all residents and visitors of these establishments, as well as, protect the employee or potential victims of human trafficking who typically endure psychological and physical impacts due to the conditions in which they are held.

3.0 DEFINITIONS:

Agent: shall mean a person employed by the Town of Plymouth who has received authority from the Health Department to perform functions subject to these regulations.

Applicant: shall mean an individual seeking licensure that has submitted; an official application as provided by the Plymouth Health Department, two forms of identification, a CORI/SORI record request form, has paid the application fee, and has posed for digital photograph.

Application: shall mean the application form provided by the Plymouth Health Department which has been signed under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated, signed, and notarized within the Town.

Bodywork: shall refer to the practice of Reflexology and/or Bodywork (including, but not limited to: Acupressure, AMMA Therapy®, Body-Mind Centering, Chi Nei Tsang, Feldenkrais Method, Five Element Shiatsu, Integrative Eclectic Shiatsu, Japanese Shiatsu, Jin Shin Do®, Bodymind Acupressure™, Polarity, Macrobiotic Shiatsu, Rolph Structural Integration, Shiatsu Amma Therapy, Traditional Thai Massage, Trager Approach, Tui Na, Qi Gong, Zen Shiatsu, Ayurvedic Medicine,) The Plymouth Health Department will maintain a list of treatment and therapy modalities considered Bodywork for the purposes of this by-law.

CORI: shall mean a record of criminal offenses committed as an adult, as compiled by the Criminal History Systems Board.

Establishment: shall mean any location, or portion thereof, which advertises and/or provides bodywork therapy services on the premises. Any health care facility licensed by the Commonwealth of Massachusetts or the office of any health care professional licensed by the Commonwealth of Massachusetts is not an establishment for the purposes of these regulations.

Licensee: shall mean a person holding a license to practice any form of bodywork therapy or to operate a bodywork establishment in the Town of Plymouth. Where applicable, this shall include partnerships and/or corporations.

Patron: shall mean a person with whom the bodywork therapist has an agreement to provide bodywork therapy services.

Sanitization: shall mean effective bactericidal/germicidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial/germ count, including bacterial, viral, and fungal pathogens, to a safe level on massage table surfaces, instruments, and/or the general facility.

SORI: shall mean a record of convictions for specified sexual offenses committed as an adult, as compiled by the Sex Offender Registry Board.

Therapist: shall mean a bodywork practitioner licensed by the Plymouth Health Department.

BODYWORK ESTABLISMENT & INDIVIDUAL BODYWORK THERAPIST LICENSES

Any person desiring to open or conduct a commercial business practicing Bodywork Therapy shall obtain a Bodywork Establishment License from the Plymouth Health Department. Any person desiring to be a bodywork therapist at a Bodywork Establishment shall obtain an Individual Bodywork Therapist License. The application for these licenses shall include the items specified here in:

Completed application form, <u>with all required documentation,</u> provided by the Plymouth Health Department.

The applicant shall submit a non-refundable application fee according to the Plymouth Health Department fee schedule.

The applicant shall provide supporting documentation that they are eighteen (18) years of age or older, by presenting 2 forms of positive identification; One form must include a photograph, such as a valid state driver's license with photo, a state identification card with photo and/or a valid passport; The second form of ID may be a certified long-form birth certificate, certified baptismal record, certified record of marriage, certified copy of Social Security Card, or other photo ID.

The applicant shall authorize the Plymouth Police Department to run a criminal history check. All responses to these record checks are kept confidential and are not maintained by the Plymouth Police Department. By signing the application or renewal form, the applicant gives authorization

to the Plymouth Police to run a CORI/SORI background check, which will consist of the information pertaining to all convictions, non-convictions, and pending criminal case information. This information will not necessarily disqualify the applicant.

The applicant shall disclose the circumstances surrounding any of the following convictions or license revocations:

Disclosure of any conviction for any sexual-related offense, including prostitution or sexual misconduct, rape as well as other felony against persons occurring within the past ten (10) years.

Disclosure of any conviction of any misdemeanor or felony occurring within the past five (5) years.

Revocation, suspension or denial of a license to practice bodywork issued by any state or municipality.

Loss or restriction of any licensure or certification by any municipality or other jurisdiction for any reason.

Any convictions or license revocations as outlined in Section 4.0, Sub-Section 5, - a through d shall disqualify an applicant from obtaining a license pursuant to this by-law.

Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated, signed, and notarized in the Town. .

The Health Department, prior to the issuance of any license, shall evaluate each individual application by the information provided. The Plymouth Health Department may place special conditions on any license that it issues.

False statements in said application shall be grounds for denial, suspension or revocation of a license.

Applicants for a Bodyworks Establishment License shall provide proof of professional liability and workers compensation insurance.

Applicants for a Bodyworks Establishment License shall provide the name or names of individuals that are currently certified in basic cardiopulmonary resuscitation (CPR) and a copy of their valid certification form.

The holder of the Bodywork Establishment License shall be ultimately responsible for the physical facility, instruments, advertising, postings, and employee's compliance with these regulations.

The holder of a Bodywork Establishment License shall also obtain an Individual Bodywork Therapist License, if the individual will conduct bodywork.

All applicants for an Individual Bodywork Therapist License shall allow one front faced digital photograph to be taken by the Plymouth Health Department at the time of license application submittal. This photograph will be attached to the license, if granted.

All applicants for an Individual Bodywork Therapist License shall obtain a physician's letter dated no earlier than six months prior to the submittal of the initial application, stating that the applicant has had a physical examination and is free of known communicable diseases. In addition, the examination report shall include whether a TB screening is indicated and, if indicated, a written negative result obtained.

All Individual Bodywork Therapist License applicants must identify the name(s) of the licensed establishment(s) where he or she will practice bodywork therapy. In addition, a license holder shall notify the Plymouth Health Department if the individual changes employment venue within the town.

It is a violation of this by-law for any person who is not licensed in this manner described herein to operate a Bodywork Establishment or as an Individual Bodywork Therapist.

LICENSE RENEWAL

This license shall expire on December 31st annually.

The applicant shall provide his/her completed renewal application, in person to the Plymouth Health Department, with all required documentation and shall be digitally photographed for their license.

The fee for each renewal license shall be in accordance with the most recent Plymouth Health Department fee schedule.

CONDITIONS OF BODYWORK LICENSE

No bodywork therapist shall perform services if either the practitioner, or a patron, has a communicable disease or exhibits any skin fungus, skin infection, skin inflammation, or skin eruption.

Bodywork therapists must wash his/her hands with soap and water immediately before and after administering services to any person.

Therapists must maintain a sufficient level of personal cleanliness and be clothed in clean and appropriate attire which at no time will expose any portion of the areola of the breast or any portion of the pubic hair, cleft of the buttocks, or genitals.

Clients must be clothed in appropriate attire or draped with clean linen, at no time shall the client's areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals be exposed.

Therapists may not perform services they are not specifically licensed to do, such as; diagnose disease, perform joint/spinal manipulation, perform acupuncture, or other. In addition

practitioners shall not operate equipment they are not trained or licensed to use, such as; x-ray, fluoroscope, diathermy, or other similar equipment.

Therapists may not use, or allow patrons to use, alcoholic beverages, illegal drugs, or controlled drugs on the licensed premises.

The individual license to conduct bodywork or bodywork establishment license is non-transferable. Any changes in the business location of the licensee must be reported within fourteen (14) days of the change

The Plymouth Health Department shall attach the therapists photograph, as well as, the addresses where the therapist conducts business on the license.

Bodywork therapists must prominently display his/her license in a conspicuous location of the licensed establishment where employed.

The use of aliases by practitioners and apprentices is prohibited.

Therapists may not administer a massage, unless the individual is properly licensed by the Massachusetts Board of Registration of Massage Therapy.

Therapists may not administer treatment to a person less than 18 years of age without the written permission of either a parent or guardian.

All therapists shall have a valid form of identification on them at all times within the establishment.

All licensees shall notify the Plymouth Health Department of a change of name and/or home address within fourteen (14) days.

All licensees shall notify the Plymouth Health Department of any criminal complaint brought against him/her within seven (7) days. Failure to do so may result in revocation of licensure.

PROHIBITIONS

Sexual contact and/or sexual relationships. No person licensed by Plymouth Health Department to perform bodywork, shall use the therapist-client relationship to solicit for or engage in sexual activity with any client, whether consensual or otherwise, whether within or outside the bodywork establishment, or to make arrangements to engage in sexual activity with any client.

At no time shall a licensee operate a bodywork business as a door-to-door enterprise.

CRIMINAL ACTS

Sexual activity by any person or persons in any establishment is prohibited.

As used in this by-law, “sexual activity” means any direct or indirect physical contact or communication by any person or between persons which is intended to erotically stimulate either person or both or which is likely to cause such stimulation and include: sexual intercourse, fellatio, cunnilingus, masturbation (or “hand release”), or anal intercourse. For the purpose of this by-law, masturbation means the manipulation of any body tissue with the intent to cause sexual arousal. As used herein, sexual activity can involve the use of any device or object and is not dependent on whether penetration, orgasm, or ejaculation occurs.

FACILITY and EQUIPMENT

The operator shall provide that all public areas, rooms used for therapy, and employee areas are clean and sanitary. The establishment must be well lighted, adequately ventilated, properly heated, and free from defects that would create a public health or employee safety hazard in accordance with all local, state, and federal regulations.

Every room used for the treatment of patrons shall be equipped with a door and have at least 70 square feet of floor space. All treatment room doors shall not be capable of being locked.

No room or section to an Establishment shall be used as a bedroom or for sleeping purposes, or as a domicile.

Every waiting room area must be lit with a combination of natural and artificial lights. Blackout curtains, other light prohibitive shades, or window sprays are prohibited.

Standard or portable massage tables shall be covered with a durable washable material, which is capable of being cleaned and sanitized, and is cleaned and sanitized after each patron use.

Any room used by any person licensed to practice bodyworks shall have ready access to an adequate supply of hot and cold water and sanitizing chemicals/equipment. All furniture and equipment in each room shall be kept clean and sanitary at all times.

Non-disposable instruments shall be sanitized after use on each person in a sufficient manner.

The facility shall have adequate equipment for disinfecting and sanitizing non-disposable instruments and materials used in administering bodywork. No owner or operator, manager, responsible managing employee, or licensee in charge of or in control of an establishment or business may employ or permit a person to act as a therapist who is not in possession of a valid license issued under this by-law.

No un-sanitized part of an instrument (i.e. Hot Stones) shall be applied directly to the skin of a patron.

Robes, towels, cloths, or other linens, which come into direct contact with the bodies of patrons, shall, after use and before re-use, be laundered in such a manner as to ensure effective sanitization.

No common use of robes, towels, cloths, sheets, or other linens is permitted. All used robes, towels, cloths, or other linens shall be kept in covered containers, closed cabinets, or closed bags and shall be held separately from clean robe, towel, cloth or linen storage areas. Such separate storage areas shall be plainly marked as “CLEAN” OR “SOILED”.

All oils, creams, lotions, talc, or other preparations used in administering bodywork shall be kept in a clean and closed condition. All such containers shall be stored in appropriate cabinets or shelving.

All non-disposable instruments and devices designed or used for direct application to the skin shall be kept in a clean location.

If latex-containing products are to be used, a sign shall be conspicuously posted stating all clients shall be advised that latex containing products are in use.

Conducting of bodywork therapy shall be limited between the hours of 7:00am and 10:00pm.

Patrons shall be granted access to inspect all oils, creams, lotions, talc, or other preparations treatment substances before use on the individual.

The facility shall have a conspicuously placed sign in the lobby which reads “Report any inappropriate actions to the Plymouth Police Department at (508) 830 -4218”.

Smoking is prohibited within a bodywork establishment or on the grounds, thereof.

A Department of State – “Know Your Rights” pamphlet shall be displayed prominently in employee areas, in all languages spoken by on-site personnel.

INSPECTIONS

The purpose of inspections is to verify the compliance of this by-law.

Denial of access to any part of an establishment, by the licensee, by a bodywork therapist, or their employee shall result in immediate revocation of the license.

Applicants will be subject to periodic inspections by the Plymouth Health Department, Plymouth Police Department, or their authorized agents.

ADVERTISING

Bodywork therapists and owners of such establishments shall be mindful of professional ethics when placing advertisements. Advertising in periodicals, newspapers, or on-line in a sexual or provocative manner (i.e. pictures or language) to promote business may be construed as a violation of the proper standards of bodywork and will result in the revocation of the license.

DEPARTMENT OF STATE – KNOW YOUR RIGHTS PAMPHLET

Any place of employment reported by the National Human Trafficking Resource Center to be a common location of human trafficking, shall conspicuously post a Department of State – Know

Your Rights Pamphlet in a commonly visited employee information posting area. The pamphlet must be available in the employee's primary language.

As of the date this by-law is enacted, common human trafficking employment locations shall include; hotels, nail salons, restaurants, bars, strip clubs, farm labor camps, construction companies, large factories, and bodywork establishments defined herein.

The Plymouth Health Department has the right to include more business locations that are common locations for human trafficking as they become known to the Plymouth Health Department, Plymouth Police Department, or the National Human Trafficking Resource Center.

This pamphlet is available free of charge at the following web address:
http://travel.state.gov/content/visas/english/general/rights-protections-temporary-workers.html

GENERAL ENFORCEMENT

This by-law may be enforced by the Plymouth Health Department, Inspectional Services Department, Plymouth Fire Department, and Plymouth Police Department, except that only the Plymouth Health Department may grant, deny, revoke, suspend or modify permits pursuant to this by-law.

The grounds on which the Plymouth Health Department may, after a hearing, deny renewal, revoke, suspended, or modify any permit or certification issued pursuant to these regulations include, but are not limited to:

Refusal to permit an agent of the Plymouth Health Department or other government official to inspect the facility;

Interference with an agent of the Plymouth Health Department or other government official in the performance of their duty;

A criminal conviction of the license holder relating to the operation of the establishment;

Failure of the license holder to submit the appropriate documentation;

Failure to pay the required license fees or assessed fines or penalties;

The establishment's owner, operator, or employee's failure to comply with these regulations;

Committing a Prohibited or Criminal Act per sections 7.0 and 8.0 of this document.

Keeping or submitting any misleading or false records or documents related to the operation of the establishment or practicing bodywork;

Otherwise operating a bodywork facility or practicing bodywork so as to cause a threat to the public health or safety shall authorize the Plymouth Health Department, after a hearing, to suspend, modify or revoke a license.

Such action by the Plymouth Health Department may include ordering other appropriate relief, including but not limited to ordering corrections to the physical facility.

These regulations may be enforced through appropriate criminal or civil process, including but not limited to that specified at M.G.L. c. 40, section 21D, in any court of competent jurisdiction.

All criminal acts or violations of G.L. will be enforced by the Plymouth Police Department. In addition, the Plymouth Police Department or Plymouth Health Department may issue fines per this ordinance on top of penalties accessed by the appropriate criminal court.

FINES for VIOLATIONS of ORDERS and SUSPENSIONS

Any person or entity violating any term or condition of these regulations, or any Plymouth Health Department suspension or order enforcing these regulations, shall be subject to a fine for each violation of not less than fifty dollars ($50) and up to three hundred dollars ($300) for each day that such violation continues.

Enforcement via noncriminal disposition, in accordance with M.G.L. c.40, section 21D, shall be punishable by a fine of $100 for a first offense, $200 for a second offense, and $300 for a third or subsequent offense.

EXEMPTIONS

Any Physician, chiropractor, osteopath, nurse, physical therapist, massage therapists or acupuncturist operating within the scope of his/her Commonwealth of Massachusetts license or registration and not representing him/herself as a bodywork therapist shall be exempt from this by-law.

Hospitals, long-term care facilities, and home health agencies licensed or certified under the laws of the Commonwealth of Massachusetts shall be exempt from this by-law.

SEVERABILITY

If any chapter, section, paragraph, sentence, clause, phrase, or word of this by-law shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of these regulations, which shall remain in full force and effect; and to this end the provisions of this by-law are hereby declared severable.

TRANSITIONAL RULES

Existing bodywork establishments, as well as, individuals who conduct bodywork shall submit applications for licensure to the Plymouth Health Department within thirty (30) days of the effective date of this by-law.

Chapter 90

HISTORIC DISTRICT

§ 90-1. Statutory authority.

§ 90-2. Establishment.

§ 90-3. Historic District Commission.

§ 90-4. Powers and duties of Commission.

§ 90-5. Appeals.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 14 of the 1974 Bylaws. Amendments noted where applicable.]

§ 90-1. Statutory authority.

This chapter is adopted pursuant to the Historic District Act, MGL c. 40C, in consideration of the purposes set forth in Sections 2 and 7 of the Act.

§ 90-2. Establishment.[4]

There is hereby established in the Town of Plymouth an historic district as shown on a plan entitled "Proposed Historic District" prepared for the Historical District Study Commission, Town of Plymouth, Massachusetts, dated October 18, 1972, by Delano & Keith, Inc., a copy of which is on file in the Town Clerk's office.

§ 90-3. Historic District Commission. [Added 10-26-2005 ATM by Art. 26 (Changes to A and E)]

A. There is hereby established the Plymouth Historic District Commission, which shall consist of ~~five~~ seven members, including one member from two nominees submitted by the Society for the Preservation of New England Antiquities, one member from two nominees submitted by the Chapter of the American Institute of Architects covering the Town of Plymouth, one member from two nominees of the Board of Realtors, one property owner resident in the Plymouth Historic District, two registered voters of the Town of Plymouth and one Town of Plymouth resident interested in the preservation and protection of places of significance in the history of the Town of Plymouth. The Board of Selectmen shall appoint two alternate members to the Commission. In the case of the

[4] **Editor's Note: Under Art. 70 of the 1977 Annual Town Meeting, the town voted to extend the present historic district. See the town meeting records for a more detailed description of the action.**

absence, inability to act or unwillingness to act because of a conflict of interest on the part of a member of the commission, his/her place shall be

taken by an alternate member designated by the chairman of the Historic District Commission. Said alternate members shall be appointed initially for 2 year and 3 year terms, with subsequent terms to be for 3 years. [**Last Sentence Added 10/18/2014 ATM by Art. 32]**

B. All members shall be appointed by the Board of Selectmen for the Town of Plymouth.

C. If within 30 days after submission of a written request for nominees to any of the organizations herein named no such nominations have been made, the Selectmen may proceed to make their appointments without nominations by such organization.

D. Wherever possible, all members shall be citizens of the Town of Plymouth.

E. Each term shall be for three years, except for the terms for the original members, which shall be as follows:

(1) New England Antiquities nominee: three years.

(2) American Institute of Architects nominee: three years.

(3) Board of Realtors nominee: two years.

(4) Resident property owner: two years.

(5) Interested Plymouth resident: one year.

(6) One registered voter of Plymouth for two years, and one registered voter of Plymouth for three years.

F. In the event that an appointment is made without nominations as aforesaid, the term of the member appointed shall be the same as if nominations had been made.

§ 90-4. Powers and duties of Commission.

The Plymouth Historic District Commission (Commission) established herein and as from time to time existing shall have the powers, authority and duties granted by MGL c. 40C and the powers, authority and duties provided by this chapter.

A. The Commission may adopt and amend such rules and procedures not inconsistent with the provisions of MGL c. 40C as it deems necessary or desirable for the exercise of its power, authority and duties.

B. It may employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work within the amounts from time to time appropriated to it by the town and may accept money gifts and expend the same for such purposes.

C. The Commission may administer, on behalf of the Town of Plymouth, any properties and/or easements, restrictions or other interests in real property which the town may have or may accept as gifts or otherwise and which the town may designate the Commission as the administrator thereof.

D. The Commission shall have the powers and duties of an Historical Commission as provided in MGL c. 40, § 8D.

E. The Preservation of Historically Significant Buildings

Section 1. Intent and Purpose

The Demolition Delay Bylaw is enacted for the purpose of preserving and protecting significant buildings and other structures (barns or out-buildings which are generally associated with the significantly historic building) within the Town of Plymouth which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this Bylaw, owners of Preferably Preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Plymouth Historic District Commission is authorized to advise the Building Commissioner with respect to demolition zoning permit applications. The issuance of demolition zoning permits is regulated as provided by this Bylaw.

Section 2. Definitions

2.1 APPLICANT - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

2.2 APPLICATION - An application for the demolition of a building.

2.3 BUILDING - Any combination of materials forming a shelter for persons, animals, or property.

2.4 BUILDING COMMISSIONER - The person occupying the office of Building Commissioner or otherwise authorized to issue demolition zoning, demolition and building permits.

2.5 COMMISSION – The Plymouth Historic District Commission.

2.6 DEMOLITION - Any act of pulling down, destroying, removing, dismantling or razing a building or a portion of a building or commencing the work of total or substantial destruction.

2.7 DEMOLITION PERMIT - Any permit issued by the Building Commissioner for a demolition of a building or portion thereof, excluding a building permit issued solely for the demolition of the interior of a building.

2.8 SIGNIFICANT BUILDING – Any building within the town that is in whole or in part seventy-five (75) years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

(a) The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
(b) The Building has been found eligible by a majority vote of the Commission for the National Register of Historic Places; or
(c) The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
(d) The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

2.9. PREFERABLY PRESERVED BUILDING – A building which the Commission has determined, after a public hearing as described herein, to be historically significant to the Town's architectural or historical resources, because of its construction, location or historical use, and which is in the public interest to preserve.

Section 3. Procedure

3.1 No demolition permit for a building which is in whole or in part seventy-five (75) years or more old may be issued without following the

provisions of this Bylaw. If a building is of unknown age, it shall be assumed that the building is over 75 years old for the purpose of this Bylaw.

3.2 An applicant proposing to demolish a Significant Building subject to this Bylaw shall file with the Commission an application containing the following

information:

(a) The address of the building to be demolished.
(b) The owner's name, address and telephone number.
(c) A description of the building.
(d) The reason for requesting a demolition permit.
(e) A brief description of the proposed reconstruction or replacement.
(f) A photograph or photographs of the building.

3.3 Upon receipt of the application the Commission shall vote an Initial Determination within fourteen days as to whether the Significant Building is Preferably Preserved or Not Preferably Preserved.

3.4 Upon the Initial Determination by the Commission that the Significant Building is Not Preferably Preserved, the Commission shall so notify the Building Commissioner and the applicant in writing.

3.5 Upon Initial Determination by the Commission that the Significant Building is Preferably Preserved, the Commission shall so notify the Building Commissioner and the applicant. The applicant shall be notified by Certified Mail of the right to appear to be heard at a subsequent hearing on a Final Determination of whether the building is to be Preferably Preserved. No demolition permit shall be issued at this time.

3.6 If the Commission by an Initial Determination finds that the Building is Preferably Preserved, it shall hold a public hearing within (30) thirty days of the written notification to the applicant and the Building Commissioner to make a Final Determination as to whether the Significant Building is Preferably Preserved or is Not Preferably Preserved. The Commission shall give public notice of said hearing by publishing notice of the time, place, and purpose of the hearing in a newspaper of general circulation in the Town twice, the first notice to be published at least fourteen (14) days before the hearing and the second notice no more than seven (7) days before the hearing, and by mailing a copy of said notice to the applicant, to the owner of the premises on which the Significant Building is located (if other than the applicant) to the owners of all property within one hundred feet of the premises on which the Significant Building is located as appearing on the most recent tax list, and to such other persons as the Commission may deem entitled to notice.

3.7 The Commission shall make a Final Determination at the public

hearing or within fourteen days thereafter the public hearing whether the Significant Building Preferably Preserved or Not Preferably Preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed for the convenience of the applicant or owner or for additional time necessary to obtain additional pertinent information.

3.8 If the Commission determines that the Significant Building is Not Preferably Preserved, the Commission shall so notify the Building Commissioner and applicant in writing. If the Commission fails to make such determination within fourteen days of the close of the public hearing, the building shall be deemed to be Not Preferably Preserved. The Building Commissioner may then issue the demolition permit.

3.9 Upon a Final Determination by the Commission that any building

which is the subject of an application is Preferably Preserved, no demolition permit may be issued for a period of twelve months from the date of the Final Determination unless prior to the expiration of twelve months, the Commission determines, and so informs the Building Commissioner, that, either 1. the applicant for the demolition permit has made a food faith, but unsuccessful, effort locate a purchaser or developer for the building who is willing to commit to preserve, rehabilitate or restore the building, , or, 2. The applicant has agreed with the Commission to a modified scope of demolition or other conditions on a demolition permit..

3.10 No permit for demolition of a building determined to be a Preferably Preserved building may be granted until all plans for future use and development of the site have been filed with the Building Commissioner and has been found by the Building Commissioner to comply with all laws pertaining to the issuance of a building permit or other permits for that site. All approvals necessary for the issuance of such building permit or other permits including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a Demolition Permit under this section.

3.11 The Building Commissioner may issue a Demolition Permit or a building permit for a Preferably Preserved building within the twelve months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this Bylaw is served even with the issuance of the Demolition Permit or the building permit.

Section 4. Administration

4.1 The Commission may adopt such rules and regulations as are necessary to administer the terms of this Bylaw.

4.2 The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Bylaw.

4.3 The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission.

Section 5. Emergency Demolition

If after an inspection, the Building Commissioner finds that a building subject to this Bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Commissioner may issue an Emergency Demolition Permit to the owner of the building. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission with a copy to the owner of the building.

Section 6. Responsibility of Owners

Once a Significant Building is determined to be preferably preserved, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the demolition delay period, which destruction could have been prevented by the required security measures, shall bedeemed a demolition in violation of this Bylaw.

Section 7. Enforcement and Remedies

7.1 The Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary or appropriate to obtain compliance with the requirements of this Bylaw or to prevent a threatened violation thereof. In addition to any other remedy available at law, any owner who violates any provision of this Bylaw shall be subject to a penalty of up to $300.00 dollars per day, each day of violation constituting a separate offense. When enforced pursuant to the provisions of so-called non-criminal prosecution pursuant to G. L. c. 40, §21D, the penalties for violation shall be as follows:

First day or violation:	$100.00
Second day of violation:	$200.00
Third and subsequent days of violation:	$300.00,

7.2 If all or a portion of a building subject to this Bylaw is demolished without first obtaining a demolition permit, no building permit shall issue for a period of two years from the date of the demolition. Notwithstanding the

foregoing, whenever the Commission may, on its own initiative, or on application of the owner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this Bylaw better serves the intent and purpose of this by-law, 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.

Section 8. Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of G. L. c 40C, the Historic Districts Act. The steps required under .G.L. c. 40C shall be followed prior to the establishment of a local historic district. Nothing in this Bylaw shall be deemed to conflict with the provisions of the Historic District Act, G. L. c. r 40C. If any of the provisions of this Bylaw do so conflict, that statute shall prevail.

Section 9. Appeals

No appeal may be taken from an Initial Determination that a building is Preferably Preserved. An appeal by the owner of any building determined to be Preferably Preserved is governed by the provisions of G. L. c. 249, §4, which provides for an appeal to Superior Court for review of the record of the determination by the Commission,

Section 10. 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.

§ 90-5. Appeals. [Added 4-1-1997 STM by Art. 16]

Any applicant aggrieved by a determination of the Commission may, within 20 days after the filing of the notice with the Town Clerk, file a written request with the Commission for review by a person or persons of competence and experience in such matters designated by the regional planning agency. The finding of the person or persons making such review shall be filed with the Town Clerk within 45 days after the request and shall be binding on the applicant and the Commission unless further appeal is sought in the Superior Court as provided in MGL c. 40C, § 12A.

Chapter 100

JUNK DEALERS AND COLLECTORS

§ 100-1. License required.

§ 100-2. Shopkeepers.

§ 100-3. Minors.

§ 100-4. Junk collectors.

§ 100-5. Identification.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 7 of the 1974 Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Hawkers, peddlers and transient vendors -- See Ch. 85.
Solid waste -- See Ch. 157.

§ 100-1. License required.

A. All dealers in and keepers of shops for the purchase, sale or barter of junk, old or precious metals or secondhand articles in this town shall be licensed by the Selectmen. For the purpose of this bylaw, the term "precious metals" shall include any precious metal such as gold, silver or platinum without regard to the form or amount. **[Added 4-2-2011 by ATM Article 33]**

§ 100-2. Shopkeepers.

C. Every keeper of a shop for the purchase, sale or barter of junk, old or precious metals or secondhand articles within this town shall keep a book in which shall be written at the time of every purchase of any such article a description thereof and the name, age and residence of the person from whom and the day and hour when such purchase was made, and such book shall at all times be open to the inspection of the Selectmen or any person by them authorized to make such inspection, and every keeper of such shop shall put in some suitable and conspicuous place on his or her shop a sign having his or her name and occupation legibly inscribed thereon in large letters.

B. Such shop and all articles of merchandise therein may at all times be examined by the Selectmen or by any person by them authorized to make such examination, and no article purchased or received by such shopkeeper shall be sold or altered or removed from premises **[Amended 10-24-2011 ATM by Art. 28]** until a period of at least ~~one week~~ thirty days has elapsed from the date of its purchase or receipt. **[Amended 4-2-2011 by ATM Article 33]**

C. The licensee shall cause to be delivered to the Plymouth Police Department on a weekly basis, a copy of all transactions recorded in their book. If, during the preceding week, such licensee has taken no articles for sale or liquidation, he/she shall make out and deliver to the Police Department a report of such fact. **[Added 4-2-2011 by ATM Article 33]**

D. All shopkeepers shall produce a receipt identifying the business name, address, and license number. It shall contain an accurate and detailed description of all items including but not limited to: all distinguishing marks, model names or numbers, serial numbers, etchings or engravings. Jewelry items shall include a complete description including the material, ring size, weight, chain length, shapes, karat weight and color. **[Added 4-2-2011 by ATM Article 33]**

E. All shopkeepers shall refrain from paying cash for precious metals and articles purchased that will be liquidated, melted down, or resold. The preferred method of payment should be a business check which can be traced back to the recipient. **[Added 4-2-2011 by ATM Article 33]**

§ 100-3. Minors.

No keeper of such shop shall directly or indirectly purchase or receive, by way of barter or exchange, any of the articles aforesaid of a minor knowing or having a reason to believe him or her to be such.

§ 100-4. Junk collectors.

A. All junk collectors who collect, by purchase or otherwise, junk, old metals or secondhand articles from place to place in this town shall be licensed by the Selectmen.

B. Whoever violates this section shall be liable to a penalty of ~~$50~~ $100 **[Amended 4-2-2011 by ATM Article 33]** for each offense. **[Added 4-10-2001 by ATM Article 31]**

§ 100-5. Identification [Added 4-2-2011 by ATM Article 33]

A. For all jewelry transactions, the licensee shall take a color photograph of each

individual item in as much detail possible. The licensee shall photograph, in color, any person selling articles and keep the photographs with said books as part of his records.

B. The licensee shall obtain positive identification, make a color copy of, and record

the full name, address, date of birth, and who shall be required to sign documentation avowing to the accuracy of the information listed, and ownership of said items being sold.

Chapter 109

LICENSES AND PERMITS

§ 109-1. Denial or revocation for failure to pay charges.

§ 109-2. List of delinquents.

§ 109-3. Notice and hearing; certificate of good standing.

§ 109-4. Payment agreements.

§ 109-5. Waivers.

§ 109-6. Exemptions.

[HISTORY: Adopted by the Special Town Meeting of the Town of Plymouth 4-3-1993 by Art. 14. Amendments noted where applicable.]

§ 109-1. Denial or revocation for failure to pay charges. [Amended 4-12-1995 ATM by Art. 33]

Any town board, officer or department may deny any application for, or revoke or suspend, any local license or permit, including renewals and transfers, issued by any such board, officer or department for any person, corporation or business enterprise who or which has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or other matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, in accordance with the following procedure.

§ 109-2. List of delinquents.

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 town 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-month period and that such party has not filed in good faith a pending application for any abatement of such tax or a pending petition before the Appellate Tax Board.

§ 109-3. Notice and hearing; certificate of good standing. [Amended 4-12-1995 ATM by Art. 33]

A. 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 or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by 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 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.

B. The Finance Director shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to 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 for any appeal from such license denial, revocation or suspension.

C. Any license or permit denied, suspended or revoked under this chapter shall not be reissued or renewed until the licensing authority receives a certificate issued by the Finance Director that the party is in good standing with respect to any and all taxes, fees, assessments, betterments or other municipal charges payable to the municipality as of the date of issuance of said certificate.

§ 109-4. Payment agreements.

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 conditioned 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 shall be given notice and a hearing as required by applicable provisions of law.

§ 109-5. Waivers.

The Board of Selectmen may waive such denial, suspension or revocation if it finds that there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his or her immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

§ 109-6. Exemptions.

This chapter shall not apply to the following licenses and permits: open burning (MGL c. 48, § 13); sales of articles for charitable purposes (MGL c. 101, § 33); children work permits (MGL c. 149, § 69) ; clubs and associations dispensing food or beverage license (MGL c. 140, § 21E) ; dog licenses (MGL c. 140, § 137) ; fishing, hunting and trapping licenses (MGL c. 131, § 12); marriage licenses (MGL c. 207, § 28); and theatrical events and public exhibition permits (MGL c. 140, § 181).

Chapter 120

NOISE

§ 120-1. Persons occupying or having charge of premises.

§ 120-2. Persons present at location where noise originates.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-11-1988 by Art. 20. Amendments noted where applicable.]

GENERAL REFERENCES

Alarm systems -- See Ch. 14.
Animals -- See Ch. 23.
Disorderly conduct -- See Ch. 51.
Hawkers, peddlers and transient vendors -- See Ch. 85.
Parades and special events -- See Ch. 127.
Vehicles and traffic -- See Ch. 185.

§ 120-1. Persons occupying or having charge of premises. [Amended 6-28-1993 STM by Art. 6; Amended 4-10-2001 by ATM Article 31]

A. It shall be unlawful for any person or persons occupying or having charge of any building, structure, vehicle or premises or any part thereof in the town to cause or suffer or allow any unnecessary, loud, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians, or in the use of any device to amplify the aforesaid, or the making of loud outcries, exclamations or other loud or boisterous noise or loud and boisterous singing by any person or group of persons, or in the use of any device to amplify the aforesaid noise, where the noise is plainly audible at a distance of 150 feet from the building, structure, vehicle or premises in which or from which it is produced.

B. The fact that the noise is plainly audible at a distance of 150 feet from the building, structure, vehicle or premises from which it originates shall constitute prima facie evidence of a violation of this section.

C. Any person violating this section shall be punished by a fine of $50 for each offense.

§ 120-2. Persons present at location where noise originates. [Amended 4-3-1993 STM by Art. 15]

A. It shall be unlawful for any person or persons being present in or about any building, dwelling, premises, shelter, boat or conveyance, or any part thereof, to

cause or suffer or countenance any loud, unnecessary, excessive or unusual noises in the operation of any radio, phonograph or other mechanical sound-making device or instrument, or reproducing device or instrument, or in the playing of any band, orchestra, musician or group of musicians or the making of loud outcries, exclamations or other loud or boisterous noise or loud and boisterous singing by any person or group of persons, or in the use of any device to amplify the aforesaid noise, where the aforesaid noise is plainly audible at a distance of 150 feet from the building, dwelling, premises, shelter, boat or conveyance in which or from which it is produced.

B. The fact that the noise is plainly audible at a distance of 150 feet from the premises from which it originates shall constitute prima facie evidence of a violation of this section.

C. Any person shall be deemed in violation of this section who shall make, or aid or cause or suffer or countenance or assist in the making of, the aforesaid and described improper noises, disturbance or breach of the peace, and the presence of any person or persons in or about the building, dwelling, premises, shelter, boat or conveyance or any part thereof during a violation of this section shall constitute prima facie evidence that he or she is a countenancer to such violation.

C. Any person violating this section shall be punished by a fine of $50 for each offense.

§ 120-3. Commercial Construction etc. [Amended 4-7-1999 ATM by Art. 33]

No commercial construction, demolition, repair, paving or alteration of buildings or streets or excavation shall be conducted between the hours of 7:00 p.m. and 7:00 a.m., except with the approval of the Board of Selectmen. Anyone who violates this by-law shall be subject to a fine of $300, each day to constitute a separate occurrence. This by-law may be enforced through non-criminal disposition by any Police Officer of the Town of Plymouth.

This bylaw shall not apply to emergency activities of Town, County, State or Federal agencies or to emergency activities conducted by public or private utilities.

Chapter 123

OATH OF OFFICE

§ 120-1. Oath of Office

All elected and appointed officials shall be qualified by the Town Clerk within 30 days of their appointment or reappointment except where a different period is specified in the General Laws. If an appointed official is not qualified in this period, his appointment shall terminate and the appointing authority shall be so notified by the Town Clerk

Chapter 127

PARADES AND SPECIAL EVENTS

§ 127-1. Notification of Police Chief and Selectmen.

§ 127-2. Bicycling, skateboarding and skating in special event areas.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 5, Sec. 5.18 of the 1974 Bylaws. Amendments noted where applicable.]

§ 127-1. Notification of Police Chief and Selectmen.

Any organization or group of persons intending to conduct a parade, march or demonstration in any public area of the town shall notify, in writing, the Chief of Police and the Board of Selectmen three days prior to the date on which such parade, march or demonstration shall take place.

§ 127-2. Bicycling, skateboarding and skating in special event areas. [Added 4-16-1997 ATM by Art. 27]

No person shall ride a bicycle or skateboard or roller-blade or skate in any pedestrian area within an area designated as a special event by the Board of Selectmen. An area shall be designated a special event by the Board of Selectmen when issuing permits for parades, marches or demonstrations under § 127-1 or when approving permits for street closing to accommodate public events, including but not limited to concerts, street races and other public exhibitions. This section shall not be applicable to performers associated with or the subject of the special event. Any person violating this section shall be subject to a fine of $50.

Chapter 130

PAWNBROKER LICENSING

§ 130-1. General.

§ 130-2. Rate of Interest.

§ 130-3. Inspections.

§ 130-4. Records.

§ 130-5. Pledger's Card.

§ 130-6. Pledger's Memorandum.

§ 130-7. Report to the Board of Selectmen.

§ 130-8. Posting of Pawnbroker Laws and Bylaw.

§ 130-9. Hours of Operation.

§ 130-10. Retention of Pawned Items.

§ 130-11. Prohibited Acts

§ 130-12. Complaints and Enforcement

§ 130-1. Noncriminal Disposition.

§130-1. General

The Board of Selectmen (for the purposes of this bylaw, references to the "Board of Selectmen" shall include the Board of Selectmen or its designee) may license suitable persons to be pawnbrokers. Such licenses shall be valid only in the building or place designated in the license, unless the Board of Selectmen consents otherwise. Applications for new licenses may be filed at any time with the Board of Selectmen. Such licenses may be issued in April, to take effect on May 1, following. All licenses issued under this bylaw shall expire on May 1, unless sooner revoked.

Persons who engage in or carry on the business of lending money on mortgages, deposits or pledges of wearing apparel, jewelry, ornaments, household goods or other personal property purchasing such property on the condition of selling the same back again at a stipulated price, when the property so mortgaged, pledge or purchased is deposited with the lender, must be licensed as pawnbrokers.

Every person so licensed, shall, at the time of receiving the license, file with the Board of Selectmen a bond in the amount of $300.00.

The fee for a pawnbroker license shall be set by the Board by regulation.

§130-2. Rate of Interest

The rate of interest licensed pawnbrokers may charge shall be fixed by the Board of Selectmen by regulation.

No licensed pawnbroker shall charge or receive any greater rate of interest than that fixed by the Board of Selectmen, and interest shall be determined on the precise sum advanced by the lender. Further, no licensed pawnbroker shall make or receive any extra charge or fee for storage, care or safekeeping of any goods, articles, or thing pawned.

§130-3. Inspections

The members of the Board of Selectmen or any officer authorized by the Board may, at any time, enter upon any premises used by a licensed pawnbroker for the purposes of the pawnbroker's business, ascertain how the pawnbroker conducts business and examine all articles taken in pawn or kept or stored upon said premises. All books and inventories shall be exhibited under such circumstances whenever a demand shall be made for such exhibition.

A licensed pawnbroker, clerk, agent or other person in charge of such premises who refuses to admit thereto an officer authorized to enter the same, or who fails to exhibit to him on demand all such articles, books and inventories, and any person who wilfully hinders, obstructs or prevents such officer from entering the premises or from making the examination authorized in the preceding section, shall be punished, pursuant to G.L. c.140, §74, by a fine of not more than two hundred dollars or by imprisonment for not more than one year, or both.

§130-4. Records

Every licensed pawnbroker shall, at the time of making any loan, attach a number of the article taken in pawn. Every licensed pawnbroker shall keep a record book of a style and size to be approved by the Chief of Police, in which shall be legibly written in ink in the English language, at the time of making each loan, an account and description, including distinguishing marks and numbers, of the goods, articles or things pledged or pawned, the amount of money loaned thereon, the day and hour when it was pawned, the rate of interest to be paid on such loan, the number of such article, and the name, age and residence of the person pawning the same.

Every licensed pawnbroker shall photograph any person pawning or pledging articles and keep such photographs with the record books as part of the pawnbroker's records.

For all loans, every licensed pawnbroker shall require positive identification and record the type of identification presented. The date of the birth of any person pawning or pledging any article shall be recorded. Positive identification shall mean any picture identification card issued by a governmental agency.

§130-5. Pledger's Card

Each pledger shall be required by the pawnbroker to sign his or her name, age and address on a card. In the event the pledger is unable to write, the pawnbroker shall fill in the name, age and address on such card, together with a notation stating that the pledger was unable to do so. Licensed pawnbrokers shall retain such cards for seven years in an alphabetical index file.

§130-6. Pledger's Memorandum

Every licensed pawnbroker shall, at the time of making a loan, deliver to the person who pawns or pledges any goods, article or thing, a memorandum signed by the pawnbroker, containing the same information of the entry required to be entered in the record book required by §130-4; no charge shall be made or required by the pawnbroker for any such memorandum.

§130-7. Report to the Board of Selectmen

Every licensed pawnbroker shall make a report to the Board of Selectmen every week, setting forth the information included in the record book required by §130-4, as follows: an account and description, including distinguishing marks and numbers, of the goods, articles or things pledged or pawned, the amount of money loaned thereon, the day and hour when it was pawned, the rate of interest to be paid on such loan, the number of such article, and the name and residence of the person pawning the same. If during the preceding week no goods, articles, or other things have been taken in pawn by a licensed pawnbroker, the pawnbroker shall make a report of that fact to the Board of Selectmen or its designee.

If any goods, article or other thing pawned or pledged and in possession of a licensed pawnbroker are determined to be stolen property by a member of the Plymouth or State Police Department, or if the rightful owner of property identifies the same, and the property is confirmed by a member of the Plymouth or State Police Department to be stolen pawned goods, said property shall be returned to the rightful owner at no cost to such owner.

§130-8. Posting of Pawnbroker Laws and Bylaw

Every licensed pawnbroker shall post in a conspicuous place in his shop or office a copy of the statutes, bylaws and any regulations relating to pawnbrokers, to be furnished by the Board of Selectmen, and shall put in some suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters.

§130-9. Hours of Operation

The hours of operation may be set by the Board of Selectmen by regulation.

§130-10. Retention of Pawned Items

Non-perishable articles deposited in pawn with a licensed pawnbroker shall, unless sooner redeemed, be retained by the pawnbroker on the premise for at least four months after the date of deposit; and, if perishable, for at least one month after said date. After the expiration of the applicable period, the pawnbroker may sell the article by public auction, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the notice and sale, and pay any surplus to the person entitled thereto on demand. Not less than ten days prior to the sale, written notice of the same must be made by registered mail to the person entitled to the payment of any surplus at his residence as appearing in the records of the licensed pawnbroker. Proof of registered mail shall be retained on file for (1) year after the date of sale.

Articles of personal apparel shall not be considered of a perishable nature for the purpose of this bylaw.

§130-11. Prohibited Acts

No licensed pawnbroker shall make a loan directly or indirectly to a minor, knowing or having reason to believe the person to be a minor.

No licensed pawnbroker shall loan money secured by deposit or pledge of firearm, rifle, shotgun or machine gun.

No pawnbroker shall hold a license to sell, rent, or lease a firearm, rifles, shotguns or machine guns.

§130-12. Complaints and Enforcement

Complaints regarding licensed pawnbrokers shall be made to and may be investigated by the Board of Selectmen and/or the Chief of Police or the Chief's designee. In the event that the Board of Selectmen and/or the Chief of Police or the Chief's designee determines after investigation that this bylaw or regulations of the Board of Selectmen regarding pawnbrokers have been violated, the Board of Selectmen shall cause to be served upon the licensed pawnbroker by certified mail or in hand notice as to the time, date and place of hearing of the charge with a statement of the reasons for its belief that the bylaw has been violated, and of its intended action (i.e., revocation or suspension) with regard thereto. The Board of Selectmen may also initiate the complaint process.

The Board may, however, suspend or revoke a pawnbroker's license without hearing if the public health and safety so require. In such circumstances, the Board must forthwith

give notice of the suspension or revocation and serve the pawnbroker by certified mail or in hand with notice of the opportunity for a hearing.

Offenses which may result in the suspension or revocation of a pawnbroker's license include, but are not limited to, the following:

(a) Violation of any provision of this bylaw;
(b) Violation of any provision of the statutes regulating pawnbrokers;
(c) Violation of any provision of any other statute or bylaw.

§130-13. <u>Noncriminal Disposition</u>

The provisions of this chapter, and any regulation of the Board of Selectmen adopted thereunder, may be enforced by the Board of Selectmen, any Police Officer of the Town of Plymouth, by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to G.L. c. 40, §21D and Chapter 1, §1-3 of this Code. Each day a violation exists shall constitute separate violation.

When enforced through noncriminal disposition, the penalties shall be as follows:

First violation:	$100.00
Second violation:	$200.00
Third and subsequent violations:	$300.00

Chapter 132

PLASTIC BAG BAN

§ 132-1. Definitions.

§ 132-2. Findings, Purpose and Declaration.

§ 132-3. Plastic Bag Ban/Prohibition.

§ 132-4. Enforcement.

§ 132-5. Effective Date and Extensions for Compliance.

§ 132-6. Severability.

§ 132-1. Definitions.

CARRYOUT BAG:
The term "carryout bag" shall mean a thin film plastic bag of a thickness less than 3 mils with handles provided to a customer by an establishment and is used to transport merchandise from the establishment. The term "carryout bags" shall not include bags typically without handles used to contain dry cleaning or newspaper, or those small bags used to contain fish or meats or to deliver items to the point of sale, including but not limited to produce or other products selected by the consumer.

REUSABLE CARRYOUT BAG
The term "Reusable Carryout Bag" shall be:
[1] Made solely of or in a combination of natural cloths, synthetic fibers, other washable material; or of a non-toxic plastic as defined by applicable state and federal regulations that is no less than 3 mils thick and has the word "Reusable" or "Reuse" printed on the outside of the bag in a visible manner; and
[2] Specifically designed for multiple reuse and has handles.

RECYCLABLE PAPER BAG
A "Recyclable Paper Bag" shall be a bag that [1] is 100% recyclable and [2] contains at least 40% post-consumer recycled paper content.

ESTABLISHMENT:
The term "Establishment" shall mean any business within the Town of Plymouth selling goods, articles, or personal services to the public, including restaurants, with a gross interior space of 3000 square feet or larger; or having at least two (2) locations under the same ownership or brand name within the Town of Plymouth.

§ 132-2. Findings, Purpose and Declaration.

(a) Findings. The Town Meeting finds and determines that:
1. Carryout Bags are generally harmful to the environment in many ways, including that: their manufacture involves dangerous chemicals and in turn creates related health and environmental issues: they are not biodegradable and remain in landfills for an indeterminate period; and pose suffocation dangers to children.
2. Carryout Bags are part of litter resulting in the Town being a less desirable place in which to reside and do business.
3. Carryout Bags are a danger to marine and land animal life.

(b) Purpose. The purpose of this bylaw is to:
1. Help lessen the deterioration of the environment.
2. Further educate the public regarding the importance of using biodegradable materials.
3. Provide additional enforcement to protect public and private property from litter.
4. Encourage the use of reusable carryout bags and thereby decrease plastic waste.

(c) Declaration. Town Meeting declares that for all these reasons, as well as others, that Carryout Bags are a nuisance to the Town that must be abated as set forth herein.

§ 132-3. Plastic Bag Ban/Prohibition.

No Establishment in the Town of Plymouth shall provide Carryout bags. Establishments in the Town of Plymouth shall only provide Reusable Carryout Bags or Recyclable Paper Bags, with or without handles, at the point of sale.

§ 132-4. Enforcement.

The provisions of this bylaw may be enforced by any Police Officer of the Town of Plymouth or agent of the Board of Health by any means available in law or in equity, including, but limited to, non-criminal disposition pursuant to M.G.L c.40, Section 21D and Chapter 1, §1-3 of the this Code. Each day a violation exists shall constitute a separate violation. When enforced through non-criminal disposition, the penalties shall be as follows:

First Offense:	Written Warning
Second Offense:	$50 fine
Third Offense:	$100 fine
Subsequent offenses:	$200 fine

Effective Date and Extensions for Compliance.

This bylaw shall take effect following approval of the Attorney General and compliance with the provisions of G.L. c.40, §32.

Establishments shall be required to comply with the requirements set forth herein six months following the effective date of the bylaw; provided, however, that an Establishment that cannot comply therewith shall be provided, upon request, with a single six month extension.

§ 132-6. Severability.
If any provision of this bylaw shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this bylaw, which shall remain in full force and effect.

Chapter 134

PONDS

§ 134-1. Use of motorboat for towing.

§ 134-2. Operation at safe distance.

§ 134-3. Headway speed.

§ 134-4. Airplanes.

§ 134-5. Hydroplanes.

§ 134-6. Internal combustion engines.

§ 134-7. Camping.

§ 134-8. Discharge from motorboats.

§ 134-9. Violations and penalties.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 10 of the 1974 Bylaws; amended in its entirety by the Annual Town Meeting 4-11-1978 by Art. 61. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Beaches -- See Ch. 30.
Wetlands protection -- See Ch. 196.

§ 134-1. Use of motorboat for towing.

No person shall operate any motorboat on the waters of the commonwealth towing a person or persons on water skis, a surfboard or other similar device unless there is in such motorboat a competent person, in addition to the operator, in a position to observe the person or persons towed and unless such motorboat is equipped with a ladder, steps or similar means by which any person being towed can be taken from the water.

§ 134-2. Operation at safe distance.

All motorboats must be operated at a safe distance to prevent their wash from being thrown into or causing excessive rocking to other boats, rafts, floats or bathing beaches. For purposes of enforcement, a safe distance is considered 150 feet. This regulation shall apply to boats, barges, water skiers or other devices being towed by power, and the operator of a towing boat shall be responsible for compliance therewith.

§ 134-3. Headway speed. [Amended 11-3-1994 STM by Art. 14] [Amended 6-11-07 ATM by Art. 33]

Between the hours of 3:00 p.m. and 9:00 a.m., weekends and holidays, and between the hours of 7:30 p.m. and 9:00 a.m. weekdays, all motorboats may proceed at maximum of headway speed, with the exception of Great Herring and Billington Sea Ponds. On these Great Ponds, motorboats are restricted to headway speed between the hours of sunset or 7:30 p.m., whichever comes first, and 9:00 a.m. seven days a week. Headway speed is defined as six knots.

§ 134-4. Airplanes.

No airplane adapted to land on water shall be allowed to operate from or upon any pond in Plymouth except upon an emergency basis.

§ 134-5. Hydroplanes.

All hydroplanes, which shall be defined as having a planing hull of an essentially flat-bottomed design and primarily designed for competitive racing and having one seat, are hereby prohibited from use upon all freshwater ponds within the Town of Plymouth.

§ 134-6. Internal combustion engines.

A. The use of internal combustion engines is prohibited on any pond in Plymouth of 30 acres in area or smaller. The use of internal combustion engines is also prohibited on Little Pond, Boot Pond, Bloody Pond and Long Island Pond off Beaver Dam Road between Memorial Day and Labor Day. Internal combustion engines of more than 50 horsepower are hereby prohibited from use on Long Pond **[Amended 4-1-1989 STM by Art. 7; 4-12-1995 ATM by Art. 39]** and on Great Island Pond. **[Amended 4-5-2005 by Art. 16]**

B. No internal combustion engines shall be allowed on ponds with a mean average depth of five feet or less.

§ 134-7. Camping.

Overnight camping in tents or trailers is prohibited on all public access to ponds.

§ 134-8. Discharge from motorboats.

The discharge of raw sewage, garbage, rubbish or debris from motorboats in ponds within the town is prohibited.

§ 134-9. Violations and penalties.

A fine not to exceed $50 may be imposed for first offense infractions or disobedience to this chapter when state or federal penalties do not apply. All other fines that are applicable are defined in MGL c. 40.

Chapter 137

PROPERTY MAINTENANCE

§ 137-1. Premises where building has been torn down.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 5, Sec. 5.13 of the 1974 Bylaws. Amendments noted where applicable.]

§ 137-1. Premises where building has been torn down.

The Selectmen shall require the owner of the premises from which any building has been removed or torn down to have said premises put in good, presentable and safe condition and require said owner to erect a suitable barrier, all to be done to their satisfaction within 30 days after notice, in writing, to said owner.

Chapter 140

RESPONSIBLE CONTRACTOR
[Adopted 4-6-2004 ATM by Art. 49]
[Deleted 10-18-2014 by Art. 7]

~~§ 140-1.~~

~~All general bidders and filed sub-bidders (including sub-sub-bidders) for construction projects in the Town of Plymouth and funded by the or in part by the Town of Plymouth and subject to Massachusetts General Laws, Chapter 149, Section 44A(2) and as hereinafter described subject to Massachusetts General Laws, Chapter 30, Section 39M shall as a condition for bidding, agree in writing that they shall comply with the following obligations, and such obligations hereby are incorporated by reference into the specifications for the construction project and that any general bidder, filed sub-bidder or sub-sub bidder, deemed to be in non-compliance with Section 1 subsection 2 C, E, F, and H at the time of the bid shall be rejected.~~

~~CRITERIA: The following provisions shall apply to Massachusetts General Laws, Chapter 149, Section 44A projects in excess of $750,000 issued or awarded by the Town of Plymouth or any agency or entity thereof, and Massachusetts General Laws Chapter 30, Section 39M projects in excess of $200,000.~~

~~ENFORCEMENT: The duties of enforcement of this bylaw shall be assigned to the awarding authority.~~

~~COMPLIANCE: The bidder and all subcontractors under the bidder shall comply with the Town of Plymouth Responsible Contractor bylaw as it currently exists and as it may, from time to time, be amended.~~

~~PREVAILING RATE: The bidder and all subcontractors under the bidder shall comply with provisions of the M.G.L.A. c149, c30 and Section 3 of this act, and shall pay the appropriate lawful prevailing wage rates to their employees~~

~~TRAINING: The bidder and all subcontractors under the bidder shall maintain and participate in a bona fide apprentice training program as defined in Massachusetts General Laws, Chapter 23, sections 11H and 11I for each apprenticeable trade or occupation represented in their work force that is approved by the Division of Apprentice Training of the Department of Labor and Workforce Development and shall abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract.~~

~~HIRING~~

~~a.) In a manner that is consistent with applicable law and regulations, any bidder or subcontractor under a bidder awarded a project subject to this bylaw shall give special consideration to recruiting workers who are residents of the Town of Plymouth and who are qualified by craft for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Training of the Department of Labor and Workforce Development.~~
~~In a manner that is consistent with applicable law and regulations, any bidder or subcontractor under a bidder awarded a project subject to this bylaw shall as a goal make a good faith effort to employ women, minorities and apprentices on the project.~~

~~HEALTH INSURANCE: The bidder and all subcontractors shall furnish at their own expense hospitalization and medical benefits at least equivalent to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by Massachusetts General Laws. Chapter 49, section 26 in establishing minimum wage rates for all their employees employed on the project. This provision shall not apply to employees who are currently covered under an existing Health insurance plan. The decision to not participate can only be made by the employee with verification of an existing plan and at no time can be made by the employer.~~

~~EMPLOYEE CLASSIFICATION: The bidder and all subcontractors under the bidder shall properly classify employees as employees rather than independent contractors and shall treat said employees accordingly for purposes of workers' compensation insurance coverage, employment taxes, social security taxes and income tax withholding pursuant to Massachusetts General Laws, Chapter 149, section 148B.~~

~~COMPLIANCE: All bidder and all subcontractors under the bidders who are awarded contracts or who otherwise obtain contracts on projects subject to Massachusetts General Laws, Chapter 149, section 44A(2) and Chapter 30, section 39M, shall comply with the provisions of this bylaw for the duration of their work on the project, and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with said bylaw.~~

~~PENSION: The bidder or subcontractor under the bidder must maintain a bona fide pension plan for all their employees employed on the project.~~

~~The bidder and all subcontractors shall submit on a weekly basis certified payroll records for all employees on the project.~~

~~**§ 140-2.**~~

~~A. Any bidder or subcontractor under a bidder who fails to comply with any of the obligations described iii Section 1 for any period of time shall be subject to one or more of the following sanctions;~~

~~(a) Temporary suspension of work on the project until compliance is obtained; or~~
~~(b) Withholding by the Town of payment due under the contract until compliance is obtained; or~~
~~(c) Permanent removal from any further work on the project~~

~~B. In addition to these sanctions a general bidder or contractor shall be equally liable for any violation of these obligations described in section 1 committed by any of its subcontractors or sub bidders, excepting only those violations which arise from work performed by subcontractors governed by Massachusetts General Laws, Chapter 149 section 44F and or Chapter 30, section 39M. Any contractor, subcontractor or principal officer of the said companies who has been determined to have violated any of the provisions of this bylaw shall be barred from performing any work on future contracts awarded by the Town of Plymouth for six months for the first violation, three years for the second violation, and permanently for the third violation.~~

~~§ 140-3.~~
~~Any employer who willfully hinders or delays the enforcement agent in the performance of his/her duties in the enforcement of this bylaw, or fails to make, keep, and preserve any records as required under the provisions of this bylaw, or falsifies any such record, or refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this bylaw to the enforcement agent upon demand, or pays, or agrees to pay wages at a rate less than the rate applicable or otherwise violates any provision of this bylaw shall, in addition to any other penalties prescribed by Massachusetts General Laws, be subject to a fine of not less than $100.00 nor more than $300.00. Each week, in any day in which a worker is paid less than the rate applicable to him under this bylaw and each worker so paid, shall constitute a separate offense.~~

~~§ 140-4.~~

~~If any provision of this bylaw or the application of such provision to any person or circumstances shall be enjoined or held to be invalid, the remaining provisions of this bylaw and the application of such provisions to persons or circumstances, other that that which is enjoined or held invalid, shall not be affected thereby.~~

~~§ 140-5.~~

~~This bylaw shall be subject to a five-year review.~~

Chapter 149

SEWERS

§ 149-1. Selectmen to promulgate regulations.

[HISTORY: Adopted by the Special Town Meeting of the Town of Plymouth 11-20-1989 by Art. 11. Amendments noted where applicable.]

GENERAL REFERENCES

Water -- See Ch. 191.

§ 149-1. Selectmen to promulgate regulations.

A. The Board of Selectmen may adopt sewer regulations for the purpose of governing the use of the Town of Plymouth sewer treatment facility and all its appurtenances, which regulations shall be subject to the civil penalty enforcement provisions of MGL c. 83, § 10 and shall also have the force of a bylaw.

- The sewer regulations shall provide for criminal fines and civil penalties as authorized by the General Laws and may, at the election of the Board of Selectmen, be enforced by criminal or civil prosecution or by noncriminal disposition pursuant to the provisions of MGL c. 40, § 21D.

§ 149-2. Sewer Connections. [Adopted 10-26-2004 ATM by Art. 25]

A. SEWER CONNECTION REQUIRED

Within an area of the Town to be sewered as identified in the final wastewater facilities plan dated June 16, 1997 and abutting on any public or private way in which there is a common sewer:

(1) The owner of any occupied structure to be constructed shall, if there exists sufficient capacity within the Town's sewer system, connect said building by a sufficient drain to the common sewer;

(2) The owner of any occupied structure served by a Soil Absorption System (SAS) constructed prior to March 31, 1995, if there exists sufficient capacity within the Town's sewer system, may increase the sewer flow from such building only upon connecting such building by a sufficient drain to the common sewer;

(3) The owner of any occupied structure served by a Soil Absorption System (SAS) constructed subsequent to March 31, 1995, if there exists sufficient capacity within the Town's sewer system, may increase the sewer flow from such building, provided that the Board of Health certifies that the SAS is sufficient to handle the existing sewer flow, and further provided that the increased flow is directed by a sufficient drain to the common sewer; and

(4) The owner of any occupied structure served by a Soil Absorption System (SAS) determined by the Board of Health to be failing shall connect said building by a sufficient drain to the common sewer.

B. OCCUPANCY OF STRUCTURES REQUIRED TO BE SEWERED

No occupied structure hereafter constructed, or any part of an existing occupied structure, that is required to be connected to the common sewer as set forth above, shall be occupied until such connection is completed.

C. VIOLATIONS AND PENALTIES

Any person who violates this Bylaw shall be subject to a fine of $300.00 per day, with each day the violation continues constituting a separate violation. This bylaw may be enforced through the non-criminal disposition procedure of G.L. c.40, §21D. The Director of Public Works, or his designee, or any police officer of the Town, shall be the enforcing agent under this bylaw.

D. RELATION TO OTHER LAW

This Bylaw shall not be construed to limit or constrain in any way the powers of the Board of Health, pursuant to G.L. c.83, §11 or other applicable law, to require connection to the common sewer.

§ 149-3. Sewer Betterment Assessments [Added 4-8-2013 ATM by Art. 30]

A. The Board of Selectmen, acting as sewer commissioners in accordance with G.L. c.83, §14, 15, and 23, may assess betterments upon benefitted properties for all, or such lesser portion as the Board shall determine, of the cost of constructing municipal sewer system facilities;

B. In fixing the amount of such betterments, the Board of Selectmen may, at their discretion, utilize the fixed uniform rate or the uniform unit rate method as set forth in G.L. c.83, §15.

C. Further in accordance with G.L. c.83, §15, the Selectmen may, in assessing such betterments, separate the costs of general benefit facilities, including but not limited to pumping stations, trunk and force mains, from that of special benefit facilities, including but not limited to sewer mains, serving adjacent properties, and may apportion an equitable portion of the costs of the general benefit facilities by the uniform unit method on all properties benefitted by such facilities;

D. The Selectmen may assess and collect estimated betterment assessments for the construction of sewer facilities in accordance with G.L. c.83, §15B.

Chapter 154

SOIL REMOVAL

§ 154-1. Notice to cease activity; application for permit; public hearing.

§ 154-2. Hours of operation of soil pits.

§ 154-3. Enforcement; violations and penalties.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 5, Sec. 5.14 of the 1974 Bylaws. Amendments noted where applicable.]

§ 154-1. Notice to cease activity; application for permit; public hearing.

No person shall, except in conjunction with the construction of a building on the same parcel of land or for continued operation of an existing sand or gravel pit on the same parcel of land, remove any soil, loam, sand or gravel from any land in the town after notice to cease and desist or to refrain from removal thereof has been served upon such person by delivery in hand or by leaving at the last and usual place of abode of such person or at the usual place of business of such person of written notice, signed by a majority of the Board of Selectmen, forbidding such removal, or any person wishing in advance of such notice to determine rights to remove soil, loam, sand or gravel may at any time apply to said Board for permission to remove such soil, loam, sand or gravel, said Board thereafter to hold a public hearing on the application, notice of filing such application and the date and time of the public hearing to be advertised in a paper published in the town seven days at least prior to the date fixed for such public hearing. The Board of Selectmen shall, within 10 days of completion of such public hearing, grant or deny permission to remove such soil, loam, sand or gravel.

§ 154-2. Hours of operation of soil pits. [Added 5-13-1981 ATM by Art. 44]

The hours of operation of licensed soil pits shall be 6:00 a.m. to 7:00 p.m., Monday through Friday, and 6:00 a.m. to 12:00 noon on Saturday.

§ 154-3. Enforcement; violations and penalties. [Added 11-16-1987 STM by Art. 5]

The Police Department shall enforce this chapter pursuant to Chapter 1, General Provisions, § 1-3 of this Code, related to noncriminal disposition of bylaw violations under MGL c. 40, § 21D. The fine for any violation of this chapter shall be $100 for each offense.

Chapter 157

SOLID WASTE

ARTICLE I
Disposal Permit

§ 157-1. Dumping of Waste Materials on Public or Private Land Without a Permit.

§ 157-2. Violations and penalties.

ARTICLE II
Radioactive Material

§ 157-3. Low-level radioactive waste.

§ 157-4. High-level radioactive waste.

§ 157-5. Severability.

§ 157-6. Definitions.

§ 157-7. Violations and penalties.

[HISTORY: Adopted by the Town Meeting of the Town of Plymouth as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Garbage and rubbish on beaches -- See Ch. 30, § 30-5.
Junk dealers and collectors -- See Ch. 100.

ARTICLE I
Disposal Permit
[Adopted 4-7-1984 ATM by Art. 28. Amended 9-1-1998 STM]

§ 157-1. Permit required.

~~No person, unless he or she is a holder of a permit issued by the Department of Public Works and except in accordance with the terms and conditions of such permit, shall dispose of any refuse, including garbage, rubbish or other waste, in any place within the town, and then only at such sites or at such facilities as may be designated for that purpose by the Director of Public Works. The fee for such a permit shall be established by the Board of Selectmen following a public hearing.~~

§ 157-1. Dumping of Waste Materials on Public or Private Land Without a Permit

No person, unless authorized by permit issued by the Department of Public Works and except in accordance with the terms and conditions of such permit, shall dump, leave or dispose of any waste or refuse, including garbage, rubbish, household or other waste in any place within the Town and then only at such sites or at such facilities and in such receptacles as may be designated for such waste by the Director of Public Works. It shall constitute a violation of this section for any person to deposit household refuse in any town receptacle maintained on any street, park or other public place. It shall constitute a violation of this section for the owner or person in control of any private land to allow any person to unlawfully deposit waste of any kind on such private property, or to allow such waste material to remain on such private property. The fee for a waste disposal permit shall be established by the Board of Selectmen following a public hearing. Any person who violates any provision of this section may be punished by a fine of one hundred ($100.00) dollars for the first violation, two hundred ($200.00) dollars for the second violation, and three hundred ($300.00) dollars for the third violation. Each unauthorized deposit and each day of violation or continued violation shall be deemed a separate violation for the purpose of the calculation of any fine.

§ 157-2. Violations and penalties.

~~Any person who shall violate this article may be punished by a fine not to exceed $50 for each violation~~.

DUMPING OF WASTE MATERIALS ON PUBLIC OR PRIVATE LAND WITHOUT A PERMIT

First Offense:	$100.00
Second Offense:	$200.00
Third Offense:	$300.00

ARTICLE II

Radioactive Material[5]

[Adopted 4-7-1990 STM by Art. 8]

§ 157-3. Low-level radioactive waste.

To the extent allowed by federal and Massachusetts state law, no low-level radioactive waste generated by any government agency or pursuant to a government contract or license shall be treated, recycled, stored or disposed of in the Town of Plymouth boundaries except at a facility with a specific license for treatment, recycling, storage or disposal of low-level radioactive waste, whether or not such low-level radioactive waste has been reclassified as below regulatory concern by the United States Nuclear Regulatory Commission, the United States Environmental Protection Agency, the Department of Energy or other federal agency.

[5] **Editor's Note: See the comments from the Attorney General's office included at the end of this article.**

§ 157-4. High-level radioactive waste.

To the extent allowed by federal or Massachusetts state law, it shall be unlawful to import any form of high-level radioactive waste into the Town of Plymouth for storage at Pilgrim Nuclear Power Station or any other facility within the boundaries of the Town of Plymouth.

§ 157-5. Severability.

Should any section of this article be judged by a court of competent jurisdiction to be contrary to existing law or otherwise found to be of no legal effect or void, then all other sections shall remain in full legal force and effect.

§ 157-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

> HIGH-LEVEL RADIOACTIVE WASTE -- Irradiated reactor fuel, liquid wastes resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and solids into which such liquid wastes have been converted. (Title 10c, 1 CFR NRC)
> LOW-LEVEL RADIOACTIVE WASTE -- Radioactive material that is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material, as defined in the United States Code, Title 42, Section 2014(e)(2), the Atomic Energy Act of 1954, Section 11(E)(2), and that the United States Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste. Low-level radioactive waste also includes any radioactive material that is generated through the production of nuclear power and that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date.

§ 157-7. Violations and penalties.

Any person or corporation violating any provision of this article shall be fined the maximum amount allowed by M.G.L. c. 40, § 21 or other applicable federal or state law, plus all costs associated with the immediate removal of said materials.

Comments from the Attorney General's office:

Although this bylaw has been approved, we feel constrained to point out the following:

In 1987, the Massachusetts General Court enacted G.L. c. 111H, editorially captioned the Massachusetts Low-level Radioactive Waste Management Act. Section 16(b) of the Act specifies

that municipalities may not "prohibit, or require any license, permit, approval or condition for the construction, operation, closure, post-closure observation and maintenance or institutional control of [a parcel of land subject to G.L. c. 111H which is used for the treatment, storage or disposal of low-level radioactive waste]."

Additionally, the United States Supreme Court has ruled that state and local regulation related to nuclear safety concerns is preempted by the Atomic Energy Act, 42 U.S.C. §§ 2011-2284, unless an agreement with the Nuclear Regulatory Commission authorizing such regulation is in place. Pacific Gas and Electric Company v. State Energy Resources Conservation and Development Commission, 461 U.S. 190, 212 (1983).

Accordingly, under the present state of both the Massachusetts and Federal Law, Article 8 (of Special Town Meeting April 7, 1990) would appear to have little or no effect on the treatment, recycling, storage or disposal of radioactive materials at properly licensed facilities.

Chapter 162

STREETS AND SIDEWALKS

ARTICLE I
General Provisions

§ 162-1. Coasting and other street games.

§ 162-2. Protection of trees.

§ 162-3. Obstructions.

§ 162-4. Building materials and rubbish placed on ways.

§ 162-5. Signs.

§ 162-6. Awnings and air conditioners.

§ 162-7. Snow removal.

§ 162-8. Numbering of buildings.

ARTICLE II
Repairs to Private Roads

§ 162-9. Roads qualifying for work.

§ 162-10. Issuance of certificate.

§ 162-11. Authorization by Town Meeting and Selectmen.

§ 162-12. Temporary repairs.

§ 162-13. Liability.

§ 162-14. Indemnity agreement.

[HISTORY: Adopted by the Town Meeting of the Town of Plymouth as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Hawkers, peddlers and transient vendors -- See Ch. 85.
Parades and special events -- See Ch. 127.
Town property -- See Ch. 177.
Vehicles and traffic -- See Ch. 185.

ARTICLE I
General Provisions
[Adopted 4-16-1974 ATM by Art. 58 as Art. 5, Secs. 5.1, 5.3, 5.4, 5.9, 5.10, 5.11, 5.12, 5.15 and 5.17 of the 1974 Code]

§ 162-1. Coasting and other street games.

No person shall coast upon a sled or shall throw stones, sticks or other missiles or kick a football or play at any game at which a ball is used or shoot with or use a bow and arrow in any of the streets or upon any of the sidewalks in this town, except such streets as may be designated therefor by the Selectmen by public notice, and the Selectmen may restrict traffic in the streets so designated.

§ 162-2. Protection of trees.

~~No person shall tie or fasten any horse to, or have the same standing by, any ornamental or shade tree in or near the streets, lanes or places of this town so near as to injure any unprotected tree or wrongfully injure or abuse such tree in any other manner.~~ **[Deleted 5-20-2006 ATM by Art. 32]**

D. Public shade trees; definition

All trees within a public way or on the boundaries thereof, including trees planted in accordance with the provisions of section 7 of G.L. c. 87, shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highway cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown.

E. Powers of the tree warden

The tree warden may appoint and remove deputy tree wardens, and each shall receive such compensation as the town determines or, in default thereof, as the selectmen allow. The tree warden shall have the care and control of all public shade trees, shrubs and growths in the town, except those within a state highway, and shall have care and control of the latter, and shall enforce all the provisions of law for the preservation of such trees, shrubs and growths. He shall expend all money appropriated for the setting out and maintenance of such trees, shrubs and growths, and no tree shall be planted within a public way without the approval of the tree warden, until a location therefor has been obtained from the selectmen. The tree warden may make regulations for the care and preservation of public shade trees and establish fines and forfeitures of not more than twenty dollars in any one case for violation thereof; which, when posted in one or more

public places, and when approved by the selectmen, shall have the effect of town by-laws. **[Added 5-20-2006 ATM by Art. 32]**

§ 162-3. Obstructions.

No person shall place or cause to be placed upon any footpath, sidewalk or street any wood, coal, lumber, iron, trunks, bales, boxes, crates, casks, barrels, packages or other things after being notified by a constable or police officer not to so place the same, and the owner of or or any person who may have placed any of said articles upon any footpath, sidewalk or street shall remove the same within 60 minutes after being notified by a constable or police officer to remove the same.

§ 162-4. Building materials and rubbish placed on ways.

A. Any person who intends to erect, repair or take down any building on land abutting on any way which the town is obliged to keep in repair and desires to make use of any portion of said way for the purpose of placing thereon building materials or rubbish shall give notice thereof to the Selectmen, and thereupon the Selectmen may grant a permit to occupy such a portion of said way to be used for such purpose as in their judgment the necessity of the case demands and the security of the public allows, such permit in no case to be in force longer than 90 days and to be on such conditions as the Selectmen may require, and especially, in every case, upon condition that during the whole of every night, from twilight in the evening until sunrise in the morning, lighted lanterns shall be so placed as effectually to secure all travelers from liability to come in contact with such building materials or rubbish.

F. In case any person shall use any portion of such way for the purposes mentioned in Subsection A without the permit, in writing, of the Selectmen, as therein provided, or for a longer time than so permitted or shall fail to comply with the requisitions of Subsection A, the party so in default shall reimburse the town all expenses, by way of damages or otherwise, which the town may be compelled to pay by reason of the way being encumbered.

§ 162-5. Signs.

No person shall erect or maintain any sign over any street or sidewalk in the Town of Plymouth without first having obtained a permit, in writing, from the appropriate board and without first having furnished a surety bond providing indemnity in a sum not less than $1,000 for the purpose of protecting travelers on the sidewalks and highways.

§ 162-6. Awnings and air conditioners.

A. No awning which is made to roll over a framework of iron or other material or to fold close to or against a building shall be erected or maintained over a sidewalk unless its lowest part is a least seven feet six inches above the sidewalk, nor shall it project beyond the width of the sidewalk. No person shall install an awning or other similar structure without first having obtained a permit, in writing, from the Board of Selectmen, and, if the Board so orders, the application for a permit shall be accompanied by detail plans made to scale showing the character of the construction of the same, and the applicant may be required to provide satisfactory bond, if the Board of Selectmen so requests.

B. No air conditioner which shall project over a street shall be installed in a building unless its lowest part is at least seven feet six inches above the street.

§ 162-7. Snow removal.

A. The owner or his or her agent having charge of any building or lot of land bordering on any street or public place within one mile from the shoreline from Jabez Corner to the Kingston line, where there is any improved sidewalk in front of the same, shall, after the ceasing to fall of any snow, within 24 hours, cause a passable path or track to be cleared, made or beaten through the snow, and wherever within said limits there may be a paved sidewalk, the same shall be cleared within six hours of daylight after the ceasing to fall of any snow, so that not more than one inch of ice or snow remains thereon.

C. The Selectmen may, from time to time, for periods of not more than one year, grant, in writing, exemptions from the operation of this section for such places as they may think proper.

§ 162-8. Numbering of buildings.

Owners of buildings along the line of public ways shall have such buildings numbered in accordance with plans approved by the Board of Selectmen and in a manner acceptable to said Board.

ARTICLE II

Repairs to Private Roads

[Adopted 4-8-1976 ATM by Art. 18] [Amended 5-20-2006 ATM by Art.34]

~~**§ 162-9. Roads qualifying for work.**~~

~~The town shall do work only on roads which:~~

~~A. Have been accepted by the town;~~

~~B. Are shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law[6] and for which there are no outstanding bonds or covenants requiring completion of those roads;~~

~~C. Have constructive approval in accordance with the Subdivision Control Law;~~

~~D. Provide access to town facilities. Work done under this subsection shall be limited to providing minimum access for town equipment to such facilities only and shall not be construed as maintenance and use by the public pursuant to MGL c. 41, § 81L as above; or~~

~~E. Have been certified in accordance with this article by the Town Clerk as maintained and used as a public way pursuant to MGL c. 41, § 81L.~~

~~§ 162-10. Issuance of certificate.~~

~~The Town Clerk shall issue no certificate pursuant to MGL c. 41, § 81L to the effect that all or part of a way is maintained and used as a public way without a specific authorization by both the Board of Selectmen and the Planning Board.~~

~~§ 162-11. Authorization by Town Meeting and Selectmen. [Amended 4-6-1978 ATM by Art. 54]~~

~~The town shall only do such temporary repair on private ways actually open to public use authorized and funded by Town Meeting or as approved by the Board of Selectmen pursuant to the conditions delineated below in this article, provided that the Town Meeting has appropriated money therefor in a general fund for repairs on private ways.~~

~~§ 162-12. Temporary repairs.~~

~~A. The Board of Selectmen can authorize temporary repairs on private ways that will cost up to $500 in total, provided that the private ways have been opened to the public use for six years or more and provided that:~~

~~(1) The repairs are for the protection of the health and safety of the general public using these roads or have been caused by the town directly.~~

[6] **Editor's Note: See MGL c. 41, §§ 81K to 81GG.**

~~(2) A majority of the owners of the fee in the road do not object to the repair work.~~

~~(3) The nature of the repairs to the road amounts to minor work, such as filling, patching, scraping or grading.~~

~~(4) The Board of Selectmen first receives an advisory report from the Public Works Director containing a recommendation on the proposed repair work, such report to include cost estimates to repair the road.~~

~~B. Temporary repairs from $500 to $2,000. The Board of Selectmen can authorize temporary repairs on private ways costing between $500 and $2,000 in total cost, provided that the private ways have been opened to the public use for six years or more and provided that:~~

~~(1) The repairs are for the protection of the health and safety of the general public using these roads or have been caused by the town directly.~~

~~(2) The majority of the owners of the fee in the road petition the Board of Selectmen to do the repair work.~~

~~(3) The petition to the Board of Selectmen contains a reasonably exact description of the nature of the work requested.~~

~~(4) The Board of Selectmen first receives an advisory report from the Public Works Director containing a recommendation on the proposed work, such report to include the nature of the work proposed, including all grading, cutting and filling, removal or placement of any material, repair of any drainage structures, removal of any plant materials and a detailed cost estimate.~~

~~C. Temporary repairs exceeding $2,000. The Board of Selectmen cannot authorize temporary repairs on private ways whose cost will exceed $2,000 unless the private ways have been opened to the public use for six years or more and unless:~~

~~(1) The repairs are for the protection of the health and safety of the general public using these roads or have been caused by the town directly.~~

~~(2) The majority of the owners of the fee in the road petition the Board of Selectmen to do the repair work.~~

~~(3) The expenditures of such funds have been approved by means of Town Meeting vote on the request in the form of a separate article or an independent line item within the Highway Division budget for a given fiscal period.~~

~~**§ 162-13. Liability.**~~

~~The town shall not be liable for any damages to persons or property caused by such repairs, nor shall MGL c. 84, § 25 apply to such repair.~~

~~**§ 162-14. Indemnity agreement.**~~

~~The Board of Selectmen may require an indemnity agreement to be executed by the petitioners indemnifying the town for all claims and damages which may result from making such repairs.~~

§ 162-9. Definitions.

1. Abutter – an owner of property whose property adjoins or touches a road at any point.

2. Average Daily Trips (ADT) – average number of motorized vehicles using any road each day.

3. Collector Road – road that serves to connect to other roadways.

4. Department/Director – the Director of Public Works or designee thereof.

5. Grading – a form of temporary repair of an unpaved road limited to the leveling and restoration of the surface.

6. Gravel Road Standard – description of design, construction and maintenance standards for roads having a permeable travel surface, generally consisting of an excavated base, graded and crowned subsurface, and stabilized travel surface. This standard may be further specified in regulations of the Director.

7. Local Road – road used primarily by abutting landowners, not serving as a Collector Road, with ADT of fewer than 200. This standard may be further specified in regulations of the Director.

8. Major Collector – road use by general traffic that connects a Minor Collector or Local Road to a Principal Arterial road, with a traffic count in the range of 1000 - 5000 ADT.

9. Minor Collector – road used by general traffic to connect neighborhoods, or connect a Local Street to a Major Collector, with a traffic count in the range of 200 - 1000 ADT.

10. Minor Collector of Special Character (MCSC) – a type of Minor Collector road, having recognized environmental, historic and/or scenic characteristic, that is subject to public review through the Road Review process prior to modification of layout, design or surface material, with the exception of upgrades to Gravel Road Standard, in accordance with standards in this bylaw developed and administered by the Board of Selectmen and Planning Board, with input from the Director and the Roads Advisory Committee.

11. Paving – application of an impermeable surfacing material, including, but not limited to, bituminous asphalt**.**

12. Principal Arterial Road – a road that directly connects to a State Road or serves as a major connector to neighboring towns, with a traffic count of over 5000 ADT.

13. Private Road – a road that has not become public by action of Town Meeting, the Commonwealth of Massachusetts or the County of Plymouth, or by dedication or prescription.

14. Private Road Management Policy – a written policy that shall be developed by the Director analyzing and identifying those private roads the temporary repair of which is deemed to serve the general public interest.

15. Road Classification – a system for categorizing roads pursuant to regulations of the Board of Selectmen consistent with this bylaw, based upon network hierarchy, traffic count (ADT), and other characteristics, where major road categories include, but are not limited to, the following: State Road, Principal Arterial Road, Major Collector, Minor Collector, Local Road, MCSC and RCR. This term applies to the addition of any road to, removal from, or change in any MCSC or RCR classification.

16. Road Improvement, Major – construction or reconstruction, paving of previously unpaved surfaces, widening, straightening, clearing of substantial amounts of vegetation.

17. Road Improvement, Minor – repair, grading or other minor alteration to roadway surface within the existing layout, and minor drainage or safety improvements, not having the effect of altering the road so as to allow for a significant increase in ADT or speed of vehicular travel.

18. Road Review – public process involving the Board of Selectmen, Planning Board, and Roads Advisory Committee for the purpose

of assisting the Director in the management of road classification, improvement, management, and betterment issues for MCSC and RCR, and other such matters as the Board of Selectmen may request, in accordance with the improvement provisions for MCSC and RCR in §162-11, road review and classification provisions in §162-12 and §162-13, and betterment provisions in §162-14.

19. Roads Advisory Committee – The Board of Selectmen shall appoint a Roads Advisory Committee of such number and composition as the Board of Selectmen shall determine appropriate. The Committee shall include at least one member each from the Board of Selectmen and Planning Board, or their designees, and shall be responsible to the Board of Selectmen for review and recommendations concerning:

a. classification or re-classification of gravel or private roads;
b. requests for paving of a MCSC;
c. requests for upgrading to Gravel Road Standard and paving of a RCR;
d. road management issues;
e. betterment assessment issues; and
f. other road-related issues at the request of the Board of Selectmen.

20. Rural Conservation Road (RCR) – a low traffic road, whether or not currently paved, that traverses land significant to the environmental, historic, and/or scenic heritage of the neighborhood in which it is located and/or the Town, the character of which is threatened by significant unplanned and undesired traffic growth as a result of nearby development or overall town growth.

21. State Road – a regional connector road owned or controlled by he Commonwealth of Massachusetts, including, but not limited to Routes 3, 3A, and 44.

22. Temporary Repair of Private Road – minor corrective or restorative work done on a private road, such grading, partial base reconstruction or minor drainage improvement**.**

§162-10. Roads Qualifying for Work by Authorization of Board of Selectmen.

The Town may expend funds for construction, maintenance and repair of accepted Town ways and for temporary repair of any private road, only in compliance with this Article. Other than temporary repair to a private way open to the public, as may be authorized by

the Board of Selectmen consistent with this by-law, the Town shall do road improvement or other work only on roads which:

1. Have been accepted by the Town, or have become public by dedication or other statutory means, by prescription; or

2. Are shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, G. L. c. 41, §§81K-81GG, having no outstanding bonds or covenants requiring completion of those roads; or

3. Provide access to town facilities, in which case, work done under this subsection shall be limited to providing minimum access for town equipment to such facilities only, and shall not be construed as maintenance and use as a public way within the meaning of G. L. c.41, §81L; or

4. Have been certified as maintained and used as a public way by the Town Clerk, pursuant to G. L. c.41, §81L and have been open to the public for a period of six or more years.

§162-11. Improvement to Minor Collector of Special Character and Rural Conservation Road – Upgrade Path.

A. Minor Collector of Special Character Road (MCSC)

Minor Collector of Special Character Road(s) may be (a) upgraded to Gravel Road Standard *without* seeking approval through the public review process described in §162-12, and (b) paved, in accordance with the public review process, also described in §162-12. These improvements may be funded through any combination of general funds, betterments, gifts, or payments by benefited parties. Unpaved MCSC roads may not be paved without first being upgraded to Gravel Road Standard.

B. Rural Conservation Road (RCR)

Rural Conservation Road(s) may be (a) upgraded to Gravel Road Standard *subject to* the public review process described in §162-12 and (b) paved, also *subject to* the public review process described in §162-12. These improvements may be funded through any combination of general funds, betterments, gifts, or payments by benefited parties. Unpaved RCR roads may not be paved without first being upgraded to Gravel Road Standard.

§162-12. Road Review Process for MCSC and RCR.

The following process applies to:

1. Inclusion, Removal, Reclassification of MCSC and RCR;

2. Requests for paving of a MCSC;

3. Requests for upgrading to a Gravel Road Standard and paving of a RCR;

4. Road management issues related to MCSC and RCR;

5. Betterment assessments related to MCSC and RCR; and
6. Other road-related issues at request of Board of Selectmen.

Road Review Process:

A. Matters subject to the Road Review process may be generated by (a) a petition to the Board of Selectmen from 75% of abutters; (b) the Board of Selectmen; (c) the Planning Board; and (d) the Director of Public Works.

B. Prior to consideration by the Board of Selectmen, the Director shall conduct an assessment of the following: whether improvement or paving of the road is consistent with the Director's Road Management Program; whether the road has been previously improved to Gravel Road Standard; whether, under the circumstances of traffic demand, road design and other safety considerations, upgrading or paving of the roadway is warranted; whether there has been any prior public input to the Director on that matter and to what effect; and the estimated costs of road preparation and other work. The Director shall also evaluate comparative costs, if any, of requested actions to users of the road and to the Town. This report shall be delivered to the Board of Selectmen and Roads Advisory Committee.

C. The Planning Board shall conduct a public hearing to obtain comment on the above petition and recommendations, and, after consultation with the Director of Public Works and the Director of Planning and Development, shall submit a written report with recommendations to the Board of Selectmen, copied to the Roads Advisory Committee.

D. The Roads Advisory Committee shall submit a written report with recommendations to the Board of Selectmen.

E. The Board of Selectmen shall review the recommendations and act on said petition. If public funds are to be used to achieve all or part of the Board's decision, the funds will be subject to town meeting appropriation.

§162-13. Eligibility Requirements for Inclusion and Classification into a MCSC and RCR.

A. The change in classification of any road classified as MCSC or RCR in the Road Improvement Regulations of the Board of Selectmen dated April 18, 2006, or the addition to or removal from said classifications of any road, shall be made only in conformance to regulations of the Board of Selectmen adopted pursuant to this bylaw.

B. In addition to the general characteristics contained in the definitions of MCSC and RCR, the following specific environmental, historic, scenic and/or geometric attributes must be established for inclusion in the MCSC or RCR categories:

1. Proximity to surface water so as to be within the jurisdiction of the Conservation Commission pursuant to State or Town law;

2. Existence of rare or endangered species;

3. Proximity to historic attributes, including, but not limited to, ancient cemeteries, publicly recognized historic structures and monuments;

4. Special landscape or scenic features, including, but not limited to, trees and canopies, scenic vistas, stone walls or other distinguishing constructed elements;

5. Abutting land designated conservation land, State or Town Forest;

6. Proximity of residences within 50 feet of the traveled road edge, which would be significantly impacted by changes to the road; and/or

7. Presence of or suitability for pedestrian or bicycle use that may be threatened by proposed changes.

In addition, inclusion must be consistent with the Town's Master Plan.

§162-14. Betterment Assessment – Public and Private Roads.

Assessment for the cost of improvements to any public road, or to the upgrade of a MCSC or RCR, or for temporary repair to any private way pursuant to this bylaw shall be

made upon the several parcels of land receiving direct or indirect benefit, the amount thereof to be determined by one or a combination of the following methods:

A. a fixed uniform rate based upon the estimated average cost of said work according to the frontage of such land on any way in which work is done; or

B. according to the area of such land within a fixed depth from such a way; or

C. according to valuation for purposes of taxation in the last annual assessment; or

D. according to the developable residential units of the benefited land; or

E. according to trip generation projections using Institute of Traffic Engineers (ITE) guidelines; or

F. according to two or more or all of such measures; or by any other reasonable method.

The donation of land or easements directly related to said improvements may be considered in lieu of monetary considerations.
Once a project is approved, at least 75% of abutters must agree to acceptance of the betterment and all its obligations prior to expenditure of town funds or commencement of work.
In making such assessment, the Board of Selectmen may, as it determines appropriate, consult with and/or request a report from the Director of Public Works containing a recommendation on the proposed work, its nature and detailed cost estimate, and/or consult with the Roads Advisory Committee.

§162-15. Major and Minor Improvements to Local Streets.

Local streets may be upgraded to Gravel Road Standard or paved, or receive Temporary Repair of a Private Road, by petition of 75% of abutters and owners, pursuant to the following process. Costs may be borne by betterment, payment by other benefited parties, gifts or otherwise.

1. Petition - 75% of the fee owners of and abutters to any private Local Road that has been open to the public for vehicular travel for a period of at least the prior 6 years, may petition the Board of Selectmen for authorization of temporary repair by the town to such private road, subject to the provisions of this Chapter.

2. Procedure - Upon receipt of said petition, the Board of Selectmen may, but is not obligated to, request the Director of Public Works to provide a report and recommendation thereon, including recommendations as to the necessity for any temporary repair and identification of any public good to be achieved thereby, the nature of any recommended repair, including limitations thereon, and an estimate of the cost of such temporary repair, and any betterments to be assessed.

3. The Director shall meet with petitioners and outline optional solutions, relative costs estimates and possible sources of funding for each option.

4. If 75% of abutters agree to an option and assume the financial and other obligations connected with said option, the town may proceed with the legal, engineering and other work required to make the toad improvement

5. The town shall not undertake to make any Local Road improvement unless 75% of abutters to the road shall first agree in writing, pursuant to §162-17, to release the town from any claim of public way status or liability, and agree to indemnify the town and to pay any betterment assessment in excess of the amount, as estimated by the Director.

§162-16. Temporary Repair of Private Roads.

The town shall make temporary repair of private roads only as to such roads as are actually open to public use, and as authorized and approved by the Board of Selectmen**;** and provided that Town Meeting has appropriated money therefore in a general fund or special article for repairs on private ways, or there is available another source of funding of all related costs, whether by betterment, payment by benefited parties, gifts or otherwise.

§162-17. Liability; Indemnity Agreement.

A. The Town shall not be liable for any damages to persons or property caused by such repairs, nor for any claim of public road status pursuant to G.L. c.84, §25 on account of such repair.

B. The Board of Selectmen shall require an indemnity agreement to be executed by the petitioners indemnifying the town for all claims and damages which may result from making such repairs, including a waiver of any claim of public road status pursuant to G.L. c.84, §25 on account of such repair. Such agreement shall be acknowledged before a notary public, be recorded with the Plymouth District Registry of Deeds and be binding upon successors and assigns of affected property owners.

§162-18. Regulations.

The Board of Selectmen shall adopt Road Classification Regulations for the purpose of identifying roads classified as MCSC and RCR and for otherwise managing road classification in a manner consistent with this

Article. At a minimum, the Road Classification Regulations shall be amended from time to time to indicate additions to, removal from, or changes in the classification of any road, consistent with this Article.

A. The Director of Public Works may also, at the request and approval of the Board of Selectmen, adopt regulations in furtherance of the purpose and administration of this Article.

Chapter 166

SWIMMING POOLS

§ 166-1. Definitions.

§ 166-2. Enclosure required.

§ 166-3. Permits; enforcement.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-6-1977 by Art. 64. Amendments noted where applicable.]

§ 166-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

SWIMMING POOL -- Includes every artificial pool of water having a depth of two feet or more at any point and used for swimming and bathing; provided, however, that these regulations shall not be applicable to any such pool having a surface area less than 100 square feet.

§ 166-2. Enclosure required.

A. Every swimming pool shall be completely surrounded at all times, whether or not the same is filled with water, by a fence or other approved barrier not less than four feet in height at any point. Each such fence or barrier shall be so constructed as not to have openings, holes or gaps larger than four inches in a dimension, except for doors and gates and except for picket fences, in which case, however, the gaps between pickets shall not exceed four inches. A building or the structural wall of an aboveground pool may be used as part or all of such barrier.

B. All gates or doors opening through such enclosure shall be of not less than the same height as the fence or barrier and shall be equipped with a self-closing and selflatching device located not less than 42 inches above grade for keeping the gate securely closed at all times when not in actual use.

C. In the case of aboveground pools, whereby access is provided by means of a ladder or stairway, such access shall be of a retractable or detachable nature or shall be rendered unscalable by preschool children when not in use or shall be enclosed by a fence or barrier as defined above.

§ 166-3. Permits; enforcement.

The construction or creation of any pool as defined in the above definition shall require necessary permits from the Building Department, namely zoning, building and wiring permits. This regulation shall be enforced by the Inspector of Buildings.

Chapter 173

TOWN MEETING

§ 173-1. Ballot voting.

§ 173-2. Committee vacancy.

§ 173-3. Meeting and election dates.

§ 173-4. Committees.

§ 173-5. Recess.

§ 173-6. Attendance record.

§ 173-7. Articles by petition.

§ 173-8. Copy of laws for Town Meeting members.

§ 173-9. Divisible motion.

§ 173-10. Notice of adjourned meeting.

§ 173-11. Number of Town Meeting members; terms of office.

§ 173-12. Voting. [Added 10-18-2014 by Art. 24]

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 1 of the 1974 Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Advisory and Finance Committee -- See Ch. 9.
Eminent domain takings -- See Ch. 59.

§ 173-1. Ballot voting.

A. The Town Meeting shall always operate in open session. Secret ballots shall be used on any questions only by a two-thirds vote of those present and voting. (Contained in the Town Charter.[7])

B. The Moderator may take all votes requiring a two-thirds majority in the same manner in which he or she conducts the taking of a vote when a majority is required. **[Added 10-27-1997 STM by Art. 2]**

§ 173-2. Committee vacancy. [Amended 6-27-1984 STM by Art. 4]

[7] **Editor's Note: See Sec. 2-3-3 of the Charter.**

Any vacancy in any committee created under a vote of the town shall be filled by the appointing authority in the same manner as the original appointment.

§ 173-3. Meeting and election dates. [Amended 11/2/99 by Article 18]

The Town Meeting shall meet annually on the first Saturday in April and at such other times as may be determined by vote of the Town Meeting. The regular election for all town offices shall be by official ballot held on the second Saturday in May of each year. (Contained in the Town Charter.[8]) The Fall Annual Town Meeting shall convene on the **[Deleted 4/9/12 ATM by Article 22]** ~~fourth Monday in October~~ **[Added 4/9/12 ATM by Article 22]** the third Saturday in October; provided, however, that the Board of Selectmen may, consistent with G.L. c.39, §9, delay the date of said Fall Annual Town Meeting to a date no later than November 30. **[Last Sentence Added 11/2/99 by Article 18]**

§ 173-4. Committees. [Amended 6-27-1984 STM by Art. 4]

A. Formation.

(1) The motion for the formation of any committee by Town Meeting shall indicate whether said committee shall be a permanent or temporary committee and shall provide for the filing of reports by said committee to subsequent Annual Town Meetings.

(2) For any permanent committee formed by Town Meeting, the motion shall also provide for three-year overlapping terms.

(3) The motion for the formation of any temporary committee must only provide for the term of membership, not to exceed three years.

B. Organization. When a committee is created by a vote of either an Annual or Special Town Meeting, the temporary chairperson thereof shall be designated by the appointing authority, and it shall be his or her duty to call members for organization within 30 days of his or her receipt of notification of his or her appointment. If he or she fails to call such organizational meeting within the prescribed time, it shall be the duty of the appointing authority to call such meeting.

C. Reports.

(1) Reports by any permanent or temporary committee formed by Town Meeting shall be submitted to the Annual Town Meeting in written form unless specific instructions to the contrary are made by the Town Meeting.

[8]**Editor's Note: See Secs. 2-3-1 and 5-1-1 of the Charter.**

(2) Copies of written reports shall be submitted to the Town Clerk no later than 30 days prior to the earliest date on which the first business session of the Annual Town Meeting is to be held, but in no event later than April 1. It shall be the responsibility of the Town Clerk to compile such reports and distribute copies of such to Town Meeting members prior to the Annual Town Meeting.

(3) If no report is made by any committee in accordance with the vote of Town Meeting, the committee shall be deemed discharged. Such committee discharged under the terms of this subsection shall only be reformed by a vote of either an Annual or Special Town Meeting.

D. Review of committee status.

(1) Existing committees created by a vote of Town Meeting. Each existing committee created by a vote of Town Meeting shall be reviewed at the next Annual Town Meeting following the acceptance of this section, at which time Town Meeting shall:

(a) Vote to continue or discharge the committee.

(b) Designate each committee as either permanent or temporary.

(c) Establish the review date for said committee, said review date to be no later than three years following such designation.

(d) Establish provisions for three-year overlapping terms.

(2) Committees created after the acceptance of this section by Town Meeting. Each committee created by a vote of Town Meeting subsequent to the acceptance of this section shall be reviewed at the third Annual Town Meeting following the Annual Town Meeting at which it was created, unless otherwise stipulated by Town Meeting.

(3) Petitioned review. The acceptance of this section does not preclude or prohibit any individual or individuals from petitioning either an Annual or Special Town Meeting for the review of the status of any committee created by Town Meeting.

(4) Exempt committees from review status. Any committee, commission, board or other bodies formed by Town Meeting by the acceptance of any legislative acts of the Commonwealth of Massachusetts shall be exempt from the review process of this section.

§ 173-5. Recess.

A recess shall be called within every two-hour period of a session.

§ 173-6. Attendance record.

After the final adjournment of every Town Meeting, the Registrars shall post a complete attendance record on the public notice bulletin board at the Town Office Building.

§ 173-7. Articles by petition.

Any article appearing on the warrant by petition shall have appended thereto the name of the first person signing said petition and the words "et al."

§ 173-8. Copy of laws for Town Meeting members. [Amended 6-27-1984 STM by Art. 4]

A copy of the Town Charter, Town of Plymouth Bylaws and any specific rules and regulations that pertain to Town Meeting and adopted by the Town of Plymouth shall be mailed by the Town Clerk to every newly elected Town Meeting member with the notice of his or her election.

§ 173-9. Divisible motion.

Any motion which might be divisible upon vote of the Town Meeting shall be divided, and the question shall be put separately upon each portion thereof.

§ 173-10. Notice of adjourned meeting.

Notice of the time and place at which any adjourned session of a Town Meeting is to be held shall be posted on the public notice bulletin board at the Town Office Building by 9:30 a.m. of the day of the adjourned meeting.

§ 173-11. Number of Town Meeting members; terms of office. [Added 4-5-1980 STM by Art. 5; amended 4-6-1987 ATM by Art. 14; amended by Section 2-2-1 of 1999 Charter]

The number of Town Meeting members shall be fixed at 104, eight from each of the 13 precincts, and members shall be elected for three-year overlapping terms. This section shall become effective for the 1988 Annual Town Election. (Section 2-1-1, Chapter 2, Plymouth Town Charter.) (Section 2-2-1 of the 1999 Charter effectively amends this Section by eliminating the fixed total of Town Meeting Members, the number from each precinct, and the fixed number of precincts.)

§ 173-12. Voting. [Added 10-18-2014 by Art. 24]

A. Voting process. The Moderator shall take all votes by voice, raising of hands or use of an electronic tally and display system, except as may otherwise be voted by Town Meeting under § 173-1.

B. Electronic tally and display system. Votes taken by an electronic tally and display system shall be visible to the Town Meeting members and any members of the public present at the meeting. The display shall show each Town Meeting member's name; precinct; "yes," "no" or "abstain" vote; and a tally of all votes.

C. Matters requiring a two-thirds vote by statute. In matters requiring a two-thirds vote by statute, the Moderator may declare the vote based upon the raising of hands. If seven or more members of Town Meeting question the vote, the Moderator shall count the vote. If an electronic tally and display system is used, the tally shall constitute a counted vote; if such a vote is questioned by seven or more members of Town Meeting, the Moderator shall manually tally the electronically recorded votes.

D. Record of votes taken by electronic tally. The Town Clerk shall make available in the Town Clerk's office and on the Town's website within a reasonable time after a session in which a vote(s) was taken by the use of an electronic tally and display system a list, organized by precinct, which shall disclose how each Town Meeting member voted.

E. Regulations. After a public hearing, the Moderator, in consultation with the Board of Selectmen and Town Clerk, shall be authorized to adopt regulations for the purpose of facilitating implementation of this bylaw and ensuring the security and integrity of the voting process.

TOWN PROPERTY

ARTICLE I
Town Vehicles

§ 177-1. Required markings.

ARTICLE II
Inventory

§ 177-2. Current inventory required; audit.

[HISTORY: Adopted by the Town Meeting of the Town of Plymouth as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Beaches -- See Ch. 30.
Eminent domain takings -- See Ch. 59.
Harbor -- See Ch. 81.
Ponds -- See Ch. 134.
Streets and sidewalks -- See Ch. 162.

ARTICLE I
Town Vehicles
[Adopted 4-16-1974 ATM by Art. 58 as Art. 9 of the 1974 Bylaws]

§ 177-1. Required markings.

All town-owned vehicles shall be marked with the name of the town, the department to which it belongs, the vehicle number and the name of its governing body. The lettering shall be at least one inch high and shall be on both left- and right-hand sides, except vehicles of the Police Department designated by the Selectmen.

ARTICLE II
Inventory
[Adopted 4-8-1976 ATM by Art. 13]

§ 177-2. Current inventory required; audit.

The heads of all departments, exclusive of schools, shall compile and maintain a current inventory of all town property to be determined by the Selectmen under their control, said inventory to be audited at the end of each fiscal year by the Board of Selectmen or its designees.

Chapter 185

VEHICLES AND TRAFFIC

§ 185-1. Vehicles obstructing snow removal.

§ 185-2. Towing and storage of vehicles.

§ 185-3. Handicapped parking.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 5, Sec. 5.16 of the 1974 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles on beaches -- See Ch. 30.
Hawkers, peddlers and transient vendors -- See Ch. 85.
Parades and special events -- See Ch. 127.
Streets and sidewalks -- See Ch. 162.
Town vehicles -- See Ch. 185, Art. I.

§ 185-1. Vehicles obstructing snow removal.

No person shall permit or allow a motor vehicle to obstruct the removal of snow on any way within the town after having been notified by the Selectmen or their authorized agents to remove the same, and, upon failure of said person to remove said vehicle or in the absence of knowledge of the Selectmen or their authorized agents as to the ownership of said vehicle, said vehicle may be removed without said notice, and, in either event, said vehicle shall be removed at the expense of the owner or operator thereof.

§ 185-2. Towing and storage of vehicles. [Added 5-13-1981 ATM by Art. 45]

A motor vehicle may, in any calendar year, if in such year and in the calendar year immediately preceding five or more notices in the aggregate may have been affixed to said vehicle as provided in MGL c. 90, § 20C and have not been disposed of, be removed to, and stored in, a convenient place in the town until all charges lawfully imposed for such removal and storage have been paid and due notice has been received that either the fines provided in such notices have been paid or security for the payment thereof has been deposited. Fees for said towing and storage shall be set by the Board of Selectmen.

§ 185-3. Handicapped parking. [Added 4-7-1984 ATM by Art. 27]

It shall be unlawful for any person to park or leave standing any vehicle not bearing a distinguished registration plate bearing a handicapped symbol or disabled veteran symbol in any space reserved for the use of such persons.

A. The provisions of this section shall apply to all parking spaces and facilities owned by the town and to all parking spaces located in privately owned or operated parking lots.

B. Any person, firm or corporation violating this section may be fined $50 for each offense, and a separate offense shall be deemed committed on each day or part thereof during which or on which a violation occurs or continues. **[Amended 4-1-1989 STM by Art. 5]**

Chapter 191

WATER

ARTICLE I
Special Assessments

§ 191-1. Statutory authority.

§ 191-2. Assessments levied by Town Meeting.

ARTICLE II
Water System and Hydrant Usage

§ 191-3. Authority.

§ 191-4. Purpose.

§ 191-5. Definitions.

§ 191-6. Taking water from public supply; hydrant permit.

§ 191-7. Regulations of the Selectmen.

§ 191-8. Violations and penalties; enforcement.

§ 191-9. Right of entry.

§ 191-10. Severability.

ARTICLE III
Water Supply Emergencies

§ 191-11. Authority.

§ 191-12. Purpose.

§ 191-13. Definitions.

§ 191-14. Notice of emergency; compliance required.

§ 191-15. Violations and penalties.

§ 191-16. Right of entry.

§ 191-17. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Plymouth as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Harbor -- See Ch. 81.
Ponds -- See Ch. 134.
Sewers -- See Ch. 149.

ARTICLE I
Special Assessments
[Adopted 4-6-1987 ATM by Art. 18]

§ 191-1. Statutory authority.

This article is adopted pursuant to MGL c. 40, §§ 42G through 42I.

§ 191-2. Assessments levied by Town Meeting.

The town may, by vote of Town Meeting, levy special assessments to meet, in whole or in part, the cost incurred in laying water mains in public and private ways. The owner of land which abuts on said public or private way shall pay a proportional part of the whole of the cost based upon said land's primary frontage. The primary frontage of a corner lot shall be the frontage having the greater length. The length of the frontage on corner lots having a rounded street line shall be measured along the street line from the property line to the point of curvature, plus the curve radius or tangent distance, whichever is less. The cost shall be determined by the Water Division and shall include the cost of the pipes, all other material and labor and other expenses incidental thereto.

Notwithstanding the foregoing provisions of this section, the owners of land which abut on Lookout Point Road, Wamsutta Avenue, King Philip Road and the portion of Ellisville Road between station 359+0 and station 375+0 shall pay a proportional part of the whole of the cost based upon the uniform unit method provided by G.L. c. 40 §42K. **[Amended 10-25-2001 STM by Art. 29]**

ARTICLE II
Water System and Hydrant Usage
[Adopted 4-11-1996 ATM by Art. 26[9]]

§ 191-3. Authority.

This article is adopted by the Town of Plymouth under its home rule powers, its police powers to protect public health, safety and welfare and the provisions of MGL c. 40, §§ 21 and 21D.

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[9] **Editor's Note: The preamble to this bylaw read as follows: "Whereas it is essential to the public health that the integrity and purity of the Plymouth water supply be preserved and safeguarded, the town hereby adopts the following bylaw."**

§ 191-4. Purpose.

The purpose of this article is to protect, preserve and maintain the public health, safety and welfare through regulation of the use of hydrants for access to use of the public water supply.

§ 191-5. Definitions.

For the purpose of this article, the following terms shall have the following meanings:

ENFORCING PERSON -- The Town of Plymouth Board of Selectmen or any other board, department or agency of the town, as the Board of Selectmen may designate.

PUBLIC WATER SUPPLY -- Any and all water, watershed and water facilities and any and all water supply or water delivery equipment that is owned, maintained or administered by the Town of Plymouth or that is used to access the water supply owned, maintained or administered by the Town of Plymouth.

SUPERINTENDENT -- The Town of Plymouth Water Division Superintendent or his or her designee.

§ 191-6. Taking water from public supply; hydrant permit.

The taking of water from the public water supply, whether by the opening of a hydrant or by use of any equipment attached to or connecting with the public water supply or water delivery equipment of the Town of Plymouth or by any other means, for use other than by the Town of Plymouth is strictly prohibited, except pursuant to a valid hydrant permit issued by the Town of Plymouth Water Division.

A. No hydrant permit shall issue except pursuant to a written application for such a permit that shall be made in advance of connection to or the taking of any water from the public water supply. Said application shall be made to the Superintendent on an approved application form.

B. No hydrant permit shall issue without compliance with all applicable state and town cross-connection protection standards, water metering requirements and such other requirements or restrictions as the Superintendent may direct for the purpose of protecting the purity and integrity of the public water supply system, including regulations promulgated pursuant to this article.

C. No water shall be taken from any hydrant or any other water supply or water delivery equipment that has not been designated by the Water Division as available for such a use under the regulations promulgated pursuant to this article.

§ 191-7. Regulations of the Selectmen.

The Board of Selectmen shall make such regulations for the implementation as it may deem necessary or reasonable to effect the purpose of this article.

§ 191-8. Violations and penalties; enforcement.

A. No person or entity shall violate any provision, condition, requirement or restriction of this article or any regulations promulgated thereunder, and each instance of any such violation and each day of continuation of such instance shall be deemed to be a separate violation of this article.

B. Any person or entity who or which violates this article or the regulations promulgated in accordance with this article shall be liable to the Town of Plymouth in the amount of $200 for each such violation, including but not limited to the enforcement of this article in accordance with the provisions of MGL c. 40, § 21D. Any penalty collected by any means shall be paid to the town. When enforced in accordance with the provision of MGL c. 40, § 21D, each separate instance of noncompliance following issuance of any written warning or violation notice pursuant to this section shall constitute a separate violation of this article. The enforcing person may issue a warning or violation notice for each day that a violation exists or continues.

§ 191-9. Right of entry.

The enforcing person, its agent or designee may reasonably enter onto any property in order to inspect or maintain a hydrant or other public water supply or water delivery equipment, to investigate any violation of this article or to enforce this article. The filing of an application pursuant to § 191-6 of this article shall constitute permission for such entry.

§ 191-10. Severability.

The invalidity of any portion or provision of this article shall not invalidate any other portion, provision or section hereof.

ARTICLE III
Water Supply Emergencies
[Adopted 4-6-1996 STM by Art. 11]

§ 191-11. Authority.

This article is adopted by the Town of Plymouth under its home rule powers, its police powers to protect public health and welfare and its specific authorization under MGL c. 40, §§ 21 and 21D.

§ 191-12. Purpose.

The purpose of this article is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town of Plymouth or by the Water Division and included in the Town of Plymouth's plan approved by the Department of Environmental Protection to abate the emergency.

§ 191-13. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

ENFORCEMENT AUTHORITY -- The Town of Plymouth's Board of Selectmen, the Department of Public Works Water Division, the Board of Health, the town police, special police and any other locally designated body having police powers.

STATE OF WATER SUPPLY EMERGENCY -- A state of water supply emergency declared by the Department of Environmental Protection pursuant to MGL c. 21G, § 15 through 17 or MGL c. 111, § 160 or by the Governor.

§ 191-14. Notice of emergency; compliance required.

The following shall apply to all users of water supplies supplied by the Town of Plymouth:

A. Following notification by the Town of Plymouth of the existence of a state of water supply emergency, no person shall violate any provision, condition, requirement or restriction included in a plan approved by the Department of Environmental Protection which has as its purpose the abatement of a water supply emergency.

B. Notification of any provision, restriction, requirement or condition with which users of water supplied by the Town of Plymouth are required to comply to abate a situation of water supply emergency shall be sufficient, for purposes of this article, if it is published in a newspaper of general circulation within the Town of Plymouth or by such other notice as is reasonably calculated to reach and inform all users of the Town of Plymouth water supply.

§ 191-15. Violations and penalties.

Any person or entity who or which violates this article shall be issued a warning for the first violation and shall be liable to the Town of Plymouth in the amount of $50 for the second violation and $100 for each subsequent violation, which shall inure to the Town of Plymouth for such uses as the Board of Selectmen may direct. Fines shall be recovered by indictment or on complaint before the District Court or by noncriminal disposition in accordance with MGL c. 40, § 21D. Each separate instance of noncompliance following issuance of any warning or citation pursuant to this section shall constitute a separate violation.

§ 191-16. Right of entry.

Agents of the enforcement authority may enter any property for the purpose of inspecting or investigating any violation of this article or enforcing against the same.

§ 191-17. Severability.

The invalidity of any portion or provisions of this article shall not invalidate any other portion, provision or section hereof.

Chapter 196

WETLANDS PROTECTION

§ 196-1. Purpose; wetland functions and values.

§ 196-2. Relation to Wetlands Protection Act.

§ 196-3. Definitions.

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§ 196-5. Adoption of regulations and fee schedule.

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§ 196-10. Wetlands replication.

§ 196-11. Enforcement; violations and penalties.

§ 196-12. Severability.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-5-1989 by Art. 29 (Art. 26 of the Bylaw Compilation). Amendments noted where applicable.]

GENERAL REFERENCES

Eminent domain takings -- See Ch. 59.
Fees for inspections and reviews -- See Ch. 67, Art. I.
Soil removal -- See Ch. 154.

§ 196-1. Purpose; wetland functions and values.

The purpose of this chapter is to protect and preserve the shores, rivers, ponds, wetlands, other water bodies and related water resources in the Town of Plymouth by controlling activities deemed by the Conservation Commission to have significant or cumulative impact upon the wetland functions and values. The wetland functions and values include, but are not limited to, the following:

A. Flood storage capacity, storm damage prevention, erosion and sedimentation control, prevention of water pollution and prevention of improper waste disposal, to protect the health and safety of persons and property.

B. Protection of groundwater aquifers, public and private water supplies and water recharge areas, to maintain and preserve water resources.

C. Protection of fisheries, shellfish, wildlife habitats and endangered plant species (as specified by the Massachusetts Natural Heritage Program), agricultural and aquacultural values and aesthetic and recreational values, to assure a stable quality of life.

D. Control of floodwater and runoff, to assure the continuation of the natural flow pattern of the watercourses.

§ 196-2. Relation to Wetlands Protection Act.

A. A permit and application shall not be required for permits or extensions legally issued under MGL c. 131, § 40 before the acceptance of this chapter. Any legally issued permit or extension which will expire without having been substantially initiated will require a review by the Conservation Commission for its applicability under this chapter.

B. Unless otherwise stated in this chapter or in the rules and regulations promulgated under this chapter, the definitions, procedures and performance standards of the Wetlands Protection Act, MGL c. 131, § 40, and associated regulations, 310 CMR 10.00, where applicable, shall apply.

§ 196-3. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated:

AESTHETICS -- Retention or improvement of natural conditions, including natural lighting, sounds, odors, significant trees and viewshed, as at the time are experienced by the general public from public ways, including waterways. Activities in or within 100 feet of any resource area shall not have significant effects on aesthetic values. This definition and the corresponding wetland value are not sufficient in and of themselves to deny a project and may not restrict the architecture of a structure, except as it applies to viewshed.

AQUACULTURE -- The growing, raising, breeding, storing or producing of specified aquatic or marine organisms at specified locations for commercial, municipal or scientific purposes, as approved by appropriate agencies. Organisms in aquacultural use include, but are not limited to, shellfish, such as oysters, quahogs, clams, lobsters, mussels, scallops and crabs; finfish, such as trout, eel, herring, salmon, smelt and bass; amphibians, such as frogs; reptiles, such as turtles; seaweeds, such as irish moss and dulse; edible freshwater plants, such as watercress; and plankton grown as a food source for other organisms. Activities in or within 100 feet of a resource area shall not have a significant effect on existing permitted aquaculture. Notwithstanding this definition, new or expanded aquacultural activities shall not have a significant effect on the other wetlands values set forth in § 196-1 of this chapter.

EROSION AND SEDIMENTATION CONTROL:

(1) EROSION CONTROL -- The ability of the wetland to buffer forces or processes which would threaten or cause to be threatened the stability of landforms and the soil and/or vegetation associated with wetlands and adjoining land areas, in particular, coastal and inland banks. Erosion can be caused by a wearing away of the surface soil or by undermining the interior portion of the landform. Activities in or within 100 feet of resource areas shall not have a significant effect on natural erosion processes.

(2) SEDIMENTATION CONTROL -- The ability of wetlands to settle out sediments and other waterpower material by reducing water flow by passing it through vegetation or by diffusing flow and reducing velocity. Activities in or within 100 feet of resource areas shall not accelerate or impede the rate of natural sedimentation significantly.

NORMAL MAINTENANCE AND IMPROVEMENT -- As this may change from time to time for agricultural and aquacultural use, a specific definition shall be promulgated in the regulations using information provided by the University of Massachusetts Cooperative Extension Service and the United States Department of Agriculture Soil Conservation Service.

PERSON -- Any individual, group of individuals, association, partnership, corporation, company, business, organization, trust or estate; the commonwealth or a political subdivision thereof; and, in so far as permissible under state law, any administrative agency, public or quasi-public corporation or body or any other legal entity or its legal representative, agents or assigns.

RECREATION -- Any leisure activity or sport taking place in, on or within 100 feet of a resource area which is dependent on the resource area and its values, directly or indirectly, for its conduct and enjoyment. Recreational activities include, but are not limited to, the following: noncommercial fishing and shellfishing, hunting, boating, swimming, walking, painting, birdwatching and aesthetic enjoyment. Structures and activities in or within 100 feet of a resource area shall not have a significant effect on public recreational values. Notwithstanding this definition, new or expanded recreational activities shall not have a significant effect on other wetlands values identified in § 196-1 of this chapter.

UNVEGETATED WETLAND RESOURCE AREAS -- Coastal areas, such as flats and unvegetated intertidal areas; coastal and freshwater beaches, dunes and banks; and land subject to flooding; also, inland areas subject to flooding which do not support wetland vegetation but which store at least $^1/_4$ acre-feet of water to an average depth of six inches at least once a year and land areas two feet or less vertically above the high-water mark of any lake or pond. This definition does not include swimming pools, artificially lined ponds or pools, wastewater lagoons, stormwater runoff basins or drainage swales, the construction of which may be regulated but which do not themselves constitute regulated areas unless such areas revert to vegetated wetlands.

VEGETATED WETLAND -- Any area of at least 500 square feet where surface or ground water, or ice, at or near the surface of the ground supports a plant community dominated (at least 50%) by wetland species.

WETLANDS:

(1) Areas comprised of poorly drained or plastic soils, including but not limited to clays, muck, peat or bog, in which the depth to the water table is six inches or less during the period between February and May during most years and as described in the Wetlands Act, MGL c. 131, § 40.

(2) **[Amended 4-9-2012 ATM by Art. 32]** In addition, barrier beaches, tidal flats and areas subject to flooding by the onehundred-year tidal flood determined by the Federal Emergency Management Agency and designated as ~~Zones A, A1-A30 and V1-V30 and Zone B on the Town of Plymouth, Massachusetts, Flood Insurance Rate Maps and the Flood Boundary and Floodway Maps,~~ Zones A, AE, AO, and VE within the Town of Plymouth on the Plymouth County, Massachusetts Flood Insurance Rate Maps as amended, on file with the Town Clerk, and related documents, except as provided in §§ 196-6 and 196-7 or as permitted by the Conservation Commission in § 196-8.

WETLANDS REPLICATION -- The creation of a wetland, surface water body or other resource area to compensate for the filling or other loss or displacement of all or part of an existing wetland, surface water body or other resource area.

B. Other definitions shall be set forth by public notice and hearing in regulations promulgated in accordance with this chapter. If regulations are not promulgated or definitions are not set forth in said regulation, then the definitions set forth in MGL c. 131, § 40 shall apply.

§ 196-4. Jurisdiction. [Amended 4-9-2012 ATM by Art. 32]

No person shall remove, fill, dredge or alter within 100 feet of the following resource areas: a surface water body, vegetated wetland or unvegetated wetland; any bank, freshwater wetland, coastal wetland, coastal bank, beach, dune, flat, marsh, meadow, bog, swamp or isolated land subject to flooding; lands adjoining the ocean; any estuary, creek, river, stream (whether intermittent or continuous, natural or man-made), pond or lake; any land under said waters; or any land subject to tidal action, coastal action, coastal storm flowage or flooding, as defined by the Federal Emergency Management Agency ~~and designated as Zones A, A1-A30 and V1-V30 and Zone B on the Town of Plymouth, Massachusetts, Flood Insurance Rate Maps and the Flood Boundary and Floodway Maps~~, within the Town of Plymouth on the Plymouth County, Massachusetts Flood Insurance Rate Maps as amended, on file with the Town Clerk, and related documents, except as provided in §§ 196-6 and 196-7 or as permitted by the Conservation Commission in § 196-8.

§ 196-5. Adoption of regulations and fee schedule. [Amended 6-11-2007 ATM by Art. 26]

A. After public notice and public hearing, the Commission shall promulgate rules, regulations, performance standards, design specifications and policy guidelines to accomplish the purposes of this chapter. These regulations shall be consistent with the terms of this chapter. The Commission may amend the rules and regulations after public notice and public hearing. ~~These rules, regulations,~~

~~design specifications and policy guidelines or amendments adopted by the Commission must be approved by a vote of Town Meeting~~.

B. Following a public hearing, the Commission may adopt a fee schedule, subject to final approval by the Board of Selectmen.

C. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.

§ 196-6. Exceptions.

A. The permit and application required by this chapter shall not be required for the maintenance, repair or replacement (but resulting in no substantial change or enlargement) of an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone and telecommunications services, sewage collection and traffic control and other activities that are incidental to flood- or mosquito-control work performed by or under the direction of an authorized government agency, provided that written notice is given within 48 hours prior to commencement of work to the Conservation Commission, and provided that the work conforms to performance standards, design specifications, policy guidelines and any other regulations adopted by the Conservation Commission.

B. A permit and application shall not be required for the normal maintenance and improvement of land or waters in an existing agricultural or aquacultural use or for normal maintenance and improvement of drainage and flooding systems of cranberry bogs, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission. Expansion of existing uses in these areas or new nonagricultural uses in these areas will require a permit.

C. A permit and application shall not be required for orders of conditions or extensions thereof legally issued under MGL c. 131, § 40 before the effective date of this chapter. Any such order of conditions or extension thereof which expires prior to commencement of work authorized thereunder shall be reviewed by the Commission to determine the applicability of this chapter.

§ 196-7. Emergencies.

The permit required by this chapter shall not apply to emergency projects necessary for the protection of wetlands values or the health and safety of the public, provided that the work is ordered or performed by an agency of the federal government, the commonwealth or a political subdivision thereof. For this work, advance notice, oral or written, must be given to the Commission prior to the commencement of work. The Commission or its agent must certify the work to be an emergency project. The work must be performed only for the time and place

certified by the Commission for the limited purposes necessary to abate the emergency, but in no instance shall the emergency period exceed 30 days. All emergency work must conform to the performance standards, design specifications, policy guidelines and other regulations adopted by the Commission. Within 21 days of the commencement of an emergency project, a permit application shall be filed with the Commission for review as provided in this chapter. 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.

§ 196-8. Notice of intent; public hearing; action by Commission.

A. A notice of intent (hereinafter referred to as a "notice") shall be filed with the Commission to perform any activity regulated by this chapter, including such plans as may be necessary to describe such proposed activity, the ultimate use of the land and its effect on the environment. The Commission may require data, information and plans under this chapter in addition to the information required of a notice. No activities regulated hereunder shall commence without a permit issued pursuant to this chapter.

B. At the time of filing the notice, the applicant shall pay a fee specified in the regulations of the Commission and adopted under § 196-5 of this chapter.

C. Any person presenting any matter to the Commission may be required, as outlined in Chapter 67, Fees, Article I, Inspections and Reviews, of this Code, as amended, to provide an initial deposit as determined by the Commission to reimburse the town for all direct costs of project review.

D. The Commission shall conduct a public hearing on any notice. Written notification of the hearing shall be given by the Commission at the expense of the applicant at least five days prior to the hearing by mailing a copy thereof to all abutters and abutters to abutters within 100 feet of the property and to the Planning Board and to the Board of Health and by publishing notice in a newspaper of general circulation in Plymouth. A list of abutters entitled to notice according to the current Assessor's records shall be submitted with the aforementioned notice by the applicant.

E. The Commission shall commence the public hearing within 30 days from receipt of the complete notice and list of abutters.

F. The Commission, in an appropriate case, may combine its hearing under this chapter with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40, unless otherwise promulgated in the regulations adopted under § 196-5 of this chapter.

G. For reasons announced by the Commission at any hearing, the Commission shall have the authority to continue or postpone the hearing to a date announced at the hearing, either for receipt of additional information offered by the applicant or

others or for information required of the applicant deemed necessary by the Commission in its discretion.

H. The Commission shall issue its decision, in writing, within 30 days of the close of the public hearing thereon. Failure of the Commission to act within 30 days of the close of the public hearing, or failure of the Commission to commence the public hearing within 30 days of a completed notice of submission, shall be deemed an approval of the notice.

I. The Commission is empowered to deny permission for any removal, dredging, filling or altering of subject wetlands within the town if, in its judgment, such denial is necessary to preserve the health, safety and welfare of individuals or the community or protect subject wetlands in accordance with the purpose of this chapter. Due consideration shall be given to possible effects of the proposal on all values to be protected under this chapter and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.

J. The Commission shall be authorized to make a determination as to whether or not this chapter applies to a specific situation, prior to the filing of a written notice of intent under the provisions hereof, within 30 days of the receipt of a written request from any person desiring such determination sent by certified mail or hand delivered. Failure to act within 30 days of the request for determination shall be deemed as a nonsignificant determination.

K. The Commission will require a signed agreement by the petitioner to allow its agents, officers and employees to enter upon the land upon which the proposed work is to be done in response to the request for a determination or for the purpose of carrying out its duties under this chapter and may make or cause to be made such examination or survey of the land as deemed necessary by the Commission.

L. The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not harm the wetland functions and values protected by this chapter. Failure to provide evidence to the Commission supporting a determination that the proposed work will not harm the interest protected by this chapter shall be sufficient cause for the Commission to issue a denial.

M. If work is not completed or commenced to the satisfaction of the Commission within three years of the issuance of a permit, the permit shall expire, and no work may be done on the site without filing a new notice of intent, unless otherwise noted in the permit or as described in Subsection N. **[Amended 4-12-1994 ATM by Art. 29]**

N. An extension permit for one or more periods of up to three years each may be granted at the Commission's discretion if the applicant requests such an extension at least 30 days prior to the expiration of the permit. **[Amended 4-12-1994 ATM by Art. 29]**

O. No work proposed in any notice shall be undertaken until the final order, determination or notification with respect to such work has been recorded in the Registry of Deeds or, if applicable, in the Registry Section of the Land Court.

P. The Commission may, in its discretion, after hearing, amend or revoke any permit which it deems to be not satisfactorily complying with the conditions set by the Commission. In case of emergency, the Commission may issue a cease and desist order without prior hearing, provided that the Commission shall hold a hearing within seven days after issuance of any such order.

§ 196-9. Security.

A. The Commission may require the establishment of an escrow account or other security running to the municipality and sufficient as to form and surety, in the opinion of the Commission's counsel, to secure faithful and satisfactory performance of work required by any permit, in such sums and upon such conditions as the Commission may require.

B. Notwithstanding the above, the amount of such escrow account or security shall not exceed the estimated cost, including inflation, of the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Forfeiture of any such escrow account or security shall be as detailed in MGL c. 41, § 81U. The Commission may, at its discretion, accept as security 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 the Town of Plymouth, whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

§ 196-10. Wetlands replication.

In order to protect the values inherent in wetland areas, it is the intent of this chapter to preserve wetlands, surface water bodies and other resource areas as functioning natural ecosystems. Filling of wetlands is therefore prohibited except when mitigated by wetlands replication as permitted in this section. At its discretion, the Conservation Commission may permit activities involving wetlands replication that do not harm the wetlands values protected under this chapter.

A. Wetlands replication in order to make lands buildable, such as by fulfilling septic system setbacks, flood elevation requirements, drainage systems or other construction setbacks, or to achieve lot area requirements is prohibited. Replication is prohibited in areas providing habitat for existingrare or endangered wildlife and plant species as listed by the Massachusetts Natural Heritage Program.

B. Replication may be permitted to provide access to otherwise buildable uplands. Replication may also be permitted when an overriding public purpose can be demonstrated. The creation of new wetlands may be permitted, without any concomitant wetlands filling, when the applicant can demonstrate that such creation will not harm existing wetlands or their values. Purposes for creating new wetlands include, but are not limited to, the absorption of stormwater runoff, improvement of wildlife habitat, stabilization of unvegetated intertidal areas or aesthetic, experimental or scientific purposes.

C. No more than 5,000 square feet of any wetland may be filled in accordance with this section, unless specified below. Replication must maintain all of the original wetland values. Unvegetated wetlands whose only values to be protected are storm damage prevention and flood control may be filled and replicated to any extent, provided that the values of storm damage prevention and flood control are preserved.

D. The replicated wetland must be at least equal in size to the wetland that is to be filled and must be properly vegetated. The Commission, in its discretion, shall limit the square footage to be filled and order vegetation and/or other conditions it may deem appropriate for the site. When a person owns abutting properties, any application within properties for wetland replication submitted within the same five years shall be treated as one proposal for the purposes of evaluating wetlands replication, and the combined area shall not exceed the maximum allowed by the Commission for the original proposal.

E. Because replication is a process experimental in nature and subject to failure, the Commission may require any applicant requesting wetland replication to conduct a scientific monitoring program to last for a time period as determined by the Commission, but not to exceed five years. The Commission shall review the results of the program to determine whether or not additional monitoring is necessary.

F. The applicant shall provide an escrow bond, as outlined in § 196-9, for the duration of the monitoring period plus one year to cover correction of any deficiencies revealed by the monitoring program. Said bond shall, at a minimum, be equal to the initial cost of the replication.

§ 196-11. Enforcement; violations and penalties.

A. The Commission may have authority to enforce this chapter, its regulations and permits issued thereunder by violation notices, administrative orders and civil and criminal court actions. Upon the request of the Commission, the Board of Selectmen and Town Counsel will take appropriate action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law.

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

C. Any person who violates any provision of this chapter, regulations thereunder or permits issued thereunder shall be punished by a fine as provided for in MGL c. 40, § 21. Each provision of the chapter, regulations or permit violated shall constitute a separate offense. This fine may be in addition to any levied under the Wetlands Protection Act, MGL c. 131, § 40. The fine for each offense under noncriminal disposition shall be $50 per day.

D. In the alternative to criminal prosecution, the Commission may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D.

E. Preacquisition violation. Any person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this chapter or in violation of any permit issued pursuant to this chapter shall 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, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

§ 196-12. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any permit or determination which previously has been issued.[10]

[10] **Editor's Note: Former Section XIII, Coastal Beach Nourishment Requirement, added 4-12-1994 ATM by Art. 29, which immediately followed this section, was deleted 11-3-1994 STM by Art. 13.**