

AMSTERDAM/CHURCHILL
DRAFT ZONING REGULATION

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SECTION 1 GENERAL PROVISIONS

1.1 Title, Creation, and Adoption

- 1.1.1 This Regulation shall be known as the Amsterdam/Churchill Zoning Regulation, adopted for the Amsterdam/Churchill Zoning District created on _____ by the Gallatin County Commission with Resolution # _____.
- 1.1.2 This Regulation is adopted pursuant to §76-2-201 *et sec.*, MCA, in accordance with the Gallatin County Growth Policy.
- 1.1.3 Copies of the Regulation and Official Zoning Map (certified by the Commission chair) are on file for public inspection with the Gallatin County Clerk and Recorder's Office and the Gallatin County Planning Department (Planning Department).

ADOPTION

The Commission adopted this Regulation on _____.

GALLATIN COUNTY COMMISSION

William A. Murdock, Chair

Joe P. Skinner, Member

R. Stephen White, Member

ATTEST:

Charlotte Mills, Clerk and Recorder

1.2 Application of District Regulations

1.2.1 Minimum Requirements. The requirements established by this Regulation are minimum regulations and apply uniformly to each class or kind of structure throughout the District. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the District.

1.2.2 Zoning Regulation Conformance. All new construction and uses are potentially subject to the provisions of this Regulation. Property owners shall ensure all activity within District boundaries conforms with the Regulation. See Section ___ for permitting requirements.

1.2.3 Exceptions. Under certain circumstances, the Zoning Enforcement Agent may exempt public utility pipelines, wells, or structures necessary for public health and safety, from provisions of this Regulation.

1.2.4 Vesting. An application made within the District are subject to the regulations in effect at that time.

1.2.5 Contradictions. If the requirements of this Regulation conflict with the requirements of any other lawfully adopted rules, regulations or covenants, the most restrictive shall govern (unless specifically provided herein).

1.2.6 Natural Resources. In compliance with Section 76-2-209 MCA, this Regulation does not prevent the complete use, development, or recovery of any mineral (including an operation that mines sand and gravel or mixes concrete or batches asphalt), forest, or agricultural resource. Conditions mitigating public health, safety, and welfare may be imposed on such uses.

1.3 Establishment of Districts

1.3.1 Sub-Districts. The District is hereby divided into "sub-districts," as shown on the zoning map and as explained herein.

1.3.2 Interpretations. If questions arise concerning an appropriate classification for a particular use, or if the specific use is not listed, the Zoning Enforcement Agent (generally the Planning Director) and/or the Commission shall determine the appropriate classification of that use. In interpreting use classification, the Agent or Commission shall determine that the use:

1.3.3 Uses within sub-districts. Two types of uses are allowed within each sub-district: "Principle" and "Conditional" uses.

A. Principle uses. Principle uses are uses that are permitted without a public hearing. If a principle use requires new construction, the applicant must obtain a land use permit from the Planning Department prior to beginning any new construction. If a structure is

existing, a new principle use may begin using the building without obtaining any permits.

- B. Conditional uses.** Conditional uses are uses that require a conditional use permit (CUP) prior to establishment. A CUP will require a public hearing and may require conditions to mitigate potential impact to surrounding properties. If a conditional use is approved, any new construction will require a land use permit. If a structure is existing, a new principle use may begin using the building without obtaining any permits.

1.4 Intent and Purpose

- 1.4.1 This Regulation has been made in accordance with the Gallatin County Growth Policy (adopted April 15, 2003) for the purpose of promoting the public health, safety, and general welfare. Additionally, in accordance with §76-2-203, MCA this Regulation

1.5 Invalidation and Severability

- 1.5.1 This Regulation shall be known as the Amsterdam/Churchill Zoning Regulation, adopted for the Amsterdam/Churchill Zoning District created on _____ by the Gallatin County Commission with Resolution #_____.
- 1.5.2 This Regulation is adopted pursuant to §76-2-201 *et sec.*, MCA, in accordance with the Gallatin County Growth Policy.
- 1.5.3 Copies of the Regulation and Official Zoning Map (certified by the Commission chair) are on file for public inspection with the Gallatin County Clerk and Recorder's Office and the Gallatin County Planning Department (Planning Department).

SECTION 2: RESIDENTIAL DISTRICT (WITHIN THE CORE)

- 2.1 **Purpose.** The purpose of the Residential District is to promote and preserve continued residential use of property. This chapter establishes the Residential District (R) and the standards that are specifically applicable within the district.
- 2.2 **Principal Uses.** Principle uses permitted in the R Zoning District are listed below. With the exception of agriculture and agricultural structures, any new construction associated with principle uses require an administrative land use permit from the Planning Department prior to any construction. See section ___ for an explanation of the permitting process.

USE	COMMENTS
Residential	Includes single-family residences up to and including tri-plexes (including apartments). Also includes accessory uses, guesthouses, and caretakers residences.
Home Occupations and Home-Based Businesses	As defined in this code and in the development standards
Agriculture	Also includes any associated structures.
Schools	
Religious Organizations and places of Worship	Includes necessary structures
Daycare facilities in compliance with applicable state regulations	

- 2.3 **Conditional Uses.** Conditional uses permitted in the R Zoning District are listed below. A conditional uses will require a conditional use permit (CUP) prior to establishment. A CUP will require a public hearing and may require conditions to mitigate potential impact to surrounding properties. If a conditional use is approved, any new construction will require a land use permit. If a structure is existing, a new principle use may begin using the building without obtaining any permits.

USE	COMMENTS
Bed and Breakfast Inns	

Special Events Facilities	
Expansion of Non- Conforming Uses	
Nursing and Residential Care Facilities	

2.4 Required Property Line Setbacks.

2.4.1 Front Yard Setback: ____

2.4.2 Side and Rear Yard Setbacks: Controlled by two levels:

- A. If covenants are available, side and rear yard setbacks shall be controlled by those specifications. Lot owners are responsible for providing covenant requirements.
- B. If covenants are not available, setbacks shall be ____.

2.4.3 Building Height. Building height is limited to ____ feet. Building height is defined in Section ____.

2.5 Density.

SECTION 3: COMMERCIAL DISTRICT (WITHIN THE CORE)

SECTION 3: RURAL DISTRICTS??

SECTION 4: DEVELOPMENT STANDARDS

4.1 Standards Concerning Agriculture

4.1.1 Purpose. The purpose of this section is to provide standards protecting agricultural practices.

4.1.2 Canals and Ditches.

- A. **Identification of irrigation systems.** Any new subdivision or use requiring a site plan shall identify all irrigation ditches/canals located on the property or which might be affected by the development (including primary and secondary, or lateral ditches, canals, and pipelines).
- B. **Stormwater or snowmelt runoff.** No development shall channel stormwater or snowmelt runoff into any irrigation system without written consent of the responsible irrigation entity. Any new development shall be designed so that there is no interference in the transmission of water.
- C. **Setbacks.** All new residential and commercial construction shall maintain at least a 50-foot setback from the centerline of any ditches, canals, or pipelines. This setback shall be identified on the face of the plat as a maintenance easement and dedicated to the canal or ditch company. Modifications to this base setback may be allowed or required if specified by the applicable Canal or Ditch Company in writing. The required setback shall be identified on the face of the plat with an appropriate easement. No new structures (other than structures for the maintenance and operation of the water conveyance facility), fences, landscaping (other than grass), or roads (except for authorized crossings) may be installed or erected within this setback, nor shall any livestock grazing take place within this setback. The previously described prohibitions of uses and structures within the water conveyance facility setback may be waived where expressly agreed to in writing by the water users and/or water conveyance facility's authorized representatives.
- D. **Acknowledgment of contact with irrigation company.** Any proposed subdivision or use adjacent to or including an irrigation canal or ditch shall submit with their application acknowledgment of contact the applicable irrigation company. A model acknowledgment form is included in Appendix ____.
- E. **Interference or obstruction of water transmission.** No use or subdivision shall undertake any activity that would result in the interference or obstruction in the transmission of water in any water conveyance facility. Before any maintenance, improvements, or modifications are performed on any water conveyance facility, the water users or water conveyance facilities authorized representatives must give written permission for the work to be done.

F. Creation of new lots. Lots shall be designed such that they are not bisected by a water conveyance facility. This requirement can be waived via written comments from the water users or water conveyance facilities authorized representatives.

G. Water rights and irrigation systems. Any new subdivision with parcels smaller than ___ acres shall return all water rights to the applicable canal or ditch company, or shall consolidate water rights to be held by the property owner's association.

4.1.3 **Fencing.** All new subdivision shall be fenced to prevent conflict with any agricultural operations on neighboring properties. Providing legally adequate fencing shall be the responsibility of the developer, and the continuing maintenance of all such fencing shall be the responsibility of the owner or property owners' association.

4.1.4 **Buffering.**

a. **Projects requiring a rear and side yard landscaped buffer.** New construction and subdivision adjacent to agricultural uses shall provide a landscaped buffer along property lines adjacent to the agricultural use. Said buffer shall only apply if the following agricultural uses are within XXX feet of the proposed subdivision:

- i. Dairy
- ii. ???

b. **Exemptions.** Construction of single-family homes will not require land use buffers. If, however, a new residential subdivision is proposed adjacent to existing agricultural uses, then the subdivision will be required to provide landscaped buffers as a condition of final plat.

c. **Side and Rear Yard Landscape buffer standards.** If the conditions of 4.1.4.a are met and landscaped buffers are required, those buffers shall meet the standards set forth below.

i. Required landscaping shall be placed within a setback of XXX feet.

ii. Required buffers shall be planted with at least four trees per 100 lineal feet.

ii. Required buffers may be crossed by access drives, ^{underground} utility lines, sidewalks, and pedestrian trails. A sidewalk may run along a buffer with its width, up to five feet, being included in the required buffer width. Permitted freestanding signs may be based in required buffers. Outdoor sales or storage shall not be permitted within a required buffer.

4.2 Standards Concerning the Environment

4.2.1 Purpose.

4.2.2 Watercourses.

A. Construction setbacks to Watercourses. A 150-foot setback shall be provided from the ordinary high water mark of all other watercourses for all residential and commercial construction, excluding structures used for agricultural purposes or for the maintenance of livestock. This setback does not include canals or ditches.

B. Retention of existing vegetation. Riparian areas and existing vegetation shall be maintained to the maximum extent possible.

4.2.3 Wetlands.

A. Definition. Wetlands are transitional lands between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this classification, wetlands must have one or more of the following three attributes:

- a. At least periodically, the land supports predominantly hydrophytes;
- b. The substrate is predominantly undrained hydric soil; or
- c. The substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of the year.

B. Wetlands Delineation. A wetlands delineation prepared by a professional wetlands scientist in accordance with the current guidelines of the Army Corps of Engineers must accompany either of the following applications:

- a. The subdivision of land in compliance with MCA 76-3;
- b. Construction which requires clearing, grading, or excavation that disturbs one-half or more acres of land (excluding agricultural practices).

C. Wetland Protection Standards. The following standards shall apply to all wetlands meeting the definition of 6.3.3.A:

- a. Location in Open Space. New subdivision shall designate all wetlands meeting the definition of Section 6.3.3.A as permanent open space;

- b. Setback. A 35-foot setback shall be provided between all wetlands meeting the definition of 6.3.3.A and any new construction, excluding structures used for agricultural purposes or for the maintenance of livestock.

D. **Exemptions.** Wetlands may be modified for necessary utility lines, roads, and trails, provided that all state and federal permits are obtained.

4.2.4 Designated Open Space. The following standards shall apply to any new subdivision providing permanent open space as per Section ____.

A. **Methods of Preservation.** All open space land shall be preserved in perpetuity by any of the following methods:

- a. Open space parcel;
- b. Dedication as a park according to the requirements of the Gallatin County Subdivision Regulations;
- c. Perpetual conservation easement restricting development of the open land and allowing only open space uses. The conservation easement shall meet all requirements set forth in 76-6-201, MCA, et Seq. The conservation easement shall be granted to an organization acceptable to the County Commission.

B. **Open Space Uses.** Open Space shall be preserved and maintained for one or more of the following uses which shall be noted on the final plat: passive and active recreation, wildlife habitat and protection of scenic or important natural features.

C. **Areas not included in open space calculation.** Open space areas shall not include the following in open space calculation:

- a. rights-of-way;
- b. parking areas;
- c. setbacks;
- d. yards;
- e. land within individually owned lots.

D. **Ownership of Open Space Land.** Open space land may be owned in common by an owner's association, dedicated to the County or State, transferred to a non-profit organization acceptable to the County Commission, held in private ownership, or held in such other form of ownership as the County Commission finds adequate to fulfill the intent and purpose of Section _____. The appropriate form of ownership shall be based upon the purpose of the open space reservation.

E. Standards for Owner's Associations. If the open space is owned in common by and OA, covenants shall require:

- a. Membership shall be mandatory for each owner, who must be required by recorded covenants and restrictions to pay fees to the OA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities;
- b. The OA must be responsibility for liability insurance, local taxes, and the maintenance of recreational and other facilities and private roads;
- c. The assessment levied by the OA shall become a lien on the property;
- d. The OA shall be responsible to adjust the assessment to meet changed needs;
- e. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the OA and the dwelling units they each own;
- f. The attorney for the County shall find that the OA documents presented satisfy standards (1) through (5) above and such other conditions as the County Commission shall deem necessary

4.3 Standards Concerning Land Use Compatibility

4.3.1 Purpose. The purpose of this section is to encourage a variety of compatible uses.

4.3.2 Functional Connections. All uses shall be designed to share functional connections with adjoining uses to facilitate an even flow of traffic, to allow for functional pedestrian connections, and to provide appropriate and efficient access for emergency vehicles.

4.3.3 Nuisances, hazards, and solid waste. No use shall create a hazard or nuisance for neighboring properties on or along public streets. Agricultural uses shall be considered exempt from this section. Uses must comply with the specific standards below:

A. Hazards and Nuisances. Hazards and/or nuisances may include but are not limited to:

- a. Any use, including any sign that directs excessive or dangerous light, glare, or heat beyond the sign itself, or creates light or glare that constitutes a traffic or aircraft flight hazard, or directs or reflects light upward without shielding, is a public nuisance;

- b. The storage or handling of toxic, hazardous materials or waste, explosives, or flammable materials; or
- c. Inadequate access for emergency or public service vehicles and equipment.

B. Solid Waste. Standards for the handling of solid waste include the following:

- a. Solid waste handling and storage areas serving commercial, industrial, and high density residential uses shall be effectively screened from public view by enclosure in a building, location on the site, or an opaque fence or wall.
- b. Solid waste shall be stored in an enclosed building or covered in containers and handled in a way that does not attract rodents, flies, or other animal, or generate liquid runoff or odors perceptible beyond the property line.

4.3.4 Outdoor Lighting Standards. Preventing light trespass and protecting the night sky are important goals of the Amsterdam/Churchill Community Plan.

A. Application. The outdoor lighting standards apply new commercial, industrial, or residential construction. The lighting standards do not apply to single-family residential uses on properties larger than two acres or agricultural uses and structures.

B. Exemption. The following uses are exempt from the lighting standards:

- a. Agricultural structures and uses;
- b. Single-family residential uses on parcels two acres or greater.

C. Lighting Standards:

- a. Lighting fixtures must be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the structure façade, landscape, or other intended site feature and away from adjoining properties and the public right-of-way;
- b. Flag pole lights may be illuminated by one upward aimed fully shielded spotlight fixture.

D. Prohibited Outdoor Lighting:

- a. Any lamp or bulb not within a light fixture that is visible beyond the property line on which it is located;
- b. Blinking, flashing, moving, revolving, flickering, changing intensity or color, and chase lighting, except lighting for temporary seasonal displays, or lighting for public safety;

- c. Any light fixture that may be confused with or construed as a traffic control device;
- d. Any upward oriented lighting except as otherwise provided for in this section;
- e. Searchlights, beacons, and laser source fixtures.

4.3.5 Stormwater Runoff Standards. No use shall generate stormwater runoff that adversely impacts neighboring properties, public streets, or drainage systems. If construction will alter 20,000 square feet or greater, the Zoning Administrator may require an applicant to produce evidence that storm water flows will be handled on-site or through an existing or proposed stormwater system as a condition for issuing a permit.

4.3.6 Road Improvements. The following standards mitigate the impact of high-traffic uses on roads.

- A. **Average Daily Traffic.** Average daily traffic shall be calculated at ten (10) trips per day per single-family lot. ADT for lots approved for multi-family development and/or commercial development shall be determined based on the figures from the most current volume of the Institute of Traffic Engineers (ITE) Manual;
- B. **Impact to County Roads.** All uses and subdivision impacting County roads shall be required to obtain a County Road Encroachment Permit and may be required to provide additional street right-of-way or improvements as needed to ensure adequate access;
- C. **Traffic Impact Studies.** Uses generating 500 average daily traffic (ADT) or more shall be required to provide a traffic impact study and may be required to provide mitigation as needed. New subdivision shall refer to the current version of the Gallatin County Subdivision Regulations to address traffic impacts;
- D. **Greater Bozeman Area Transportation Plan.** All uses and subdivisions requiring improvements to County roads shall refer to the current adopted version of the Greater Bozeman Area Transportation Plan for road improvement design standards.

4.3.6 Landscaping. The Regulation uses front yard landscaping and landscaped buffers to mitigate the impact of different land uses existing next to each other. Landscaping is an essential element in mitigating proposed adverse impacts on surrounding properties, promoting compatibility, enhancing the visual appeal of the Amsterdam/Churchill area, promoting the preservation of property values, improving site drainage and erosion, and promoting the goals of the Amsterdam/Churchill Community Plan.

- A. **Front Yard Landscaping.** The following standards apply to front yard landscaping:
 - a. Projects requiring a front yard landscaping plan:

- i. Twelve or more dwelling units in multi-family structures; or
 - ii. Fifteen thousand or more square feet of office space, retail commercial space, service commercial space, or industrial space; or
 - iii. More than one building on one site for permitted office uses, permitted retail commercial uses, permitted service commercial uses, permitted industrial uses, or permitted combinations of uses; or
 - iv. Twenty thousand or more square feet of exterior storage materials or goods; or
 - v. Parking for more than forty vehicles; or
 - vi. Expansion of any of the above-mentioned uses by more than 1,000 square feet.
- b. Front Yard Landscaping Standards. The front setback for all uses requiring a landscaping plans shall be landscaped, including screening or buffering of parking areas, through the use of berms, depressed parking, landscape materials surrounding and within parking areas, or other means. The landscaped yard shall contain at least one of the following groups of plant materials at a minimum average density of one group for each fifty linear feet:
- i. One large canopy tree and one large non-canopy tree; or
 - ii. One large canopy tree and two small trees; or
 - iii. One large canopy tree and five evergreen shrubs; or
 - iv. One large canopy tree, one small tree, and two large evergreen shrubs; or
 - v. Two large non-canopy trees and one small tree.

4.3.7 Home-Based Businesses. A home-based business shall meet the following standards:

- a. A home-based business shall be operated by a person residing within the dwelling.
- b. No home based business shall have more than three employees residing off-premises if those employees work onsite. If work conducted by the home-based business takes place off-site (such as landscaping, etc) such business may be permitted up to ten employees.

- c. Examples of appropriate home-based businesses may include contracting businesses; service businesses; offices; music, art, or other schools instruction; individual artist studios and galleries.
- d. The home-based business shall not change the residential character of the lot or adversely affect adjacent properties or the uses permitted in the district.
- e. All vehicles, materials, and solid waste related to the home-based business must be located within structures or screened from view.
- f. All parking shall be provided on site

4.3.8 Home Occupations. A home occupation shall meet the following standards

- a. A home occupation shall be operated by a person residing within the dwelling.
- b. Performing occupational or trade activities within a residential district is permissible if the activities are wholly contained within the principal building and/or an accessory structure.
- c. Uses permitted are professional services such as accountant, physician, real estate agent; individual artist studios and galleries, handcraft studio, music studio, or similar studio uses; a tailor; repair of furniture and small appliances; tutoring or classes for no more than two students at one time; and counseling primarily for individual persons.
- d. No one residing off premises may be employed (for work related to the occupation), on the premises of a home occupation.
- e. All parking shall be provided on site.

SECTION 5 ADMINISTRATIVE PROVISIONS

5.1 Administration

- 5.1.1 Purpose. The purpose of this section is to explain who is responsible for administering the Regulation.
- 5.1.2 County Planning Board. The 11-member Gallatin County Planning Board (the “Planning Board”) consists of resident freeholders from throughout the County serving in an advisory capacity to the Commission. The Board’s role is to “assure the promotion of public health, safety, morals, convenience, order, or the general welfare and for the sake of efficiency and economy in the process of community development,” (76-1-106 MCA). The Planning Board holds public hearings and makes recommendations on any conditional uses and subdivisions within the district boundaries.
- 5.1.3 Planning Department. The Planning Department administers the day-to-day workings of the zoning district administration. The Zoning Enforcement Agent (the Planning Department) issues all land use permits and reviews all applications, including violations, conditional use permits, variances, rezoning requests and amendments to the Regulation. The Zoning Enforcement Agent and staff work for the Commission in an advisory capacity.
- 5.1.4 Appeals. Yes. Appeals may be submitted in writing to the County Commission. Please note that appeals must be filed within 10 working days of the Zoning Enforcement Agent’s written decision.

A public hearing on an appeal will be scheduled only if the item was initially subject to the public hearing process. The Commission will accept testimony at the hearing from persons interested in the appeal, the appellant, and the Zoning Enforcement Agent. Notice of the hearing shall be published once in a newspaper of general circulation at least 15 days prior to the hearing.

- 5.1.5 Schedule of Fees. The Commission sets fees for all permit applications, zone changes, conditional use permits, and variances. The Commission will not take action on an item until fees are paid in full. Fees are non-refundable. Current fees are listed at the Planning Department.

5.2 Non-Conforming Lots, Uses and Structures

- 5.2.1 Purpose. Within the District there are non-conforming lots, uses and structures that were lawful prior to the adoption of this Regulation but no longer conform to present Regulation requirements. It is the intent of this Regulation to establish a “grandfather” clause, allowing such lots, uses and structures to remain in their present state.

5.2.2 Changing a Non-Conforming Lot, Use or Structure. Although existing non-conforming lots, uses and structures are allowed to remain as such under this Regulation, such non-conformities may not be enlarged upon, extended or expanded. To avoid undue hardship, nothing in this Regulation shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment to this Regulation.

5.2.3 Non-conforming Parcels of Record. Structures are permitted on non-conforming parcels, however, all requirements of the District (other than parcel size and parcel width) apply. A non-conforming parcel cannot be divided or changed in any way to reduce the original parcel area or increase its non-conformity.

5.2.4 Non-conforming Uses of Land. Uses which were lawful prior to adoption and/or amendment of this Regulation are allowed to remain provided:

- A. A non-conforming use cannot be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the adoption and/or amendment of this Regulation;
- B. A non-conforming use cannot be moved in whole or in part to any portion of the lot or parcel other than its original location at adoption and/or amendment of this Regulation;
- C. With the exception of seasonal uses, a non-conforming use of land cannot cease operating for more than 180 days. If a seasonal uses ceases for one season, then subsequent use of such land shall conform with this Regulation.

5.2.5 Non-conforming Structures or Uses of Structures. Structures which were lawful prior to adoption and/or amendment of this Regulation are allowed to remain provided:

- A. A non-conforming structure or use of structure cannot be altered or enlarged in any way which increases its non-conformity. It is okay to decrease the non-conformity of a structure or use of structure;
- B. A non-conforming structure may be re-built in substantially the same manner if such structure is destroyed by a catastrophic event. Any use or structure which is not substantially the same as the original must conform with this Regulation;
- C. Any non-conforming use may be extended within a structure, but no such use may be extended in any way to occupy land outside the building;
- D. If a non-conforming structure is moved, it must conform to this Regulation.

5.2.6 Repairs and Maintenance. Ordinary maintenance, such as wiring, plumbing, repair or replacement of non-load-bearing walls, may be accomplished on a non-conforming structure provided such work does not increase the cubic content of the building. Nothing

*Deed
Restrictions*

in this Regulation shall prevent the strengthening or restoring a structure declared to be unsafe to a safe condition.

5.2.7 Zoning Enforcement Agent Determination. The Zoning Enforcement Agent determines the status of non-conforming land uses and structures under the following procedure:

- A. The owner of record of subject use/structure shall make an application for a determination of status.
- B. It is the applicant's burden to provide entitlement to approved non-conforming status by subject supporting information. Such information may include: septic or sewer hook-up permits, land use permits, business permits and dated photographs.
- C. The Zoning Enforcement Agent shall determine on a case-by-case basis whether a land use or structure is an existing non-conforming use or structure.
- D. Appeals of Zoning Enforcement Agent decisions may be submitted under the Administrative Appeal Process.

5.3 Land Use Permits

5.3.1 Purpose. The purpose of this section is to outline the procedures required to obtain a land use permit prior to construction.

5.3.2 Process. Land Use Permits are required prior to construction of most structures within the District. An approved Land Use Permit shows conformity with Regulation requirements. Landowners shall submit Land Use Permit applications (with accompanying fee) to the Planning Department for new structures as defined by this Regulation. The Planning Department inspects applications to determine if projects comply with provisions of this Regulation.

5.3.3 Exceptions. FILL THIS IN.....

5.3.4 Septic Permits. Landowners shall provide proof of septic or sewer permits with those projects which contemplate new facilities or extension of existing facilities.

5.3.5 Appeals. Appeals of Zoning Enforcement Agent decisions may be submitted under the Administrative Appeal Process.

5.3.6 Expiration. Land Use Permits expire if building or work authorized by the permit has not commenced within 12 months from the original permit date. Landowners must obtain a new permit, at one-half the fee, to re-commence work after permit expires.

5.4 Conditional Use Permits

- 5.4.1 Purpose. The purpose of this section is to outline the procedures required to obtain a land use permit prior to construction.
- 5.4.2 Requirements. Conditional Use Permits (CUPs) are required prior to operation of a use which is allowed conditionally under this Regulation. The Commission may grant a conditional use when they find:
- A. The use conforms to the objectives of the Gallatin County Growth Policy and the intent of this Regulation;
 - B. The use will not adversely affect nearby properties or their occupants;
 - C. The use meets density, coverage, yard, height, and all other regulations of the district in which it is located, unless otherwise provided in this Regulation;
 - D. A public hearing, after notice has been given, has been held.
- 5.4.3 Procedure. All CUP applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter is scheduled before the Commission, and the Commission shall either approve or deny the application based on the facts. The Commission may impose reasonable conditions, as it may deem necessary to mitigate project impacts. Use cannot commence until all conditions have been met.
- 5.4.4 Notice. Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.
- 5.4.5 Revocation or Modification. The Commission may revoke or modify a CUP under the following circumstances (under the procedure described above):
- A. If conditions have changed substantially since original approval;
 - B. Revocation or modification is necessary to protect the health, safety, or welfare of the area, or is necessary to preserve the integrity of existing use patterns in the area;
 - C. The person holding the permit has not complied with the required conditions, or has not materially changed their position by detrimentally relying on said permit.
- 5.4.6 Expiration/Extensions. The Commission may issue a CUP for a definite term. Extensions can be obtained through written application made 30 days prior to expiration, with accompanying fee, and notification sent to adjacent property owners. An extension shall be granted if no objection is received. A public hearing will be held if objection is received.

5.5 Variances

Variations

- 5.5.1 Purpose. It is the purpose of this section to provide a process under certain circumstances to deviate from the literal requirements of this Regulation. The Commission may grant certain variances that are not contrary to public interest, where, owing to special conditions, literal enforcement of this Regulation results in an unnecessary hardship.
- 5.5.2 Criteria. In granting a variance, the Commission shall consider the following criteria:
- A. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity and that result from lot size or shape, topography, or other circumstances over which the owners of property have no control since enactment of this Regulation;
 - B. The variance is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same zone;
 - C. The variance would not be materially detrimental to property in the same zone or vicinity in which the property is located;
 - D. The variance requested is the minimum variance that would alleviate the hardship.
- 5.5.3 Procedure. All variance applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter is scheduled before the Commission, and the Commission shall either approve or deny the application based on the facts. The Commission may impose reasonable conditions, as it may deem necessary to mitigate project impacts.
- 5.5.4 Notice. Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.

5.6 Amendments

- 5.6.1 Purpose. The purpose of this section is to describe the process used to amend any portion of this Regulation or Map. This Regulation and the development pattern may be amended whenever the public necessity and convenience and general welfare requires such amendment. Amendments shall follow the procedure prescribed by law and this Regulation.
- 5.6.2 Procedure. An amendment may be initiated by:
- A. The petition of one or more landowners in the District. The petition shall be filed with the Zoning Enforcement Agent on the required application, accompanied by the required fee;

B. Resolution of intention of the Commission;

C. Resolution of intention of the Planning Board.

5.6.3 Hearing. The Commission shall consider all proposed amendments at a public hearing. Notice of the hearing shall be posted in a newspaper of general circulation and posted in a public place within the District at least 15 days prior to the hearing.

5.7 Complaints and Enforcement

5.7.1 Purpose. It is the duty of the Planning Board, the Commission, its officers, agents and employees to enforce the provisions of this Regulation.

5.7.2 Injunction. Upon order of the Commission, the County Attorney shall bring an action in the name of the County of Gallatin in the District Court to enjoin violations of this Regulation.

5.7.3 Stop Order. Whenever any building work is being done contrary to the provisions of this Regulation, the Zoning Enforcement Agent shall order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done, and any such person shall forthwith stop work until authorized by said agent to proceed with the work.

5.7.4 Compliance Regarding Violations. Any person may file a written complaint with the Zoning Enforcement Agent addressing a violation of this Regulation. The complaint shall state the causes and basis for the complaint. Upon receipt of the complaint, the Zoning Enforcement Agent shall record the complaint, investigate and take whatever action the Agent considers appropriate.

5.7.5 Remedies, Cumulative. The remedies provided for herein shall be cumulative and not exclusive.

Spot Zoning

- Federal State Law

Not Benefit One Person

Comprehensive = Uniform