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Land Use Planning Division
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**STAFF REPORT FOR THE PLANNING COMMISSION
HEARING
September 11, 2023**

**CFU AND EFU ZONING AMENDMENTS OMNIBUS
(PC-2022-15634)**

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1.0 INTRODUCTION

Draft Ordinance Title:

Amending MCC Chapter 39 Relating to Commercial Forest Use Zones and the Exclusive Farm Use Zone to conform to State Statutes and to add flexibility for property line adjustments and to provide an option for land divisions for public parks and conservations lands.

Description:

The proposed amendments (PC-2022-15634), relate to a range of amendments to Commercial Forest (CFU) zone and the Exclusive Farm Use (EFU) zones. Recent bills passed by the State legislature over the past few years require updates to the CFU and EFU zoning regulations. Additionally, staff is using this opportunity to provide for additional flexibility, as provided for in state law, for certain property line adjustments and land divisions. Specific explanations of the proposed changes are included in the staff notes relating to the code amendments. This project addresses task A2 on the 2022/2023 Planning Commission work program (See attachments 1 and 2).

The following text is used within the proposed amendments:

Double Underline = Proposed new text

~~Strikethrough~~ = Text proposed for removal

* * * Indicates a minor gap in code for brevity, typically within the same section

2.0	SECTION 2 PROPOSED CFU CODE AMENDMENTS
2.1	Combined CFU Zone Amendments:
	<p>STAFF NOTE 2.1.1: <i>The amendments below add text to the 'template test' dwelling standards in the CFU zone. The amendment is responsive to changes in state law [ORS 215.750 / HB 2225 (2019)]. County code is already substantially compliant with the changes in state law, so the amendments are limited to the two text additions below. HB 2225 is in effect November 1, 2023. These amendments implement item C1 (EFU/CFU Legislation) within Attachment 2 of the 2022/2023 planning commission work program.</i></p> <p>PART 4.A.1 – COMMERCIAL FOREST USE DISTRICTS (CFU)</p> <p>***</p> <p>§ 39.4090 TEMPLATE DWELLINGS STANDARDS.</p> <p>(A) <u>As used in this section, “center of the subject tract” means the mathematical centroid of the tract.</u> A template dwelling may be sited on a tract, subject to the following:</p> <p>(1) The lot or lots in the tract shall meet the applicable Lot of Record standards of Part 3 of this Chapter.</p> <p>(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC 39.4110 and 39.4115;</p> <p>(3) The tract shall meet the following standards:</p>

- (a) If the tract is predominantly composed of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and
1. The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and
 2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or
- (b) If the tract is predominantly composed of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and
1. The lot upon which the dwelling is proposed to be sited and at least all or part of 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and
 2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or
- (c) If the tract is predominantly composed of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and
1. The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and
 2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.
- (d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy Subsections (a) through (c) above.
- (e) There is no other dwelling on the tract.
- (f) No other dwellings are allowed on other lots (or parcels) that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.
- (g) Except as provided for a replacement dwelling, all lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling.
- (h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling.
- (i) Pursuant to the definition of "Date of Creation and Existence" in MCC 39.2000, if the lot, parcel or tract does not qualify for a dwelling under the standards in this section, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

(j) Pursuant to the definition of “Date of Creation and Existence” in MCC 39.2000, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the “other lawfully created lots” existing on January 1, 1993 standard in subsections (A)(3)(a), (b), and (c) of this Section above: 3, 7, and 11 lots respectively.

(k) “Within” as used in the context of Subsections (a)2., (b)2. and (c)2. of this Section shall mean that all of the dwellings or any part of the dwellings are in the 160-acre square.

(4) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

(5) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(6) A condition of approval requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:

(a) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;

(b) The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;

(c) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to state law;

(7) The dwelling meets the applicable development standards of MCC 39.4110 and 39.4115;

(8) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

(9) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or a similar form approved by the Planning Director, has been recorded with the county Division of Records;

(a) The covenants, conditions and restrictions shall specify that:

1. All lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and

2. No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands;

(c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).

STAFF NOTE 2.1.2:

The new code section referenced below is added to allow for land divisions by a local/regional government or nonprofit for park or conservation land. (C) is modified in order to account for lots created under new Section 39.4143 that do not abut a street. New Section 39.4143 is discussed under Staff Note 2.1.4.

§ 39.4120 LOT SIZE REQUIREMENTS.

(A) The minimum lot size for new parcels or lots shall be 80 acres, except as provided in MCC 39.4125, 39.4130, 39.4140, 39.4143, 39.3010, 39.3020, 39.3030, 39.3040, 39.3050 and 39.3060.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

(C) The minimum Front Lot Line Length is 50 feet, except for flag lots as provided in MCC 39.9510(D)- and except as allowed in MCC 39.4143 where the property does not abut a street.

STAFF NOTE 2.1.3:

The amendment below address item C4 on the Work program, which responds to changes to ORS 92.192. Those changes specify the conditions under which parcels resulting from a

property line adjustment may be permitted to be less than the minimum parcel size for the CFU zone.

§ 39.4130 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT.

(A) Pursuant to the applicable provisions in MCC 39.9300, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

- (1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this base zone;
- (2) The resulting lot configuration is at least as appropriate for the continuation of the existing commercial forest practices in the area as the lot configuration prior to adjustment;
- (3) The new lot line is in compliance with the dimensional requirements of MCC 39.4110;
- (4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use; and
- (5) If the properties abut a street, the required access requirements of MCC 39.4135 are met after the relocation of the common property line.

(B) Subject to subsection (C) of this section, for land located entirely outside the corporate limits of a city, a county may approve a property line adjustment in which:

(1) One or both of the abutting lawfully established units of land are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable zone; or

(2) Both abutting lawfully established units of land are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment.

(C) A property line adjustment may not be used to:

(1) Decrease the size of a lawfully established unit of land that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;

(2) Decrease the size of a lawfully established unit of land that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another

lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;

(3) Allow an area of land used to qualify a lawfully established unit of land for a dwelling based on an acreage standard to be used to qualify another lawfully established unit of land for a dwelling if the land use approval would be based on an acreage standard; or

(4) Adjust a property line that resulted from a subdivision or partition authorized by a waiver (as that term is defined in ORS 195.300) so that any lawfully established unit of land affected by the property line adjustment is larger than:

(a) Two acres if the lawfully established unit of land is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300); or

(b) Five acres if the lawfully established unit of land is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300).

STAFF NOTE 2.1.4:

The amendment addresses the 'on deck' Work program task B61 by adding the ability to partition CFU zoned lands for by a provider of public parks or open space, or a not-for-profit land conservation organization for the purpose of purchasing land for parks and/or conservation as allowed by ORS 215.783. Note that the provisions are optional for counties. The amendment comes at the request of the local Soil and Water Conservation Districts and Metro and would provide an additional tool outside of purchasing conservation easements.

§ 39.4143 LAND DIVISION TO PRESERVE OPEN SPACE OR PARK.

A land division to create one new parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section may be approved provided:

	<p><u>(A) A parcel created by the land division that is not sold to a provider of public parks or open space, or a not-for-profit land conservation organization must comply with the following:</u></p> <p><u>(1) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel;</u> <u>or</u></p> <p><u>(2) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.</u></p> <p><u>(B) Approval of a land division under this section, requires a condition of approval that requires the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for Multnomah County an irrevocable deed restriction prohibiting the provider or organization and their successors in interest from:</u></p> <p><u>(1) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a Commercial Forest Use (CFU) zone except park or conservation uses; and</u></p> <p><u>(2) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.</u></p> <p><u>(C) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division. [2007 c.143 §2; 2015 c.104 §7]</u></p>
3.0	SECTION 3 PROPOSED EFU CODE AMENDMENTS –
3.1	<p><i>STAFF NOTE 3.1.1:</i> <i>The amendment below clarifies that the uses listed in ORS 215.283(1) are permitted on EFU zoned lands regardless of whether or not land upon which the use will occur has been deemed a Lot of Record.</i></p> <p style="text-align: center;"><i>4.A.2 – EXCLUSIVE FARM USE (EFU)</i></p> <p style="text-align: center;">***</p>

§ 39.4215 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone for the uses listed in MCC 39.4220 through 39.4230 when found to comply with MCC 39.4245 through 39.4260, provided such uses occur on a Lot of Record, except those uses listed in ORS 215.283 (1) may occur on Exclusive Farm Use zone lands regardless of Lot of Record status of the land upon which the use will occur.

STAFF NOTE 3.1.2:

The amendments below align the Zoning Code with the text of ORS 215.441.

§ 39.4220 ALLOWED USES.

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

(N) ~~Churches~~ A church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship and cemeteries in conjunction with a churches, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship. consistent with ORS 215.441, wholly within an EFU base zone may be maintained, enhanced or expanded:

(1) Use is subject to MCC 39.4235.

(2) No new use may be authorized on high value farmland; and

(3) Must satisfy the requirements of MCC 39.6500 through 39.6600, MCC 39.7525(A), MCC 39.8000 through 39.8050 and MCC 39.6745.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, meal programs, child care ~~and meal programs~~, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

STAFF NOTE 3.1.3:

The amendments below implement C9 on the Work Program by adding the updated text found in ORS 215.283(1)(v).

(Y) Land application of reclaimed water, agricultural or industrial process water or biosolids- or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the Exclusive Farm Use zone. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

~~Subject to the issuance of a license, permit or other approval by the Oregon Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and with the requirements of ORS 215.246, 215.247, 215.249 and 215.251, the land application of reclaimed water, agricultural process or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in exclusive farm use zones under OAR Chapter 660 Division 33.~~

STAFF NOTE 3.1.4:

The amendment below addresses item C7 on the Work Program by adding ORS 215.283(1)(r) as authorized by HB 2844 (2019).

(BB) In the West of Sandy River Rural Planning Area and the East of Sandy River Rural Planning Area only, a single, one-day agri-tourism event subject to MCC 39.8925.

(CC) A facility for the processing of farm products as described in ORS 215.255.

STAFF NOTE 3.1.5:

The additions below are allowed uses of EFU land as found in ORS 215.213(1) (x) through (z) respectively. The additions address item C6 in the Work Program.

§ 39.4225 REVIEW USES.

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating power for public use by sale or transmission towers over 200 feet in height provided:

(U) In the West of Sandy River Rural Planning Area and the East of Sandy River Rural Planning Area only, agri-tourism events subject to MCC 39.8930.

(V) Dog training classes or testing trials, which may be conducted outdoors or in preexisting farm buildings, when:

(1) The number of dogs participating in training does not exceed 10 dogs per training class and the number of training classes to be held on-site does not exceed six per day; and

(2) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

(W) A cider business, as described in ORS 215.451.

(X) A farm brewery, as described in ORS 215.449.

STAFF NOTE 3.1.6:

The amendments below address item C8 on the work program by providing for expansion of non-conforming schools in the EFU zone as provided for in HB 3384 (2019), and ORS 215.135.

§ 39.4230 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable provisions in MCC 39.7000 to 39.7035 and the criteria listed for the use:

(T) Notwithstanding the authority in MCC 39.8300 – 39.8315 to expand a nonconforming use, but in addition and not in lieu of the authority therein to continue, alter, restore or replace a nonconforming use, ~~schools located in an EFU base zone that are no longer allowed under ORS 215.283 (1)(a), as in effect before January 1, 2010, but were established on or before January 1, 2009;~~ a public or private school, including all buildings essential to the operation of the school, formerly allowed pursuant to ORS 215.283 (1)(a), as in effect before January 1, 2010, and are not rural schools as defined in MCC 39.4230 (S) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 39.7500 – 39.7525 in lieu of the Conditional Use Provisions of MCC 39.7030 – 39.7035 ~~and, if located within three miles of an urban growth boundary, the requirements set forth in MCC 39.4235;~~

(2) ~~The expansion occurs on the tax lot on which the use was established prior to January 1, 2009, or a tax lot contiguous thereto that was owned by the applicant on January 1, 2009.~~ The expansion complies with ORS 215.296.

(3) The school was established on or before January 1, 2009;

(4) The expansion occurs on a tax lot:

(a) On which the school was established; or

(b) Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established.

(5) The school is a public or private school for kindergarten through grade 12.

(6) A school expansion under this section cannot be denied upon any rule or condition establishing:

(a) A maximum capacity of people in the structure or group of structures;

(b) A minimum distance between structures; or

(c) A maximum density of structures per acre.

STAFF NOTE 3.1.7:

The amendments below implement Work Program item C11 and SB 408 (2019). Adds utility facilities to the list of uses for land divisions in EFU.

§ 39.4250 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES.

(A) Lots less than the minimum lot size specified in MCC 39.4245 (A) may be created for uses listed in MCC 39.4220(V), MCC 39.4225(A), MCC 39.4230(C) and (E) based upon:

- (1) The parcel for the nonfarm use is not larger than the minimum size necessary for the use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this base zone.

(4) Land that is divided under this section may not later be rezoned for retail, commercial, industrial or other nonresource use, except as provided under the statewide land use planning goals or under ORS197.732.

STAFF NOTE 3.1.8:

The amendment addresses the 'on deck' Work program task B61 by adding the ability to partition CFU zoned lands for by provider of public parks or open space, or a not-for-profit land conservation organization, for the purpose of purchasing land for parks and/or conservation as allowed by ORS 215.263(10). Note that the provisions are optional for counties. The amendment comes at the request of the local Soil and Water Conservation Districts and Metro and would provide an additional tool outside of purchasing conservation easements.

(B) Except as otherwise provided by MCC 39.3070, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this base zone.

(C) A land division to create one new parcel for the purpose of purchasing one of the resulting parcels as provided in this section and to manage the new parcel as public park land or conservation land may be approved provided:

(1) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and

(2) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.

(3) A parcel created pursuant to this subsection that does not contain a dwelling:

(a) Is not eligible for siting a dwelling except as may be authorized under ORS 195.120;

(b) May not be considered in approving or denying an application for siting any other dwelling;

(c) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

(d) A parcel created and purchased by the provider of public parks or open space or to a not-for-profit land conservation organization may not be smaller than 25 acres unless the purpose of the land division is:

(i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

(ii) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization that has cumulative ownership of at least 2,000 acres of open space or park property.

STAFF NOTE 3.1.9:

The amendment implements item C4 from the Work Program item B33 from the 'On-deck' Work Program. The provisions are optional for counties and provide some flexibility for property line adjustments in EFU as provided for in ORS 92.192.

§ 39.4255 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT.

(A) Pursuant to the applicable provisions in MCC 39.9300, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

- (1) All dwellings that were situated on the same lot prior to the adjustments must remain together on the reconfigured lot; and
- (2) The following dimensional and access requirements are met:
- (a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements; and
- (b) If the properties abut a street, the required access requirements of MCC 39.4260 are met after the relocation of the common property line; and
- (3) The reconfigured lot areas will each:
- (a) Be a minimum of 80 acres, or
- (b) ~~Retain the same lot area that existed prior to the exchange.~~ If one or both parcels is currently less than 80 acres neither parcel will be reduced to less than 2 acres after the adjustment; and
- (c) The adjustment will not separate a temporary hardship dwelling, relative farm help dwelling, home occupation or processing facility from the parcel on which the primary residential or other primary use exists.
- (4) A property line adjustment may not be used to:
- (a) Decrease the size of a lawfully established unit of land that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;
- (b) Decrease the size of a lawfully established unit of land that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;
- (c) Allow an area of land used to qualify a lawfully established unit of land for a dwelling based on an acreage standard to be used to qualify another lawfully established unit of land for a dwelling if the land use approval would be based on an acreage standard; or
- (d) Adjust a property line that resulted from a subdivision or partition authorized by a waiver (as that term is defined in ORS 195.300) so that any lawfully established unit of land affected by the property line adjustment is larger than;

	<p><u>(i) Two acres if the lawfully established unit of land is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300); or</u></p> <p><u>(ii) Five acres if the lawfully established unit of land is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300).</u></p>
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4.0	SECTION 4 RELATED AMENDMENTS –
4.1	<p><i>STAFF NOTE 4.1.1:</i> <i>The amendment below adds a new Section 39.4143 (see Staff Note 2.1.4) to the Zoning Code Table of Contents.</i></p> <p>CHAPTER 39 – MULTNOMAH COUNTY ZONING CODE</p> <p>§§:</p> <p>PART 1 – ADMINISTRATION, PROCEDURES, ENFORCEMENT, PERMITS AND FEES</p> <p style="text-align: center;">***</p> <p>PART 4 – BASE ZONES</p> <p>PART 4.A – RESOURCE DISTRICTS</p> <p>PART 4.A.1 – COMMERCIAL FOREST USE DISTRICTS (CFU)</p> <p>39.4050- Purposes 39.4055 Area Affected 39.4060 Definitions 39.4065 Uses 39.4070 Allowed Uses 39.4075 Review Uses 39.4080 Conditional Uses 39.4085 Large-Acreage Dwelling Standards 39.4090 Template Dwelling Standards 39.4095 Heritage Tract Dwelling Standards 39.4100 Use Compatibility Standards</p>

	<p> 39.4105 Building Height Requirements 39.4110 Forest Practices Setbacks and Fire Safety Zones 39.4115 Development Standards for Dwellings and Structures 39.4120 Lot Size Requirements 39.4125 Lots of Exception 39.4130 Lot Line Adjustment; Property Line Adjustment 39.4135 Access 39.4140 Lot Size for Conditional Uses <u>39.4143 Land Division to Preserve Open Space or Park</u> 39.4145 Off-Street Parking and Loading 39.4150 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury from Farm or Forest Practices 39.4155 Exceptions to Secondary Fire Safety Zones </p>
<p>4.2</p>	<p><i>STAFF NOTE 4.1.2:</i> <i>The amendment adds reference to an existing CFU code provision for replacement of a dwelling as a Review Use for a dwelling located more than 100 feet from the existing dwelling.</i></p> <p>§ 39.1185 EXPIRATION OF TYPE II OR TYPE III DECISIONS.</p> <p style="text-align: center;">***</p> <p>(C) A Type II or III decision approving residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is subject to the following provisions:</p> <p style="text-align: center;">***</p> <p>(4) For the purposes of this section, “residential development” only includes dwellings as provided for under:</p> <p>(a) ORS 215.283(1)(s) – alteration, restoration or replacement of a lawfully established dwelling in the EFU zones as provided in MCC 39.4220(J), (L) & (M); and</p> <p>(b) ORS 215.284 – dwelling not in conjunction with farm use in the EFU zones (not currently provided for in this Zoning Code); and</p> <p>(c) ORS 215.705 (1) to (3) – “Heritage Tract Dwelling” in the EFU zones as provided for in MCC 39.4265(D) and 39.4230 (L) and (M); and</p> <p>(d) ORS 215.705 through ORS 215.730 – “Heritage Tract Dwelling” in the CFU zones as provided in MCC 39.4095; and</p> <p>(e) ORS 215.740 – “Large Acreage Dwelling” in the CFU zones as provided for in MCC 39.4085; and</p>

	<p>(f) ORS 215.750 – “Template Dwelling” in the CFU zones as provided for in MCC 39.4090; and</p> <p>(g) ORS 215.755 (1) – alteration, restoration or replacement of a lawfully established dwelling in the CFU zones as provided in MCC 39.4070 (D) <u>and MCC 39.4075(A)</u>; and</p> <p>(h) ORS 215.755 (3) a caretaker residence for a public park or public</p>
<p>4.3</p>	<p><i>STAFF NOTE 4.1.3:</i> <i>The amendment addresses item C12 on the work program. HB 2611 (2021) added new subsection (4).</i></p> <p>§ 39.2000 DEFINITIONS. As used in this Chapter, unless the context requires otherwise, the following terms and their derivations shall have the meanings provided below:</p> <p style="text-align: center;">***</p> <p>Agricultural Building – Pursuant to ORS 455.315 and any amendments made thereto, means a structure located on a farm <u>or forest operation</u> and used in the operation of the farm for:</p> <ul style="list-style-type: none"> (a) Storage, maintenance or repair of farm or forest machinery and equipment; (b) The raising, harvesting and selling of crops or forest products; (c) The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees; (d) Dairying and the sale of dairy products; or (e) Any other agricultural, forestry or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use, the preparation and storage of forest products and the disposal by marketing or otherwise, of farm produce or forest products. <p><u>(f) An agricultural building may be used for uses in addition to the uses listed above if the additional uses:</u></p> <ul style="list-style-type: none"> <u>(i) Are incidental and accessory to the uses listed above;</u> <u>(ii) Are personal to the farm owner and the farm owner’s immediate family or household; and</u> <u>(iii) Do not pose a greater hazard to persons or property than the uses listed above.</u> <p>(f)(g) Agricultural and forest practice buildings do not include a dwelling, a structure used for a purpose other than growing plants in which 10 or more persons are present at any one time, a structure regulated by the State Fire Marshal pursuant to ORS chapter 476, a structure used by</p>

the public, or a structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

STAFF NOTE 4.1.4:

The amendment addresses adds a more complete definition of an equine facility from ORS 455.315(2)(d).

Equine Facility – Pursuant to ORS 455.315(2) [2005] and any amendments made thereto, means a building located on a farm and used by the farm owner or the public for: Stabling or training equines; or Riding lessons and training clinics. “Equine facility” does not mean:

(a) A dwelling;

(b) A structure in which more than 10 persons are present at any one time;

(c) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476; or

(d) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

Attachments:

1. 2022-23 PC Work Program
2. EFU-CFU Omnibus