

March 22, 2010

**ARTICLE 3:
RURAL AMSTERDAM/CHURCHILL
SUBDISTRICTS**

SECTION 3 Rural Amsterdam/Churchill

3.1 Purpose. This chapter establishes the Rural Amsterdam/Churchill (RAC) Subdistrict and the performance standards applicable to land development and building activity in the subdistrict. The purpose is to promote and preserve the agricultural land and lifestyle, natural amenities, and rural lifestyle of land within the Sub-District. Standards established in the RAC Sub-District support and implement Chapter 4 of the Amsterdam/Churchill Community Plan.

3.2 Land Uses. All uses not listed as a conditional use or as a prohibited use are uses allowed by right in the RAC Sub-District; any new non-Agricultural Structures associated with a use allowed by right must obtain an approved Land Use Permit and must obtain a land use permit from the Planning Department prior to construction to demonstrate compliance with all standards. Uses listed as a conditional use in Section 3.2.1 must receive an approved conditional use permit; prohibited uses are list in Section 3.2.2. All uses and construction associated with Agriculture shall be exempt from any permitting requirements and the standards of this Regulation.

3.2.1 Conditional Uses. Conditional uses permitted in the RAC Sub-District are listed below. A conditional use 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 associated with that conditional use will require a land use permit.

Use	Comments
Opencut Operations	
Essential Services, Type II	
Any use generating more than 250 trips per day OR 50 trips in peak hour	Refer to the most recent manual of the International Traffic Engineers Code
Cell/Communication Towers	

3.2.2 Prohibited Uses. The following uses are prohibited in the RAC Sub-District.

Use	Comments
Bars	
Gambling Establishments	
Sexually-oriented businesses	

3.2.3 Specification Standards for New Construction.

Yard	Setback (in feet)
Front Yard, County Roads	50 Feet
Front Yard, all other roads	30 Feet
Rear Yard	20 feet
Side Yard	20 Feet
Property Lines Bordering Agricultural Operations	50 Feet

3.3 New Subdivision. Average residential density shall be one development right per 160 acres or existing tract of record. The number of development rights allowed in new subdivision is based on Gross Average Density. There shall be no minimum lot area or width; Lots may be any size as long as the overall density of the project does not exceed that allowed by this section. The number of development rights may be increased if the standards detailed in 3.3.2 are met. For parcels with greater than 160 acres, there is a development right for each 160 acres; in the event the acreage is within 90% or higher of an additional 160 acres, there is a development right for that acreage:

3.3.1 Residential Development Rights. Residential development rights shall include primary dwelling units, as well as accessory dwelling units and any additional accessory structures.

A. *Exemptions:* the following are exempt from the density requirements:

- i. Subdivision Exemptions, including family transfers, boundary locations, agricultural exemptions, and mortgage exemptions;
- ii. Leases for uses including, but not limited to, cell towers and wind towers;
- iii. Employee housing for agricultural purposes;
- iv. Additional development rights pursuant to the requirements of Section 3.3.2;
- v. Subdivision of lots exclusively for commercial use
- vi. Creation of tracts of record to be used exclusively for utility, parkland, schools, or public safety (such as utility lots for the Amsterdam Rural Fire Department);
- vii. The transfer of additional development rights pursuant to Section 3.3.3 below.

3.3.2 Additional Development Rights. The following standards allow an increase in development rights:

- A. For every 80 acres within an original parcel, there is one additional development right. the additional development right can be used to subdivide the original parcel, or be transferred to another parcel to be subdivided (see Section 3.3.3). In the event the acreage of the original parcel is within 90% or higher of the 80-acre minimum, the parcel would qualify for an additional development right.
- B. An additional development right can only be used through the conditional use permit procedure. An owner desiring to use an additional development right on the original

parcel shall apply for a conditional use permit and follow the procedures specified in Section __ of this Regulation.

3.3.3 Transferred Development Rights (TDRs).

- A. A development right existing as a matter of right or an additional development right may be transferred from one parcel to another. Any property transferring a development right shall record such transfer with the Clerk and Recorder's Office.
- B. An owner of property intending to use a development right transferred from another parcel shall apply for a conditional use permit.
 - i. A parcel receiving transferred development rights may be allowed a density of up to one development right per 40 acres per each increment of 160 acres owned. This is defined as total density and includes the original development right and any additional development rights allowed on the receiving parcel, as well as the transferred development rights. Transferred rights shall meet the standards detailed in Section 3.3.4 below.

3.3.4 Standards for Use of Additional or Transferred Residential Development Rights.

- A. Additional or transferred development rights shall only be used on 15% or less of the total original parcel area. If more than one additional development right is utilized on a single parcel, the development rights are not required to be contiguous but shall meet the standards of Section 3.3.4.C below.
- B. When a total of 15% of the original parcel is platted for development purposes, the owner may use the original development right anywhere in the remaining 85% of the original parcel. A deed restriction shall be placed on the remaining 85% of the original parcel restricting future development to use of the original development right.
- C. At least two of the following three conditions shall be required for approval of the use of an additional development right:
 - i. The building site is located in close proximity to existing homes and roads;
 - ii. The building site is located on the least fertile soils for agricultural use, and in a manner which maximizes the usable area remaining for such use;
 - iii. The building site is located with the least disturbance to the natural topography, landscape, and vegetation. Nature features such as watercourses and wetlands are not located within the boundaries of any lot used for an additional development right.

3.3.5 Transfer of Development Credits (Countywide Program). In the event a countywide TDR or Transfer of Development Credit (TDC) program is developed, properties within the RAC may participate.

SECTION 4 Southeast Rural Amsterdam/Churchill

4.1 Purpose. This chapter establishes the Southeast Rural Amsterdam/Churchill (SRAC) Subdistrict and the performance standards applicable to land development and building activity in the subdistrict. The purpose is to promote and preserve the agricultural land and lifestyle, natural amenities, and rural lifestyle of land within the Sub-District while also recognizing the unique nature of the area due to its proximity to Four Corners and the increased access provided by Norris Road and River Road. Standards established in the SRAC Sub-District support and implement Chapter 4 of the Amsterdam/Churchill Community Plan.

4.2 Land Uses. All uses not listed as a conditional use or as a prohibited use are uses allowed by right in the RAC Sub-District; any new non-Agricultural Structures associated with a use allowed by right must obtain an approved Land Use Permit. ~~and must obtain a land use permit from the Planning Department prior to construction to demonstrate compliance with all standards.~~ Uses listed as a conditional use in Section ~~43~~.2.1 must receive an approved conditional use permit; prohibited uses are list in Section ~~43~~.2.2. All uses and construction associated with Agriculture shall be exempt from any permitting requirements and the standards of this Regulation.

4.2.1 Conditional Uses. Conditional uses permitted in the SRAC Sub-District are listed below. A conditional use 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 associated with that conditional use will require a land use permit.

Use	Comments
Opencut Operations	
Essential Services, Type II	
Any use generating more than 250 trips per day OR 50 trips in peak hour	Refer to the most recent manual of the International Traffic Engineers Code
Cell/Communication Towers	
Accessory Dwelling Units exceeding Section 4.2.4.B	

4.2.2 Prohibited Uses. The following uses are prohibited in the RAC Sub-District.

Use	Comments
Bars	
Gambling Establishments	
Sexually-oriented businesses	

4.2.3 Specification Standards for New Construction. All Essential Services, Type I are exempt from the following standards.

Yard	Setback (in feet)
Front Yard, County Roads	50 Feet
Front Yard, all other roads	20 Feet
Rear Yard	10
Side Yard	10 Feet
Property Lines Bordering Agricultural Operations	50 Feet

4.2.4 New Subdivision. The number of development rights allowed in new subdivision is based on Gross Average Density. There is no minimum Lot size; Lots may be any size as long as the overall density of the project does not exceed that allowed by this section. Density of future development shall be based on the following:

- A. Base density in the Sub-District shall not exceed one development right per 40 acres.
- B. Density may be increased to a maximum of one development right per 5 acres if the following clustering standards are met and the subdivision includes at least **65% open space. One-lot minor subdivisions are exempt from this standard.**
 - i. Development must provide a buffer for adjacent agricultural land;
 - ii. Watercourses, wetlands, and Water Conveyance Facilities ~~must~~ should be included in open space **to the extent possible**;
 - iii. Open space should be contiguous rather than dispersed;
 - iv. Location of new lots shall be situated so as to maximize the size of the open space parcel;
 - v. New lots shall be in close proximity to public roads;
 - vi. New lots shall be contiguous;
 - vii. Open Space calculations shall not include road rights-of-way, Parking Areas, or land within individually owned Lots (unless meeting the requirements of E below);
 - viii. Maintenance of designated Open Space shall be the responsibility of the property owners' association or, in the case of 4.2.4.F, individual Lot owners.
- C. *Fractional Density.* If the number of allowable Lots result in a fractional number, the fractional number shall be rounded off to the nearest whole number to determine the allowable Lots per project. For the purposes of rounding off, 0.5 and above shall be rounded up to the next highest number, and 0.49 and below shall be rounded down to the next lowest number.

- D. *Residential Development Rights.* Residential development rights shall include primary dwelling units, ~~as well as~~ one accessory dwelling unit, and any additional non-residential accessory structures.
- E. *Exemptions:* the following are exempt from the requirements of Section 4.2.4:
- i. Subdivision Exemptions, including family transfers, boundary locations, agricultural exemptions, and mortgage exemptions;
 - ii. Leases for uses including, but not limited to, cell towers and wind towers;
 - iii. Employee housing for agricultural purposes;
 - iv. Creation of tracts of record to be used exclusively for utility, parkland, schools, or public safety (such as utility lots for the Amsterdam Rural Fire Department);
- F. *Methods of Preserving Open Space.* Open Space shall be permanently protected and may be held in one of the following ways:
- i. Open Space Parcel dedicated to the property owners' association;
 - ii. A park dedication according to the requirements of the Gallatin County Subdivision Regulations;
 - iii. A perpetual conservation easement restricting Development of the Open Space and allowing Open Space uses as provided above and granted to an organization acceptable to the County Commission;
 - iv. An individual Parcel owned by an individual Lot owner or other third party, dedicated as permanent Open Space on the plat.
- G.** **Master Planned Unit Development.** The intent of the master planned unit development (MPUD) is to permit the approval of a master plan for development within the SRAC. All MPUD projects shall follow the procedures in Section XXXX.

Section 5. Development Standards for the RAC and the SRAC

5.1 Standards Protecting Agriculture

5.1.1 Water Conveyance Facilities.

- A. Identification of Water Conveyance Facilities.** Any proposed Development requiring a LUP shall identify all Water Conveyance Facilities located on the property or, if off-site, those Water Conveyance Facilities located within 100 feet of the Development requiring and LUP.
- B. Acknowledgment of contact with water conveyance facilities.** Any proposed Development requiring a LUP within 100 feet of the centerline of a Water Conveyance Facility shall submit with their LUP application acknowledgement of contact with the appropriate water users and/or Water Conveyance Facility's authorized representatives. Applicant shall provide written notice to the identified applicable water users and/or water conveyance facility's authorized representatives of the proposed Development, provide them with a copy of the proposed layout, ~~provide a description of any anticipated adverse effects to the water conveyance facility, provide a description of any mitigation proposed to remedy such adverse effects,~~ and provide 45-30 calendar days for the water users and/or water conveyance facility's authorized representatives to submit written comments. ~~If no response is received, the application may proceed.~~ Where the water users and/or water conveyance facility's authorized representatives have provided the applicant with written comments, those comments shall be submitted with the LUP application ~~and applicant shall demonstrate how any concerns have been mitigated.~~ If a subdivision has addressed impacts to a Water Conveyance Facility through the subdivision review process, the applicant may substitute that evidence with a LUP application for an acknowledgement form.
- C. Setback from Water Conveyance Facility.** All new Development requiring a LUP shall be set back 50 feet from the centerline of any Water Conveyance Facility unless such setback is waived or reduced by the water user or Water Conveyance Facility's authorized representatives during the comment period described in Section 5.1.1.B.
- D. Water use.** No water may be removed from any irrigation ditch, canal, or other Water Conveyance Facility without a water right, permit, or written water lease agreement with the appropriate water users and/or Water Conveyance Facility's authorized representatives.
- E. Stormwater or snowmelt runoff.** Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, any proposed Development requiring a LUP shall be designed and developed so stormwater, snowmelt runoff, water from dewatering practices, or other water originating from within the boundaries of the Development shall not discharge into or otherwise be directed into any irrigation ditch, canal, pipeline, or other water conveyance facility.

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F. Lot owner maintenance responsibility. The lot owner shall remove any trash or debris originating from within the Development and has accumulated in the water conveyance facilities passing through their Development by no later than May 1ST of each year. If the lot owner fails to remove the trash or debris as described above, the water users and/or Water Conveyance Facility's authorized representatives may cause the trash or debris to be removed and bill the lot owner for such efforts.

G. Access for maintenance. Lot owners are hereby notified of the water users, water conveyance facility's authorized representatives, and/or their designee's right to access the property to maintain and repair the water conveyance facility (this includes, but is not limited to, placement of excavated material, removal of vegetation and debris along the water conveyance facility); to install, repair, and or adjust headgates and other diversion structures; and to carry out other normal means of repair and maintenance related to the ditch/canal.

H. Modifications of water transmission. Unless there is written consent from the appropriate water users and/or water conveyance facility's authorized representatives, there shall be no 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, written permission must be obtained from the water users and/or water conveyance facility's authorized representatives. Upon completion of maintenance, improvements, or modifications to any water conveyance facility, the owner shall provide written notice to the water users and/or water conveyance facility's authorized representatives and allow them an opportunity to inspect such work.

5.1.2 Buffers. New subdivision shall provide an open space buffer of 50 feet between residential lots and the property lines of existing agricultural operations

5.1.3 Protecting Agricultural Operations. Development in the RAC shall not interfere with existing agriculture operations, including the normal operation of dairies, feedlots, potato cellars, and other agricultural activities that may, at times, be perceived as a nuisance by inhabitants of nearby residences. No land use permit for a principal Structure in the RAC shall be issued until an "~~resource management easement~~agricultural acknowledgement form" has been recorded at the Clerk and Recorder's Office by the owner. A model resource management easement is included in Appendix XX.

5.1.4 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.

5.2 Standards Protecting Natural Assets

5.2.1 Standards for Watercourses and Wetlands.

- A. *Construction setbacks to the Gallatin River.* A 300-foot setback shall be provided between the ordinary high water mark and any new Structures requiring a Land Use Permit, excluding Structures used for agricultural purposes or the maintenance of livestock.
- B. *Construction setbacks to other Watercourses.* A 150-foot setback shall be provided from the ordinary high water mark of all other Watercourses for any new Structures requiring a Land Use Permit, excluding Structures used for agricultural purposes or the maintenance of livestock. This section does not apply to Watercourse Conveyance Facilities.
- C. *Wetlands Delineation.* A wetlands delineation prepared in accordance with the current guidelines of the Army Corps of Engineers must accompany the following applications (or adequate documentation presented showing no wetlands are present):
 - a. The subdivision of land in compliance with Title 76, Chapter 3, MCA;
 - b. Development requiring any of the following permits:
 1. Montana Stream Protection Act (SPA 124 Permit);
 2. Stormwater Discharge General Permit;
 3. Montana Natural Streambed and Land Preservation Act (310 Permit);
 4. Montana Floodplain and Floodway Management Act (Floodplain Development Permit);
 5. Federal Clean Water Act (404 Permit);
 6. Federal Rivers and Harbors Act (Section 10 Permit);
 7. Montana Land-Use License or Easement on Navigable Waters.
- D. *Wetland Protection Standards.* The following standards shall apply to all jurisdictional and non-jurisdictional Wetlands:
 - a. *Location in Open Space.* When land is subdivided, open space shall include all delineated Wetlands to the extent possible;
 - b. *Setback.* A 35-foot setback shall be provided between all Wetlands and any new Structures requiring a Land Use Permit, with the exception of Structures used for agricultural purposes or for the maintenance of livestock;
 - c. *Alterations.* Wetlands may be altered if federal and state permits are obtained, or if permits are not required, documented compliance with all federal and state requirements. All altered and newly-created Wetlands shall meet the standards of Section 3-3-15.2.1.D.
 - d. *Exemptions.* Exemptions to Section 3-3-15.2.1.C and 3-3-15.2.1.D are as follows:

1. Wetlands may be modified for necessary utility lines, roads, driveways, and trails, provided that all state and federal permits are obtained;
2. Structures used for agricultural purposes or the maintenance of livestock exempt from these requirements;
3. If federal and state permits are obtained, or if permits are not required, wetlands may be altered; all altered and newly-created wetlands shall continue to meet the standards of this section.

5.3 Standards for Land Use Compatibility

- A. *Connections.* All uses shall be designed, where possible, 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.
 - i. **Traffic Routing.** The primary access of new subdivision or uses generating more than 250 Average Daily Trips (ADT) shall be sited and designed to route traffic directly to collector or arterial roads, rather than through neighboring areas of single-family homes.
- B. *Road Improvements.* For uses with traffic exceeding 60 ADT (as detailed in the most recent edition of the ITE Manual but excluding agricultural uses as defined by this Regulation), the following mitigation may be required at the time of application for land use permit:
 - i. Road improvements, designation of rights of way, installation of signage, lighting, and other reasonable conditions mitigating against any potentially-adverse impacts;
 - ii. Security, performance bonds, cash deposits, or other financial security in a form acceptable to Gallatin in order to guarantee compliance with conditions imposed;
 - iii. On-site improvements for parking, drainage, loading/unloading and other on-site improvements reasonably necessary to prevent adverse impacts.
- C. *Solid Waste.* Industrial or commercial solid waste handling and storage areas shall be effectively screened from the public view by enclosure in a building, location on the site, or the construction of a fence or wall. This includes expansion of existing solid waste handling and storage area.
- D. *Outdoor Lighting Standards.* The outdoor lighting standards apply to new commercial, industrial, or residential Development.

- i. Outdoor light fixtures shall be designed and installed to meet the following requirements:
 2. Light shall be directed down to the target area, and away from adjacent properties;
 3. Flag poles may be illuminated by one upward-aimed, fully-shielded spotlight fixture.
 4. All light sources must be shielded from the direct, line of sight view of motorists;
 5. Light trespass shall be minimized to the extent feasible beyond the property line by means of shielding, directional control, fixture location, fixture height, fixture aim, use of tinted glass, or a combination of these or other factors.

- ii. *Prohibited Outdoor Lighting (including lighting on signs). Search lights (except by emergency response personnel), beacon lights, strobe lights, blinking, flashing, or fluttering lights, including changes to the lighting intensity, brightness, or color. Holiday lighting and any lighting required by state or federal law are exempt from this standard.*

