

ARTICLE III AG-160 ZONING DISTRICT

Section 1 General Provisions.

- 1.01 **Intent.** The intent of this zoning district is to allow for the continuation of agricultural and rural land uses while conserving natural resources and allowing for limited development to occur in harmony with rural landscapes, customs and culture.
- 1.02 **Zoning District Title.** This zoning district shall be known as the “AG-160 Zoning District.” All the provisions of this Regulation apply to the lands described in **Sect. 2.**

Section 2 Zoning District Boundaries.

- 2.01 **Legal Description.** The boundaries of the AG-160 Zoning District shall be as follows:

All of Gallatin County, Montana, excepting the following: the lands within the municipal boundaries of the cities of Bozeman, Belgrade, Three Forks and West Yellowstone and the Town of Manhattan; the lands within the extra-territorial Planning Jurisdiction for the City of Belgrade as established pursuant to Gallatin County Resolution No. 414; the lands within the extra-territorial Planning Jurisdiction for the Town of Manhattan as established pursuant to Gallatin County Resolution No. 78-2; the lands within the Gallatin County – Bozeman Area Plan pursuant to Gallatin County Resolution 2005-147; the lands within the Gooch Hill West Neighborhood Plan as established pursuant to Gallatin County Resolution 2007-016; the lands within the boundaries of the Four Corners Community Plan as established pursuant to Gallatin County Resolution No. 2006-024; and the lands within the exterior boundaries of the following zoning districts:

- Gallatin County/Bozeman Area;
- Middle Cottonwood;
- South Cottonwood Canyon;
- East Gallatin;
- Reece Creek;
- Bridger Canyon;
- Bear Canyon;
- Bozeman Pass;
- Gallatin Canyon/Big Sky;
- Hebgen Lake;
- Hyalite;
- River Rock (Royal Village);

- South Gallatin;
- Springhill;
- Sypes Canyon #1;
- Sypes Canyon #2;
- Trail Creek;
- Wheatland Hills;
- Zoning District #1; and
- Zoning District #6.

2.02 Zoning Map. The official Zoning Map for the AG-160 zoning district depicts the boundaries of this zoning district as described in **Sect. 2.01** and shall be officially known as the “Zoning Map for the AG-160 Zoning District” and is attached to this Article as **Appendix A**.

Section 3 Residential Density.

3.01 Density. Except as authorized by **Sect. 3.02**, creation of new Residential Dwelling Units and/or new Tracts of Record within this zoning district is limited to a density of one Residential Dwelling Unit or Tract of Record per 160 acres.

3.02 Exceptions. Creation of new Tracts of Record or the creation of new Residential Dwelling Units with a density greater than one Residential Dwelling Unit or Tract of Record per 160 acres may be authorized only through one of the following:

3.02.1 Tracts of Record to be used exclusively for Commercial purposes pursuant to the requirements of **Sect. 4**.

3.02.2 Rural Cluster Development projects pursuant to the requirements of **Sect. 11**.

3.02.3 Subdivision exemption claims (e.g. Family Transfer and Boundary Relocations) pursuant to the requirements of **Sect. 7**.

3.02.4 Additional Residential Dwelling Units pursuant to the requirements of **Sect. 6**.

3.02.5 Creation of Tracts of Record to be used exclusively for utility or parkland pursuant to the requirements of **Sect. 7**.

3.02.6 Transfer of Development Rights pursuant to the requirements of **Sect. 5.02 and Sect. 9**.

Section 4 Commercial Density.

- 4.01** Creation of new Tracts of Record to be used exclusively for Commercial purposes wherein a covenant is entered into with Gallatin County restricting each Tract of Record to exclusively a Commercial use is not subject to the density restriction of **Sect. 3.01**, but is subject to all other requirements of these Regulations. Any Tract of Record created for exclusively for Commercial uses shall, in addition to the above covenant, have a Commercial Overlay applied to it pursuant to **Sect 10.05**.

Section 5 Uses and Permit Requirements.

- 5.01** **Permitted Uses/Limitations.** All uses of land are permitted uses in this zoning district except those conditionally permitted uses listed in **Sect. 5.02**. All permitted uses and all conditionally permitted uses are limited by the requirements of **Sect. 5.01.1**.

5.01.1 All permitted and conditionally permitted uses are limited only by the ability of the owner or user to obtain all required federal, state, and local permit approvals including but not limited to approval for sanitation and water supply facilities, demonstration of adequate water rights, access or system impact permits from Gallatin County and/or the Montana Department of Transportation, or any other federal, state, or local permit required by law.

5.01.2 All Structures are subject to the standards listed in **Sect. 5.04** and all uses are subject to the standards listed in **Sect. 6**, as applicable.

5.01.3 Transferable Development Credits allocated pursuant to **Art. XXII** and receiving a TDCA Overlay pursuant to **Sect. 10.02** is a permitted use.

- 5.02** **Uses Permitted After Obtaining a Conditional Use Permit.** The following uses require a Conditional Use Permit (CUP) from the Commission pursuant to the procedures in **Art. II, Sect. 4** and, if required, a Land Use Permit pursuant to **Art. II, Sect. 3**. The Commission may approve, conditionally approve, or deny any of the following uses pursuant to the applicable review criteria after proper notice is given and a public hearing has been held:

5.02.1 Any use that generates greater than 500 average daily traffic, as defined by the Gallatin County Subdivision Regulations, pursuant to the requirements of **Sect. 6.04**.

5.02.2 Construction or development of Structures that do not comply with the development standards of **Sect. 5.04**.

5.02.3 Operations that mine sand and gravel and/or mix concrete or batch asphalt pursuant to the Interim Zoning Regulation for Operations that Mine Sand

and Gravel and Operations that Mix Concrete or Batch Asphalt adopted May 7, 2008.

- 5.02.4 Overnight Accommodations pursuant to the requirements of [Sect. 6.03](#).
- 5.02.5 More than one additional Residential Dwelling Unit on a Tract of Record pursuant to the requirements of [Sect. 6.01](#).
- 5.02.6 Rural Cluster Development (RCD) projects pursuant to the requirements of [Sect. 11](#).
- 5.02.7 Transfer of Development Rights on non-contiguous properties subject to the requirements of [Sect. 9](#) and [Art. XXII](#) of these Regulations.
- 5.03 **Land Use Permits.** Unless otherwise authorized in [Sect. 5.04.3](#), the construction or development of a new Structure or the addition to an existing Structure of more than 50% of the internal square footage of the existing Structure requires a Land Use Permit (LUP) pursuant to [Art. II, Sect. 3](#) of these Regulations prior to construction. The permitting requirements for specific Structures are summarized in [Table III.5](#).
- 5.04 **Development Standards.** [Except as provided for in Sect. 5.04.3](#), the construction or development of all new Structures, or the addition to an existing Structure of more than 50% of the internal square footage of the existing Structure, shall comply with the standards listed in [Sections 5.04.1 and 5.04.2](#). Structures proposed to not be in conformance with these standards may deviate from these standards by obtaining a Conditional Use Permit from the Commission following the procedures and criteria of [Art. II, Sect. 4](#). The development standards for specific Structures are summarized in [Table III.5](#).
 - 5.04.1 **Height.** Unless otherwise excepted by [Sect. 5.04.3](#), the height of all new Structures shall be limited to 50 feet as measured from the lowest point of the finished grade to the highest structural point of the roof. Agricultural Structures and wind driven electrical generating facilities that provide direct service to a Structure or group of Structures are exempt from this requirement.
 - 5.04.2 **Setbacks.** Unless otherwise excepted by [Sect. 5.04.3](#), all Structures shall be set back from property lines a minimum of five (5) feet and must be located outside of any existing easements of record (utility, road, access, irrigation, pipelines, etc...).
 - 5.04.3 **Exceptions.** The standards described in [Sects 5.04.1 and 5.04.2](#) and the approval and permitting process required by [Sect. 5.03](#) are modified for the following types of Structures as described below:

5.04.3.1 Agricultural Structures: The construction of a new Agricultural Structure or the addition to an existing Agricultural Structure of an area greater than 50% of the internal square footage of the existing Agricultural Structure must comply with the setback requirements of **Sect. 5.04.2** but are not subject to the height requirements of **Sect. 5.04.1** and can be permitted with the submittal of an Agricultural Structure Affidavit.

5.04.3.2 Accessory Structures.

5.04.3.2.1 The construction of a new Accessory Structure or the addition to an existing Accessory Structure of an area greater than 50% of the internal square footage of the existing Accessory Structure that results in a footprint less than 1200 sq. ft. is subject to the setback requirements of **Sect. 5.04.2** and the height requirements of **Sect. 5.04.1** and can be permitted with the submittal of an “Non-Agricultural Accessory Structure” Affidavit.

5.04.3.2.2 The construction of a new Accessory Structure or the addition to an existing Accessory Structure of an area greater than 50% of the internal square footage of the existing Accessory Structure that results in a footprint greater than 1200 ft. sq. shall comply with the requirements of **Sects. 5.03, 5.04.1 and 5.04.2** and must obtain a Land Use Permit.

5.04.3.3 Accessory Structures Less than 120 sq. ft. and Decks: The construction of or the addition to an Accessory Structure that results in a footprint less than 120 sq. ft. and the construction or addition to a Deck does not require a Land Use Permit or an affidavit and is not subject to the setback or height requirements of **Sect. 5.04.1 and 5.04.2** but must be located outside any existing easements of record (utility, road, access, irrigation, pipelines, etc...).

5.04.3.4 Fences/Walls: The construction or development of a fence or wall may be built directly on the property line and does not require any review or approval under these Regulations.

Structure Type	Design Standards				Review Mechanism	
	Setbacks	Height	Locate Outside Utility & Access Easements	No Design Standards Apply	Affidavit	Land Use Permit and/or Conditional Use Permit
Residential	√	√	√			√
Commercial/Industrial	√	√	√			√
Agricultural	√		√		√	
Non-Agricultural Accessory Structures Less Than 1,200 Square Feet	√	√	√		√	
Non-Agricultural Accessory Structures Greater Than 1,200 Square Feet	√	√	√			√
Accessory Structures Less Than 120 Square Feet, Patios, and Decks			√			
Fences and Walls				√		
All Other Structures	√	√	√			√

Section 6 Standards for Specific Uses.

6.01 Additional Residential Dwelling Units.

6.01.1 One Residential Dwelling Unit in addition to the primary Residential Dwelling Unit is permitted on a Tract of Record so as long as no new Tracts of Record are created and the use of the additional Residential Dwelling Unit complies with the standards in this Section. Any deviation or change from the standards in this Section requires the owner or operator to obtain a Conditional Use Permit.

6.01.2 Additional Residential Dwelling Units shall meet the following requirements:

6.01.2.1 Any Structure that provides an additional Residential Dwelling Unit in addition to the primary Residential Dwelling Unit shall be located within 300 feet of the primary Residential Dwelling Unit.

6.01.2.2 The use and occupancy of an additional Residential Dwelling Unit is limited to:

6.01.2.2.1 Family members of an individual with an ownership interest in the property;

6.01.2.2.2 Employees of the landowner (including the employee's family) employed to provide services related to the management of the property or required to fulfill the landowner's basic life necessities; or

6.01.2.2.3 Non-paying guests of the owner staying for limited periods of time.

6.01.3 On land taxed as agricultural under Title 15, MCA, more than one additional Residential Dwelling Unit may be located on a Tract of Record, subject to the Conditional Use Permit process in **Art. II, Sect. 4**, only if the additional Residential Dwelling Unit(s) are necessary to the direct functionality of an active agricultural operation. In such case, the limitations of **Sects. 6.01.1 and 6.01.2** do not apply.

6.01.4 Land Use Permits are required for each additional Residential Dwelling Unit.

6.01.5 Additional Residential Dwelling Units intended for future sale must, at the time of creation of a new Tract of Record, comply with all other applicable requirements of these Regulations.

6.02 **Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt.** Any operation, as defined in the Gallatin County Interim Zoning Regulation for Operations that Mine Sand and Gravel or Operations that Mix Concrete or Batch Asphalt, must comply with said Interim Zoning Regulation until its expiration.

6.03 **Overnight Accommodations.** Uses such as rental cabins, Campgrounds, Recreational Vehicle Parks, Hotels or Motels, Bed and Breakfast Houses, guest or dude ranches, or any other Commercial activity that provides Overnight Accommodations for any length of time requires a Conditional Use Permit. An application for a CUP under this Section must, in addition to the requirements of **Art. II, Sect. 4**, address the following:

6.03.1 The manner in which the landowner or operator will limit the length of stay of guests to demonstrate how the operation is not residential in nature and therefore how the use will comply with the underlying density requirement of this Article; and

6.03.2 The manner and extent of all services provided to guests including whether individual units will provide sanitation and cooking facilities.

6.04 Uses that Create Greater than 500 Average Daily Traffic. Any use that creates greater than 500 average daily traffic (ADT), as defined by the Gallatin County Subdivision Regulations, shall be reviewed as a Conditional Use Permit pursuant to **Art. II, Sect. 4**. Any mitigation required through the Conditional Use Permit process shall comply with the design and improvement standards established in Section 7 of the Gallatin County Subdivision Regulations.

6.04.1 All uses creating greater than 500 ADT shall submit the following materials with the Conditional Use Permit application:

6.04.1.1 A Traffic Impact Study (TIS) in compliance with the TIS requirements of the Gallatin County Subdivision Regulations; and

6.04.1.2 Proposed mitigation for any impacts identified in the TIS.

6.04.2 New Agricultural Activities that creates greater than 500 average daily traffic may not be denied by the Commission but may be reasonably conditioned.

6.05 Agricultural Activities. Nothing in these Regulations shall be deemed to deny the owner of real property or the user of any real property within this district the right to conduct Agricultural Activities.

Section 7 Creation of New Tracts of Record through Subdivision Exemption Claims.

7.01 New Tracts of Record Created Via Family Transfer. Except as provided below, the creation of a Tract of Record pursuant to the subdivision exemption for family transfers after the effective date of the regulations for this Article is exempt from the density requirement of **Sect. 3.01** but must comply with the following:

7.01.1 In order to ensure the exemption was not done for the purposes of evading subdivision review and to ensure compliance with the intent of these Regulation, the Tract of Record shall be retained by the recipient family member as approved by the Commission for a period of no less than ten (10) years from the date of Commission approval.

7.01.2 The recipient of a family transfer parcel may sell or transfer the Tract of Record prior to the expiration of the ten year period pursuant to the following options:

7.01.2.1 The recipient landowner may transfer or sell the Tract of Record without requesting a waiver from the Commission within the ten year time period to another party who would have qualified as an

eligible recipient at the time of the original creation of the family transfer Tract of Record;

7.01.2.2 Where hardship exists, the landowner may request the governing body waive the ten year retention requirement. To do so, the Commission must conduct a public hearing after adequate notice to adjacent property owners. The Commission may consider any applicable circumstances in its determination to waive the ten year retention requirement; or

7.01.2.3 The recipient landowner may undergo review pursuant to the Montana Subdivision and Platting Act and the Gallatin County Subdivision Regulations.

7.02 New Tracts of Record Created Via Relocation of Common Boundary Lines.

7.02.1 Then density requirement of **Section 3.01** does not apply to the relocation of common boundary lines because the boundary relocation exemption from subdivision review does not allow the creation of any additional Tracts of Record. In no case shall the number of total zoning entitlements after relocation exceed the density authorized by the underlying zoning. To determine whether the proposed boundary relocation will increase the number of zoning entitlements, the Planning Department shall consider the aggregate size of the Tracts of Record involved in the proposed relocation.

7.02.2 To ensure additional development entitlements are not created by the boundary relocation, the relocation must comply with the following:

7.02.2.1 Where a new Tract of Record created pursuant to a boundary relocation is greater than or equal to 320 acres that cannot be described as one-half of an aliquot part of a United States government section, exclusive of public roadways, the new Tract of Record shall not be further divided as defined by the Montana Subdivision and Platting Act, except through another exception to the density requirements of **Sect. 3.01**;

7.02.2.2 The landowner obtaining approval for a common boundary relocation shall include a statement on the Certificate of Survey or some other recordable written instrument acceptable to the Gallatin County Attorney indicating the new Tract of Record can no longer be divided unless authorized by another exemption from the density requirements of **Sect. 3.01**. The approved written instrument shall be recorded concurrent with the recording of the Certificate of Survey; and

7.02.2.3 Concurrent with the filing of the Certificate of Survey evidencing the boundary relocation, the Zoning Enforcement Agent shall indicate on its records, if applicable, that the newly created Tract of Record is not eligible for any additional density entitlements unless authorized by another exemption from the density requirements of **Sect. 3.01**.

7.02.3 Nothing in this Section shall restrict the ability of a landowner to participate in Transferable Development Opportunities pursuant to **Art. XXII**.

7.03 New Tracts of Record Created Via Other Exemptions from Subdivision Review.

7.03.1 Court Ordered Divisions of Land. Where a court of record creates a Tract of Record that does not, upon creation, comply with the density requirements of this Article, the party obtaining the resulting court ordered Tract of Record shall obtain prior to any new development occurring on the new Tract of Record, a Transferable Development Right pursuant to the procedures in **Art. XXII, Sect. 3**. No Land Use Permit shall be issued until the TDR is obtained and retired pursuant to **Art. XXII, Sect. 3**.

7.03.2 Agricultural Tracts of Record. Where landowners desire to create a new Tract of Record to be used exclusively for Agricultural Activities and agree with the Commission to enter into a covenant running with the land restricting the use of the Tract of Record to be used exclusively for Agricultural Activities, the density requirements of **Sect. 3.01** do not apply. Violation of the covenant is a violation of these Regulations. No Structures other than Agricultural Structure may be constructed on the resulting Tract of Record.

7.03.3 Security for Construction Financing (Mortgage Exemptions). Where a landowner surveys a Tract of Record for use as security for a mortgage or other financing, the filing of the survey or other documents evidencing the mortgage or other financing is exempt from the density requirements of **Sect. 3.01**. Upon conveyance to the financial or lending institution to which the mortgage, lien, or trust indenture was given or upon conveyance to a purchaser upon foreclosure of the mortgage, lien, or trust indenture the resulting Tract of Record assumes any available development right existing on the parent Tract of Record. If, after transfer or foreclosure as described above, a development right cannot be transferred from the parent Tract of Record to the Tract of Record created upon transfer or foreclosure, then prior to construction of any Residential Dwelling Unit, a landowner shall obtain a Transferable Development Right pursuant to the procedures set forth in **Art. XXII**.

7.03.3.1 Where hardship exists, the landowner may request the Commission waive this requirement. To do so, the Commission must conduct a public hearing after adequate notice to adjacent property owners. The Commission may consider any applicable circumstances in its determination to waive this requirement.

7.03.4 Utility/Park Tracts of Record. The creation of a Tract of Record to be used exclusively for the placement of public utilities or to be used exclusively for parkland dedicated to the public is exempt from the density requirements Section 3.01.

Section 8 Transferable Development Credits (TDC).

8.01 TDCs Authorized. Pursuant to the requirements of **Art. XXII, Sect. 2**, eligible Tracts of Record within this district are authorized to petition to be allocated Transferable Development Credits (TDC). Development of a property that has been allocated TDCs is subject to the requirements of **Art. XXII, Sect. 2.06**.

Section 9 Transferable Development Rights (TDR): Use and Density Bonuses.

9.01 Mechanism. A transfer of the development right (TDR) established through a zoning entitlement from a parcel(s) within the AG-160 district to one or more parcels within the AG-160 district shall comply with the following requirements and the provisions of **Article XXII** (Transferable Development Opportunities).

9.01.1 A transfer of a zoning entitlement between contiguous properties is a permitted use.

9.01.2 A transfer of a zoning entitlement between non-contiguous properties requires a Conditional Use Permit pursuant to the requirements of **Art. II, Sect. 4**. In addition to review under the Conditional Use Permit criteria listed in **Art. II, Sect. 4**, the Commission shall review the transfer of a TDR from one parcel within this district to another non-contiguous parcel within this district for compliance with the following:

- The transfer fulfills the intent and purposes of the AG-160 district and **Art. XXII** (Transferable Development Opportunities);
- The transfer protects lands of significantly important agricultural, environmental, or cultural value or is necessary to effectuate a mortgage survey or partition order pursuant to **Sects. 7.03.1 and 7.03.3**, respectively;
- The transfer does not detrimentally affect local transportation facilities or other natural resources, including water quality;

- The transfer does not unduly burden the provision of public services to the property; and
- The transfer does not significantly affect adjacent properties.

9.02 Density Bonus. A landowner transferring a zoning entitlement (i.e. a TDR) from a Tract of Record within this district to another Tract of Record(s) within this district is granted one additional zoning entitlement to be used on the receiving Tract of Record for every five zoning entitlements transferred, up to a maximum bonus of three additional Residential Dwelling Units. Thus, a developer transferring the zoning entitlement for between five and ten Tracts of Record is granted one additional zoning entitlement, and a landowner transferring the zoning entitlements for between ten and fifteen Tracts of Record is granted two additional zoning entitlements. A landowner transferring the zoning entitlements to more than fifteen Tracts of Record is granted three additional zoning entitlements.

9.03 Development within the AG-160 District Using TDRs.

9.03.1 Subdivision Review: Development of the Tract of Record receiving the TDR shall be subject, unless otherwise exempt, to the Montana Subdivision and Platting Act and review under the Gallatin County Subdivision Regulations.

9.03.2 Other Requirements: If the density on the parcel receiving the TDRs exceeds one unit per 80 acres, the creation of that Tract of Record must comply with the Rural Cluster Development Zoning Design Standards (**Sect. 11.06**). The density of a parcel receiving TDRs transferred under this subsection may exceed the RCD maximum density of one Residential Dwelling Unit per 40 acres, but in no circumstances shall exceed one Residential Dwelling Unit per 20 acres.

Section 10 Zoning Overlays Within the AG-160 District

10.01 Rural Cluster Development Overlay (RCD Overlay). Where Tracts of Record are created pursuant to the Rural Cluster Development (RCD) Program, an “RCD Overlay” shall be applied to the subject Tracts of Record so they are easily identified as being included in an RCD project and thus restricted from future development not in conformance with the requirements of these Regulations. This zoning overlay shall be automatically applied to the subject properties upon recording of the final plat for an RCD Project.

10.02 Transferable Development Credit Allocation Overlay (TDCA Overlay). Where Tracts of Record are allocated Transferable Development Credits pursuant to **Art. XXII**, a “TDCA Overlay” shall be applied to the subject Tracts of Record so they

are easily identified as having TDCs allocated and thus restricted from future development not in conformance with the requirements of these Regulations. This zoning overlay shall be automatically applied to the subject property(s) upon allocation of TDCs and shall be in effect for a term of 40 years from the date of allocation unless the restriction is removed as authorized by these Regulations.

- 10.03 Development Right Removal Overlay (DRR Overlay).** Where a property sells, transfers, or otherwise conveys all zoning entitlements authorized by these Regulations in accordance with the Transferable Development Right procedures in [Article XXII](#), a “DRR Overlay” shall be automatically applied to the subject property(s) so they are easily identified as having transferred all or part of the zoning entitlements and are thus restricted from future development not in conformance with the requirements of these Regulations.
- 10.04 Open Space and Park Land Overlay (OSP Overlay).** Where a Tract of Record is designated as open space or park land dedicated to the public, whether created prior to or after the adoption of these Regulations, an “Open Space and Park Land Overlay” shall be automatically applied to the Tract of Record so they are easily identifiable as being restricted in use for exclusively Open Space or dedicated park land. This overlay does not apply to open space or park land created through the RCD program pursuant to [Sect. 11](#).
- 10.05 Commercial Overlay (C Overlay).** Where a Tract of Record is to be, or has been, divided for exclusively Commercial uses and is therefore exempt from the density requirements of [Sect. 3.01](#), a “Commercial Overlay” shall be automatically applied to that Tract of Record so it is easily identifiable as being restricted in use for exclusively Commercial uses. A Tract of Record with this overlay may not be used for any residential use beyond that which is determined to be a valid non-conforming use pursuant to [Art. II, Sect. 2](#).
- 10.06 Adjusted Density Overlay (AD Overlay).** Where a Tract of Record is created through any means that under normal circumstances would have multiple zoning entitlements but for whatever reason as a result of decisions made by the landowner has a portion of those entitlements remaining, an “Adjusted Density Overlay” shall be automatically applied to the Tract of Record so the Tract of Record is easily identifiable as having a different zoning entitlement that that authorized by [Section 3.01](#) or is restricted from development not in compliance with the adjusted zoning entitlements.
- 10.07 Public Lands and Institutions Overlay (PLI Overlay).** Where lands within the this AG-160 zoning district are owned by the government of the United States or by the State of Montana or any of its political subdivisions, a “Public Lands and Institutions Overlay” shall be automatically applied to those lands to easily identify those lands as being in public ownership. In the event those lands are transferred to private ownership the PLI Overlay shall be automatically removed and the lands shall automatically be subject to the requirements of this Article. Public lands within

the AG-160 District and within this PLI Overlay may not participate in a TDO pursuant to **Art. XXII**.

Section 11 Rural Cluster Development (RCD) Program

11.01 Applicability. **Sect. 3.01** establishes residential development densities for this district. The RCD Program and these corresponding RCD Regulations provide an opportunity for landowners within this district to increase densities above those described in **Sect. 3.01**. All development that occurs through the RCD Program is subject to these Regulations and all applicable requirements of the Gallatin County Subdivision Regulations.

11.02 Legislative Findings.

11.02.1 In adopting this Rural Cluster Development opportunity the Commission specifically finds the following:

11.02.1.1 The integrity of Gallatin County's public transportation infrastructure is critical to maintaining the public health and safety as well as vital to on-going economic development because without adequate public transportation facilities the economic prosperity of our communities will suffer.

11.02.1.2 Improvements to the County's public transportation infrastructure are primarily funded by local government with contributions from local citizens through special taxing districts as well as through requirements of new development.

11.02.1.3 Currently, much of the existing County transportation infrastructure is inadequate to handle existing demand let alone sufficient to handle ever an increasing amount of traffic. Moreover, the County's public transportation infrastructure does not currently provide adequate alternatives to vehicle travel.

11.02.1.4 As land develops, the County must assure new development adequately mitigates its proportional share of impacts; however, in doing so, the County must comply with existing legal requirements regarding the nature and extent of those new requirements, especially in relation to existing deficiencies in the public transportation infrastructure.

11.02.1.5 Many of these inadequacies exist on rural roads in the County and those roads would be severely impacted by sprawl, potentially resulting in substantial health and safety issues.

11.02.1.6 While landowners have a certain reasonable expectation to be able to develop their land, the County must assure health and safety issues are addressed. A primary method in doing so is to limit density of new development in rural areas commensurate with the ability of the existing public transportation infrastructure to accommodate that new development.

11.02.1.7 Development potential is related to site-specific conditions. As such, the status of the primary access road (gravel, paved, etc.) is one of the primary factors to consider when examining the potential density of RCD projects.

11.02.1.8 The following intent and purposes are also instrumental in the Commission's determination to establish the RCD Program.

11.03 Intent and Purposes. The RCD Program is intended to implement the Growth Policy and provide a mechanism for land development that recognizes and respects private property rights and community values, while at the same time encouraging land development that fosters continued agricultural and open space uses reflective of the County's unique custom and culture. The specific purposes of the RCD Program are described below.

11.03.1 The RCD Program encourages new development to preserve and protect the diverse landscape and community character of Gallatin County by recognizing distinct land types and acknowledging the multiple services they provide. For example, farm and ranchlands not only provide food and fiber, but also provide jobs and income, watershed protection, natural resource and ecosystem protection, and protection of historical and cultural sites.

11.03.2 The RCD Program recognizes the changing needs of the agricultural community, and encourages flexible and innovative development patterns that retain contiguous agricultural or open space land uses.

11.03.3 The RCD Program promotes flexibility and innovation in new development by providing incentives such as density bonuses, use of rural development standards, and assistance with the design of projects. The RCD Program can also be utilized in conjunction with transferable development opportunities and conservation easements.

11.03.4 The RCD Program provides reasonable, fair, and predictable development standards that encourage land use designs to optimize preservation of environmental resources and lessen the cost of infrastructure, while assuring public health and safety concerns are addressed.

- 11.03.5** The RCD Program evaluates the impact of RCD projects on rural communities and considers the effects on infrastructure and the environment when awarding density bonuses. As such, Gallatin County determines that site-specific conditions and the status of the primary access road (gravel, paved, etc.) are the primary factors to consider the potential density of RCD projects.
- 11.03.6** The RCD Program promotes the goals of the Gallatin County Growth Policy and other plans adopted by the County, and coordinates land-use decisions with other County regulations in an attempt to simplify the land development process.
- 11.03.7** The RCD Program enables projects to be coordinated among separate parcels, and among neighboring landowners to create joint development proposals, where possible.
- 11.03.8** The RCD Program encourages and promotes good use of land while responding to lifestyle choices.

11.04 Rural Cluster Development Program Incentives. The RCD Program includes the following incentives:

11.04.1 Opportunities to increase density. Sect. 3.01 establishes the allowable base density of this district. When certain conditions are satisfied, as described in Sect. 11.05 below, RCD projects may receive a density bonus.

11.04.2 Use in conjunction with other options. The RCD Program Administrator will work with landowners and consider other tools that may be available to help them achieve their goals. Landowners may use both the RCD and TDC option on a given piece of property in accordance with the *Partial Allocation Rule* as described in Art. XXII, Sect. 2.06.

11.04.3 Development Opportunities for Non-Contiguous Parcels Under Same Ownership. For the purpose of the RCD Program, non-contiguous parcels under the same ownership may be treated as a single project subject to the following conditions:

11.04.3.1 Where possible, all new residential development shall be restricted to the Parcel that will result in the greatest compliance with the goals and objectives of the Gallatin County Growth Policy and that will have the fewest impacts if developed according to the Site Analysis Report and Evaluation Criteria; and

11.04.3.2 The required Rural Cluster Development overlay (RCD Overlay) shall cover the applicable portions of all Parcels involved with the corresponding RCD project.

11.04.4 **County Assistance with the Design of the RCD Project.** To help a landowner or applicant for an RCD project (hereafter referred to as “the applicant”) meet their goals and minimize upfront costs, the RCD Program Administrator shall be available to provide assistance in the design of the preliminary project sketch. Alternatively, upon completion of the Site Analysis Report, in-lieu of the RCD Program Administrator, the applicant may have a representative of their choice prepare a preliminary project sketch.

11.04.4.1 The Site Analysis Report prepared by the Program Administrator contains information that will be useful to the applicant as they proceed through the subdivision review process. The Site Analysis Report may be used to supplement any environmental assessment that may be required for subdivision review.

11.04.5 **Rural design and Improvement Standards.** RCD projects must obtain zoning and subdivision approval. When undergoing subdivision review, RCD projects are subject to a set of design and improvement standards developed specifically for RCD projects. These design and improvement standards are described in the Gallatin County Subdivision Regulations. Projects with 17 or more proposed developable Lots are subject to the regular design and improvement standards contained within the Subdivision Regulations.

11.04.6 **Ownership of Open Space.** While the establishment of Open Space within RCD projects is mandatory, there is substantial flexibility in how the Open Space is dispersed within the project and how it is owned, as described by [Sect. 11.06.2](#).

11.05 **Density of Rural Cluster Development Projects.**

11.05.1 RCD projects may receive a density increase above the density stated in [Sect. 3.01](#) up to the maximum density listed in [Table 11.05](#); however, this density increase is not automatic. In order for a RCD project to be approved, the project must:

11.05.1.1 Satisfy all the Rural Cluster Development Zoning Design Standards ([Sect. 11.06](#));

11.05.1.2 Satisfy the RCD Evaluation Criteria ([Sect. 11.11](#)); and

11.05.1.3 Not exceed the corresponding density outlined in **Table 11.05** (*Maximum Allowable Density Dependant on Status of Access Road*).

11.05.2 The maximum density of the RCD project shall not exceed the maximum density established in **Table 11.05**.

11.05.2.1 Where the status of the public road(s) providing access to the proposed project is unclear, the Commission, in consultation with appropriate County staff, shall determine the appropriate status of the road(s).

11.05.2.2 Improvements to the public road(s) providing access to the proposed project that will be done as part of the subdivision development process shall be factored into this determination.

11.05.3 **Number of Allowable Lots/Units.** The maximum density allowable for an RCD project is determined by calculating the number of Lots rather than Residential Dwelling Units. A Lot may have more than one Residential Dwelling Unit if permitted by **Sect. 6**. The number of Lots allowed within a RCD project shall be determined by dividing the gross acreage of the project by the maximum allowable density. Where the result is not a whole number, the final number of allowable Lots shall be determined by normal means of rounding.

Table 11.05	
Status of Public Road(s) Providing Access to the Proposed Project	Maximum Allowable Density
Access is provided on a non-public road, or access is provided on a public road that is not a year-round road with an all weather surface.	No subdivision allowed
Access is provided on an unpaved public road, whether County-maintained or not, and the road does not substantially meet current County standards.	1 Lot per 80 acres.
Access is provided on an unpaved public road, whether County-maintained or not, and the road substantially meets current County standards.	1 Lot per 60 acres.
Access is provided on a paved public road, whether County-maintained or not, and the road does not substantially meet current County standards.	1 Lot per 60 acres.
Access is provided on a paved public road, whether County-maintained or not, and the road substantially meets current County standards.	1 Lot per 40 acres.
Access is provided by a paved State-maintained public road.	1 Lot per 40 acres.

11.06 Rural Cluster Development Zoning Design Standards. The development standards described here are minimum standards intended to further the intent and purposes of the RCD Program. Because the Evaluation Criteria ([Sect. 11.11](#)) include a points-based assessment of projects, projects should strive to exceed these minimum standards.

11.06.1 Minimum Project Size. To participate in the RCD Program, the project must involve a minimum of 80 acres. Where the Tract of Record proposed for the RCD Project is greater than the size of the proposed RCD project, the RCD Overlay shall only cover the portion of the Tract of Record within the RCD project; however, unless the non-RCD portion of the Tract of Record complies with the underlying density regulation, the Tract of Record may not be developed absent inclusion in the RCD project or absent the availability of a development right. Such a situation does not preclude the landowner from having TDCs allocated to the non-RCD portion of the property pursuant to [Art. XXII](#).

11.06.2 Open Space: All RCD projects shall contain a minimum of 90% Open Space.

11.06.2.1 Open Space shall be calculated by subtracting the following land area from the gross project area:

- Building envelopes, or in instances where the area of the Lot is less than or equal to two acres, the Lot area;
- Road right-of-way or public access easements; and
- Land reserved for water or wastewater treatment facilities located outside of a building envelope.

11.06.2.2 The Open Space created by a RCD project shall be designed to be contiguous to Open Space on adjacent properties, where such land exists and where such arrangement is feasible.

11.06.2.3 Open Space may be located on individual Lot(s) or as a separate Open Space Lot. As such, the Open Space created as part of an RCD project may be owned in several different ways as described below:

11.06.2.3.1 Where Open Space is contained within a developable Lot(s), the Open Space will be owned by that Lot owner.

11.06.2.3.2 Where Open Space is contained on one or more Lots within the project and those Lots will be restricted from Development, the ownership of

such Open Space Lots is not restricted (i.e. the Open Space Lots may be retained by the landowner that did the RCD project, held by the Owners' Association for the subject RCD Project, or held by a third party).

11.06.2.3.3 Nothing in these Regulations shall be construed to preclude an agricultural lease agreement as described in **Sect. 76-3-201(1)(f), MCA**, covering the Open Space.

11.06.3 Lots and Building Envelopes:

11.06.3.1 The maximum size of developable Lots created through the RCD Program is 40 acres; however, where all or the vast majority of the Open Space for a project will be contained within a single Lot that is part of the RCD project, and that Lot retains Development potential, the Lot may exceed 40 acres in size.

11.06.3.2 In any instance where the size of a developable RCD Lot exceeds two acres, building envelopes are required, **shall be surveyed**, and shall be shown on all final zoning and subdivision documents, including the final plat. All new Development shall take place within the building envelope, including the construction of accessory structures.

11.06.4 Clustering of New Development. Lot layout shall be designed such that new Development is located in one or more concentrated areas of Clustered Development (otherwise referred to as "Development Nodes"), subject to the following requirements:

11.06.4.1 The Site Analysis Report identifies both natural and cultural resources as well as other physical constraints to developing the property. Development Nodes shall be located to minimize the impact to identified resources, protect public health and safety, and to achieve the intent and purposes of the RCD Program to the maximum extent possible.

11.06.4.2 Projects with less than ten (10) Lots shall be located within one Development Node. Projects with 10 or more Lots may split the new Development up between two Development Nodes; however, each Development Node shall consist of at least five Lots.

11.06.5 Existing Structures. The following apply to existing Structures located within the boundaries of RCD projects:

11.06.5.1 For purposes of calculating density, existing Residential Dwelling Unit shall be included in a Lot and deducted from the number of new Lots that will be allowed. At the discretion of the Commission, more than one Residential Dwelling Unit may be counted as a single Lot provided the project is designed so that all related Structures are located on a single Lot;

11.06.5.2 Where existing Structures are located in an area that complies with the intent, purposes, and requirements of the RCD Program, new Development shall be clustered around the existing Structures; and

11.06.5.3 Where existing Structures are located in an area that does not comply with the requirements of the RCD Program, or where existing Structures are considered an additional Residential Dwelling Unit per **Sect. 6.01**, and the intent of the applicant is to continue to use the subject Structures to support an Agricultural Activity, the following shall be done:

11.06.5.3.1 building envelopes shall be established to accommodate the existing Structures and any necessary expansion of Development to accommodate the continuance of the agricultural or residential use; and

11.06.5.3.2 new Development Node(s) should be established in another portion of the Tract of Record to satisfy the intent, purposes, and requirements of the RCD Program to the maximum extent possible.

11.06.6 Distance from Existing Public Roads. In an effort to minimize the amount of required new infrastructure, RCD projects, shall be designed to place Development Nodes as close as practicable to existing public roads, while considering site conditions as described in the Site Analysis Report and the intent and purposes of the RCD Program.

11.06.6.1 The travel distance, measured along the length of the interior subdivision road from the public road(s) providing access to the proposed project to the immediate vicinity of a new residential Structure in an RCD project, shall not exceed 2,500 feet.

- 11.06.7 Subdivision Regulations.** RCD projects shall be designed to comply with the applicable design requirements of the Gallatin County Subdivision Regulations.
- 11.07 Rural Cluster Development Zoning Overlay.** Upon platting of an RCD project, all property involved in the project shall be subject to the RCD Overlay pursuant to **Sect. 9.01.**
- 11.08 Waiver from Rural Cluster Development Zoning Design Standards.** Where a RCD project cannot comply with one of the design standards described above, the applicant may make a written request to have that standard waived. The request must include justification explaining why the standard cannot be complied with, and documentation regarding other facts relevant to the request. At the hearing on the PUD pursuant to **Sect. 11.09.7**, the Commission shall consider the merit of the requested waiver. In order to approve a waiver, the Commission shall find:
- 11.08.1** The waiver is necessary because of a physical characteristic of the property;
 - 11.08.2** The granting of the waiver will not cause a substantial increase in public costs or jeopardize public health and safety; and
 - 11.08.3** If the waiver is granted, the resulting project will still comply with the spirit and intent of the RCD Program.
- 11.09 Rural Cluster Development Zoning Review Process.** RCD projects shall be considered and reviewed as a zoning PUD and a subdivision PUD. Participants in the RCD Program shall receive approval of the zoning PUD prior to commencing the subdivision review process.
- 11.09.1 Preliminary Meeting.** A preliminary meeting with the RCD Program Administrator is required prior to submittal of an application under this Section. An Applicant shall arrange a meeting with the RCD Program Administrator to discuss project goals and assess which, if any, other land use planning tools may be available to help achieve the applicant's stated goals.
 - 11.09.2 Site Visit and Site Analysis Report.** Upon a decision to proceed through the RCD process, the applicant shall submit a Site Visit and Analysis application. After submittal of the application, a site visit shall take place in order to analyze the appropriateness of the site for Development according the intent and requirements of this Section.
 - 11.09.3 Site Analysis Report.** After the site visit, the Program Administrator shall prepare a Site Analysis Report summarizing the results of the site visit and analyzing the appropriateness of the site for Development according to the

intent and requirements of this Section. The report shall be based on information obtained from the site visit or other available sources. Upon completion of the Site Analysis Report, the Program Administrator shall schedule a meeting with the applicant to review the findings contained in the Report.

11.09.4 Preliminary Project Sketch. After reviewing the Site Analysis Report, if the applicant wishes to proceed, the applicant shall do one of the following:

11.09.4.1 Submit an application for Preliminary Project Sketch Assistance and work with the Program Administrator to prepare the sketch based on the findings of the Site Analysis Report.

11.09.4.2 Work with a representative of the applicant's choice to prepare a preliminary project sketch based on the findings of the Site Analysis Report.

11.09.4.3 The Preliminary Project Sketch shall identify the following:

- Development Nodes;
- Lot layout, including approximate location of building envelopes for Lots greater than two acres;
- location of existing fencing and any proposed modifications to the fencing;
- proposed layout of road infrastructure; and
- any other design information relevant to the proposed project.

11.09.5 Submittal of RCD Zoning PUD Application: Upon completion of the Preliminary Project Sketch and a decision by the applicant to proceed, the applicant shall submit the required RCD Zoning PUD Application. Upon receipt of the application, the Program Administrator shall:

11.09.5.1 Check to make sure all required materials are included with the application;

11.09.5.2 Schedule a public meeting before the RCD Technical Advisory Committee and a public hearing before the County Commission;

11.09.5.3 Send notice of the public meeting and public hearing to adjacent landowners via certified mail; and

11.09.5.4 Prepare staff reports for the RCD Technical Advisory Committee and County Commission summarizing issues relevant to the proposed project.

11.09.6 RCD Technical Advisory Committee Review of the RCD Zoning PUD Application. The RCD Technical Advisory Committee shall hold a public meeting to review the proposed project for compliance with the intent and purposes of the RCD Program and against the established Evaluation Criteria (Section 11.11). In reaching their recommendation on the proposed RCD Zoning application, the RCD Technical Advisory Committee shall consider the application, Site Analysis Report, the Staff Report, any presentation by the applicant, and any public comment received regarding the application. The RCD Technical Advisory Committee shall forward their recommendation and any relevant comments to the Commission.

11.09.7 County Commission Review of the RCD Zoning PUD Application. The Commission shall hold a public hearing to review the proposed project for compliance with the intent and purposes of the RCD Program and against the established Evaluation Criteria (pursuant to Sect. 11.11). In reaching their decision on the proposed RCD Zoning application, Commission shall consider the application, Site Analysis Report, the Staff Report, any presentation by the applicant, any public comment received regarding the application, and the recommendation and comments of the RCD Technical Advisory Committee.

11.10 Subdivision Review of Rural Cluster Development Projects. If the Commission approved the RCD Zoning PUD application, the applicant may proceed through the subdivision review process as described in the Gallatin County Subdivision Regulations.

11.10.1 It is contemplated that modifications to the Preliminary Project Sketch may be necessary as a result of the engineering design and analysis that is required for subdivision review. A summary of those modifications shall be submitted to the Program Administrator prior to, or concurrent with, the submittal of a subdivision preliminary plat application. The Program Administrator shall make a determination whether or not these changes are material.

11.10.1.1 Material changes are changes that substantially modify the design of the proposed project, or that would lessen the project's compliance with any of the established Evaluation Criteria.

11.10.1.2 If the Program Administrator determines the changes are not material, the project shall proceed through the subdivision review process.

11.10.1.3 If the Program Administrator determines the changes are material, the Commission shall hold a public hearing with the scope of the hearing limited to the proposed changes.

11.10.1.3.1 The Commission shall review the revised project for compliance with the intent and purposes of the RCD Program and against the established Evaluation Criteria (Section 11.11).

11.10.1.3.2 In reaching a decision on the revised project, County Commission shall consider the revised application, Site Analysis Report, the Staff Report, any presentation by the applicant, and any public comment received regarding the revised application. The Commission may approve the revised project, deny the revised project, or refer the revised project back to the RCD Technical Advisory Committee for their recommendation.

11.10.1.3.3 The Commission shall reach a decision on the proposed changes prior to considering the preliminary plat application.

11.11 Evaluation Criteria: The RCD Technical Advisory Committee and the County Commission shall evaluate proposed RCD projects against the criteria established below. The evaluation criteria are divided into *qualitative criteria* and *quantitative criteria*.

11.11.1 Qualitative Criteria: Evaluation for each of the *qualitative criteria* shall be stated in the form of *Highly Compliant*, *Moderately Compliant*, *Substantially Noncompliant*, or *Not Applicable*. If the Commission finds a project to be *Substantially Noncompliant* with any of the *qualitative criteria*, the project shall not be approved.

11.11.1.1 Agriculture. The proposed project mitigates anticipated impacts to the following agricultural resources:

- impacts to important agricultural soil;
- the extent to which continued agricultural use of the land will remain viable, suitable and sustainable, both on its own and within the context of surrounding land uses;

- the extent to which the infrastructure associated with the proposed project (roads, fencing, location of drainfields, etc.) will impact the ability for continued agricultural use of the property;
- the impact the design of the project is anticipated to have on adjacent agricultural operations;
- the ability of farmers and ranchers to continue moving agricultural machinery and/or livestock along commonly used routes as a result of increased vehicle traffic associated with the project;
- the maintenance and continued availability of adequate water resources and/or water rights adequate to maintain any stated plans for continued agricultural use on the subject property; and
- other relevant impacts to agriculture associated with the development of the proposed project.

11.11.1.2 Water Conveyance Facilities. The proposed project mitigates anticipated impacts to existing Water Conveyance Facilities in the following ways:

- where the proposed project contains Water Conveyance Facilities, the process and design standards described in the Gallatin County Subdivision Regulations have been followed to identify and mitigate any associated impacts;
- where the proposed project contains Water Conveyance Facilities, contact with the users or authorized representatives of the Water Conveyance Facilities has been made and the proposed project addresses and adequately mitigates the concerns expressed by those parties;
- where the proposed project contains Water Conveyance Facilities, all proposed development will be adequately setback from the Water Conveyance Facilities;
- where the proposed project contains Water Conveyance Facilities, the project design maintains or enhances existing means of access for the maintenance of such facilities; and
- where the project site contains Water Conveyance Facilities on which other croplands depend, adequate mitigation is included such that the conversion of the project site to a residential use will not substantially interfere with the Water Conveyance Facilities.

11.11.1.3 Natural Resources. The proposed project mitigates anticipated impacts to natural resources present on-site and in the immediate vicinity of the project. Natural resources for which impacts should be considered include, but are not limited to, the following:

- native vegetation
- riparian vegetation
- wetlands
- watercourses
- floodplains
- quality or quantity of surface water resources
- quality or quantity of groundwater resources
- surface runoff patterns and the impact of any manipulation of those patterns
- manipulation of existing terrain that is likely to result in problems with erosion or sedimentation
- appropriate treatment of known noxious weed infestations

11.11.1.4 Wildlife Resources. The proposed project mitigates anticipated impacts to the wildlife resources by:

- identification (through the site analysis report and consultation with the appropriate agencies or professionals) of the areas of the property that have the greatest value as wildlife habitat (critical wildlife habitat, known wildlife movement corridors, etc.) and designing the project to avoid those areas to the maximum extent practicable;
- restriction of regular human and pet activity from areas described above;
- limiting construction of any new fences or other potential barriers to wildlife movement, or providing a detailed description of how such potential barriers will be designed so they do not function as obstructions to wildlife movement;
- protecting fisheries resources by minimizing the number of road crossings and minimizing disturbance to existing riparian habitat; and
- taking other necessary precautions to avoid impacting identified wildlife resources

11.11.1.5 Public Health and Safety. The proposed project mitigates anticipated impacts to public health and safety by:

- situating new development where it isn't prone to natural hazards such as: flooding, snow or rock slides, high winds, wildfire, excessive slopes, geotechnical hazards, etc.; and
- situating new development where it isn't prone to man-made hazards such as: high voltage power lines, high pressure gas lines, nearby industrial or mining activity, high traffic volumes, lack of fire protection, inadequate traffic safety, etc.

11.11.1.6 Cultural Values. The proposed project is designed to be consistent with cultural values by:

- maintaining a sense of rural character and tradition;
- maintaining a sense of community identity or continuing to serve as a community buffer;
- preserving historical structures or features;
- by avoiding hillside or ridgeline development; and
- by being generally compatible with the neighborhood and surrounding land uses.

11.11.1.7 Site Analysis.

- The project avoids impacting or provides adequate mitigation for any impacts to the resources identified by in site analysis report.
- The physical characteristics of the subject property appear to be capable of supporting the proposed density.

11.11.1.8 Growth Policy.

- The project is consistent with the applicable goals and objectives of the adopted Growth Policy.

11.11.1.9 General Intent and Purpose. The proposed project complements the general intent and purposes of the RCD Program as stated in **Sect. 11.03 by:**

- locating development nodes in a manner so as to: minimize the impact to identified resources; protect public health and safety; and to achieve the intent and purposes of the RCD Program to the maximum extent possible; and
- designing the project so that new development is clustered to the maximum extent practicable after consideration of applicable development constraints.

11.11.2 Quantitative Criteria: Evaluation for each of the *quantitative criteria* shall be by way of scoring, as set forth in below. There are a total of 100 points, and in order for a project to be approved, the project must score a minimum of 60 points; however, in any instance where a waiver from a design requirement is granted by the Commission, the points for that criteria shall not count for or against the project, and the project shall score at least 60% of the applicable points in order to be approved.

11.11.2.1 Connectivity of open space corridors. (20 points)

- Where there is existing Open Space on adjacent properties, but the project is designed in a manner that does not provide connectivity between the adjacent Open Space and the Open Space within the project (10 points)
- Where the project is not adjacent to any existing Open Space, but the project establishes the first permanently protected Open Space in the vicinity of the project, or where the Open Space created by the project is designed to connect with existing Open Space on one or more adjacent properties (20 points)

11.11.2.2 Distribution of Open Space within the project. (20 points)

- Where the Open Space for the project is contained within multiple lots where residential development is restricted by building envelopes (5 points)
- Where the Open Space for the project is located on multiple Open Space lots with no development allowed on those lots (10 points)
- Where all of the Open Space for the project is contained within a single lot where development on that lot is restricted by a building envelope (15 points)
- Where the Open Space for the project is a separate tract of land with no development allowed (20 points)

11.11.2.3 Amount of Open Space (20 points) Percentages shall be calculated to the nearest whole number by normal means of rounding).

- Where a project provides the minimum amount (90%) of required Open Space (2 points)
- Where a project provides between 91% and 92% Open Space (5 points)
- Where a project provides between 93% and 95% Open Space (10 points)
- Where a project provides between 96% and 98% Open Space (15 points)
- Where a project provides greater than 98% Open Space (20 points)

11.11.2.4 Distance of new development from existing public roads. (20 points)

- Where all new residential building sites are between 1001 and 2500 feet from existing public roads (5 points).
- Where all new residential building sites are between 751 and 1000 feet from existing public roads (10 points)
- Where all new residential building sites are between 501 and 750 feet from existing public roads (15 points)
- Where all new residential building sites are within 500 feet of existing public roads and dust control measures on the primary access road in the vicinity of the project have not been taken (17 points).
- Where all new residential building sites are within 500 feet of existing public roads and dust control measures on the primary access road in the vicinity of the project have been taken (20 points).

11.11.2.5 Number of development nodes for new residential development. (20 points)

- Where a project with 10 or more lots creates two separate development nodes (10 points).
- Where all the development within a project is located within a single development node (20 points).

11.12 Administration of Rural Cluster Development Program

11.12.1 RCD Program Administrator. The RCD Program Administrator is responsible for coordinating and administering the RCD Program. The Commission shall designate a RCD Program Administrator, which may be the Planning Director or other designee of the Commission.

11.12.2 RCD Technical Advisory Committee. The Commission shall establish the RCD Technical Advisory Committee and shall adopt bylaws governing the makeup of the Committee, term limits for members, and other administrative and procedural requirements.