

ZONING BY-LAWS

TOWN OF SWANSEA, MASSACHUSETTS

TABLE OF CONTENTS

Section	Page
Preamble	3.
Section 1—Purpose and Authority	3.
Section 2—Districts	4.
Section 3—Existing Uses not affected by this by-law	5.
Section 4—Principal and Accessory Uses	6.
Table of Principal and Accessory Uses	7.
Use Definitions	10.
Permitted Uses/Rural and Residential	17.
Open Space Residential Design	17.
Accessory Apartments	31.
Permitted Uses/Business A	33.
Permitted Uses/Business B	34.
Permitted Uses/Manufacturing	35.
Section 5—Dimensional Regulations	37.
Table of Standard Dimensional Regulations	38.
Hammerhead Lots	39.
Substantial Irregularity	40.
Section 6—Off Street Parking, Loading and Landscaping	41.
Section 7—Inland Flooding and Flood Plain Districts	47.
Section 8—Use provisions applicable to all districts	50.
Section 9—Site Plan Review	50.
Section 10—Signs	52.
Section 11—Lot and Building provisions applicable to all districts	56.
Section 12—Enforcement of the Zoning By-law	57.
Section 13—Board of Appeals	58.
Section 14—Zoning By-law adoption and amendment	61.
Section 15—Illegality	62.
Section 16—Aquifer Protection District	63.
Section 17—Wireless communication Facilities	69.
Section 18—Proposed Wireless Communication Tower Sites	73.

Preamble.

This by-law is for the purpose of promoting the health, safety, convenience, morals and welfare of the inhabitants of the Town of Swansea, by regulating the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes, in accordance with provisions of the Massachusetts Zoning Act, General Laws, Chapter 40A, as amended.

SECTION 1. PURPOSE AND AUTHORITY

1.1 PURPOSE. These regulations are enacted to promote the general welfare of the Town of Swansea, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, and to increase the amenities of the town, all as authorized by, but not limited by, the provisions of the Zoning Act, M. G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.2 AUTHORITY. This Zoning By-Law is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.3 SCOPE. For these purposes, the construction, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.4 APPLICABILITY. All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of the Zoning By-Law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control. Nothing herein shall be construed to supersede the provisions of the State Building Code, 780 CMR 1.00, et seq.

1.5 AMENDMENTS. This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

1.6 SEPARABILITY. The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

SECTION 2. DISTRICTS

2.1 ESTABLISHMENT For the purpose of this By-Law, the Town is divided into the zoning districts set forth below:

RESIDENTIAL:

RR - Rural Residential

BUSINESS:

BA - Business A

BB - Business B

INDUSTRIAL:

M - Manufacturing

2.2 OVERLAY DISTRICTS In addition, the following overlay districts are also hereby established in Sections 7.0, 16.0 and 17.0:

FOD - Floodplain Overlay District

APOD - Aquifer Protection Overlay District

WCOD - Wireless Communication Overlay District

2.3 MAP The boundaries of each of the said districts are hereby established as shown on the map entitled, Swansea, Massachusetts, Zoning District Map, with revisions as of September 26, 1953 and adopted October 26, 1953, or as thereafter amended, which map is attached to and made a part of this by-law as if fully described and detailed herein. The said map shall be filed in the custody of the Town Clerk of Swansea and may be examined by the public, subject to any reasonable regulations established by the town clerk.

2.4 INTERPRETATION OF MAP The following provisions shall govern interpretation of the Zoning Map:

1. Whenever zoning areas are set forth or described in more than one (1) manner, the worded description of said area will govern and control.
2. Where the boundary lines are shown upon said map within the street lines of public or private ways, the center lines of such ways shall be the boundary lines.
3. Where the boundary lines are shown approximately at the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of figures, then the property or lot lines shall be the boundary lines. However, no subsequent property or lot changes after the adoption of this by-law will change the zoning district's boundaries without a corresponding zoning map amendment.

4. Boundary lines located outside of such street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines; and figures placed upon said map between such boundary lines and street lines are the distances in feet of such boundary lines from street lines, such distances being measured at right angles to such street lines unless otherwise indicated.

5. In all cases which are not covered by the other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said map, or, if distances are not given, then by the scale of said map.

6. Where a boundary line divides a lot, the regulations for the less restricted portion of such lot may extend thirty (30) feet into the more restricted portion by special permit granted by the Board of Appeals, if the lot has a street frontage in the less restricted district; otherwise, there shall be no extension.

7. Whenever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be interpreted by the building inspector provided, however, that any person aggrieved by this decision may appeal to the board of appeals in interpreting the line.

Section 3. Existing uses not affected by this by-law.

3.1 Except as specifically provided herein, this by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on an amendment which may relate to such permit. It shall apply to any change or substantial extension of such use, to any construction, reconstruction, alteration, or relocation of such building or structure and to any building or special permit if the work so authorized has not commenced within six (6) months of issuance.

3.2 A building or structure lawfully erected or located prior to the publication of first notice of a public hearing for an amendment of this by-law shall not be affected by such amendment, even though such building or structure would thereafter no longer conform to this by-law. Such building or structure shall not be reconstructed, extended, or altered except upon issuance of a special permit, as provided in Section 13; however, non-conforming single-or two family residences may be constructed, extended, or altered as long as such reconstruction, extension, or alteration does not increase the non-conformance thereof. Additions extending the non-conforming aspect at a distance less than required by this by-law shall be deemed an increase in non-conformance.

3.3 When the non-conforming use of any building, structure, including signs, or premises has been or shall be discontinued for a period of two (2) years, it shall not be re-established, and the future use thereof shall be in conformity with this by-law.
(T.M. of 5-21-79)

SECTION 4. Principal and Accessory Uses—Only those uses listed in the Table of Principal and Accessory Uses are allowed in the Town of Swansea.

Table of Principal and Accessory Uses—The Table of Principal and Accessory Uses designates which principal and accessory land uses are allowed in each zoning district. Each use category listed on the left hand column of the table corresponds to one of the use definitions found in Sections 4.1 to 4.8.

No land, structure or building shall be used except for the purposes permitted in the district as set forth in this section unless otherwise permitted in this by-law.

In all districts only one principal use is authorized per lot. An accessory use is a use which is subordinate to and customarily associated with the principal use and is located on the same lot as the principal building or use.

A use is permitted by right in any district under which it is denoted by the letter Y. A use is prohibited in any district under which it is denoted by the letter N.

A use denoted by SP/ZBA or SP/PB may be permitted by a Special Permit by the Special Permit Granting Authority indicated, either the Zoning Board of Appeals or the Planning Board.

If a use might be classified under more than one definition, the more specific definition shall determine whether the use is permitted. If the use might be classified under equally specific definitions, it shall not be permitted unless both principal uses are permitted in the zone.

Even if otherwise permitted, all uses that, in the opinion of the Building Inspector and Zoning Enforcement Officer, pose a present or potential hazard to human health, safety, welfare or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, are expressly prohibited in all zoning districts.

TABLE OF PRINCIPAL AND ACCESSORY USES

Principal Use	RR	BA	BB	M
<u>A. Residential Uses</u>				
1. Single-family dwelling	Y	N	N	N
2. Accessory apartment	SP/ZBA	N	N	N
3. Assisted living facility	SP/ZBA	SP/ZBA	SP/ZBA	N
4. Lodging house	N	SP/ZBA	SP/ZBA	N
5. Nursing or convalescent home	SP/ZBA	N	SP/ZBA	N
Principal Use	RR	BA	BB	M
<u>B. Exempt and Institutional Uses</u>				
1. Use of land or structures for religious purposes	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y
3. Family day care home	Y	N	N	N
4. Adult day care facility	SP/ZBA	N	Y	N
5. Child care facility	Y	Y	Y	Y
6. Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture	Y	Y	Y	Y
7. Municipal facilities	Y	Y	Y	Y
8. Hospital	SP/ZBA	N	Y	N
9. Cemetery	N	N	Y	N
10. Library	N	N	Y	N

Principal Use	RR	BA	BB	M
<u>C. Commercial Uses</u>				
1. Animal clinic or hospital	N	N	Y	Y
2. Kennel on parcel of less than 3 acres	SP/ZBA	SP/ZBA	SP/ZBA	SP/ZBA
3. Kennel on parcel of 3 acres or more	Y	Y	Y	Y
4. Private club, non-profit	SP/ZBA	SP/ZBA	Y	N
5. Funeral home	SP/ZBA	N	Y	N
6. Motel or hotel	N	SP/ZBA	Y	N
7. Retail stores and sales	N	Y	Y	N
8. Neighborhood store	SP/ZBA	Y	Y	N
9. Motor vehicle sales and rental	N	N	Y	N
10. Motor vehicle repair or body shop	N	SP/ZBA	Y	Y
11. Motor vehicle light service	N	SP/ZBA	Y	Y
12. Restaurant	N	Y	Y	Y
13. Office (Business, professional or medical)	N	SP/ZBA	Y	Y
14. Bank, financial services company	N	N	Y	N
15. Indoor commercial recreation	N	SP/ZBA	Y	SP/ZBA
16. Outdoor commercial recreation	N	N	Y	N
17. Golf course or country club	SP/ZBA	N	N	N
18. Personal service establishment	N	N	Y	N
19. General service establishment	N	N	Y	N
20. Theme park	N	N	SP/ZBA	N
21. Campground	N	N	SP/ZBA	N
22. Radio/TV studio	N	N	SP/ZBA	N
23. Riding Stable	SP/ZBA	N	N	N
24. Tattoo Parlor	N	SP/ZBA	SP/ZBA	SP/ZBA
25. Theater/cinema	N	N	SP/ZBA	N
26. Museum	N	N	SP/ZBA	N
27. Shopping Center	N	N	Y	N
28. Medical Marijuana Treatment Center	N	N	N	SP/ZBA

Principal Use	RR	BA	BB	M
<u>D. Industrial Uses</u>				
1. Earth removal	SP/PB	SP/PB	SP/PB	SP/PB
2. Light manufacturing	N	N	Y	Y
3. General Manufacturing	N	N	SP/ZBA	Y
4. Warehouse, self-storage mini-warehouse or distribution facility	N	N	Y	Y
5. Wholesale manufacturing	N	Y	Y	Y
6. Contractor's yard	N	SP/ZBA	SP/ZBA	SP/ZBA
<u>E. Other Uses</u>				
1. Commercial indoor parking	N	SP/ZBA	SP/ZBA	SP/ZBA
2. Commercial outdoor parking	N	Y	SP/ZBA	Y
3. Drive-in or Drive-through facilities	N	SP/PB	SP/PB	SP/PB
4. Adult entertainment, including live entertainment, book store, video store, paraphernalia or cinema	N	N	N	SP/ZBA
<u>Accessory Use</u>				
<u>A Accessory Uses</u>				
1. Roadside stands for the sale of farm or garden produce raised on the premises or on other land controlled by the occupant	Y	Y	Y	N
2. Roadside stands for the sale of farm or garden produce of off-premise origin from land not controlled by the occupant	SP/ZBA	Y	Y	Y
3. Home Occupation	Y	Y/ZBA	Y/ZBA	Y/ZBA
4. Parking of Commercial Motor Vehicles (see 3.2.1.5)	N	Y	Y	Y
5. Contractor's or Landscaping Yard (see 3.2.1.6)	N	Y	Y	Y
6. Office uses and food services where such use or service is primarily for the employees at the principal use	N	Y	Y	Y
7. Common driveway	SP/ZBA	SP/ZBA	SP/ZBA	SP/ZBA

4.1 Use Definitions

4.1.1 Residential Uses

Single Family Dwelling – A building containing one dwelling unit and surrounded by open space on all sides. A dwelling unit is a room or group of rooms forming a habitable unit for one (1) family, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Accessory Apartment—A separate, self-contained dwelling unit, incorporated within a single-family dwelling, and not within an accessory structure, complete with its own cooking and sanitary facilities, having not more than one bedroom. Additions, renovations and all construction involved with the creation of an accessory apartment shall meet the requirements of the current edition of the Massachusetts Building Code as it pertains to two-family structures.

Assisted Living Facility—Assisted living facilities provide supervision or assistance with activities of daily living; coordination of services by outside health care providers; and monitoring of residents to help to ensure their health, safety, and well-being. Assistance may include the administration or supervision of medication or personal care services provided by a trained staff person.

Lodging house— Any building containing four or more guest rooms intended to be used, rented or hired out by for sleeping purposes by guests, other than temporary, personal guests of a family in a dwelling unit.

Nursing or Convalescent Home – An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care.

4.1.2 Exempt and Institutional Uses

Religious Purposes—Use of land, buildings or structures for religious purposes by a religious sect or denomination, such as a church, synagogue, mosque or other place of worship.

Educational Purposes—Use of land, buildings and structures for providing learning in a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic; or by a religious sect or denomination; or by a nonprofit educational entity or a nonprofit day care center.

Kindergarten, child care facility – A facility defined as such in MGL Ch. 28A, Sec. 9.

Family Day Care Home—A facility defined as such in MGL Ch. 28A, Sec. 9.

Adult Day Care Facility—Adult day care programs provide residential placement, health and social supports to elderly and disabled clients who are at risk of becoming institutionalized.

Child Care Facility—A facility defined as such in MGL Ch. 28A, Sec. 9.

Agriculture, horticulture, floriculture, or viticulture—Use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture as defined in MGL Chapter 40A, Section 3.

Municipal Facilities – Use of land, buildings and structures by the Town of Swansea.

Hospital – An institution rendering medical, surgical or convalescent care.

Cemetery – Public or private facility set aside for graves or tombs, including associated structures.

Library—Public or private facility containing materials intended for reading, study or reference.

4.1.5 Commercial Uses

Animal Clinic or Hospital – A facility where animals are given medical or surgical treatment and where boarding of animals is limited to short term care incidental to the medical or surgical treatment.

Kenel--A facility where dogs are housed temporarily for a fee or a facility where dogs are bred for commercial sale.

Private Club, non-profit-- A facility used by a non-commercial organization which is characterized by formal written membership requirements.

Funeral Home – Undertaking or funeral establishment.

Motel or Hotel – A facility offering transient lodging accommodations to the general public, which may provide additional services such as restaurants, meeting rooms and recreation facilities.

Retail Store and Sales – An establishment engaged in displaying and selling goods or merchandise within a building to the general public or to business establishments, which goods or merchandise are not intended for resale; except that a garden center, florist or commercial greenhouse may have open air display of horticultural products.

Neighborhood Store

Medical Marijuana Treatment Center—A not-for-profit entity as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments) transfers, transports, sells, distributes, dispenses or administers marijuana products containing marijuana, related supplies or educational materials to qualifying patients or their personal caregivers.

Motor Vehicle Sales and Rental– Salesroom and related facilities, including, but not limited to open air display, for the sale or rental of automobiles, motorcycles, recreational vehicles and similar vehicles, boats or light industrial or farm equipment.

Motor Vehicle Repair or Body Shop – Establishment where the principal service is the repair of automobiles, similar light motor vehicles or farm implements, provided that all major maintenance and servicing of vehicles shall be conducted entirely within a building.

Motor Vehicle Light Service – Facility for outdoor sale of motor vehicle fuels, related products, and services provided that all major maintenance, servicing and/or washing of vehicles shall be conducted entirely within a building.

Restaurant – Establishment where food and beverages are sold within a building to customers for consumption: (1) at a table or counter, or (2) on a patio enclosed on all sides with entrance to the patio normally available only from the building, or (3) off the premises as carry-out orders, except that drive-up service shall not be allowed, or (4) any combination of the above.

Bank or financial services company—Bank, loan agency or similar facility.

Indoor commercial recreation—Indoor facilities, operated as a business and open to the public for a fee, such as a gymnasium or facilities for ice skating, roller skating, racquet sports, bowling, horseback riding, swimming, baseball batting cages or golf driving range.

Outdoor commercial recreation—Country Club, Golf Course, Camp Grounds, Outdoor Recreation Areas A parcel of land used primarily for the purpose of paid outdoor recreational activities.

General services establishment—Establishments providing services to the general public, such as equipment rental and leasing, building cleaning, photocopying, telephone answering, word processing or secretarial services, computer service bureaus, facilities for dancing, martial arts or music instruction, facilities for repair of appliances, office equipment, bicycles, lawnmowers, or similar equipment, and food catering facilities.

Theme Park—A permanent family entertainment park designed to be a tourist attraction.

Radio/TV Studio--Any building or facility utilized primarily for the installation and operation of equipment for the generating and/or detection of radio or television signals and which is accessory to a communications structure.

Riding Stable

Tattoo Parlor

Shopping Center--A multi-store complex, either in one enclosed mall or independent structures, but identified as a single site, used for retail stores and sales which may also include restaurants or food courts, business or professional offices, financial services, personal service facilities, parking lots, decks and garages, kiosks and other structures, uses and facilities now or hereafter associated with shopping centers.

Barber or beauty shop, laundry or dry cleaning shop, shoe repair shop, self-service dry-cleaning or laundry

Refreshment stand, drive-in – A licensed food service establishment where food & beverages are served from a walk-up take-out window, or are delivered by restaurant employees to customers in their vehicles. This category does not include restaurants with a drive-through window.

Amusement Facility – Indoor facilities open to the public for a fee or admission charge, such as a theater, cinema, bowling alley, or video arcade.

Building Trade Shop – An establishment for use by the practitioner of a building trade, such as a carpenter, welder, plumber, electrician, builder, mason or similar occupation.

Professional office – An office primarily devoted to professional activities. Professional offices may be allowed as accessory uses by residents of the principal dwelling in Rural and Residential zones as a matter of right. Such offices shall include, but are not limited to, those used by the following professions:

1. Doctors
2. Dentists
3. Nurses
4. Lawyers
5. Architects
6. Engineers
7. Accountants
8. Financial Planners
9. Designers
10. Realtors and real estate brokers
11. Clergy
12. Psychologists

13. Social workers
14. Insurance brokers
15. Teachers
16. Business consultants

Other professions may be allowed by the Building Inspector and Zoning Enforcement Officer, if, in his or her opinion, the practitioner has the appropriate professional education, is bound by a code of ethics and principles in practice by a professional organization to which he or she is a member and is professionally licensed.

Where the professional office is allowed, such use shall include the use of all equipment, facilities and assisting personnel reasonably necessary for the practice of the profession involved. Retail sales and in-house storage of materials are prohibited.

Additional parking spaces must be provided for each non-resident employee and the largest number of clients who would regularly visit the offices. The Building Inspector and Zoning Enforcement Officer may, at his or her discretion, require that appropriate screening of additional parking spaces be provided.

Medical or dental laboratory – A facility for medical or dental testing, processing or research.

Medical or dental center – A facility for three or more medical or dental professionals.

Auction gallery – Facility offering goods for sale at auction to the general public.

Shop of a potter, ceramist, sculptor, silversmith, or other artisan.

Business Services – An establishment that provides services relating to the conduct of business, including secretarial, bookkeeping, technical, or similar services.

Mall – A development which upon completion will be more than 20,000 sq. ft. gross interior floor area and which includes more than one of the following: retail sales, financial services, restaurants, professional services, general services, commercial recreation, and/or amusement facilities.

Multiple business use – A structure or lot containing two or more principal uses.

Multiple Office Building – Consists of a building which includes offices for one or more of the following:

- a. Professional Office
- b. Business Services
- c. Financial Services

4.1.6 Industrial Uses

Earth Removal—the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 4 feet of historical high groundwater as determined from monitoring wells and historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads or utility works.

Light Manufacturing—The process of converting raw unfinished materials or products into articles or substances of a different character or for a different purpose.

General Manufacturing—Asphalt, block, concrete or fertilizer plants; monument works, paper or pulp mill, refinery, rendering or smelting plants, slaughterhouses.

Warehouse, self-storage mini-warehouse or distribution facility—Facilities for the enclosed storage and/or distribution of goods and materials where the wholesale of goods and materials is permitted, provided it is an incidental use or an enclosed facility containing separate storage spaces, no larger than 400 square feet each, leased or rented on an individual basis.

Junkyard or automobile graveyard/Automotive salvage yard – Any lot upon which there are stored inoperable vehicles for principal use as salvage, parts, etc.

Contractor's yard—Facility or area for storage, open or enclosed, of construction equipment or materials.

4.1.7 Other Uses

Commercial Parking Facility (Indoor or Outdoor)—Commercial parking open to the public for automobiles and similar light motor vehicles.

Drive-in or Drive-through facilities

Adult entertainment, including live entertainment, book store, video store, paraphernalia or cinema—Defined as follows:

Live entertainment—Any establishment which displays live entertainment which is distinguished or characterized by its emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Ch.272, Sec. 31.

Adult Bookstore—Any establishment having as a substantial or significant portion of its stock in trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

Adult Video Store—Any establishment having as a substantial or significant portion of its stock in trade, videos, movies or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

Adult Paraphernalia Store—Any establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Ch. 272, Sec. 31.

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

4.1.8 Accessory Uses—Accessory uses are those subordinate to and customarily associated with a principal use and are located on the same lot as the principal use unless otherwise noted.

Roadside stands

Home occupations—A Home Occupation is defined as any use customarily conducted in a dwelling and includes, but is not limited to, the following:

- Artist
- Photographer
- Insurance or real estate agent
- Dressmaker
- Tailor
- Caterer

- Teacher or tutor of not more than four students
- Beautician
- Office of a builder, plumber, electrician or other building trades contractor

Minor Home Occupation—Any use customarily conducted for profit by the inhabitants of a dwelling may be undertaken in Rural & Residential districts as a matter of right, provided such use is clearly incidental and secondary to the use of the building as a residence and provided that the use does not change the residential character of the building. Such a use shall be deemed incidental and secondary if it does not meet the definition of Major Home Occupation.

Major Home Occupation—Any use customarily conducted for profit by the inhabitants of a dwelling may be undertaken in Rural & Residential districts only with a special permit from the Zoning Board of Appeals if it exhibits one or more of the following characteristics:

- More than one non-resident employee works on the premises at any given time.
- Outdoor storage of materials or equipment
- Outdoor parking of more than one commercial vehicle or any commercial vehicle exceeding a gross weight 10,000 pounds.
- Occupies more than 25% of the floor area of the dwelling
- Occupies more than 500 square feet of floor space in accessory buildings
- Regularly serves more than three customers or clients on the premises at any one time.

Additional parking spaces must be provided for each non-resident employee and the largest number of clients who would regularly visit the premises. The Building Inspector and Zoning Enforcement Officer may, at his or her discretion, require that appropriate screening of additional parking spaces and outdoor storage be provided.

The Zoning Board of Appeals shall have the authority to limit the hours of operation of a Major Home Occupation.

Retail sales and in-house storage of materials are prohibited.

Personal Wireless Service Facility – “Personal Wireless Service Facility” shall mean transmitters, structures, (including but not limited to freestanding towers) and other types of installations, including but not limited to antennae and accessory structures use for the provision of wireless services, as defined in the 1996 Telecommunications Act, 47 USC 332(c)(7), but excluding equipment and antenna structures owned and used exclusively by a federally licensed amateur radio operator.

Common driveways—A common driveway is a driveway which provides access to more than one lot. Common driveways are not allowed in the Town of Swansea except by special permit from the Zoning Board of Appeals where, in the opinion of the board, the following conditions have been met:

- No more than two lots may be accessed by a common driveway.

- Common driveways shall not be considered public ways and shall not provide lot frontage.
- Common driveways must provide access only over the approved legal frontage of at least one of the lots.
- Common driveways may not be longer than 500 feet.
- In areas served by fire hydrants, houses served by common driveways shall not be more than 1,000 feet from the nearest hydrant.
- Street addresses for all dwelling units served by a common driveway shall be posted at the intersection of the common driveway and the roadway and at the intersection of the common driveway and each individual driveway.

The Zoning Board of Appeals may also place conditions on its approval of common driveways regarding their width, slope, construction materials, drainage and sight lines from the intersection of the driveway with the roadway.

Commercial and Industrial Uses

Lumber Yard – A facility for the open or enclosed storage and sales of building materials.

Heating Fuel Sales and Service – A facility for the storage and retail sale of heating fuels and the sales and service of heating equipment where the storage of heating fuel in containers is permitted provided such storage is incidental to the retail sale of heating fuel.

Heavy Vehicular Sales or Repair Garage – Salesroom and related facilities, including, but not limited to open air display of trucks, buses, construction and industrial equipment; establishments for the repair of trucks, buses, construction and industrial equipment, provided that all major repairs shall be conducted within a building.

Research or testing facility – A facility for the testing of materials, research and development

Publishing, data processing and computer software and manufacturing including associated offices and distribution facilities –

Printing, packaging, assembling and allied uses –

Radioactive waste disposal – Any waste disposal as defined by MGL Ch. 21D, Sec. 2.

Storage – Non-municipal dump, salvage materials yard, including non-operable motor vehicles, tank farm, open or outdoor storage..

Amusement – Amusement park, outdoor cinema, stadium or coliseum.

Prohibited Uses – In addition to the uses listed below, all uses that pose a present or potential hazard to human health, safety, welfare, or the environment through the emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard or glare are expressly prohibited in all zoning districts.

The construction of more than one dwelling or principal use structure on a single lot is expressly prohibited.

Trailer camps, mobile home sales, truck stops, billboards and all open air storage of junk, including inoperable automobiles and all uses which are excessively obnoxious or injurious to their neighborhood or to all property in the vicinity are expressly prohibited in all zoning districts in the Town.

There will be no overnight parking of trailer trucks, trailer boxes, cabs, tractors or parts thereof.

4.2.0 Permitted uses

4.2.1 The following uses are authorized in a Rural Residential District as a matter of right:

- a) Single-family dwelling, not to exceed two and one-half (2 1/2) stories with attached or detached private garage.
- b) Use of land or structures for religious purposes
- c) Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation
- d) Family day care home
- e) Child care facility
- f) Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture
- g) Municipal facilities
- h) Kennel on parcel of 3 acres or more
- i) Roadside stands for the sale of farm or garden produce raised on the premises or on other land controlled by the occupant.
- j) Customary home occupations

4.2.2 The following uses are authorized in a Rural Residential District only under a special permit issued by the Swansea Zoning Board of Appeals or the Swansea Planning Board after a public hearing, of which due notice has been given, subject to revocation if carried on in a manner detrimental to the health or well-being of the neighborhood:

- a) Accessory apartment—see 4.2.2.1—4.2.2.6 below
- b) Assisted living facility
- c) Nursing or convalescent home
- d) Adult day care facility
- e) Hospital
- f) Kennel on parcel of less than 3 acres
- g) Private club, non-profit
- h) Neighborhood store
- i) Golf course; country club
- j) Riding Stable
- k) Earth removal
- l) Roadside stands for the sale of farm or garden produce of off-premise origin from land not controlled by the occupant
- m) Common driveways
- n) Open Space Residential Design subdivision

1. Purpose and Intent:

a. To allow for greater flexibility and creativity in the design of residential developments.

b. To encourage the permanent preservation of open space, agricultural and forestry land, plant and wildlife habitat, other natural resources including aquifers, waterbodies, wetlands, historical and archeological resources.

- c. To protect existing and potential municipal water supplies.
- d. To preserve and enhance the community character.
- e. To protect the scenic vistas as viewed from the Town's roadways and other public places.
- f. To facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
- g. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision.
- h. To protect the value of real property.
- i. To minimize the total amount of disturbance on the site.
- j. To preserve open space areas for active and passive recreational use, including the provision of neighborhood parks and trails.
- k. To encourage the provision of diverse housing opportunities and the integration of a variety of housing types.
- l. To further the goals and policies of the local comprehensive plans and open space and recreation plans.

2. Definitions:

In this By-law, the following words have the meanings indicated:

- a. Open Space Residential Development (OSRD): A residential development in which the buildings are clustered together with reduced lot sizes and frontage. The land not included in the building lots is permanently preserved as open space. Open Space Residential Development is the preferred form of residential development and/or redevelopment in the Town of Swansea for residential developments.
- b. Yield Plan: A plan conforming to the requirements of a preliminary subdivision plan, as specified in Sections 2.301 – 2.309 inclusive, excepting 2.305, of the Rules and Regulations Governing the Subdivision of Land of the Planning Board.
- c. Sketch Plan: A plan conforming to the requirements of the OSRD special permit plan, as specified in Section 7. b. (1) of this by-law.
- d. Open Space Residential Development Special Permit: Approval granted by the Special Permit Granting Authority after review and public hearing of an OSRD plan. An OSRD plan must be granted a special permit prior to receiving definitive subdivision plan approval from the Planning Board.
- e. Primary Conservation Areas: Tracts of land containing natural features such as wetlands, riverfront areas, perennial streams, water bodies, floodplains and

habitats for rare or endangered plant or animal species regulated by state or federal law.

f. Secondary Conservation Areas: Tracts of land including, but not limited to unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, intermittent streams, wildlife habitats and cultural features such as historic and archeological sites and scenic views.

g. Potentially Developable Area: The area of a tract or tracts of land proposed for an Open Space Residential Subdivision that lie outside the identified Primary and Secondary Conservation Areas of such tract or tracts, and defines the location appropriate for siting of houses and accessory structures.

3. Eligibility:

a. Minimum size of tract. To be eligible for consideration as an OSRD, the tract shall contain a minimum of 10 acres.

b. Minimum Number of Lots. To be eligible for consideration as an OSRD, the tract shall contain not less than 5 lots.

c. Contiguous Parcels. To be eligible for consideration as an OSRD, the tract shall consist of a parcel, abutting parcels, or set of parcels that demonstrate a significant functional relationship between the natural resources located on each of the parcels to be considered.

4. Special Permit Granting Authority:

A special permit granting authority (SPGA) is hereby established to review and approve special permits applications for Open Space Residential Developments subject to the regulations and conditions herein. The special permit granting authority is composed of the Planning Board members.

a. Rules and Regulations: The special permit granting authority shall adopt, and from time to time amend, rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the town clerk. Such rules shall prescribe the size, form, contents, style and number of copies of plans and documentation to be submitted, and the procedure for submission and approval of such permits.

5. Design Process

At the time of application for a special permit for OSRD in conformance with Section 6., applicants are required to demonstrate to the SPGA that the Design Process was performed by a multidisciplinary team of professionals, including registered professional engineer and landscape architect and considered in determining the layout of proposed open space, house lots, and streets.

a. Step One: Identifying Conservation Areas. Identify preservation land by two steps. First, Primary Conservation Areas and Secondary Conservation Areas shall be identified and delineated. Second, the Potentially Developable Area will be identified and delineated. To the maximum extent feasible, the Potentially

Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

b. Step Two: Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the town's historical development patterns.

The number of homes enjoying the amenities of the OSRD should be maximized. Houses should be sited to minimize impacts on the Primary and Secondary Conservation Areas, while maximizing the views of and access to the open space. House location should maximize the privacy of each home with minimum disturbance to the surrounding topography and landscape.

c. Step Three: Aligning Streets and Trails. Align streets to access the house lots. Additionally, a network of trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

d. Step Four: Lot Lines. Draw in lot lines that meet the minimum area and space requirements. Lot areas should encompass only those areas identified as Potential Developable Areas, and all areas outside of the lot lines shall be dedicated as open space area.

6. Pre-Application

A pre-application meeting between the SPGA and the applicant is required. The purpose of the pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to identify important design considerations at the earliest possible stage in the development.

a. Conference. The pre-application meeting shall be scheduled at a regular meeting of the SPGA. The SPGA shall forward copies of any pre-application submittals to and invite members of the Conservation Commission, Highway Department, the Board of Health, the Zoning Enforcement Officer, the Fire Department, the Swansea Water District and any other affected boards or departments as determined by the SPGA to the pre-application review. The invited review authorities shall have 30 days to return written comments to the SPGA. At the pre-application review, the applicant may outline the proposed OSRD, seek preliminary feedback from the SPGA and/or its invitees and technical experts, and set a timetable for submittal of a formal application. The SPGA may engage technical experts, at the expense of the applicant, to review the informal plans of the applicant and to facilitate submittal of a formal application for an OSRD special permit.

b. Submittals: To facilitate review of the OSRD plan at the pre-application stage, applicants are required to submit the following information:

(1) Site Context Map. This map illustrates the parcel in connection to its surrounding neighborhood. Based on existing data sources and field inspections, it should show various kinds of major natural resources areas or features that cross parcel lines or that are located on adjoining lands. This

map enables the conference committee to understand the site in relation to what is occurring on adjacent properties.

(2) Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based on existing data sources and field inspections, this base map locates and describes noteworthy resources that should be left protected through sensitive subdivision layouts. These resources include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature woodlands, hedgerows, farmland, unique or special wildlife habitats, historic or cultural features (such as old structures or stone walls), unusual geologic formations and scenic views into and out from the property. By overlaying this plan onto a development plan the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

(3) Other Information. Applicants are required to submit the information set forth in Section 6. in a form acceptable to the SPGA.

c. Site Visit. Applicants are required to conduct a site visit with the SPGA and other affected town bodies, and/or their agents to facilitate pre-application review of the OSRD.

d. Design Criteria. The parties at the pre-application conference and site visit should discuss the design process and criteria set forth in Section 5.

7. Procedural Requirements:

The Open Space Residential Subdivision Special Permit Plan shall include a Sketch Plan and Yield Plan. The applicant shall submit both the Site context map and Existing Conditions/Site Analysis map prepared according to Sections 6. b. (1) and 6. b. (2). Additional information reasonably necessary to make the determinations and assessments cited herein shall be provided, including existing site contour maps and existing current soil maps.

a. Submission. The applicant shall file applications for OSRD special permits with the Town Clerk. The Town Clerk will certify the date and time of filing. The Clerk shall forward the application, with said certification, to the office of the SPGA. The SPGA shall commence a public hearing, for which notice has been given, within sixty-five days from the date of filing of the application.

(1) Escrow for employment of outside consultants. The SPGA may engage technical experts as necessary to assist with the review of the application and associated plans. The applicant shall deposit funds with the town to cover the costs of such technical reviews. The amount of said deposit, and any subsequent replenishment, shall be established by the SPGA. Expenditures from said account shall be made at the direction of the SPGA without further appropriation. Expenditures from said account shall be made only in connection with the review of a project for which a review fee has been collected from an applicant. The funds shall be deposited with, and released by, the Town Treasurer in accordance with M.G.L. c 44 § 53G. Administrative appeal from the

selection of an outside consultant shall be taken in accordance with the provisions of M.G.L. c 44 § 53G.

b. Sketch Plan. Two plans are required to be submitted: 1) OSRD sketch plan incorporating the Four-Step Design Process outlined in Section 5.0, and the design standards included herein; and 2) Conventional subdivision yield plan, prepared based upon Zoning By-law requirements for a standard subdivision. The Sketch Plans shall be prepared by a multi-disciplinary team of professionals, including registered professional engineer and landscape architect, and shall address the general features of the land, and give approximate configurations of the lots, open space, and roadways. The SPGA shall determine which method of development furthers the purpose and intent of this by-law.

(1) Required Content of the Sketch Plan. The sketch plan shall include the following information:

- (a) The subdivision name, boundaries, north point, date, legend, locus map, title "Concept Plan," and scale.
- (b) The names of the record owner and the applicant, and the name of the landscape architect who prepared the plan.
- (c) The names, approximate location, and widths of adjacent streets.
- (d) The proposed topography of the land shown at a contour interval no greater than 10 feet. Elevations shall be referred to mean sea level.
- (e) The location of existing landscape features including forests, farm fields, meadows, wetlands, riverfront areas, waterbodies, archeological and historic structures or points of interest, rock outcrops, boulder fields, stone walls, cliffs, high points, major long views, forest glades, major tree groupings, noteworthy tree specimens, and habitats of endangered or threatened wildlife or plant species, as identified as primary and secondary resources. Proposals for all site features to be preserved, demolished or moved shall be noted on the Sketch Plan.
- (f) All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified and all wetland flag locations shall be numbered and placed on the Sketch Plan.
- (g) Lines showing proposed private residential lots, as located as part of the four-step design process with areas and frontage dimensions.
- (h) All existing and proposed features and amenities including, but not limited to trails, recreations areas and facilities, pedestrian and bicycle paths, community buildings, and off-street parking areas shall be shown on the plan and described in a brief narrative explanation where appropriate.
- (i) The existing and proposed streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the

subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated with the subdivision in a general manner.

- a. Proposed roadway grades.
- b. As sewer is not available, percolation and water table tests may be required as directed by the SPGA. A narrative explanation shall be prepared by a registered professional engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on site and to any abutting parcels of land. For example, the narrative will specify whether individual on-site or off-site systems, shared systems, alternative to Title V systems, or any combination of these or other methods will be utilized. The applicant shall identify the proposed location of all wastewater disposal systems, and if so located in any proposed open space area, then identify how the system(s) will be constructed and maintained so as to not interfere with the function of the proposed open space.
- c. A narrative explanation prepared by a registered professional engineer proposing systems for stormwater drainage and its likely impacts on-site and to any abutting parcels of land. For example, the narrative will specify which engineering methods will be used and the number of any detention basins or infiltrating catch basins, it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any stormwater management detention basins shall be shown on the plan and accompanied by a conceptual landscaping plan.
- d. A narrative explanation prepared by a registered professional engineer detailing the proposed drinking water supply system.
- e. A narrative explanation of the proposed quality, quantity, use and ownership the open space. Open space parcels shall be clearly shown on the plan.
- f. All proposed landscaped and buffer areas should be noted on the plan and generally explained in a narrative.
- g. A list of all legal documents necessary for implementation of the proposed development, including any conservation restrictions, land transfers, and master deeds, with an accompanying narrative explaining their general purpose.
- h. A narrative indicating all requested waivers, reduction, and/or modifications as permitted within the requirements of this by-law.

c. Yield Plan. The applicant shall submit a narrative explanation detailing the results of the determination of any proposed allocation of yield determined according to Section 8. Basic Maximum Number of Dwelling Units.

d. Relationship between OSRD special permit plan and definitive subdivision plan. The OSRD special permit plan shall be reconsidered if there is substantial variation between it and the definitive subdivision plan. If the SPGA finds that a substantial variation exists, it shall hold a public hearing on the modification to the OSRD special permit plan. A substantial variation shall be defined as any of the following circumstances:

- (1) An increase in the number of building lots;
- (2) A significant decrease in the open space acreage;
- (3) A significant change in lot layout;
- (4) A significant change in the general development pattern that adversely affects natural landscape features and open space preservation;
- (5) Significant changes to the stormwater management facilities; and/or significant changes in the wastewater management systems.

8. The Basic Maximum Number of Dwelling Units/Density shall be derived from a Yield Plan:

The number of dwelling units permitted shall not exceed that which would be permitted under a conventional subdivision that complies with the town zoning by-law and the Rules and Regulations Governing the Subdivision of Land of the SPGA and any other applicable laws and regulations of the Town or the state.

A yield plan shall be submitted to demonstrate the allowable number of units. If the tract lies in more than one zoning district, the lots for each district shall conform to their respective zoning district requirements.

The applicant shall have the burden of proof with regard to the Basic Maximum Number of dwelling units. The applicant may be required to submit additional site information as requested by the SPGA to satisfy the prescribed burden of proof.

9. Standards and Dimensional Requirements:

Where the requirements of this section differ from or conflict with the requirements found elsewhere in the Zoning By-law, the requirements of this section shall prevail.

- a. Minimum Lot Size: The minimum lot size shall be 10,000 square feet of upland area.
- b. Minimum Frontage: The minimum frontage may be reduced from the frontage otherwise required in the Zoning District, provided, however, that no lot shall have less than fifty (50) feet of frontage and provided further that such frontage reduction shall apply only to lots fronting on proposed internal roadways. The sharing of driveways to reduce curb cuts is encouraged.
- c. Lot Shape: All building lots must be able to contain a circle of a minimum diameter of fifty (50) feet from the front lot line to the rear building line.

- d. Setbacks: Every dwelling fronting on the proposed roadways shall be set back a minimum of fifteen (15) feet from any property line.
- e. Required Open Space: All land area not utilized for lots, roads, and drainage shall be set aside as open space, lands being permanently deed restricted to their identified usage only. A minimum of 50% of the upland area of the parcel must be provided as open space. Wetlands and water bodies must be preserved, however they do not count toward the open space requirement. Roadway rights of way shall not count toward the area to be provided as open space.

10. Open Space Requirements

a. Permissible Uses of Open Space:

(1) Purposes: Open space shall be used solely for conservation, wildlife and plant habitat, aquifer recharge, agriculture, forestry or recreation purposes by residents and/or the public. Where appropriate, multiple use of open space is encouraged. At least half of the required open space may be required by the SPGA to be left in a natural state. The proposed use of the open space shall be specified in the application. If several uses are proposed, the plans shall specify what uses will occur in what areas. The SPGA shall have the authority to approve or disapprove particular uses proposed for the open space.

(2) Recreation Lands: Where appropriate to the topography and natural features of the site, the SPGA may require that at least 10% of the open space or two acres (whichever is less) shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the subdivision.

(3) Leaching Facilities: Subject to the approval of the Board of Health, as otherwise required by law, the SPGA may permit a portion of the open space to be used for components of sewage disposal systems serving the subdivision, where the SPGA finds that such use will not be detrimental to the character, quality, or use of the open space, wetlands or waterbodies, and enhances the site plan. The SPGA shall require adequate legal and fiscal safeguards and covenants that such facilities shall be adequately maintained by the lot owners within the development.

(4) Community Structures: Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space including parking. Location of structures and facilities are subject to the approval of the SPGA.

b. Ownership of Open Space:

(1) Ownership Options: At the developer's option and subject to approval by the SPGA, all areas to be protected as open space shall be:

- (a) Conveyed to the Town to be placed under the care, custody and control of the Conservation Commission, and be

accepted by it for a park or open space use. Land conveyed to the Town should be open for public use; and/or

(b) Conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space, with a conservation restriction as specified in § 09.2.2 below. Such organization shall be acceptable to the Town as a bona fide conservation organization; and/or

(c) Conveyed to a corporation or trust owned, or to be owned, by the owners of lots or residential units within the development (i.e. "homeowners association") and placed under conservation restriction as specified in § 09.2.2 below. If such a corporation or trust is utilized, as indicated herein, ownership thereof shall pass with conveyance of the lots or residential units in perpetuity. Documents creating such trust or corporation shall be submitted to the SPGA for approval, and shall thereafter be recorded.

(2) Permanent Restriction: In any case where open space is not conveyed to the Town, a permanent conservation or agricultural preservation restriction in accordance with M.G.L. c. 184 §31, approved by the SPGA and Board of Selectmen and enforceable by the Town, conforming to the standards of the Massachusetts Executive Office of Environmental Affairs, Division of Conservation Services, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways, except as permitted by this by-law and approved by the SPGA and not inconsistent with M.G.L. c. 184 §31. Restrictions shall provide for periodic inspection of the open space by the Town. Such restriction shall be submitted to the SPGA prior to approval of the project and recorded at the Registry of Deeds/Land Court simultaneously with recording of the definitive subdivision plan. A management plan may be required by the SPGA that describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices.

(3) Encumbrances: All areas to be set aside as open space shall be conveyed free of any mortgage interest, security interest, liens or other encumbrances.

(4) Maintenance of Open Space: In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance, administrative and other associated fees shall be assessed by the Town against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance expenses.

(5) Monumentation: Where the boundaries of the open space are not readily observable in the field, the SPGA may require placement of surveyed bounds sufficient to identify the location of the open space.

c. Open Space Design Requirements: The location of open space provided through this by-law shall be consistent with the policies contained in the Swansea Master Plan and the Open Space and Recreation element of the plan. The following design requirements shall apply to open space and lots provided through this by-law:

(1) Open space shall be planned as large, contiguous areas whenever possible. Long thin strips or narrow areas of open space (less than one hundred (100) foot wide) shall occur only when necessary for access, as vegetated buffers along wetlands or the perimeter of the site, or as connections between open space areas. Open space may be considered connected if it is separated by roadway or community facility.

(2) Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, unfragmented forestland and significant trees, wildlife habitat, open fields, scenic views, trails, and archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes. The development plan shall take advantage of the natural topography of the parcel and cuts and fills shall be minimized.

(3) Open space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses. Where feasible, these parcels shall be linked by trails.

(4) Where the proposed development abuts or includes a body of water or a wetland, these areas and the one hundred (100) foot buffer to such areas shall be incorporated into the open space. Where appropriate, reasonable access shall be provided to shorelines.

(5) The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths. An exception may be made for resource areas vulnerable to trampling or other disturbance.

(6) Open space shall be provided with adequate access, by a strip of land at least twenty (20) feet wide, suitable for a footpath, from one or more streets in the development.

(7) Development along existing scenic roads and creation of new driveway openings on existing regional roadways shall be minimized.

(8) Where a proposed development abuts land held for conservation purposes, the development shall be configured to minimize adverse impacts to abutting conservation land, and provide for the most contiguous arrangement of open space with abutting conservation land. New trail connections should be provided to existing recreation and trail facilities where appropriate.

11. Design Standards: The following generic and site specific design standards shall apply to all OSRD subdivisions and shall govern the development and design process:

a. Generic Design Standards

(1) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as variable elements that can be changed to follow a preferred development scheme.

(2) Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract. Road and road right-of-way standards may be designed and constructed in accordance with the conventional standards or the reduced roadway standards as adopted by the Planning Board in its Rules and Regulations Governing the Subdivision of Land.

(3) Proposed building lots shall be designed and located to relate to their surroundings in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject tract.

(4) The removal or disruption of historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable where these exist on the site or adjacent properties.

b. Site Specific Design Standards

(1) Parking. Each dwelling unit shall be served by two (2) off-street parking spaces when lot access is provided by standard subdivision roads, or four (4) off-street parking spaces when served by reduced standard roads. Parking spaces in and in front of garages may count in this computation. All parking areas with greater than six (6) spaces shall be screened from view.

(2) Buffer Areas. A buffer area of one hundred (100) feet shall be provided at the perimeter of the tract. Driveways necessary for access to and from the property may cross such buffer areas. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The SPGA may waive the buffer requirement in these locations when it determines that a smaller buffer, or no buffer, will suffice to accomplish the objectives set forth herein.

(3) Drainage. The use of non-structural stormwater management techniques are encouraged, such as shallow grass-lined swales and overland flow that reduce impervious surfaces and promote infiltration where appropriate. Stormwater management designs shall conform to the Department of Environmental Protection stormwater management regulations.

(4) Common/Shared Driveways. A common or shared driveway may serve a maximum of two (2) dwelling units provided that: a) a portion of the driveway traverses each lot; b) each lot have required frontage on the roadway; and, c) easements be recorded for each lot serviced by the shared driveway.

(5) Screening and Landscaping. All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.

(6) On-site Pedestrian and Bicycle Circulation. Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities, including parkland and open space areas, and adjacent land uses where appropriate.

12. Decision of the Special Permit Granting Authority

a. Review and Decision: Upon receipt of the application and the required plans, the SPGA shall transmit one copy each to the Conservation Commission, Highway Department, Fire Department, Board of Health, Zoning Enforcement Officer and Swansea Water District. Within thirty (30) days of their receipt of the application/ plans, said town bodies shall submit any recommendations to the SPGA. The SPGA shall act on applications according to the procedure specified in M.G.L. c. 40A, §9. Notice shall be provided of hearings in accordance with M.G.L. chapter 40A, §11.

b. Criteria for Special Permit Decision:

(1) Findings: The SPGA may approve the development upon finding that it complies with the purposes and standards of the Open Space Residential Development by-law and is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources of the site. The SPGA shall consider the following criteria in making its decision:

- (a) Whether the OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan;
- (b) Whether the OSRD maximizes the permanent preservation of open space, agricultural land, forestry land, other natural resources including water bodies and wetlands, and historical and archeological resources;
- (c) Whether the OSRD promotes a less sprawling and more efficient form of development that consumes a less open land and conforms to existing topography and natural features better than a conventional subdivision;
- (d) Whether the OSRD reduces the total amount of disturbance on the site;
- (e) Whether the OSRD special permit plan and its supporting narrative documentation complies with all sections of this zoning by-law;

- (f) Upland open space as required by this by-law has been provided and generally conforms to the Open Space Design Requirements in Section 10. c. of this By-law;
- (g) Approximate building sites have been identified and are not located closer than 100' to wetlands and waterbodies;
- (h) Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been located to promote interconnection of the street network on site and to off-site locations, to avoid or minimize adverse impacts on open space areas, to provide views of and access to the open space for the lots and to protect the public safety;
- (i) All lots meet the applicable dimensional requirements of Section 9. of the Open Space Residential Development By-law.

The SPGA's findings, including the basis of such findings, shall be stated in the written decision of approval, conditional approval or denial of the application for special permit.

b. Conditions: The SPGA shall impose conditions in its decision as necessary to ensure compliance with the purposes of this By-law. Approval of an Open Space Residential Development shall be conditioned upon Definitive Subdivision approval and shall be conditioned to provide that no further division of land which increases the number of lots or results in an alteration to the area to be set aside as open space may occur without a modification of the special permit. Any alteration of lot lines or layout of ways shall require approval of the SPGA and shall be in compliance with the requirements of the Open Space Residential Development by-law and the Planning Board Rules and Regulations Governing the Subdivision of Land.

c. Time Limit: A special permit is granted for a period of two years and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown.

d. Relationship to Subdivision Control Law: Nothing contained herein shall exempt a proposed subdivision from compliance with other applicable provisions of these by-laws or the Rules and Regulations Governing the Subdivision of Land of the Planning Board, nor shall it affect the right of the Board of Health and of the Planning Board to approve, approve with conditions, or disapprove a Definitive subdivision plan in accordance with the provision of such Rules and Regulations of the Subdivision Control Law.

13. Severability:

If a court of competent jurisdiction holds any provision of this by-law invalid, the remainder of the by-law shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this by-law shall not affect the validity of the remainder of the Swansea zoning By-law.

Accessory Apartments

4.2.2.1 Purpose

The Swansea Zoning Board of Appeals may grant a special permit for accessory apartments in accordance with the following requirements for the purposes of providing small, additional dwelling units to rent without adding to the number of buildings in the Town of Swansea or substantially altering the appearance of the town, providing alternative housing options for the community and enabling owners of single-family dwellings larger than required for their present needs to share space and the burdens of home ownership.

4.2.2.2 Definition

An ACCESSORY APARTMENT is a separate, self-contained dwelling unit, incorporated within a single-family dwelling, and not within an accessory structure, complete with its own cooking and sanitary facilities, having not more than one bedroom. Additions, renovations and all construction involved with the creation of an accessory apartment shall meet the requirements of the current edition of the Massachusetts Building Code as it pertains to two-family structures.

4.2.2.3 Procedures

Accessory apartments may be allowed with a special permit from the Swansea Zoning Board of Appeals in accordance with the process for issuing special permits as set forth in Section 13 of the Swansea Zoning By-law, provided that each of the following, additional criteria are met.

4.2.2.4 Criteria

- a. A plot plan of the existing dwelling unit and the proposed accessory apartment shall be submitted to the SPGA, showing the location of the building on the lot, the proposed accessory apartment, location of any septic system and required parking. A mortgage inspection survey shall be sufficient to meet this requirement.
- b. An affidavit shall be provided by the applicant stating that one of the two dwelling units shall be occupied by the owner of the property, except for bona fide temporary absences.
- c. No more than one accessory apartment may be established on a lot. The accessory apartment shall not exceed one-thousand (1,000) square feet in floor space and shall be located in the principal residential structure.
- d. The external appearance of the structure in which the accessory apartment is to be located shall not be significantly altered from the appearance of a single-family structure.
- e. Sufficient and appropriate space for at least one (1) additional parking space shall be constructed by the owner to serve the accessory apartment. The

parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway.

- f. No special permit shall be granted without a condition that the accessory apartment shall conform to the provisions of Title V of the Massachusetts Sanitary Code, 310CMR 15.00

4.2.2.5 Decision

Special permits for accessory apartments may be granted by the Zoning Board of Appeals upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the subject property is located and after consideration of the factors set forth in Section 13 of the Swansea Zoning By-law.

4.2.2.6 Administration and Enforcement

- a. It shall be the duty of the Building Inspector to administer and enforce the provisions of this By-law.
- b. No building shall be constructed or changed in use or configuration until the Building Inspector has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with the town's bylaws. Any new building or structure shall conform to all adopted state and town laws, bylaws, codes and regulations.
- c. No building shall be occupied until a certificate of occupancy has been issued by the Building Inspector where required.
- d. The Building Inspector shall refuse to issue any permit which would result in a violation of any provision of this chapter or in violation of the conditions or terms of any special permit granted by the Zoning Board of Appeals.
- e. The Building Inspector shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.
- f. Construction or use according to a building permit or special permit shall conform to any subsequent amendment of this section unless the construction or use is begun within a period of not more than six months after the issuance of a permit granted before the effective date of the amendment. To qualify for this exemption, construction must be completed in a continuous and expeditious manner.

4.2.3 The following uses are authorized as a matter of right in a Business A District:

- a) Use of land or structures for religious purposes
- b) Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation
- c) Child care facility
- d) Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture
- e) Municipal facilities
- f) Kennel on parcel of 3 acres or more
- g) Retail stores and services
- h) Neighborhood store
- i) Restaurant
- j) Wholesale manufacturing
- k) Commercial outdoor parking
- l) Roadside stands for the sale of farm or garden produce raised on the premises or on other land controlled by the occupant
- m) Roadside stands for the sale of farm or garden produce of off-premise origin from land not controlled by the occupant
- n) Parking of Commercial Motor Vehicles (see 3.2.1.5)
- o) Contractor's or Landscaping Yard (see 3.2.1.6)
- p) Office uses and food services where such use or service is primarily for the employees at the principal use

4.2.4 The following uses are authorized in a Business A District only under a special permit issued by the Swansea Zoning Board of Appeals or the Swansea Planning Board after a public hearing, of which due notice has been given, provided adequate off-street parking is supplied and subject to revocation if carried on in a manner detrimental to the health or well-being of the neighborhood:

- a) Assisted living facility
- b) Lodging house
- c) Kennel on parcel of less than 3 acres
- d) Private club, non-profit
- e) Motel or hotel
- f) Motor vehicle general and body repair
- g) Motor vehicle light service
- h) Business or professional office, including medical
- i) Indoor commercial recreation
- j) Tattoo Parlor
- k) Earth removal
- l) Contractor's yard
- m) Commercial indoor parking
- n) Drive-in or Drive-through facilities
- o) Common driveways

4.2.5 The following uses are authorized as a matter of right in a Business B District:

- a) Use of land or structures for religious purposes
- b) Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation
- c) Adult Day Care facility
- d) Child care facility
- e) Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture
- f) Municipal facilities
- g) Hospital
- h) Cemetery
- i) Place of public assembly
- j) Animal clinic or hospital
- k) Kennel on parcel of 3 acres or more
- l) Private club, non-profit
- m) Funeral home
- n) Motel or hotel
- o) Retail stores and services, including malls and shopping centers
- p) Neighborhood store
- q) Motor vehicle sales and/or rental
- r) Motor vehicle general services and body repair
- s) Motor vehicle light service/car wash
- t) Restaurant
- u) Business or professional office, including medical
- v) Bank, financial services company
- w) Indoor commercial recreation
- x) Outdoor commercial recreation
- y) Personal service establishment
- z) General service establishment
- aa) Wholesale sales
- bb) Gasoline station
- cc) Multiple business use facility
- dd) Roadside stands for the sale of farm or garden produce raised on the premises or on other land controlled by the occupant
- ee) Roadside stands for the sale of farm or garden produce of off-premise origin from land not controlled by the occupant
- ff) Parking of Commercial Motor Vehicles (see 3.2.1.5)
- gg) Landscaping Yard (see 3.2.1.6)
- hh) Office uses and food services where such use or service is primarily for the employees at the principal use

4.2.6 The following uses are authorized in a Business B District only under a special permit issued by the Swansea Zoning Board of Appeals or the Swansea Planning Board after a public hearing, of which due notice has been given, provided adequate off-street parking is supplied and subject to revocation if carried on in a manner detrimental to the health or well-being of the neighborhood:

- a) Assisted living facility
- b) Lodging house
- c) Nursing or convalescent home
- d) Kennel on parcel of less than 3 acres
- e) Tattoo Parlor
- f) Earth removal
- g) Manufacturing
- h) Contractor's yard
- i) Commercial indoor parking
- j) Commercial outdoor parking
- k) Drive-in or Drive-through facilities
- l) Common driveways

4.2.7 The following uses are authorized as a matter of right in a Manufacturing District :

- a) Use of land or structures for religious purposes
- b) Use of land or structures for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation
- c) Child care facility
- d) Use of land for the primary purpose of agriculture, horticulture, floriculture or viticulture
- e) Municipal facilities
- f) Animal clinic or hospital
- g) Kennel on parcel of 3 acres or more
- h) Motor vehicle repair or body shop
- i) Motor vehicle light service
- j) Restaurant
- k) Business or professional office, including medical
- l) Light manufacturing
- m) General Manufacturing
- n) Warehouse, self-storage mini-warehouse or distribution facility
- o) Wholesale manufacturing
- p) Commercial outdoor parking
- q) Roadside stands for the sale of farm or garden produce of off-premise origin from land not controlled by the occupant
- r) Parking of Commercial Motor Vehicles
- s) Contractor's or Landscaping Yard
- t) Office uses and food services where such use or service is primarily for the employees at the principal use
- u) Industrial park

4.2.8 The following uses are authorized in a Manufacturing District only under a special permit issued by the Swansea Zoning Board of Appeals or the Swansea Planning Board after a public hearing, of which due notice has been given, provided adequate off-street parking is supplied and subject to revocation if carried on in a manner detrimental to the health or well-being of the neighborhood:

- a) Kennel on parcel of less than 3 acres
- b) Indoor commercial recreation
- c) Tattoo Parlor
- d) Earth removal
- e) Contractor's yard
- f) Commercial indoor parking
- g) Drive-in or Drive-through facilities
- h) Adult entertainment, including live entertainment, book store, video store, paraphernalia or cinema
- i) Home Occupation
- j) Common driveways
- k) Medical Marijuana Treatment Centers

Section 5.0 Dimensional Regulations

5.1 Dimensional regulations in all districts—No land shall be used, and no structure or building shall be constructed, except in accordance with this section and the Table of Standard Dimensional Regulations unless otherwise specifically permitted by this by-law.

5.1.1 Lot Area—Lot area shall be determined by calculating the area within a lot including any area within the lot over which easements have been granted, provided that no area within a public or private way shall be included in determining the minimum lot area.

5.1.2 Frontage—Frontage shall be an unbroken distance along the street right of way at the front of the lot, as measured from one side lot line to the other, and shall provide rights of access and safe, year-round, practical vehicular access for fire, police and emergency vehicles to existing or proposed structures or buildings. In the case of a lot that fronts on a curve or angle in the street, the unbroken distance shall be measured from one side lot line to the other along the line that marks the minimum required front yard set-back of the building on the lot.

5.1.3 Front Yards—Front yards shall be the distance measured in a straight line between the lot frontage and the nearest point of any building or structure.

5.1.4 Side and Rear Yards—Side and rear yards shall be the distance measured in a straight line from the nearest point of any building or structure to each side or rear lot line.

5.1.5 Building Coverage—Building Coverage shall be determined by dividing the total ground area of all buildings on a lot, including roof overhangs greater than 1.5 feet, including carports and canopies.

5.1.6 Height of structures and buildings

5.1.6.1 Height in feet, structures—Height in feet for structures shall be the vertical distance measured from the mean of the finished ground level adjoining the entire structure to the highest extension of any part of the structure.

5.1.6.2 Height in feet, building—Height in feet for buildings shall be the vertical distance measured from the average elevation of the finished lot grade of the building to the mean roof height.

Table of Standard Dimensional Regulations

Zoning District	Minimum Frontage (Feet)	Minimum Area (Square Feet)	Front setback (Feet)	Side setback (Feet)	Rear setback (Feet)	Maximum Coverage (Percent of total lot area)	Width of building (Feet)	Height of building (Feet)
RR	150	30,000 60,000 Aquifer Protection Overlay District	35	15 30 if corner lot	30	NA	120	35
BA	150	NA	35	15 30 if corner lot	30	NA	NA	35
BB	100	20,000	40	20	30 50 if corner lot or abuts residential zone	35	NA	NA
M	100	20,000	40	20	30 50 if corner lot or abuts residential zone	35	NA	NA

5.2 Special Provisions and Exceptions to Dimensional Regulations

5.2.1 Location of Structures—Unless otherwise specified in this by-law, no structure may be located within the required front yard area of any lot except as follows:

- Walls or fences no more than six (6) feet in height
- Uncovered steps, walkways, ramps or terraces
- Sign posts
- Pedestrian lighting facilities no more than ten (10) feet in height
- Flagpoles, or
- Similar structures as approved by the Building Inspector and Zoning Enforcement Officer

5.2.2 Hammerhead lots—The purpose of this section is to allow the optional and limited development of existing lots with deep back land, to encourage efficient use of land, to insure adequate access to lots and to insure that residential development is compatible with adjoining development.

In the RR zoning district, hammerhead lots may be approved by Special Permit of the Planning Board, provided that the Planning Board finds that the following standards have been met:

1. Each hammerhead lot must have a minimum continuous frontage of fifty (50) feet on an accepted public way.
2. At no point may the lot be less than fifty (50) feet in width.
3. Each hammerhead lot must be at least two (2) acres in area.
4. No more than two (2) hammerhead lots shall have contiguous frontage.
5. Each hammerhead lot must contain sufficient area in which a circle with a diameter of one-hundred fifty (150) feet may be placed without touching any property line.
6. Access to the buildable portion of the hammerhead lot must be across the legal frontage of the lot and provide access for all emergency and public safety vehicles.
7. No Special Permit may be issued to create a hammerhead lot upon which there is already an existing dwelling.
8. Only a single-family dwelling may be constructed upon a hammerhead lot. The proposed location of the dwelling must be shown on the plan submitted to the Planning Board and must, in the opinion of the Planning Board, provide a suitable dwelling site. The proposed location of the dwelling shall not be in the handle of the hammerhead lot unless the Planning Board determines that such a location will result in less impact to adjoining properties and maintain the character of the existing neighborhood.
9. Any hammerhead lot created under this section may not be further divided to reduce its area or to create additional building lots.
10. The proposed location of the dwelling must be reviewed and approved by the Swansea Conservation Commission.

5.2.3 Substantial irregularity—No lot shall be created which is substantially irregular in shape. A lot is substantially irregular if it has a Regularity Factor, as determined by the following formula, of less than .4. The Planning Board, acting as a Special Permit Granting Authority, may exempt from the provisions of this section those lots created under an Open Space Residential Design.

R (Regularity Factor) = $16A$ ($16 \times$ area of the lot in square feet) / P^2 (Square of the perimeter of the lot in feet)

The provisions of this section shall not apply to lots shown on plans recorded in the Registry of Deeds before the date of its adoption at Town Meeting. Lots shown on such plans shall not be considered to be non-conforming for the purposes of this by-law.

5.2.4 Other structures—Accessory buildings and structures, excepting roadside stands, must be placed in the rear yard only. The minimum distance of such structures from any property line shall be ten (10) feet.

5.2.5 Permitted exceptions from area requirements:

A. If an area has been subdivided into lots, each of which has a minimum frontage of seventy-five (75) feet and a minimum area of ten thousand (10,000) square feet, and if the plan of such subdivision has been approved as required by law and recorded in the registry of deeds in Fall River prior to the date of the first advertisement of hearing on this by-law, a dwelling with customary accessory structures may be built or located on such a lot, provided that the minimum side yard requirement shall be equal to ten (10) percent of the lot frontage for each side yard.

B. A single dwelling may be erected or placed upon any lot having less area or less frontage or both than required by this by-law, but not less than fifty (50) feet frontage and five thousand (5,000) square feet area, provided that such lot has not been owned by a person also owning adjoining land, available for use in connection therewith, on or since the time of the first advertisement of the public hearing on this by-law. Minimum side yard requirements in such instances shall be equal to ten (10) percent of the lot frontage for each side yard.

C. Where houses in the immediate neighborhood of an applicant's land have been built on lots smaller than those required by this by-law, the board of appeals may by variance authorize construction on lots smaller than required in Section 5.1 above. Relief to be granted in such a case should be with the purpose of bringing about a gradual transition to lots of size and area required by this by-law, if possible. (T.M. of 5-21-79)

Rate of development. Areas of land subject to the jurisdiction of the planning board under subdivision control law shall not be developed by the construction of dwelling units at a rate other than permitted. Subdivisions containing sufficient area to provide more than eight (8) building lots at the maximum intensity permitted under the zoning by-law shall not be developed by the construction of dwelling units at rate greater than eight (8) lots or twenty (20) percent of the total lots per year shown on an approved definitive subdivision plan, whichever is the greater number.

SECTION 6. OFF STREET PARKING, LOADING AND LANDSCAPING

6.1 PARKING REQUIREMENTS

1. Number of Spaces - Off-street parking shall be provided in all districts for uses where off-street parking is required, according to the standards set forth in the following schedule.
2. Mixed Uses - Where mixed uses occur, the parking and loading spaces required shall be the sum of the requirements for the several individual uses, computed separately unless it can be demonstrated to the Board of Appeals under a variance application that the need for parking occurs at different times and that adequate spaces will exist to handle the requirements for each use.
3. Parking Space Schedule
 - A. Employees - One per each employee in addition to other land uses and their required spaces as outlines below.
 - B. Handicapped Spaces – The availability of handicapped parking spaces must comply with the provisions of the Americans with Disabilities Act.
 - C. Residential—Two per dwelling unit
 - D. Hotel or Motel –1.2 per guest room
 - E. Place of assembly, church meeting hall or room, club, lodge and county club—One per each four seats of total seating capacity or one for 400 square feet of gross floor area, whichever is greater.
 - F. Restaurant, stadium, gymnasium, auditorium, arena—One per each three seats of total seating capacity.
 - G. Theater—One per each two seats of total seating capacity.
 - H. Bank—One per each 150 square feet of gross floor area or fraction thereof.
 - I. Shopping center, mall, strip shopping mall, retail establishment—Five per 1,000 square feet of gross feasible floor area for the first 25,000 square feet; four per 1,000 square feet of gross feasible floor area for the second 25,000 square fee, and three per 1,000 square feet of gross feasible floor area for all remaining area.
 - J. Wholesale, warehouse, or storage establishment—One per employee on the largest shift.
 - K. Medical or dental clinic—Three per each doctor plus one for each employee.
 - L. Hospital—Two per bed at design capacity.
 - M. Nursing home—One per two beds.
 - N. Business, trade or industrial school or college—Three per each 1,000 square feet of gross floor area in classrooms and other teaching stations.
 - O. School or college dormitory facilities—One space per person of ultimate dormitory resident capacity.
 - P. Other Schools—Two per classroom in an elementary and junior high school; four per classroom in a senior high school plus any other “mixed use” requirement.
 - Q. Office—One per 300 square feet of gross floor area, or one per each employee, which ever is greater.
 - R. Golf course—Ten per green.
 - S. Tennis Court—One per four spectator capacity and two per court.

- T. Swimming pool, skating rink—One per four spectator capacity plus one per each 1000 square feet of gross floor area.
- U. Sports field—One per four spectator capacity.
- V. Amusement park—One per each 30 square feet of amusement area.
- W. Ranges (golf, batting, etc.)—One and one-half per station.
- X. Campgrounds—Two and one-half per campsite.
- Y. Public Utility—One per each 200 square feet of gross floor area.
- Z. Manufacturing or industrial establishments—Two per each 3 employees in the largest shift.
- AA. Any use permitted by these by-laws not interpreted to be covered by this schedule—Closest similar use as determined by the Building Inspector.

4. Dimensions. Each off-street parking space shall be a minimum of ten (10) feet in width by twenty (20) feet in length. Each off-street handicapped parking space shall be a minimum of twelve (12) feet in width by twenty (20) feet in length. In the case of angle parking, the measurement of the width shall be perpendicular to the parking line.

5. Aisle and Entrance Dimensions. The minimum width of aisles and entrance drives providing access to more than two spaces, excepting single family and residential, shall be at least 24 feet wide. On lots where one entrance and exit driveway or access is constructed, the access shall not exceed thirty five (35) feet in width. Where two or more driveways or accesses are constructed, the accesses shall not exceed thirty (30) feet in width. For automotive service stations, the maximum width shall be thirty two (32) feet for each driveway or access.

6.2 LOADING REQUIREMENTS

A. Off street Loading - For every building hereafter erected and for every use hereafter established in an existing building or area, the off-street loading requirements presenting in the Loading Space Schedule apply. Provided however, that for any building existing prior to the enactment of the by-law, but not expanded after such date, the Zoning Board of Appeals may grant a variance to allow for on or off loading on the street where conditions unique to the use reasonably justify such loading.

B. Loading Space Schedule

<u>Use</u> <u>spaces per unit</u>	<u>Minimum number of loading</u>
All uses under 500 square feet of gross floor area	No minimum; sufficient provisions to eliminate all on or off loading on any street pursuant to normal economic activity.
Retail, trade, manufacturing and hospital establishment with over 5000 square feet of gross floor area	One per 10,000 square feet or fraction thereof of gross floor area up to two spaces; one additional space for each 30,000 square feet or fraction thereof of gross floor area over 20,000 square feet; space used for ambulance receiving at a hospital is not to be used to meet these loading requirements.
Business services, other services, community facilities (school, church, town building, recreational, etc.) or public utility establishments with over 5000 square feet of gross floor area over 150,000 square feet.	One per 40,000 square feet or fraction thereof of gross floor area up to two spaces; one additional space for each 20,000 square feet or fraction thereof

Dimensions. Each space for off-street loading shall be a minimum of five (5) feet longer than and four (4) feet wider than the largest vehicle which shall use the loading space. Each loading space shall have a vertical clearance of at least fourteen (4) feet. Each loading space shall have an additional area adequate for parking, loading and maneuvering off any public street, sidewalk or any portion thereof.

C. GENERAL REQUIREMENTS

1. Change in Use. Whenever after the date of this by-law, there is a change in the use of the premises, except residential, or in the floor area, or number of employees or other unit of measurement specified in the foregoing Parking Space and Loading Space Schedule, off-street parking and loading facilities shall be provided on the basis of the adjusted needs as determined by the aforesaid Schedules.
2. Existing Spaces. Parking or loading spaces being maintained in any district in connection with any existing use of the effective date of this by-law, or any spaces subsequently provided in accordance with this by-law, shall not be decreased in number so long as said use remains, unless a reduced number of parking or loading spaces conforms to the requirements of the parking and off-street loading schedules.
3. Computation of Spaces. When the computation of required parking or loading spaces results in the requirements of a fractional space, any fraction over $\frac{1}{2}$ shall require one additional space.
4. Location of Parking Spaces. Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve or when practical difficulties prevent their establishment upon the same lot, the Zoning Board of Appeals shall rule upon the acceptability of alternative plans.
5. Combined Facilities. Parking required for two or more buildings or uses may be provided in combined facilities on the same or continuous lots, where it is evident that such facilities will continue to be available for the several buildings or uses, regardless of ownership, with Building Inspector's approval.
6. Rental Spaces. No lot in common ownership shall contain more than two spaces for rental or lease except as an understood accessory to rental of a room on the same lot.
7. Location of Loading Spaces. The loading spaces required for the uses listed in the Loading Space Schedule shall in all cases be on the same lot as the structure or use they are intended to serve. In no case shall the required loading spaces by part of the area used to satisfy the parking requirements of this by-law.
8. Illumination. The following shall be the minimum illumination levels measured in foot-candles for all parking spaces serving the designated uses: Industrial - 1.0; Commercial - 2.0; Shopping Centers - 3.0. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes, and the sources of the light shall not be visible therefrom. The maximum spillover illumination to adjacent property shall be not more than a 1.0 foot-candle.
9. Permits Required. Prior to the issuance of a building permit, a plan for parking areas shall be submitted to the Planning Board for review of compliance with these by-laws. Failure of the Planning Board to make recommendations within twenty one (21) days of receipt of a petition shall be deemed a lack of opposition thereto.

D. PARKING AND LOADING AREA STANDARDS

1. All parking and loading areas containing over five (5) spaces in total combination shall be either contained within structures or subject to the following:
 - a) The area shall be screened with landscaping, a grassed each berm, a fence, masonry wall or some combination of these screening devices, on each side with adjoins or faces the side or rear lot line of a parcel in residential use or in a residence district.
 - b) The area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface runoff in a manner harmless to abutting properties.
 - c) The location of spaces shall be suitably marked by painted lines or other appropriate markings.
 - d) A substantial bumper of concrete, steel, or heavy timber, or a concrete curb or berm curb which is backed, or a natural berm, shall be so located at the edge of surfaced areas except driveways as to protect abutting structures, properties, sidewalks, and landscaping.
 - e) No parking or loading area shall be used for the sale, repair, display, storage, dismantling or servicing of any vehicle, equipment, merchandise, material or supplies except as specifically permitted by these by-laws, in conjunction with uses directly involving sale, servicing, storage or repair of vehicles in districts where such uses are permitted.
 - f) A minimum 20 foot deep landscaped area shall be provided along the street lot line(s) where parking or driveways are planned in the required front yard area, exempting access and egress, and in conformance with Section E, paragraph 6.
 - g) Parking and loading spaces other than those for single-family or multi-family dwelling shall be so arranged as not to require backing of vehicles onto any public street.
 - h) No portion of any entrance or exit driveway shall be closer than fifty (50) feet to the nearest edge of the legal layout of an intersecting street.

E. PARKING LOT LAYOUT, LANDSCAPING

1. All parking areas shall have clearly defined traffic flow into and out of the area and throughout the lot. Traffic moving in one direction may be required to be separated from traffic moving in an opposite direction at the entrance and exit top the parking lot by barrier, striping, rumble strip or the like, as determined to be necessary by the Planning Board. The flow pattern shall direct traffic into parking units. All driveways shall be clearly identified as to exit and/or entrance and direction of traffic flow.
 2. Traffic intersections throughout parking areas shall be designed with use of devices such as islands containing landscape plantings of trees and shrubs, not to exceed three (3) feet in height, curbing and intersecting lanes at angles designed to guide turning vehicles into the normal flow of traffic.
 3. Parking units shall not include more than twenty five (25) adjacent spaces. Parking units shall be defined by landscaping in conformance with other requirements of this article. Any number of units is permissible.
 - a) An area equivalent to a minimum of twenty (20) percent of the paved area shall be provided in addition to said paved area for landscaped parking unit dividers, landscaped island, pedestrian walkways and perimeter landscaping and not to include wetlands. Landscaping shall be arranged on the lot so that a landscaped area shall be arranged on the lot so that a landscaped area shall be within 125 feet from any point one the lot.
 - b) Landscaping shall be so designed as to prevent parking or driving on any portion of a landscaped area. Refer to Section D. Subparagraph D.
 - c) Landscaping shall be all live vegetation combined with other landscaping materials excluding paved surfaces.
 - d) Landscaping shall include trees or shrubs sufficiently spaced to define and screen the are in the event the landscaping is inadequately maintained. Landscaping shall not interfere with a safe view of traffic or pedestrian flow.
 - e) Pedestrian walkways may be paved, but shall not exceed fifty (50) percent of areas required by paragraph 3a when pedestrian walkways need cross traffic lanes, crosswalks shall be clearly marked and identified.
 4. Curbing and walkways wherever developed shall meet all standards for curbing and walkways specified in the effective Rules and Regulations Governing the Sub-division - Land in the Town of Swansea.
 5. All parking spaces shall be accessible from the driving aisles or lanes by a single turn.
 6. Display lots for motor vehicle sales shall be considered parking lots, but are allowed the following exemptions to layout regulations in Section E., as long as there is provided, adjacent to and parallel with the street lot line, a landscaped set back area not less than twenty (20) feet in depth except in the area covered by access drives. No vehicle shall be parked in the landscaped area or nearer than twenty (20) feet from the street lot line.
 - a) Layout regulations E(1) through E(3a) and E(3) are waived.
 - b) Regulation E(6) applies only if the display lot is separated in a manner to prevent public parking in the display lot.
 - c) The public parking area is subject to all the regulations of this section.
 - d) All regulations not specifically exempted apply.
- (adopted T.M. 3-27-89, Art. #2)

SECTION 7. Inland flooding and flood plain districts.

A. PURPOSE

1. Ensure public safety through reducing the threats to life and personal injury;
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions,
6. Reduce damage to public and private property resulting from flooding waters.

B. FLOODPLAIN DISTRICT BOUNDARIES. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the Town of Swansea Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the NFIP dated July 7, 2009, and July 16, 2014, as Zones A, AE, VE, which indicate the 100 year regulatory floodplain. The map panels of the Bristol County FIRM that are wholly or partially within the Town of Swansea are panel numbers 250005C0229F, 25005C0233F, 25005C0241F, 25005C0242F and 25005C0243F, dated July 7, 2009; and panel numbers 25005C0214G, 25005C0218G, 25005C0219G, 25005C0238G, 25005C0239G, 25005C0244G, 25005C0307G, 25005C0326G, 25005C0327G, 25005C0328G, 25005C0329G, 25005C0331G, and 25005C0332G dated July 16, 2014. The exact boundaries of the district may be defined by the 100 year base flood elevation shown on the FIRM and further defined by the Flood Insurance Study Booklet. The FIRM and Flood Insurance Study booklet are incorporated herein by reference.

C. BASE FLOOD ELEVATION AND FLOODWAY DATA

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

D. NOTIFICATION OF WATERCOURSE ALTERATION. The following shall be notified, in a riverine situation, of any alteration or relocation of a watercourse:

1. Adjacent Communities
2. Bordering States
3. NFIP State Coordinator, c/o Massachusetts Department of Conservation and Recreation and,
4. NFIP Program Specialist, c/o FEMA Region I

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

1. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard.
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00).
3. Inland Wetlands Restrictions, DEP (currently 310 CMR 6.13).
4. Coastal Wetlands Restriction, DEP (currently 310 CMR 4.12).
5. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

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

F. OTHER USE REGULATIONS

Encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. All new construction within Zone VE must be located landward of the reach of mean high tide.

Review all subdivision proposals to assure that:

1. such proposals minimize flood damage;
2. all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
3. adequate drainage is provided to reduce exposure to flood hazards.

Editor's note - The following act was adopted by the General Court on October 6, 1986:

“Chapter 442

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-six

AN ACT VALIDATING A CERTAIN PROCEEDING AT THE ANNUAL TOWN MEETING OF
THE TOWN OF SWANSEA.

Be it enacted by the Senate and House of Representatives in General Court assembled,
and by the authority of the same, as follows:

SECTION 1. Notwithstanding the provisions of section five of chapter forty A of the General Laws or any other general or special law to the contrary, all actions taken by the Town of Swansea relative to Article 35 at its annual town meeting held on May nineteenth, nineteen hundred and eighty-six, and all actions subsequently taken pursuant thereto, are hereby validated, ratified and confirmed.

SECTION 2. This act shall take effect upon its passage.”

SECTION 8. Use provisions applicable to all districts.

- A. In all districts a use accessory to the uses authorized, either by right or upon a special permit after a hearing, may be made, except as expressly limited in this by-law, and, in the case of a use authorized upon a special permit, as expressly limited in such permit.
- B. Authority under this by-law to make a particular use of real estate shall not dispense with the requirement of some other by-law, rule or regulation requiring a permit, license or other authority to make such use.
- C. The use of land in any district for the removal of soil, loam, sand, or gravel is prohibited except as provided in "The Soil Conservation By-Law" adopted June 16, 1952.
- D. Outside storage. Waste materials shall be stored in closed containers. Waste containers, compressors, and/or compactors, or other waste material which cannot be stored within a building shall be screened on all sides by an opaque fence or wall a minimum of six (6) feet high. All outside storage of waste material shall be in the rear of the building in conformance with the applicable set back requirements of the zoning district in which they are built.
Containers used temporarily during construction, refurbishing or for cleaning purposes, concerning land or buildings shall be exempt from the requirements in paragraph 1 [above]. (T.M. of 5-18-87, Art. 41)

SECTION 9. Site Plan Review

9.1 Projects Requiring Site Plan Approval

- A. Special permit applications in districts other than Rural and Residential require site plan review by the Planning Board;
- B. In all districts, no building permit shall be issued for any of the following uses, unless a site plan has been reviewed by the Planning Board:
 - 1. The construction of any structure that requires more than five parking spaces under Section 6.1 Parking Requirements or includes a drive-through facility;
 - 2. The alteration of any structure which triggers a change (increase, decrease, re-location, etc.) to parking under Parking Requirements Section IV.6.A or to internal circulation; however, the Planning Board *may* waive site plan review for external enlargements of less than 15% of the existing floor area; and
 - 3. A change in use, except a change to single family residential use.
- C. Existing non-residential parking areas of more than five (5) spaces shall not be modified unless a site plan has been reviewed by the Planning Board.

9.2 Requirements for Application

- A. Applicants for a building permit which requires a site plan review shall submit three (3) copies of the site plan and other required information to the Building Inspector. The Building Inspector shall immediately forward two (2) copies of the site plan and supporting information to the Planning Board to review and make such recommendations as they deem appropriate and shall send a copy thereof to the Building Inspector. Failure of the Planning Board to make recommendations within twenty one (21) days of receipt of a petition shall be deemed lack of opposition thereto.

- B. Special Permit Applications - Applicants for a special permit that requires site plan review shall forward two (2) copies of the site plan and supporting information to the Planning Board and to other Boards as deemed appropriate by the Zoning Board of Appeals for review and comment. The Planning Board shall review and send a copy thereof to the Board of Appeals. Failure of the Planning Board to make recommendations within twenty-one (21) days of receipt of a petition shall be deemed lack of opposition thereto. If a special permit does not incorporate the requirements of such report, or is issued contrary to its recommendations, the Zoning Board of Appeals shall in its decision state in writing the reasons for not following the Planning Board's recommendations.
- C. Each application that requires a site plan shall be accompanied by a plan, prepared by a Massachusetts registered architect, professional engineer or surveyor. Said plan shall be drawn at a suitable scale on sheets no larger than twenty four (24) by thirty six (36) inches. When more than one sheet is required a key sheet shall be provided. The following information shall be provided by the applicant when a site plan review is required:
- 1) locus plan;
 - 2) location of structures within 100 feet of property lines;
 - 3) existing and proposed buildings, showing setbacks from property lines;
 - 4) building elevations;
 - 5) existing and proposed contour elevations in two-foot increments;
 - 6) parking areas, driveways, and facilities for pedestrian movement;
 - 7) drainage system - storm drains, culverts and related installations, including catch basins, gutters and manholes, shall be installed as necessary to provide adequate disposals of surface water from all points within 30,000 square foot sites and computed at a 25-year storm using the "TR 55 formula".
 - 8) utilities and lighting;
 - 9) proposed screening, surface treatments, exterior storage, lighting and landscaping, including fencing, walls, planting areas, and signs;
 - 10) loading and unloading facilities;
 - 11) provisions for refuse removal;
 - 12) existing and projected traffic volumes from the site and effect on the local road network;
 - 13) existing and proposed easements, if any;
 - 14) existing and proposed waterways, if any;
 - 15) location of approved percolation test and reserve area;
 - 16) other information as may be necessary to determine compliance with the provisions of this by-law.
- D. Planning Standards - In addition to the design standards specified for a particular use, the Planning Board shall examine the following additional concerns in reviewing the site plans of the proposed developments.
- 1) that proposed use(s) will not have a detrimental effect on the abutting neighborhoods or natural environments;
 - 2) safe access to the development, minimizing the number and width of curb cuts;
 - 3) acceptable design and layout of ways, streets, sidewalks, walkways and parking areas;

- 4) that the projected traffic increase to the local road(s) is within the capacity of the existing network for both the daily and peak hour volumes;
 - 5) proper lighting design for parking areas;
 - 6) proper drainage of the impervious surface areas of the property
 - 7) A wall of solid appearance or a tight evergreen hedge not less than six (6) feet in height is required to be erected within the required side yard or rear yard in Business B district, wherever any such lot directly abuts residentially zoned land, but such wall or hedge shall not obstruct visibility of any adjoining Business B district premises, as above provided.
 - 8) No lights, vibrations, noise, glare, radiation's, dust, odors or smoke shall be propagated, generated or permitted to occur on any lot in Business B districts except so that no effect of any of them shall be visible, audible or perceptible beyond the boundaries of the subject lot. Nevertheless, Business B premises and parking lots may be wholly or partly floodlighted provided no lighting filament, lamp, bulb or tube is directly visible from any point outside the lot boundary of premises so illuminated.
- (amended T.M. 3-27-89, Art. #3)

Section 10.0 Signs

10.1 Intent and Purpose

It is the intent and purpose of the following provisions to protect property values, create a more attractive business climate, enhance and protect the physical appearance of the town, provide a more enjoyable and aesthetically appealing environment, and to minimize hazards to vehicular and pedestrian traffic.

10.2 Definitions

For the purposes of this by-law, the following definitions will apply:

Alteration of a sign shall mean any enlargement, renovation, relocation, redesign, or reconstruction. Any alteration of a sign must conform to the requirements of this by-law.

Area of a Sign shall include all lettering logos and designs, together with their background, but shall not include any supporting structure, framework, or bracing. The area shall also include any backing of different color than the finish color of a building face. If the sign consists of individually mounted or affixed letters, the area shall be the smallest rectangle that includes all of the letters.

Directory Sign shall mean any sign which combines in one panel or series of panels the names of several establishments, businesses, or organizations, located on the premises.

Erect shall mean to build, construct, attach, hang, place, draw, paint, alter, suspend, affix, or otherwise cause to exist.

Sign shall mean any visual representation, including structures, devices, objects, flags, costumes, or other means of communication designed to attract the attention of others.

Sign Clearance shall be the distance from the grade below a free standing sign, measured at the center of the sign footprint, to the lowest point of the sign.

Sign Height shall mean the distance from the grade below a free standing sign, measured at the center of the sign footprint, to the highest point of the sign.

Mobile Signs shall mean any sign placed upon or otherwise attached to a transportation device, including but not limited to cars, trucks, trailers, tractors, motorcycles, bicycles, snowmobiles, and aircraft.

Moving Signs shall mean signs with either moving parts or electronic displays with moving images including video, animation, scrolling messages, and/or flashing messages that change more frequently than once every thirty seconds.

10.3 General Provisions

Pre-Existing Non-Conforming Signs

Signs existing at the time of the adoption of this by-law may continue as non-conforming uses with the condition that upon their alteration, as herein defined, they must conform with this by-law. Signs that are non-conforming and exempt under this provision shall cease to exempt upon the occurrence of any of the following:

- a. The abandonment of the advertised use.
- b. Failure to comply within sixty days of a written request by the Building Inspector to repair or otherwise properly maintain a sign.

10.4 Prohibited Signs

Off Premise Signs

No sign which does not advertise or indicate the person occupying the premises or the business transacted thereon, or advertise the premises or part thereof for sale or lease, shall be erected within public view of a public or private way or public park without a permit lawfully issued by the outdoor advertising authority of the Commonwealth of Massachusetts.

Signs on Government Property

No signs will be permitted on town or state property, including the rights of way for streets, roads, and highways without the specific authorization of the Board of Selectmen or of the Massachusetts Highway Dept.

Portable Signs

Signs capable of being readily moved or relocated, including signs on wheels or supported by legs which are not permanently attached, affixed, or secured to the ground or to a building, shall not be allowed except as temporary signs subject to the requirements of this by-law regulating temporary signs.

Mobile Signs

Mobile signs, as defined herein, shall not be allowed except as temporary signs subject to the requirements of this by-law regulating temporary signs.

Moving Signs

Moving Signs, as defined herein, are not allowed.

Roof Signs

Signs erected on top of or which rise above the façade of the building upon which they are mounted are not allowed.

10.5 Signs Allowed Without Permit

Governmental Signs

Traffic or warning signs erected or required by government agencies or bodies, including signs directing traffic to hospitals, parking areas, highways, cultural institutions, and commercial areas are allowed in all districts.

Construction Site Signs

Signs on active construction sites which denote the contractor, architect, engineer, or funding agency shall be permitted, but shall not exceed 24 square feet in area in non-residential districts or 12 square feet in residential districts.

Real Estate Signs

Signs indicating that a property is for sale or lease are allowed in residential districts if they do not exceed three square feet in area and in other districts if they do not exceed 12 square feet in area.

Home Occupation Signs

One sign indicating a home occupation is permitted if it does not exceed two square feet in area.

Legal Notices

Legal notices and signs, such as No Trespassing and No Hunting signs, are allowed if they do not exceed two square feet in area.

Political Signs

Signs advertising a candidate or candidates for public office, a political party, or promoting a ballot referendum or public issue are allowed.

Access Signs

Signs indicating the entrance to or exit from commercial, social, governmental, fraternal, religious, or other public places are allowed if they do not exceed two square feet in area.

10.6 Signs allowed with Permit from the Building Inspector

Commercial Signs

In non-residential districts, businesses may erect the following signs with a permit issued by the Building Inspector:

- a. One free standing sign not to exceed 18 feet in height and 20 square feet in area.

- b. One belt sign not to exceed two feet in height running across the façade of the building housing the business and not to exceed the length of the building.
- c. Window signs provided that they do not exceed 33% of the window area.
- d. Temporary signs not to exceed 32 square feet in area that will be erected for a period not to exceed thirty days. Upon the expiration of the permit for a temporary sign, the Building Inspector may issue one thirty day extension.

Illuminated and Electronic Signs

- a. Timing: No illuminated sign, whether electronic, internally illuminated, or externally illuminated shall be lit from 10:00pm until 6:00am, except signs on premises open for business.
- b. Sign Intensity: The maximum daytime brightness for any electronic sign shall be 4000 NITs, except that signs utilizing the color red shall have a maximum daytime brightness of 2500 NITs. At dusk all such signs shall be reduced in brightness to 500 NITs and at 10:00pm shall be extinguished. All such signs are required to be equipped with the necessary capabilities to automatically comply with these requirements.

Public Information Signs

Public Information signs announcing events, locations or activities of churches, charitable and fraternal organization, hospitals, public buildings, or civic associations that do not exceed three square feet of area shall be allowed with a permit issued by the building inspector.

10.7 Signs Requiring a Special Permit from the Zoning Board of Appeals

Any sign other than those allowed under this by-law and those allowed by permit of the Building Inspector under this by-law shall be allowed only by a special permit issued by the Zoning Board of Appeals after a determination that the sign fills a substantial need, does not detract from the general attractiveness of the town, will not adversely effect public safety, and that its granting does not derogate from the intent and purpose of this by-law.

Section 11.0 Lot and building provisions applicable to all districts.

- A. Except in Business B districts, a building conforming in other respects to this by-law in its use and location may be erected on a lot shown on a plan duly recorded at the Fall River District Registry of Deeds prior to November 27, 1953 having the required area, but having no frontage upon a public or private way, provided these [there] is appurtenant to such lot the right to use a way not less than twenty (20) feet wide leading to a public or private way. (T.M. of 5-21-79)
- B. The following parts of a building shall be permitted to extend beyond the limits prescribed in the district in which it is located provided such parts do not extend into or over any public or private way, and such extension shall not be considered in determining front yard or side yard requirements of a lot occupied by the building or buildings upon it: (1) cornices (2) outside steps extending no higher than the level of the first floor of the building. Unroofed garages or verandas, the floors of which are no higher than the first floor of the building, may extend to within ten (10) feet of any side yard line.
- C. Except in Business B districts, in no case shall any building, except a dwelling house situated in a business, commercial or manufacturing district, be required by this by-law to be set back from a public way or private way upon which it abuts more than the average of the set backs of the buildings, if any, on the adjacent lots on either side.
- D. No accessory building shall be used as a dwelling house except that living quarters for servants employed on the same premises may be provided in such a building.
- E. For lots to be used for residential purposes and which do comply to the frontage, side yard and area requirements under this by-law, see exceptions under Section III.B.5.a, b, c; Section III.B.6.a, b, c.
- F. Lot frontage shall be as required for the particular district or not less than one hundred fifty (150) feet and shall be measured along the street lot line between the side lot lines, provided that the width of the lot shall not be less than one hundred twenty (120) feet for that part of the lot between the street and the straight line connecting the points of the side lot lines distance fifty (50) feet from the street, measured at right angles thereto. (T.M. of 5-21-79)

Section 12.0 Enforcement of the zoning by-law.

A. Enforcement Officer.

1. Except as otherwise provided, this by-law shall be enforced by the building inspector. He shall not approve any application of any kind or plans or specifications or intended uses which are not in all respects in conformity with this by-law.
2. If the building inspector is requested in writing to enforce this by-law and declines to act, he shall notify in writing the party requesting such enforcement of any action or refusal to act and state the reasons therefore within fourteen (14) days of the receipt of such request.

B. Building permit and certificate of occupancy.

1. No construction, relocation, alteration or addition to any building or structure shall be commenced except upon issuance of a building permit by the building inspector. Unless work is commenced within six (6) months of permit issuance and continues expeditiously to completion, the construction and operation shall conform to any subsequent zoning amendment.
2. No building erected, altered, or in any way changed as to construction or class of use, under a permit or otherwise, shall be occupied or used without an occupancy permit, signed by the building inspector, which permit shall not be issued until the building and its uses, and the uses incidental thereto, comply in all respects with this by-law.
3. In the case of subdivisions, where new streets have been or are being built to serve new dwellings, a certificate of occupancy will not be issued until the street has been completely constructed or the board of selectmen has approved partial construction as being safe for all types of travel, including fire trucks, ambulances, and other emergency vehicles.

C. Penalty. Whoever violates any provision of this by-law, may be punished by a fine up to a maximum of one hundred dollars (\$100.00) for each offense. If any person persists in a violation after the violation has been called to his attention by the building inspector and reasonable time given to abate or correct it, every day on which such violation continues shall be deemed a separate offense.

D. Injunction. Whenever the building inspector determines that a zoning violation which has been brought to his attention is sufficiently detrimental to the public good, so as to necessitate the immediate cessation of such violation, the inspector shall bring the matter to the attention of the selectmen and cause a bill of equity to be filed in the superior court to enforce the provisions of the Massachusetts Zoning Act, as amended, or of this by-law and, in appropriate case, shall seek to have such violation restrained by injunction.

E. Conflict of laws.

1. This by-law shall not interfere with or annul any by-law, rule or regulation, or permit, not specifically annulled by the language of this by-law, except that, where this by-law imposes a greater restriction upon the use or location of buildings, structures or premises than is imposed by existing provisions of law or by-laws, this by-law shall control.

2. Nothing herein shall prevent the enforcement of the requirements of the state building and environmental code, the minimum housing code, or any other code having precedence. The more restrictive code shall apply.

Section 13.0 Board of Appeals

13.1 Membership

- A. There shall be a board of appeals consisting of three (3) persons, inhabitants of the town. The members shall be appointed by the board of selectmen. They shall hold office for a term of three (3) years, except that, when the board is first established hereunder, one (1) member shall be appointed for a term of one (1) year, one (1) member appointed for a term of two (2) years, and one (1) member appointed for a term of three (3) years.
- B. Associate members. The board of selectmen shall also appoint three (3) persons, inhabitants of the town, as associate members of said board of appeals, who shall hold office for a term of three (3) years, except that when associate members are first appointed hereunder, one (1) shall be appointed for a term of one (1) year, one (1) appointed for a term of two (2) years, and one (1) member shall be appointed for a term of three (3) years. In case of vacancy or inability to act or interest on the part of any member of the board of appeals, his place shall be taken by an associate member who shall be designated by the chairman of the board of appeals.
- C. Powers and duties. The board of appeals established above shall act as the permit and special permit granting authority under the zoning by-law, in accordance with the provisions of the Massachusetts Zoning Act, General Laws, Chapter 40A, as amended. The board shall have the following powers and duties:

To hear and decide administrative appeals from any decisions of the Building Inspector and Zoning Enforcement Officer;

To hear and decide petitions for variances from this by-law;

To hear and decide applications for special permits upon which the board is empowered to act under this by-law.

To hear and decide applications for comprehensive permits under MGL Chapter 40B.

13.2 Required procedures for action by the board of appeals.

- A. Filing petitions for a variance or special permit.
 - 1) A petition for a variance or a special permit shall be filed with the town clerk, who shall forthwith transmit such petition to the board of appeals. Petitions shall be in the form and accompanied by supporting materials required under the rules and regulations of the board of appeals.
- B. Filing appeals.
 - 1) Appeals shall also be filed with the town clerk and shall specify the grounds for the appeal.

- 2) An appeal to the board of appeals may be taken by any person aggrieved because of an inability to obtain a permit or enforcement action from the building inspector by the regional planning agency in whose area Swansea is situated, or by any person, including an officer or board of Swansea who is aggrieved by an order or decision of the building inspector in violation of any provision of the Massachusetts Zoning Act, as amended, or any by-law adopted thereunder, within thirty (30) days from the date of the order or decision which is being appealed.
- C. Public hearings. Prior to taking any action on an appeal or petition for a variance or special permit, the board of appeals shall hold a public hearing as provided by law.
- D. Decisions
- 1) Actions of the board of appeals shall be by unanimous concurring vote of the three (3) members or associate members acting on a case. Decisions shall be made and conveyed to the petitioner, the town clerk, and others as required by law, within one hundred (100) days of the receipt of the petition for a variance and notice of an appeal, and within ninety (90) days following the date of the public hearing for a special permit. Failure to act within these time periods shall be deemed to be approval or grant of a variance, special permit, or appeal. (Acts of 1988, c. 498)
 - 2) A decision of the board of appeals shall not take effect until both the town clerk certifies on a copy of the decision that twenty (20) days have elapsed without the filing of an appeal or that any appeal filed has been dismissed or denied, and that the certified decision has been recorded at the owner's expense in the applicable registry of deeds, indexed in the grantor index under the name of the record owner, and noted on the owner's certificate of title.
 - 3) Repetitive petitions. If an appeal, petition or application has been unfavorable and finally acted upon by the board of appeals, the applicant may re-petition within two (2) years from said decision only if the board unanimously votes to allow re-petition after making findings of specific and material changes in the conditions upon which the unfavorable action was based and a description of such changes is included in the record of its proceedings, and if all by one (1) of the members of the planning board consents thereto and after notice is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.
 - 4) Withdrawal of petitions or applications. Any petition for a variance or application for a special permit which has been transmitted to the board of appeals may be withdrawn, without prejudice by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the board of appeals.

13.3 Criteria for and conditions on variances.

- A. Variances may be granted only if the board of appeals finds that all of the following requirements are met:

1. That there are unique circumstances relative to the soil conditions, shape or topography which specifically affect the land or structure in question, but not affecting generally the zoning district in which the land or structure is located;
 2. That literal enforcement of the by-law would involve substantial hardship, financial or otherwise to the petitioner;
 3. That desirable relief may be granted without substantial detriment to the public good and without substantially derogating from the intent or purpose of this by-law; and
 4. That any variance permitting buildings for human or animal occupancy shall be conditional or [on] the subsequent board of health approval of the means of water supply and sewage disposal.
- B. Conditions
1. A grant of variance may include conditions and limitations on time and use, but not on continued ownership by the petitioner of the premises in question.
 2. If the rights authorized by a variance are not exercised within one (1) year of the date of such variance, they shall lapse and may be re-established only after notice and a new public hearing as provided by law.

13.4 Criteria for and conditions on special permits.

- A. Special permits may be granted only when the board of appeals finds that the following requirements are met:
1. That the use or building petitioned for is socially and economically desirable, that it would satisfy an existing need, that the advantages of the proposal outweigh by far any detrimental effects, and that such effects on the neighborhood and the environment shall not be significantly greater than could be expected from development if the special permit were denied, that the applicant has no reasonable alternative available to accomplish this purpose, and that the specific conditions to minimize detrimental effects and protect the neighborhood have been imposed and, if necessary, secured by bond or otherwise; and
 2. That adequate provisions are made to ensure traffic safety, convenient access and egress, sufficient off-street parking, water supply, wastewater disposal including storm drainage to minimize erosion and water pollution, suitable landscaping and screening, and that any harmful, hazardous or unpleasant effects are minimized.
- B. Conditions
1. The board of appeals shall adopt rules regarding the contents, form, size and number of copies of the petition and the required supporting materials and maps. These rules may provide for referral of petitions to other boards and officials for an advisory review.
 2. Special permits may be granted in specific zoning districts for particular uses specified by other sections of this by-law as requiring special permits in such districts and only when the applicable general and specific conditions and requirements of the by-law will be met.
 3. A special permit shall lapse after two (2) years, including the time required to pursue or await the determination of an appeal, if a

substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

13.5 Appeals of a board of appeals decision.

Any person aggrieved by a decision of the board of appeals whether or not previously a part to the proceeding, or any municipal officer or board may appeal to the superior court by bringing an action within twenty (20) days after the decision has been filed in the office of the town clerk. Notice of the action with a copy of the complaint shall be given to the town clerk so as to be received within such twenty (20) days. The complaint shall allege that the decision exceeds the authority of the board and any facts pertinent to the issue, and shall contain a prayer that the decision be annulled. There shall be attached to the complaint a copy of the decision appealed from, bearing the date of the filing thereof, certified by the town clerk with whom the decision was filed.

Section 14.0 Zoning by-law adoption and amendment

14.1 Filing a proposed zoning by-law amendment.

The zoning by-law may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereinafter provided. Adoption or change of the zoning by-law may be initiated by the board of selectmen, the board of appeals, by an individual owning land with respect to which a change is sought, by request of registered voters of Swansea pursuant of [to] section ten of chapter thirty-nine, by the planning board, or by the regional planning agency. The board of selectmen shall within fourteen (14) days of receipt of such zoning by-law amendment submit it to the planning board for review and a public hearing, to be held within sixty-five (65) days of transmittal by the selectmen.

14.2 Action by the town meeting.

- A. If the town meeting fails to vote on any proposed zoning by-law or amendment thereto within six (6) months after the public hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided in this section.
- B. Adoption of or amendments to the zoning by-law must be voted by two-thirds of the town meeting.

14.3 Repetitive petitions.

No proposed zoning by-law or amendment which has been unfavorable acted upon by the town meeting shall be considered by the town meeting within two (2) years after the date of such unfavorable action unless the adoption of such proposed by-law or amendment is recommended in the final report of the planning board.

14.4 Submission to attorney general.

After town meeting adoption, Swansea must submit any by-law or amendment thereto to the attorney general for approval. A statement must also be sent which explains the by-laws or amendment, which statement may be accompanied by explanatory maps or plans.

14.5 Effective date of zoning by-law or amendment adoption.

- A. The effective date of zoning by-law adoption or amendment thereto shall be the date of the town meeting vote, provided the attorney general subsequently approves the by-law or amendment thereto, and also provided that publication in

a town bulletin or pamphlet and posting or publication in a newspaper are made pursuant to section 32 of Chapter 40, General Laws.

- B. If the attorney general disapproves an amendment, the provisions of the by-law in force preceding the town meeting vote shall be deemed to have been and continue to be in effect.

14.6 Statute of limitations on procedural defects.

Within one hundred twenty (120) days after adoption of an ordinance, by-law or amendment thereto, legal action may be taken regarding defects in the procedure of adoption. Within seven (7) days after commencement of the action, a copy of the petition must be filed with the town clerk. Unless an ordinance or by-law is found to be invalid through the above action, a claim of invalidity may not be made in any future legal proceedings.

Section 15.0 Illegality

If any portion of this by-law should prove to be illegal, the remaining portions of said by-law shall still remain valid and in force.

Section 16.0 Aquifer Protection District

16.1 Purpose of District

The purpose of this Aquifer Protection District is to:

- A. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Swansea;
- B. preserve and protect existing and potential sources of drinking water supplies;
- C. conserve the natural resources of the Town of Swansea; and
- D. prevent temporary and permanent contamination of the environment.

16.2 Scope of Authority.

The Aquifer Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/uses in a portion of one of the underlying zoning districts which fall within the Aquifer Protection District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Aquifer Protection District.

16.3 Definitions.

For the purposes of this section, the following terms are defined below:

Aquifer: Geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

Aquifer Protection District: The zoning district defined to overlay other zoning districts in the Town of Swansea. The Aquifer protection district may include specifically designated recharge areas.

Design Flow: The quantities of sanitary sewage, expressed in gallons per day (gpd), for which a system must be designed in accordance with 310 CMR 15.203.

Disposal System: See on site system.

Ground Water: Water found in cracks, fissures and pore spaces in the saturated zone below the ground surfaces, including but not limited to perched ground water.

Impervious: Material having a percolation rate greater than 60 minutes per inch for reasons including, but not limited to, the presence of bedrock, schist, peat, ledge, unconsolidated material, organic matter or topsoil or subsoil.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

Industrial Waste: Any water-carried or liquid waste resulting from any process or industry, manufacture, trade, business, or activity list in 310 CMR 15.004.

Lot: For the purposes of this section, a buildable lot is described as parcel of land at least sixty thousand (60,000) square feet in area as shown in the Table of Standard

Dimensional Regulations, but subject to the provisions of Section 4.2.2.n Open Space Residential Design subdivisions. If a lot is not entirely within the Aquifer Protection District, this area requirement is applicable if the house or septic system lies within the Aquifer Protection District.

Mining: the removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

On-Site System or Disposal System or On-Site Subsurface Sewage Disposal System or System: A system or series of systems for the treatment and disposal of sanitary sewage below the ground surface of a facility.

1. The standard components of a system are: a building sewer, a septic tank to retain solids and scum; a distribution box; a soil absorption system containing effluent distribution line to distribute and treat septic tank effluent prior to discharge to appropriate subsurface soils; and a reserve area.
2. These terms also include tight tank, shared systems and alternative systems. Unless the text of 310 CMR 15.000 indicated otherwise, these terms also include nonconforming systems.

Potential Drinking Water Sources: Areas which could provide significant potable water in the future.

Recharge Areas: Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, or Zone III.

Sanitary Sewage or Sewage: Greywater and blackwater from domestic commercial and other non-industrial sources.

Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Swansea. Toxic or hazardous materials include, without limitation; synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous under Massachusetts General Laws (M.G.L.) Chapter (c.) 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

Treatment Works: Any and all devices, processes and properties real or personal, used in the collection, pumping transmission, storage, treatment, disposal, recycling, reclamation or reuse of waterborne pollutants, including septage receiving facilities but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal. Treatment works must be permitted by the Department of Environmental Protection pursuant to the authority of M.G.L. c.21 s27 through 52 and regulation thereunder.

Trucking Terminal: Business which services or repairs commercial trucks which are not owned by the business.

Upgrade: The modification of one or more components of an on-site system which is intended to bring a non-conforming system into conformance with 310 CMR 15.000 to the maximum feasible extent. An emergency repair is not an upgrade.

Utility / Utilities: Public utilities are subject to forms of public control and regulation ranging from local community-based groups to statewide government and are essential for basic services to the public. The term utilities refers to the set of services provided by these organizations, and/or the government directly, utilized by the public: electricity, communications, natural gas, water, stormwater and sewage

Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

16.4 Establishment and delineation of groundwater protection district.

For the purposes of this district, there are hereby established within the Town of Swansea certain aquifer protection areas, consisting of aquifers or recharge areas which are delineated on a map. This map is at a scale of 1 inch to 1000 feet and is entitled "Aquifer Protection District, Town of Swansea," dated May 18, 1998, as revised by the January 8, 2001, Special Town Meeting. This map is hereby made a part of the Town of Swansea zoning bylaw and is on file in the Office of the Town Clerk.

16.5 District boundary disputes.

The burden of proof shall be upon the owner(s) of the land to show where the bounds should be located. At the request of the owner(s), the town may engage a professional engineer, hydrologist or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for the cost of the investigation.

16.6 Wellhead Protection Regulations

310 CMR 22.21 (2) Wellhead Protection

- (a) Wellhead protection zoning and non-zoning controls submitted to the Department in accordance with 310 CMR 22.21(1), shall collectively prohibit the siting of the following land uses within the Zone II, or Zone III if the criteria of 310 CMR 22.21 (1)(f) have been met, of the proposed wellfield, whichever is applicable:
1. landfills and open dumps, as defined in 310 CMR 19.006;
 2. landfills receiving only wastewater residuals and/or septage (wastewater residuals "monofills");

3. automobile graveyards and junkyards, as defined in MGL. c. 140B, §1;
 4. stockpiling and disposal of snow or ice removed from highways and streets located outside of Zone II that contains sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;
 5. petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983, not including liquefied petroleum gas. SIC Codes are established by the U.S. Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual and any subsequent amendments thereto;
 6. treatment or disposal works subject to 314 CMR 5.00, for wastewater other than sanitary sewage. This prohibition includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following
 - a. The replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
 - b. treatment works approved by the Department designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and
 - c. publicly owned treatment works, or POTW;
 7. facilities that generate, treat, store or dispose of hazardous waste that are subject to MGL.c. 21C and 310 CMR 30.000 except for the following:
 - a. very small quantity generators, as defined by 310 CMR 30.000;
 - b. household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390;
 - c. waste oil retention facilities required by MGL. c. 21§ 52A; and
 - d. treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters
- (b) Wellhead protection zoning and non-zoning controls submitted to the Department in accordance with 310 CMR 22.21(1), shall collectively prohibit the siting of the following land uses within the Zone II, or Zone II, or Zone III if the criteria of 310 CMR 22.21(1)(f) have been met, of the proposed well or wellfield, whichever

is applicable, unless designed in accordance with the specified performance standards:

1. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
 2. storage of sodium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
 3. storage of commercial fertilizers; unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
 4. storage of animal manures, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
 5. storage of liquid hazardous materials, as defined in MGL.c.21E, and/or liquid petroleum products unless such storage is above ground level AND on an impervious surface in container(s) AND either;
 - (a) in above ground tank(s) within a building on an impervious surface OR;
 - (b) outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater;
 6. the removal of soil, loam, sand, gravel or any other mineral substances within four feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey), unless the substances removed are re-deposited within 45 days of removal on site to achieve a final grading greater than four feet above the historical high water mark, and except for excavations for the construction of building foundations, the installation of utility works, or wetland restoration work conducted in accordance with a valid Order of Condition issued pursuant to MGL. c. 131, §40, including storm water mitigation measures consistent with the most recent version of the MassDEP's Stormwater Handbook.
6. land uses that result in the rendering impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in the degradation of groundwater quality.

16.7 Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

16.8 Penalty

Whoever violates any of the provisions of this by-law shall be subject to a fine of not more than two hundred (\$200.00) per day for each offense.

(Amended in its entirety 5/18/98, Art. #46)

(Amended in part 1/8/01, Art. #23)

(Amended in its entirety 5/18/15, Art. #22)

Section 17.0 Wireless Communication Facilities

A. Purpose.

The purpose of this Section is to regulate the placement of new wireless communication towers and the addition of wireless communication equipment to existing structures. The regulations serve to establish a procedure for application and variance from the regulations, establish design standards and locational requirements, and to encourage the co-location of equipment onto existing structures and in appropriate location.

B. Applicability.

1. **New Towers and Facilities.** The requirements set forth in this Section shall govern the location of all new wireless communication towers, antennas, facilities and related equipment. The height limitations applicable to buildings and structures shall not apply to towers and antennas.
2. **Amateur Radio Antennas.** This Section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally licenses amateur radio station operator or is used exclusively for antennas.
3. **Pre-Existing Towers and Antennas.** Any tower or antenna for which a permit has been properly issued prior to the effective date of this Section shall not be required to meet the requirements of this Section. Any proposed extension beyond twenty (20) feet in the height of an existing facility or replacement of a facility shall be subject to the requirements of this Section.

C. General Conditions.

1. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed, in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a non-conforming use or structure.
2. **Federal Requirements.** All Wireless Communications Links shall be erected, installed, maintained and used in compliance with all applicable federal and state laws, rules and regulations, including radio frequency emission regulations as set forth in Section 704 of the 1996 Federal Telecommunications Act, and any amendments thereto.
3. **Notice to Other License Holders.** The Town of Swansea may send certified mail announcements to all other carriers conducting business in the Town describing the proposal in order to facilitate co-location.
4. **Co-Location of Wireless Communications Equipment.** All owners and operators of land used in whole or in part for a Wireless Communications Link and all owners and operators of such Wireless Communications Link shall, as a continuing condition of installing, constructing, erecting and using a Wireless Communications Link, permit other public utilities or FCC licensed commercial entities seeking to operate a Wireless Communications Link to install, erect, mount and use compatible Wireless Communications equipment and fixtures on the equipment mounting structure on

reasonable commercial terms provided that such co-location does not materially interfere with the transmission and/or reception of communication signals to or from the existing Wireless Communications Link and provided that there are no structural or other physical limitations that make it impractical to accommodate the proposed additional Wireless Communications equipment or fixtures.

5. **Building Permits/Site Plan Review.** Building Permits are required for all wireless communications towers, antennas and related equipment. Site Plan Review is required for new towers, in accordance with Section VI.F. of this By-Law.
6. **Licensed Carriers.** All applications must be submitted with a licensed carrier as an applicant or co-applicant.

D. Permitted Uses

1. **General.** The uses listed in this sub-section are deemed to be permitted uses and shall not require a Special Permit but are subject to the standards of sub-sections F, G and H, below.
2. **Specific Permitted Uses.** The following uses are specifically permitted:
 - a. Locating a tower or antenna, including the placement of supporting equipment used in conjunction with said tower or antenna, within the Wireless Facilities Overlay District.
 - b. Installing an antenna on an existing structure other than a tower (such as a building, sign, utility, pole, water tower, or other free-standing non-residential structure) that is fifty (50) feet in height or greater so long as said additional antenna adds no more than twenty (20) feet to the height of said existing structure.
 - c. Installing an antenna on any existing communication tower of any height, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said tower. The Building Inspector has the option to require a structural analysis of the tower by submitted by a Massachusetts Professional Engineer, prior to approval of a building permit.

E. Special Permits.

1. **General.** All wireless communications facilities not covered by subsection IV. "Permitted uses" above, shall require a Special Permit and shall be limited to the Business B and Limited Commercial and Manufacturing Districts. In granting a special Permit the Zoning Board of Appeals may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effects of the proposed tower or antenna on adjoining properties.
2. **Applications.** All applications for wireless communications facilities shall be made and filed on the standard Special Permit form and filed with the necessary application fee. Such applications shall follow the requirements of Section VI.F. of this By-Law for Site Plan Review. Beyond the requirements of that section, the following additional information is required:
 - a) A locus plan at a scale of 1"=1,000" which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, all buildings and their use within three hundred (300) feet of the facility, and distances at grade from the proposed tower to each building within the three hundred foot radius of the facility.
 - b) Master siting plan for the carrier which includes a Town wide map showing the location and coverage areas for all existing and future facilities in the Town. (In the

event that a portion of the Town is serviced by a facility located out of the Town's boundaries the coverage area shall be indicated on the town wide map with a note on the location of the facility.) Also indicate location within the Town of wireless communication facilities of other carriers.

- c) A color photograph or rendition of the proposed tower with its antenna and/or panels. A minimum of two (2) renditions shall also be prepared illustrating the views of the tower or antenna from the nearest street, or from the view requested by the Zoning Board of Appeals.
- d) The following information prepared by a professional engineer:
 - I. Description of the tower and the technical, economic and other reasons for the proposed location, height and design; confirmation that the tower complies with all applicable Federal and State standards and a description of the capacity of the tower including the number and type of panels antenna and/or transmitter receivers that it can accommodate and the basis for these calculations.
 - II. An analysis that demonstrates that it is not feasible to locate on an existing structure within a ½ mile radius of the proposed tower, including but not limited to, buildings, water towers, existing communications facilities, utility poles and towers. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed use.
- e) Between submittal and the date of the advertisement of the public hearing a balloon shall be put in place at the height of the proposed tower on dates arranged with the Zoning Board of Appeals. The balloon shall be of a size and color that can be seen from every direction for a distance of one (1) mile.
- f) The applicant shall submit documentation of the legal right to install and use the proposed site, at the time of application.

F. Design Standards. The following design standards shall apply to all towers and antennas approved by right or for which a Special permit is required.

1. Setbacks and Separation.

- a) In order to ensure public safety, the minimum distance from the base of a wireless communication tower to any property line or building shall be fifty percent (50%) of the height of the tower including any antennas or other appurtenances. All towers shall be located a minimum of three hundred (300) feet from the nearest residential dwelling.
- b) Guy wires and accessory facilities must satisfy the minimum zoning district setback requirements for accessory structures.

2. Aesthetics and Lighting.

- a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- b) At a tower site the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities into the natural setting and built environment. Preference will be given to facility designs that best fit into the proposed location.
- c) Satellite dishes and/or antenna shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets.

All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.

- d) There shall be no signs except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis.
- e) Towers shall not be artificially lighted unless required by the FAA or other applicable authority.
- f) Towers shall not be higher than 170 feet, inclusive of antenna.

3. Landscaping and Fencing.

- a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent property. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient landscaping.
- b) Towers and equipment shall be enclosed by security fencing not less than six (6) feet in height, with appropriate anti-climbing devices.

4. Other.

- a) There shall be a minimum of one (1) parking space for each facility to be used in connection with the maintenance of the site and not to be used for permanent storage of vehicles or equipment. The access drive and parking space shall be of bituminous concrete.
- b) Wireless communication facilities shall be designed to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities which will be required to be located within the community.

G. Maintenance and Discontinuance of Use.

- a) The applicant and co-applicant shall maintain the wireless communication facility in good condition. Such maintenance shall include, but shall not be limited to painting, structural integrity, security barrier and maintenance of the buffer areas and landscaping.
- b) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the Building Official notifying the owner of such abandonment.
- c) The co-applicant/owner shall post a bond which shall be reevaluated every two (2) years to cover the cost of removal. If such antenna or tower is not removed within said ninety (90) days, the Town may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

H. Liability coverage. Insurance in a reasonable amount shall be in force to cover damage from the structure, damage from transmissions and other site liabilities. Annual, proof of said insurance shall be filed with the Town Clerk.

Section 18.0. Proposed Wireless Communication Tower Sites

ZONING MAP NUMBER	SITE	ROAD	ASSESSOR'S MAP & LOT
1	Nike Site/SYBIL	Nike Site Access Road	Map 30 Lot 24
2	Police Station/Highway Garage	Gardner's Neck Road	Map 73 Lot 18
3	Sears Farm	GAR Highway/Sears Road	Map 63 Lot 2
4	Proposed Cemetery	Vinnicum Road	Map 22 Lot 16
5	Baker's Tractor	GAR Highway	Map 36 Lot 43A

(Adopted 5/18/98, Art. #45)