

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**ORDINANCE NO. 982**

Adopting Amendments to Multnomah County Code Chapters 33, 34, and 35 Pertaining to "Lots of Record" and Changes to Other Land Use Standards as Required by Recently Adopted Oregon Administrative Rules for "Rural Residential Areas"

(~~Struck through~~ language is deleted; double underlined language is new.)

**The Multnomah County Board of Commissioners Finds:**

a. Periodically, there is a need to amend code language to clarify wording, add useful information, and update provisions to conform with State of Oregon Administrative Rule requirements.

b. The amendments in this ordinance have been found by the Planning Commission to be needed changes and additions to the "Lot of Record" sections of the different Rural Area Zoning Codes. A "Lot of Record" is the term for a parcel, lot, or grouping of parcels or lots, that met all zoning and land division requirements at the time they were created, with some additional grouping requirements for farm and forest zoned areas.

c. The "Lot of Record" amendments will: (1) add clarifying language and graphics, (2) provide for consistency, as appropriate, between the zoning districts, (3) and establish the single date of February 20, 1990 as the date for "aggregation" requirements in the farm and forest zoning districts, thereby providing more consistency and certainty for property owners over the present standard that requires tracking adjacent property ownerships not only on February 20, 1990 but all dates thereafter.

d. Other amendments will bring the Zoning Code Chapters into compliance with the Oregon Administrative Rules which specify how Statewide Planning Goal 14 (Urbanization) applies to "Rural Residential Areas" (OAR 660-004-0040). Included in this ordinance are changes to parts of the Multiple Use Agriculture-20, Rural Residential, and Rural Center zoning districts in regard to land division standards and dwellings for the housing of help to do farming and forestry.

e. The adoption in January 1, 2002 of separate Zoning Code Chapters that correspond to the different Rural Plan Areas requires that these amendments be repeated for each of the Code Chapters 33, 34, and 35, differing only as needed to retain conformance with specific provisions in each of the respective Rural Plan Policies.

**The Multnomah County Board of Commissioners Ordains as Follows:**

**Section 1.** The following subsections of Multnomah County Code Volume II: Land Use, Chapter 33 West Hills Rural Plan Area are amended as follows:

## PART 1. GENERAL PROVISIONS

### Definitions

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#### 33.0005 Definitions

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

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- (D) (1) **Date of Creation and Existence** – As used in the EFU and CFU districts and applicable only to those districts, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a Lot of Record or tract for the siting of a dwelling, the date of the re-configuration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

(2)(1) **Day Nursery** – \*\*\*\*\*

(3)(2) **Development** – \*\*\*\*\*

(4)(3) **Director** – \*\*\*\*\*

(5)(4) **Drive-In** – \*\*\*\*\*

(6)(5) **Dwelling Unit** – \*\*\*\*\*

(7)(6) **Dwelling (Duplex or Two-Unit)** – \*\*\*\*\*

(8)(7) **Dwelling (Single Family Detached)** – \*\*\*\*\*

(9)(8) **Dwelling (Multi-Plex Structure)** – \*\*\*\*\*

(10)(9) **Duplex Dwelling** – \*\*\*\*\*

- (H) (1) **Habitable dwelling** – An existing dwelling that:

(a) Has intact exterior walls and roof structure;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights; and

(d) Has a heating system.

(2)(1) **Hearings Officer** – \*\*\*\*\*

(3) **Heritage Tract Dwelling** – A type of single family detached dwelling in the EFU and the CFU zoning districts with approval criteria that includes a re-

quirement for ownership of the lot or parcel prior to January 1, 1985. The complete description of approval standards are in the use sections of the districts.

(4)(2) **High School** – \*\*\*\*\*

(5)(3) **Highway (State)** – \*\*\*\*\*

(6)(4) **Historical Building** – \*\*\*\*\*

(7)(5) **Historical Resources** – \*\*\*\*\*

(8)(6) **Home Occupation** – \*\*\*\*\*

(9)(7) **Horticulture** – \*\*\*\*\*

(10)(8) **Hotel** – \*\*\*\*\*

(L)(1) **Large Acreage Dwelling** – A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement for single ownership of 160 contiguous forest zoned acres or single ownership of 200 forest zoned acres in Multnomah County or adjacent counties that are not contiguous. The complete description of approval standards are in the use sections of the districts.

(2)(1) **Large Fill** – \*\*\*\*\*

(3) **Lawfully established dwelling** – A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed.

(4)(2) **Loading Space** – \*\*\*\*\*

(5)(3) **Lot** – A unit of land created by a subdivision of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a A-plot lot, parcel (result of partitioning), or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

(6)(4) **Lot Area** – \*\*\*\*\*

(7)(5) **Lot (Corner)** – \*\*\*\*\*

(8)(6) **Lot Coverage** – \*\*\*\*\*

(9)(7) Lot Lines – \*\*\*\*\*

(10)(8) Lot Line (Front) – \*\*\*\*\*

(11)(9) Lot Line (Rear) – \*\*\*\*\*

(12)(10) Lot Line (Side) – \*\*\*\*\*

(13) Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this

Chapter, but not be subject to the minimum area and access requirements of this district.

2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

(14)(11) Lot Width – \*\*\*\*\*

- (M) (4) **Mortgage Lot** – A lot having less than the minimum area required under this Chapter, created out of a tract which itself conforms to lot area requirements, to enable the contract purchaser of the tract to finance construction of a single family residence thereon. An area of land created solely for the purposes of financing a dwelling. A Mortgage Lot is not a Lot of Record and shall not be conveyed separate from the Lot of Record out of which it was described. The tax roll accounts of the Mortgage Lot and the parent Lot of Record shall be consolidated into one account when title to both is secured. A Mortgage Lot may be created only in the EFU and CFU districts.

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- (P) (1) **Parcel** – A unit of land created by a partitioning of land, see definition in MCC 33.7705. Depending upon the context in which the term appears in this Chapter, *Parcel* and *Lot* may at times be used interchangeably.

- (1) **Permit Section** – The division of the Department of Environmental Services authorized to issue building and other land development permits or its designee.

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- (R) (3) **Recordable form** – A form sufficient to create the parcel on the date the document was signed if the deed or land sales contract had been recorded with the office responsible for public records. Characteristics of *recordable form* include a complete description of the property, the consideration given, and verification of the transaction by a witness such as a Notary Public.

(4)(3) Recreational Vehicle Park – \*\*\*\*\*

(5)(4) Residential Care Facility – \*\*\*\*\*

(6)(5) Residential Home – \*\*\*\*\*

(7)(6) Residential Trailer – \*\*\*\*\*

(8)(7) Residential Treatment Facility – \*\*\*\*\*

(9)(8) Road (County) – \*\*\*\*\*

- (T) (1) **Template Dwelling** – A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement that a certain

number of parcels and dwellings exist within a 160-acre square (map template) centered on the subject tract. The complete description of requirements are in the use sections of the district.

(2)(4) Timber Growing – \*\*\*\*\*

(3)(2) Trade School – \*\*\*\*\*

(4)(3) Two-Unit Dwelling – \*\*\*\*\*

### **33.0015 Zoning Map**

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(B) A paper version of the Zoning Map and each amendment thereto shall be and remain on file in the office of the Director of the Division of Land Use Planning Department of Environmental Services.

(1) The set of paper Zoning Maps with the cover page dated the 15<sup>th</sup> of November, 1962 and signed by the Board of County Commissioners shall be deemed to be the accurate depiction of the Zoning Maps adopted for successive geographic areas from April 19, 1955 through December 11, 1958.

## **PART 4. ZONES**

### **Commercial Forest Use –1 (CFU-1)**

#### **33.2000 Purposes**

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land; the Commercial Forest Use policies of the West Hills Rural Area Plan, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

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#### **33.2010 Definitions**

As used in MCC 33.2000 through 33.2110, unless otherwise noted, the following words and their derivations shall have the following meanings:

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(D) Contiguous - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

~~(E)(D)~~ Cubic Foot Per Acre - \*\*\*\*\*

~~(F)(E)~~ Cubic Foot Per Tract Per Year - \*\*\*\*\*

~~(F) Date of Creation and Existence - When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC 33.2075 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.~~

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(H) Same Ownership - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

~~(I)(H) Tract - One or more contiguous Lots of Record, pursuant to MCC 33.2075, in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.~~

### 33.2015 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2020 through 33.2055 2035 when found to comply with MCC 33.2045 through 33.2110.

### 33.2020 Allowed Uses

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(D) Alteration, maintenance, or expansion of an existing lawfully established single family habitable dwelling subject to the following:

~~(1) The existing dwelling~~

~~(a) Has intact exterior walls and roof structures;~~

~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~(c) Has interior wiring for interior lights; and~~

~~(d) Has a heating system.~~

~~(1)(2)~~ Satisfies ~~t~~ The dimensional standards of MCC 33.2060 are satisfied; and

~~(2)(3)~~ Satisfies ~~t~~ The development standards of MCC 33.2105 (A) (5) and (B) are

satisfied if an the expansion that exceeds 400 square feet of ground coverage.

(E) Replacement of an existing lawfully established single-family habitable dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

~~(a) Has intact exterior walls and roof structures;~~

~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~(c) Has interior wiring for interior lights;~~

~~(d) Has a heating system;~~

~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and~~

(3) The replacement dwelling shall satisfy the dimensional standards of MCC 33.2060 and the development standards of MCC 33.2105.

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### **33.2025 Review Uses**

(A) Replacement of an existing lawfully established single-family habitable dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

(1) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

~~(a) Has intact exterior walls and roof structures;~~

~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~(c) Has interior wiring for interior lights;~~

~~(d) Has a heating system; and~~

~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;~~

(2) The location of the replacement dwelling shall satisfy the dimensional standards of MCC 33.2060 and the development standards of MCC 33.2105.

(B) Restoration or replacement of a lawfully established single-family habitable dwelling on the same lot when the restoration or replacement is made necessary



by fire, other casualty or natural disaster, subject to the following:

- (1) Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster; and
- (2) A replacement dwelling located more than 200 feet from the prior dwelling location shall satisfy the dimensional standards of MCC 33.2060 and the development standards of MCC 33.2105.
- (3) ~~The existing dwelling at the time of the fire, casualty, or natural disaster:~~
  - ~~(a) Had intact exterior walls and roof structures;~~
  - ~~(b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
  - ~~(c) Had interior wiring for interior lights; and~~
  - ~~(d) Had a heating system.~~

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### 33.2060 Dimensional Requirements

- (A) Except as provided in MCC 33.2065, 33.2070, 33.2075, and 33.2080, the minimum lot size for new parcels or lots shall be 80 acres.

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### 33.2075 Lot of Record

- (A) In addition to the Lot of Record definition standards in MCC 33.0005, F for the purposes of this district, a Lot of Record is either:

- (1) ~~A parcel of land:~~
  - ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;~~
  - ~~(b) Which satisfied all applicable laws when the parcel was created; and~~
  - ~~(c) Which satisfies the minimum lot size requirements of MCC 33.2060; or~~
- (2) ~~A parcel of land:~~
  - ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;~~
  - ~~(b) Which satisfied all applicable laws when the parcel was created;~~
  - ~~(c) Does not meet the minimum lot size requirements of MCC 33.2060; and~~
  - ~~(d) Which is not contiguous to another substandard parcel or parcels under the same ownership; or~~
- (3) ~~A group of contiguous parcels of land:~~
  - ~~(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;~~
  - ~~(b) Which satisfied all applicable laws when the parcels were created;~~
  - ~~(c) Which individually do not meet the minimum lot size requirements of MCC~~

33.2060, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and

(d) Which are held under the same ownership.

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

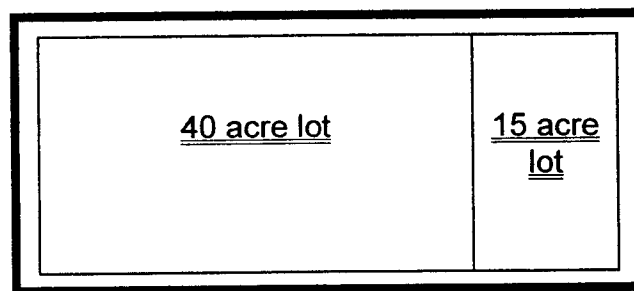
(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

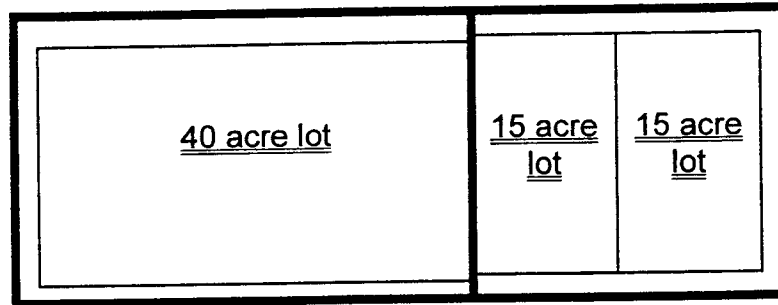
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.

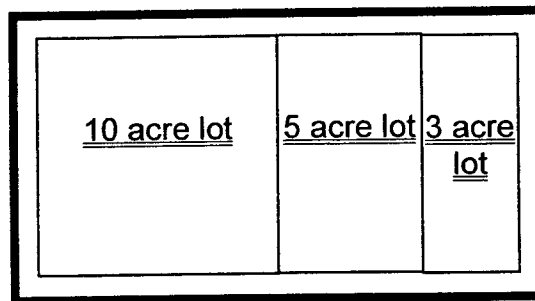
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:  
One 55 acre Lot of Record



Example 2:  
One 40 acre Lot of Record and  
one 30 acre Lot of Record



Example 3:  
One 18 acre Lot of Record

(3) Exceptions to the standards of (A)(2) above:

- (a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.
- (b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

~~(B) For the purposes of this subsection:~~

- ~~(1) Contiguous refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.~~

- ~~(2) Substandard Parcel refers to a parcel which does not satisfy the minimum lot size requirements of MCC 33.2060 and~~
- ~~(3) Same Ownership refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.~~

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;
- (5) February 20, 1990, lot of record definition amended, Ord. 643;
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;
- (7) August 8, 1998, CFU-1 zone applied, Ord. 916;
- (8) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

~~(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2090, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.~~

~~(D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC 33.2060 (A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:~~

- ~~(1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.~~
- ~~(2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.~~
- ~~(3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.~~
- ~~(4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.~~

The following shall not be deemed a Lot of Record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot;

(4) An area of land created by court decree.

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## **PART 4. ZONES**

### **Commercial Forest Use –2 (CFU-2)**

#### **33.2200 Purposes**

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land, the Commercial Forest Use policies of the West Hills Rural Area Plan, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

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#### **33.2210 Definitions**

As used in MCC 33.2200 through 33.2310, unless otherwise noted, the following words and their derivations shall have the following meanings:

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(D) *Contiguous* - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

(E)(D) *Cubic Foot Per Acre* - \*\*\*\*\*

(F)(E) *Cubic Foot Per Tract Per Year* - \*\*\*\*\*

(F) *Date of Creation and Existence* - When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC 33.2075 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

(G) *Forest Operation* - \*\*\*\*\*

(H) *Heritage Tract*—A tract of land that was acquired by the present owner:

- (1) Prior to January 1, 1985; or
- (2) By devise or by intestate succession by an antecedent of the person who acquired the lot or parcel prior to January 1, 1985.
- (3) For purposes of this definition, "antecedent" includes the wife, husband, son, daughter, mother, father, brother, brother in law, sister, sister in law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(H) *Same Ownership* - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

(I) *Tract* - One or more contiguous Lots of Record, pursuant to MCC 33.2275, in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

### 33.2215 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2220 through 33.2255 2240 when found to comply with MCC 33.2245 through 33.2310.

### 33.2220 Allowed Uses

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(D) Alteration, maintenance, or expansion of an existing lawfully established single family habitable dwelling subject to the following:

- (1) ~~The existing dwelling~~
  - (a) ~~Has intact exterior walls and roof structures;~~
  - (b) ~~Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
  - (c) ~~Has interior wiring for interior lights; and~~
  - (d) ~~Has a heating system.~~

(1)(2) Satisfies ~~t~~ The dimensional standards of MCC 33.2260 are satisfied; and

(2)(3) Satisfies ~~t~~ The development standards of MCC 33.2305(A)(5) and (B) are satisfied if an the expansion that exceeds 400 square feet of ground coverage.

(E) Replacement of an existing lawfully established single-family habitable dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

~~(a) Has intact exterior walls and roof structures;~~

~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~(c) Has interior wiring for interior lights;~~

~~(d) Has a heating system;~~

~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and~~

(3) The replacement dwelling shall satisfy the dimensional standards of MCC 33.2260 and the development standards of MCC 33.2305.

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### **33.2225 Review Uses**

(A) Replacement of an existing lawfully established single-family habitable dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

(1) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

~~(a) Has intact exterior walls and roof structures;~~

~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~(c) Has interior wiring for interior lights;~~

~~(d) Has a heating system; and~~

~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;~~

(2) The location of the replacement dwelling shall satisfy the dimensional standards of MCC 33.2260 and the development standards of MCC 33.2305.

(B) Restoration or replacement of a lawfully established single-family habitable dwelling on the same lot when the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject to the following:

(1) Restoration or replacement shall be commenced within one year from the oc-

currence of the fire, casualty or natural disaster; and

(2) A replacement dwelling located more than 200 feet from the prior dwelling location shall satisfy the dimensional standards of MCC 33.2260 and the development standards of MCC 33.2305.

(3) ~~The existing dwelling at the time of the fire, casualty, or natural disaster:~~

~~(a) Had intact exterior walls and roof structures;~~

~~(b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~(c) Had interior wiring for interior lights; and~~

~~(d) Had a heating system.~~

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### **33.2240 Template and Heritage Tract Dwellings**

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(B) A *heritage tract dwelling* may be sited, subject to the following:

(1) On a tract:

(a) That is not developed with a single family residence, and

(b) That is not capable of producing 5,000 cubic feet per year of commercial tree species based on soil type, and

(c) That is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract.

1. The road shall be maintained and either paved or surfaced with rock, and

2. The road shall not be a U.S. Forest Service road or Bureau of Land Management road.

(d) For which deeds or other instruments creating the lots or parcels were recorded with the Department of General Services, or were in recordable form prior to January 1, 1985; and

(e) That is comprised of lots or parcels that were lawfully created; and

(f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, ¶ that was acquired by the present owner:

1. Prior to January 1, 1985; or

2. By devise or by intestate succession by an antecedent of the person who acquired the lot or parcel prior to January 1, 1985.



3. For purposes of this subsection, "antecedent" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

\*\*\*\*\*

### 33.2260 Dimensional Requirements

- (A) Except as provided in MCC 33.2265, 33.2270, 33.2275, and 33.2280, the minimum lot size for new parcels or lots shall be 80 acres.

\*\*\*\*\*

### 33.2275 Lot of Record

- (A) In addition to the Lot of Record definition standards in MCC 33.0005, F for the purposes of this district ; a Lot of Record is either:

- ~~(1) A parcel of land:~~

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;~~
- ~~(b) Which satisfied all applicable laws when the parcel was created; and~~
- ~~(c) Which satisfies the minimum lot size requirements of MCC 33.2260, or~~

- ~~(2) A parcel of land:~~

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws when the parcel was created;~~
- ~~(c) Does not meet the minimum lot size requirements of MCC 33.2260; and~~
- ~~(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or~~

- ~~(3) A group of contiguous parcels of land:~~

- ~~(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws when the parcels were created;~~
- ~~(c) Which individually do not meet the minimum lot size requirements of MCC 33.2260, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and~~
- ~~(d) Which are held under the same ownership.~~

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

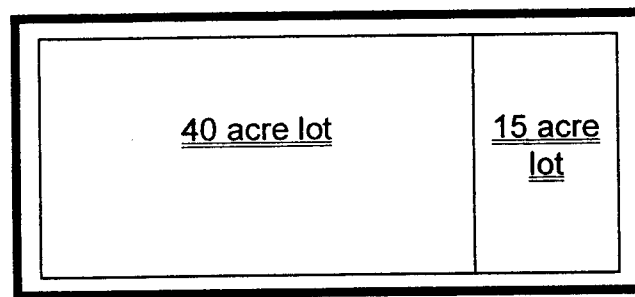
(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

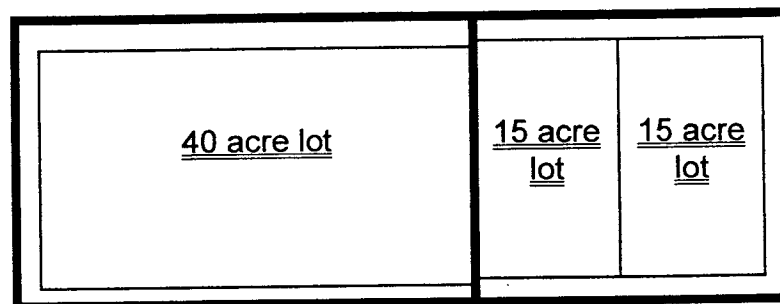
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.

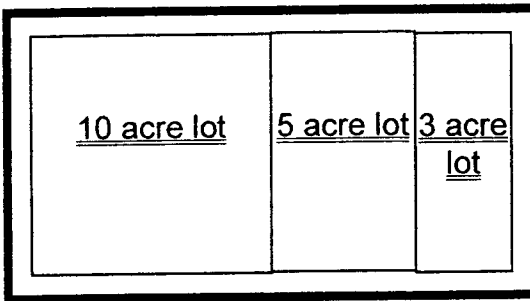
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:  
One 55 acre Lot of Record



Example 2:  
One 40 acre Lot of Record and  
one 30 acre Lot of Record



Example 3:  
One 18 acre Lot of Record

(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

(B) For the purposes of this subsection:

- ~~(1) Contiguous refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.~~
- ~~(2) Substandard Parcel refers to a parcel which does not satisfy the minimum lot size requirements of MGC 33.2260 and~~
- ~~(3) Same Ownership refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.~~

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied:
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116:
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149:

(4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;

(7) August 8, 1998, CFU-2 zone applied, Ord. 916;

(8) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2290, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC 33.2260 (A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:~~

~~(1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.~~

~~(2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.~~

~~(3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.~~

~~(4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.~~

The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

\*\*\*\*\*

## **PART 4. ZONES**

### **Commercial Forest Use –5 (CFU-5)**

\*\*\*\*\*

#### **33.2400 Purpose**

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the produc-

tion of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land, the Commercial Forest Use policies of the West Hills Rural Area Plan, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

\*\*\*\*\*

### 33.2410 Definitions

As used in MCC 33.2400 through 33.2510, unless otherwise noted, the following words and their derivations shall have the following meanings:

\*\*\*\*\*

(D) Contiguous - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

(E)(D) Cubic Foot Per Acre - \*\*\*\*\*

(F)(E) Cubic Foot Per Tract Per Year - \*\*\*\*\*

(F) Date of Creation and Existence - When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC 33.2075 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

\*\*\*\*\*

(H) Same Ownership - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

(I)(H) Tract - \*\*\*\*\*

### 33.2415 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2420 through 33.22552440 when found to comply with MCC 33.2445 through 33.2510.

### 33.2420 Allowed Uses

\*\*\*\*\*

(D) Alteration, maintenance, or expansion of an existing lawfully established single family habitable dwelling subject to the following:

- (1) ~~The existing dwelling~~  
~~(a) Has intact exterior walls and roof structures;~~  
~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~  
~~(c) Has interior wiring for interior lights; and~~  
~~(d) Has a heating system.~~

~~(1)(2) Satisfies t~~ The dimensional standards of MCC 33.2460 are satisfied; and

~~(2)(3) Satisfies t~~ The development standards of MCC 33.2505(A)(5) and (B) are satisfied if an the expansion that exceeds 400 square feet of ground coverage.

(E) Replacement of an existing lawfully established single-family habitable dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

- ~~(a) Has intact exterior walls and roof structures;~~  
~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~  
~~(c) Has interior wiring for interior lights;~~  
~~(d) Has a heating system;~~  
~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and~~

(3) The replacement dwelling shall satisfy the dimensional standards of MCC 33.2460 and the development standards of MCC 33.2505.

\*\*\*\*\*

### 33.2425 Review Uses

(A) Replacement of an existing lawfully established single-family habitable dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

(1) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

- ~~(a) Has intact exterior walls and roof structures;~~  
~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities~~

- ~~ties connected to a sanitary waste disposal system;~~
- ~~(c) Has interior wiring for interior lights;~~
- ~~(d) Has a heating system; and~~
- ~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;~~

(2) The location of the replacement dwelling shall satisfy the dimensional standards of MCC 33.2460 and the development standards of MCC 33.2505.

(B) Restoration or replacement of a lawfully established single-family habitable dwelling on the same lot when the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject to the following:

(1) Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster; and

(2) A replacement dwelling located more than 200 feet from the prior dwelling location shall satisfy the dimensional standards of MCC 33.2460 and the development standards of MCC 33.2505.

~~(3) The existing dwelling at the time of the fire, casualty, or natural disaster:~~

- ~~(a) Had intact exterior walls and roof structures;~~
- ~~(b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
- ~~(c) Had interior wiring for interior lights; and~~
- ~~(d) Had a heating system.~~

\*\*\*\*\*

### 33.2460 Dimensional Requirements

(A) Except as provided in MCC 33.2465, 33.2470, 33.2475, and 33.2480, the minimum lot size for new parcels or lots shall be 80 acres.

\*\*\*\*\*

### 33.2475 Lot of Record

(A) ~~For the purposes of this district, a Lot of Record is a parcel of land which, when established, satisfied all applicable laws. In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:~~

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;

(7) January 21, 1999, CFU-5 zone applied, Ord. 924;

(8) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

(B) Separate Lots of Record may be created under the provisions of MCC 33.2480.

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2490, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC 33.2460 (A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:~~

~~(1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.~~

~~(2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.~~

~~(3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.~~

~~(4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.~~

The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

\*\*\*\*\*

## **PART 4. ZONES**

### **Exclusive Farm Use (EFU)**

#### **33.2600 Purpose**

The purposes of the Exclusive Farm Use District are to preserve and maintain agricul-



tural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic and wildlife resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related and compatible uses which are deemed appropriate. Land within this district shall be used exclusively for farm uses as provided in the Oregon Revised Statutes Chapter 215 and the Oregon Administrative Rules Chapter 660, Division 33 as interpreted by this Exclusive Farm Use code section.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

\*\*\*\*\*

### **33.2610 Definitions**

As used in MCC 33.2600 through MCC 33.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

\*\*\*\*\*

- (C) *Contiguous* refers to parcels or lots of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

\*\*\*\*\*

- (H) *Same Ownership* refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

- (I)(H) *Suitable for farm use* means \*\*\*\*\*

- (J)(I) *Tract* means one or more contiguous lots in the same ownership.

### **33.2615 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC .2008 33.2620 through .2014 33.2630 when found to comply with MCC 33.2660 through 33.2690.

\*\*\*\*\*

### **33.2620 Allowed Uses**

\*\*\*\*\*

- (L) Alteration, restoration or replacement of a lawfully established habitable dwelling, that has:

- (1) ~~Intact exterior walls and roof structure;~~
- (2) ~~Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
- (3) ~~Interior wiring for interior lights; and~~
- (4) ~~A heating system.~~

In the case of a replacement dwelling, the existing dwelling is must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

\*\*\*\*\*

### 33.2625 Review Uses

\*\*\*\*\*

- (F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land not identified as high-value farmland when:

\*\*\*\*\*

### 33.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 33.6300 to 33.63406335:

\*\*\*\*\*

- (O) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

\*\*\*\*\*

- (P) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

\*\*\*\*\*

### 33.2670 Lot Line Adjustment

- (A) An adjustment of the common lot line between contiguous legal lots 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 dimensional requirements of MCC 33.2660 (A) and (C) are met; or
- (3) The reconfigured lot areas will each retain the same lot area that existed prior to the exchange.

~~The decision of the Planning Director may be appealed to the approval authority pursuant to MCC 33.0785 and 33.0790.~~

### **33.2675 ~~Lot, Parcel and Tract Requirement~~ Lot of Record**

- (A) ~~The Lot, Parcel and Tract requirement shall be applied to all uses in this district except for Single Family Heritage Tract Dwellings: MCC 33.2625 (F), MCC 33.2630 (O) or MCC 33.2630 (P). In addition to the Lot of Record definition standards in MCC 33.0005, F for the purposes of this district a Lot of Record is either:~~  
~~a lot, parcel or tract is defined as:~~

~~(1) A lot or parcel of land:~~

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of Environmental Services or its predecessors; and~~  
~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~  
~~(c) Which satisfies the minimum lot size requirements of MCC 33.2660; or~~

~~(2) A lot or parcel of land:~~

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;~~  
~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~  
~~(c) Does not meet the minimum lot size requirements of MCC 33.2660; and~~  
~~(d) Which was not contiguous to another substandard parcel or parcels under the same ownership on or after February 20, 1990; or~~

~~(3) A Tract of land:~~

- ~~(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;~~  
~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~  
~~(c) Which were held under the same ownership on or after February 20, 1990; and~~  
~~(d) Which individually do not meet the minimum lot or parcel size requirements of MCC 33.2660, but, when considered in combination:~~  
~~1. One legal lot or parcel shall comply nearly as possible with a minimum area of nineteen acres, without creating any new lot lines; or~~  
~~2. More than one legal lot or parcel, each property must comply with the minimum area of nineteen acres, without creating any new property line.~~

(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the same ownership on February 20, 1990, or

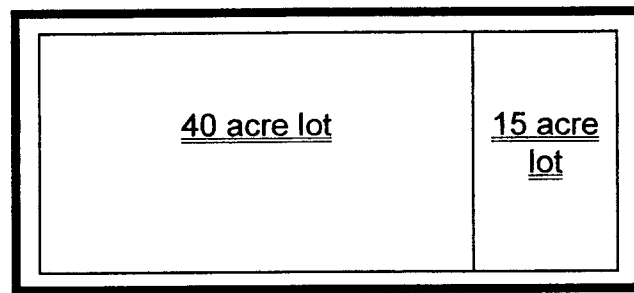
(2) A group of *contiguous* parcels or lots:

(a) Which were held under the *same ownership* on February 20, 1990; and

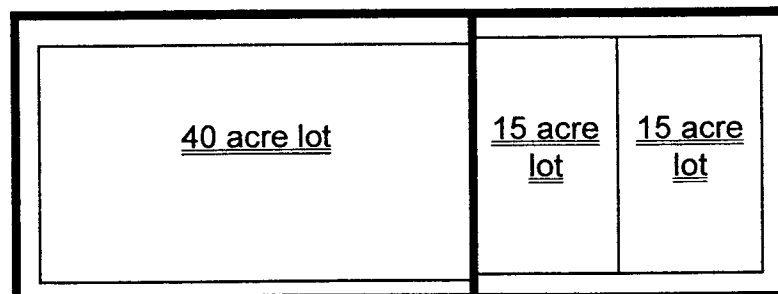
(b) Which, individually or when considered in combination, shall be aggre-

gated to comply with a minimum lot size of 19 acres, without creating any new lot line.

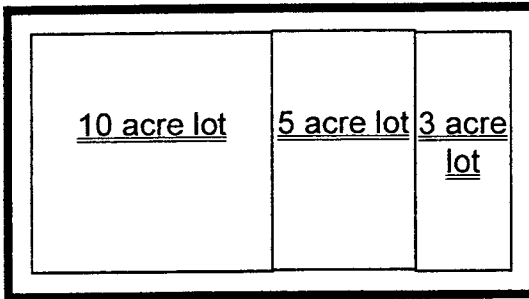
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.
2. An exception to the 19 acre minimum lot size requirement shall occur when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:  
One 55 acre Lot of Record



Example 2:  
One 40 acre Lot of Record and  
one 30 acre Lot of Record



Example 3:  
One 18 acre Lot of Record

(3) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(B) For the purposes of this subsection:

- (1) ~~Substandard Lot or Parcel~~ refers to a parcel which does not satisfy the minimum lot size requirements of MCC 33.2660; and
- (2) ~~Same Ownership~~ refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;
- (4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, Ord. 236 & 238;
- (5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;

(7) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

(C) ~~A lot, parcel or tract which satisfies the applicable requirements of MCC 33.2675 and front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district. A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2690 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.~~

(D) The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

\*\*\*\*\*

## **PART 4. ZONES**

### **Multiple Use Agriculture-20 (MUA-20)**

\*\*\*\*\*

#### **33.2815 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2820 through 33.2850 2830 when found to comply with MCC 33.2855 through 33.2885.

#### **33.2820 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record; and,

\*\*\*\*\*

#### **33.2825 Review Uses**

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

- (1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.
- (2) The dwelling shall be attached to a foundation for which a building permit has been obtained.
- (3) The dwelling shall have a minimum floor area of 600 square feet.

(B) ~~Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 33.2820 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 33.2820 (C) or MCC 33.2825 (A), subject to the following conditions:~~

- ~~(1) In the event the dwelling is constructed off site, construction shall comply with MCC 33.2825 (A) (1) and (3).~~
- ~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:
 
  - ~~(a) The use is needed to carry out a use listed in MCC 33.2820 (A) or (B);~~
  - ~~(b) The standards of MCC 33.2855 (C) through (E) are satisfied; and~~
  - ~~(c) The minimum distance between dwellings will be 20 feet.~~~~
- ~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 33.0785 and 33.0790.~~

Temporary uses when approved pursuant to MCC 33.0510 and 33.0515.

\*\*\*\*\*

(F) Property Line Adjustment pursuant to the provisions of MCC 33.2860 (E).

\*\*\*\*\*

### **33.2830 Conditional Uses**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

(C) The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II, or III soils:

- (1) Planned Developments for single family residences, as provided in MCC 33.4300 through 33.4370 ~~4360~~ and the applicable current "planned unit development" standards within the Oregon Administrative Rules Chapter 660, Division 004;

\*\*\*\*\*

(F) Lots of Exception pursuant to the provisions of MCC 33.2860 (A) through (C) or 33.2860 (D).

### **33.2855 Dimensional Requirements**

(A) Except as provided in MCC 33.2860, 33.2870, 33.2875 and 33.4300 through

33.43704360, the minimum lot size for new parcels or lots shall be 20 acres.

\*\*\*\*\*

### 33.2860 Lots of Exception and Property Line Adjustments

#### (A) Lots of Exception

An exception to permit creation of a lot parcel of less than 20 acres, after ~~October 6, 1977~~ out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 33.2855(C) through (E). Any exception shall be based on the following findings that ~~the proposal will~~:

(1) ~~Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent *habitable dwellings*;

(2) ~~Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent *habitable dwellings* were lawfully established on the Lot of Record before October 4, 2000;

(3) ~~Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the *habitable dwellings*; and

(4) ~~Be consistent with the purposes described in MCC 33.2800~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;

(5) ~~Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~

(6) ~~Not require public services beyond those existing or programmed for the area.~~

~~(B) Except as provided in MCC 33.2860 (D), no Lot of Exception shall be approved unless:~~

~~(1) The Lot of Record to be divided exceeds the area requirements of MCC 33.2855 (A), and~~

~~(2) The division will create no more than one lot which is less than the minimum area required in MCC 33.2855 (A).~~

~~(C) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 33.2800.~~

~~(D) The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

#### (B)(E) Property Line Adjustment



Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

### **33.2870 Lot of Record**

- (A) ~~For the purposes of this district, a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services or was in recordable form prior to October 6, 1977, and which, when established, satisfied all applicable laws.~~  
In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:
- (1) July 10, 1958, SR zone applied;
  - (2) July 10, 1958, F-2 zone applied;
  - (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
  - (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;
  - (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;
  - (7) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.
- (B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 33.2885, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.
- (C) ~~Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~
- ~~(C)~~(D) Except as otherwise provided by MCC 33.2860, 33.2875, and 33.4300 through 33.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.
- (D) The following shall not be deemed to be a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

### **33.2875 Lot Sizes for Conditional Uses**

The minimum lot size for a Conditional Use permitted pursuant to MCC 33.2830, except subpart (C)(1) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties; and

(C) Consideration of the purposes of this district; and

(D) A finding that the lot or parcel is at least two acres in area.

\*\*\*\*\*

## **PART 4. ZONES**

### **Rural Residential (RR)**

\*\*\*\*\*

### **33.3115 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.3120 through 33.3150 when found to comply with MCC 33.3155 through 33.3185.

### **33.3120 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record; and,

\*\*\*\*\*

### **33.3125 Review Uses**

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

(1) Construction shall comply with the standards of the Building Code or as pre-

properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

\*\*\*\*\*

### **33.3160 Lots of Exception and Property Line Adjustments**

#### **(A) Lots of Exception**

An exception to permit creation of a lot parcel of less than five acres, after October 6, 1977 out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 33.3155(C) through (E). Any exception shall be based on the following findings that the proposal will:

- ~~(1) Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent *habitable dwellings*;
  - ~~(2) Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent *habitable dwellings* were lawfully established on the Lot of Record before October 4, 2000;
  - ~~(3) Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the *habitable dwellings*; and
  - ~~(4) Be consistent with the purposes described in MCC 33.3100~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
  - ~~(5) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
  - ~~(6) Not require public services beyond those existing or programmed for the area.~~
- ~~(B) Except as provided in MCC 33.3160 (D), no Lot of Exception shall be approved unless:~~
- ~~(1) The Lot of Record to be divided exceeds the area requirements of MCC 33.3155 (A), and~~
  - ~~(2) The division will create no more than one lot which is less than the minimum area required in MCC 33.3155 (A).~~
- ~~(C) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 33.3170.~~
- ~~(D) The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

scribed in ORS 446.002 through 446.200, relating to mobile homes.

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained.

(3) The dwelling shall have a minimum floor area of 600 square feet.

(B) ~~Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 33.3120 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 33.3120 (C) or MCC 33.3125 (A), subject to the following conditions:~~

~~(1) In the event the dwelling is constructed off site, construction shall comply with MCC 33.3125 (A) (1) and (3).~~

~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:~~

~~(a) The use is needed to carry out a use listed in MCC 33.3120 (A) or (B);~~

~~(b) The standards of MCC 33.3155 (C) through (E) are satisfied; and~~

~~(c) The minimum distance between dwellings will be 20 feet.~~

~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 33.0785 and 33.0790.~~

Temporary uses when approved pursuant to MCC 33.0510 and 33.0515.

\*\*\*\*\*

(F) Property Line Adjustment pursuant to the provisions of MCC 33.3160 (E).

\*\*\*\*\*

### **33.3130 Conditional Uses**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

(B) The following Conditional Uses under the provisions of MCC 33.6300 through 33.6660:

\*\*\*\*\*

(8) Planned Developments for single family residences as provided in MCC 33.4300 through 33.49704360 and the applicable current "planned unit development" standards within the Oregon Administrative Rules Chapter 660, Division 004;

\*\*\*\*\*

(E) Lots of Exception pursuant to the provisions of MCC 33.3160 (A) through (C) or 33.3160 (D).

### **33.3155 Dimensional Requirements**

(A) Except as provided in MCC 33.3160, 33.3170, 33.3175 and 33.4300 through 33.43704360, the minimum lot size for new parcels or lots shall be five acres. For

(B)(E) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

**33.3170 Lot of Record**

(A) ~~For the purposes of this district, a Lot of Record is a parcel:~~

~~(1) For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to October 6, 1977; and~~

~~(2) Which, when established, satisfied all applicable laws.~~

In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR zone applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, RR zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;

(6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;

(7) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.

(B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 33.3185, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~

~~(C)~~(D) Except as otherwise provided by MCC 33.3160, 33.3175, and 33.4300 through 33.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

### **33.3175 Lot Sizes for Conditional Uses**

The minimum lot size for a conditional use permitted pursuant to MCC 33.3130, except subpart (B)(8) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to the impacts on nearby properties;  
and

(C) Consideration of the purposes of this district; and

(D) A finding that the lot or parcel is at least two acres in area.

\*\*\*\*\*

## **PART 4. ZONES**

### **Rural Center (RC)**

\*\*\*\*\*

### **33.3315 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.3320 through 33.33503330 when found to comply with MCC 33.3355 through 33.3385.

### **33.3320 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record.

\*\*\*\*\*

### 33.3325 Review Uses

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

(1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained.

(3) The dwelling shall have a minimum floor area of 600 square feet.

~~(B) Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 33.3320 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 33.3320 (C) or MCC 33.3325 (A), subject to the following conditions:~~

~~(1) In the event the dwelling is constructed off-site, construction shall comply with MCC 33.3325 (A) (1) and (3).~~

~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:~~

~~(a) The use is needed to carry out a use listed in MCC 33.3320 (A) or (B);~~

~~(b) The standards of MCC 33.3355 (C) through (E) are satisfied; and~~

~~(c) The minimum distance between dwellings will be 20 feet.~~

~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 33.0785 and 33.0790.~~

Temporary uses when approved pursuant to MCC 33.0510 and 33.0515.

\*\*\*\*\*

(F) Property Line Adjustment pursuant to the provisions of MCC 33.3360 (E).

\*\*\*\*\*

### 33.3330 Conditional Uses

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

(C) Planned Developments pursuant to the provisions of MCC 33.4300 through 33.49704360. If the property is outside of an "acknowledged unincorporated community", then the applicable current "planned unit development" standards within the Oregon Administrative Rules Chapter 660, Division 004 shall also be satisfied.

\*\*\*\*\*

(G) Lots of Exception pursuant to the provisions of MCC 33.3360 (A) through (C) or 33.3360 (D).

### 33.3355 Dimensional Requirements

- (A) Except as provided in MCC 33.3360, 33.3370, 33.3375 and 33.4300 through 33.4370~~4360~~, the minimum lot size for new parcels or lots shall be one acre for those RC zoned lands inside the boundary of an "acknowledged unincorporated community". For RC zoned properties outside an "acknowledged unincorporated community" the minimum lot size is two acres except for those properties within one mile of the Urban Growth Boundary and then the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

\*\*\*\*\*

### 33.3360 Lots of Exception and Property Line Adjustments

#### (A) Lots of Exception

An exception to permit creation of a lot parcel of less than one acre, after ~~October 6, 1977~~ out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 33.3355(C) through (E). Any exception shall be based on the following findings that the proposal will:

- ~~(1) Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent habitable dwellings;
  - ~~(2) Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000;
  - ~~(3) Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the habitable dwellings; and
  - ~~(4) Be consistent with the purposes described in MCC 33.3300~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
  - ~~(5) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
  - ~~(6) Not require public services beyond those existing or programmed for the area.~~
- ~~(B) Except as provided in MCC 33.3360 (D), no Lot of Exception shall be approved unless:~~
- ~~(1) The Lot of Record to be divided exceeds the area requirements of MCC 33.3355 (A), and~~
  - ~~(2) The division will create no more than one lot which is less than the minimum area required in MCC 33.3355 (A).~~
- ~~(C) The approval authority may attach conditions to the approval of any Lot of Excep-~~



~~tion to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 33.3300.~~

- ~~(D) The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

(B)(E) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

**33.3370 Lot of Record**

- (A) ~~For the purposes of this district, a Lot of Record is a parcel of land:~~
- ~~(1) For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to October 6, 1977; and~~
  - ~~(2) Which, when established, satisfied all applicable laws.~~
- In addition to the *Lot of Record* definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:
- (1) July 10, 1958, SR and R zones applied;
  - (2) July 10, 1958, F-2 zone applied;
  - (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
  - (4) October 6, 1977, RC zone applied, Ord. 148 & 149;
  - (5) October 13, 1983, zone change to RC for some properties, Ord. 395;
  - (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004 applied a minimum 2 acre lot size to RC zoned areas outside "acknowledged unincorporated communities" except where properties are within one mile of the Urban Growth Boundary the minimum is 20 acres;
  - (7) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.
- (B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the

access requirement of MCC 33.3385, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~

~~(C)~~(D) Except as otherwise provided by MCC 33.3360, 33.3375, and 33.4300 through 33.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

**Section 2.** The following subsections of Multnomah County Code Volume II: Land Use, Chapter 34 Sauvie Island / Multnomah Channel Rural Plan Area are amended as follows:

## **PART 1. GENERAL PROVISIONS**

### **Definitions**

\*\*\*\*\*

#### **34.0005 Definitions**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

\*\*\*\*\*

(D) (1) **Date of Creation and Existence** – As used in the EFU district and applicable only to that district, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a Lot of Record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

~~(2)~~(1) **Day Nursery** – \*\*\*\*\*

~~(3)~~(2) **Development** – \*\*\*\*\*

(4)(3) Director – \*\*\*\*\*

(5)(4) Drive-In – \*\*\*\*\*

(6)(5) Dwelling Unit – \*\*\*\*\*

(7)(6) Dwelling (Duplex or Two-Unit) – \*\*\*\*\*

(8)(7) Dwelling (Single Family Detached) – \*\*\*\*\*

(9)(8) Dwelling (Multi-Plex Structure) – \*\*\*\*\*

(10)(9) Duplex Dwelling – \*\*\*\*\*

\*\*\*\*\*

(H)(1) Habitable dwelling – An existing dwelling that:

(a) Has intact exterior walls and roof structure;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights; and

(d) Has a heating system.

(2)(1) Hearings Officer – \*\*\*\*\*

(3) Heritage Tract Dwelling – A type of single family detached dwelling in the EFU zoning district with approval criteria that includes a requirement for ownership of the lot or parcel prior to January 1, 1985. The complete description of approval standards are in the use sections of the district.

(4)(2) High School – \*\*\*\*\*

(5)(3) Highway (State) – \*\*\*\*\*

(6)(4) Historical Building – \*\*\*\*\*

(7)(5) Historical Resources – \*\*\*\*\*

(8)(6) Home Occupation – \*\*\*\*\*

(9)(7) Horticulture – \*\*\*\*\*

(10)(8) Hotel – \*\*\*\*\*

\*\*\*\*\*

(L) (2) **Lawfully established dwelling** – A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a *dwelling unit* were obtained and all qualifying permitted work completed.

(3)(2) **Loading Space** – \*\*\*\*\*

(4)(3) **Lot** – A unit of land created by a subdivision of land, see definition in MCC 34.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a A-plot lot, parcel (result of partitioning), or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

(5)(4) **Lot Area** – \*\*\*\*\*

(6)(5) **Lot (Corner)** – \*\*\*\*\*

(7)(6) **Lot Coverage** – \*\*\*\*\*

(8)(7) **Lot Lines** – \*\*\*\*\*

(9)(8) **Lot Line (Front)** – \*\*\*\*\*

(10)(9) **Lot Line (Rear)** – \*\*\*\*\*

(11)(10) **Lot Line (Side)** – \*\*\*\*\*

(12) **Lot of Record** – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public

office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU district.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

(13)(44) Lot Width – \*\*\*\*\*

\*\*\*\*\*

(M) (4) **Mortgage Lot** – A lot having less than the minimum area required under this Chapter, created out of a tract which itself conforms to lot area requirements, to enable the contract purchaser of the tract to finance construction of a single family residence thereon. An area of land created solely for the purposes of financing a dwelling. A Mortgage Lot is not a Lot of Record and shall not be conveyed separate from the Lot of Record out of which it was described. The tax roll accounts of the Mortgage Lot and the parent Lot of Record shall be consolidated into one account when title to both is secured. A Mortgage Lot may be created only in the EFU district.

\*\*\*\*\*

(P) (1) **Parcel** – A unit of land created by a partitioning of land, see definition in MCC 34.7705. Depending upon the context in which the term appears in this Chapter, *Parcel* and *Lot* may at times be used interchangeably.

(1) **Permit Section** – The division of the Department of Environmental Services authorized to issue building and other land development permits or its designee.

\*\*\*\*\*

(R) (3) Recordable form – A form sufficient to create the parcel on the date the document was signed if the deed or land sales contract had been recorded with the office responsible for public records. Characteristics of recordable form include a complete description of the property, the consideration given, and verification of the transaction by a witness such as a Notary Public.

(4)(3) Recreational Vehicle Park – \*\*\*\*\*

(5)(4) Residential Care Facility – \*\*\*\*\*

(6)(5) Residential Home – \*\*\*\*\*

(7)(6) Residential Trailer – \*\*\*\*\*

(8)(7) Residential Treatment Facility – \*\*\*\*\*

(9)(8) Road (County) – \*\*\*\*\*

\*\*\*\*\*

#### **34.0015 Zoning Map**

\*\*\*\*\*

(B) A paper version of the Zoning Map and each amendment thereto shall be and remain on file in the office of the Director of the Division of Land Use Planning Department of Environmental Services.

(1) The set of paper Zoning Maps with the cover page dated the 15<sup>th</sup> of November, 1962 and signed by the Board of County Commissioners shall be deemed to be the accurate depiction of the Zoning Maps adopted for successive geographic areas from April 19, 1955 through December 11, 1958.

#### **PART 4. ZONES**

##### **Exclusive Farm Use (EFU)**

##### **34.2600 Purpose**

The purposes of the Exclusive Farm Use District are to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic and wildlife resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related and compatible uses which are deemed appropriate. Land within this district shall be used exclusively for farm uses as provided in the Oregon Revised Statutes Chapter 215 and the Oregon Administrative Rules Chapter 660, Division 33 as interpreted by this Exclusive Farm Use code section.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

\*\*\*\*\*

### **34.2610 Definitions**

As used in MCC 34.2600 through MCC 34.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

\*\*\*\*\*

- (C) *Contiguous* refers to parcels or lots of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

\*\*\*\*\*

- (H) *Same Ownership* refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

- ~~(I)~~(H) *Suitable for farm use* means \*\*\*\*\*

- ~~(J)~~(I) *Tract* means one or more contiguous lots in the same ownership.

### **34.2615 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC ~~2008~~ 34.2620 through 2014 34.2630 when found to comply with MCC 34.2660 through 34.2690.

\*\*\*\*\*

### **34.2620 Allowed Uses**

\*\*\*\*\*

- (L) Alteration, restoration or replacement of a lawfully established habitable dwelling, that has:
- ~~(1) Intact exterior walls and roof structure;~~
  - ~~(2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
  - ~~(3) Interior wiring for interior lights; and~~
  - ~~(4) A heating system.~~

In the case of a replacement dwelling, the existing dwelling is must be removed,

demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

\*\*\*\*\*

#### **34.2625 Review Uses**

\*\*\*\*\*

- (F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land not identified as high-value farmland when:

\*\*\*\*\*

#### **34.2630 Conditional Uses**

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 34.6300 to 34.63406345:

\*\*\*\*\*

- (O) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

\*\*\*\*\*

- (P) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

\*\*\*\*\*

#### **34.2670 Lot Line Adjustment**

- (A) An adjustment of the common lot line between contiguous legal lots 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 dimensional requirements of MCC 34.2660 (A) and (C) are met; or
- (3) The reconfigured lot areas will each retain the same lot area that existed prior to the exchange.

~~The decision of the Planning Director may be appealed to the approval authority pursuant to MCC 34.0785 and 34.0790.~~

#### **34.2675 ~~Lot, Parcel and Tract Requirement~~ Lot of Record**

- (A) ~~The Lot, Parcel and Tract requirement shall be applied to all uses in this district except for Single Family Heritage Tract Dwellings: MCC 34.2625 (F), MCC 34.2630 (O) or MCC 34.2630 (P). In addition to the Lot of Record definition stan-~~



ards in MCC 34.0005, F for the purposes of this district a Lot of Record is either:  
, a lot, parcel or tract is defined as

~~(1) A lot or parcel of land:~~

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of Environmental Services or its predecessors; and~~
- ~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~
- ~~(c) Which satisfies the minimum lot size requirements of MCC 34.2660; or~~

~~(2) A lot or parcel of land:~~

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~
- ~~(c) Does not meet the minimum lot size requirements of MCC 34.2660; and~~
- ~~(d) Which was not contiguous to another substandard parcel or parcels under the same ownership on or after February 20, 1990; or~~

~~(3) A Tract of land:~~

- ~~(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~
- ~~(c) Which were held under the same ownership on or after February 20, 1990; and~~
- ~~(d) Which individually do not meet the minimum lot or parcel size requirements of MCC 34.2660, but, when considered in combination:~~
  - ~~1. One legal lot or parcel shall comply nearly as possible with a minimum area of nineteen acres, without creating any new lot lines; or~~
  - ~~2. More than one legal lot or parcel, each property must comply with the minimum area of nineteen acres, without creating any new property line.~~

(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of *contiguous* parcels or lots:

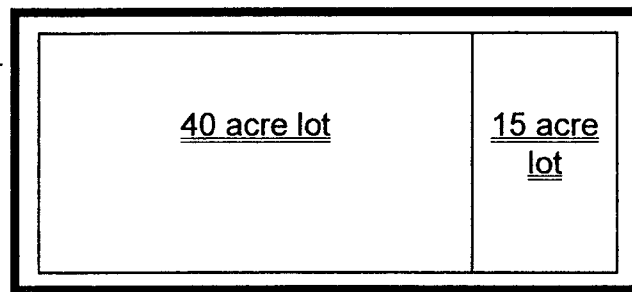
(a) Which were held under the *same ownership* on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

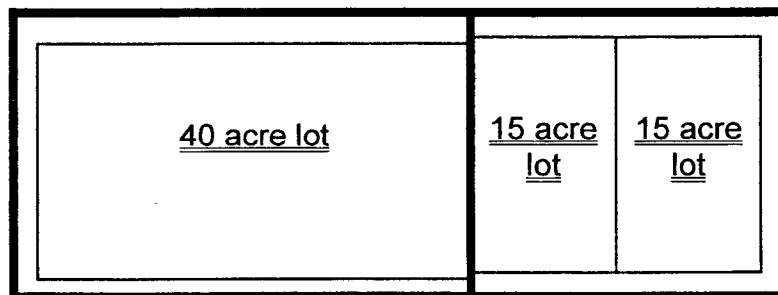
- 1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder

individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

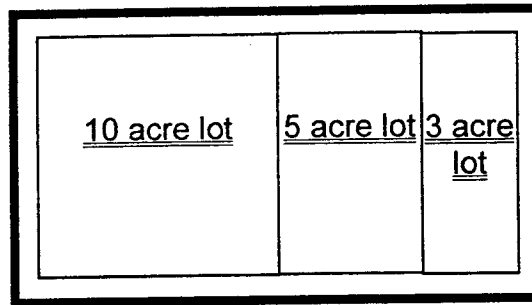
2. An exception to the 19 acre minimum lot size requirement shall occur when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:  
One 55 acre Lot of Record



Example 2:  
One 40 acre Lot of Record and  
one 30 acre Lot of Record



Example 3:  
One 18 acre Lot of Record

(3) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(B) For the purposes of this subsection:

- (1) ~~Substandard Lot or Parcel~~ refers to a parcel which does not satisfy the minimum lot size requirements of MGC 34.2660; and
- (2) ~~Same Ownership~~ refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, RL-C zone applied, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, zone change from EFU-38 to EFU-76 for some properties, Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;

(7) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

~~(C) A lot, parcel or tract which satisfies the applicable requirements of MCC 34.2675 and front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district. A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 34.2690 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.~~

(D) The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

\*\*\*\*\*

#### **PART 4. ZONES**

##### **Multiple Use Agriculture-20 (MUA-20)**

\*\*\*\*\*

##### **34.2815 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 34.2820 through 34.2850 2830 when found to comply with MCC 34.2855 through 34.2885.

##### **34.2820 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a ~~1~~ Lot of Record; and,

\*\*\*\*\*

##### **34.2825 Review Uses**

(A) Residential use, consisting of a single family dwelling constructed off-site, includ-

ing a mobile or modular home placed on a Lot of Record, subject to the following conditions:

- (1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.
- (2) The dwelling shall be attached to a foundation for which a building permit has been obtained.
- (3) The dwelling shall have a minimum floor area of 600 square feet.

~~(B) Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 34.2820 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 34.2820 (C) or MCC 34.2825 (A), subject to the following conditions:~~

- ~~(1) In the event the dwelling is constructed off site, construction shall comply with MCC 34.2825 (A) (1) and (3).~~
- ~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:
  - ~~(a) The use is needed to carry out a use listed in MCC 34.2820 (A) or (B);~~
  - ~~(b) The standards of MCC 34.2855 (C) through (E) are satisfied; and~~
  - ~~(c) The minimum distance between dwellings will be 20 feet.~~~~
- ~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 34.0785 and 34.0790.~~

Temporary uses when approved pursuant to MCC 34.0510 and 34.0515.

\*\*\*\*\*

~~(F) Property Line Adjustment pursuant to the provisions of MCC 34.2860 (E).~~

\*\*\*\*\*

### **34.2830 Conditional Uses**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

~~(C) The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II, or III soils:~~

- ~~(1) Planned Developments for single family residences, as provided in MCC 34.4300 through 34.4370 360 and the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004;~~

\*\*\*\*\*

~~(F) Lots of Exception pursuant to the provisions of MCC 34.2860 (A) through (C) or 33.2860 (D).~~

### **34.2855 Dimensional Requirements**

- (A) Except as provided in MCC 34.2860, 34.2870, 34.2875 and 34.4300 through 34.43704360, the minimum lot size for new parcels or lots shall be 20 acres.

\*\*\*\*\*

### **34.2860 Lots of Exception and Property Line Adjustments**

(A) Lots of Exception

An exception to permit creation of a lot parcel of less than 20 acres, after October 6, 1977 out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 34.2855(C) through (E). Any exception shall be based on the following findings that the proposal will:

- (1) ~~Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent habitable dwellings;
  - (2) ~~Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000;
  - (3) ~~Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the habitable dwellings; and
  - (4) ~~Be consistent with the purposes described in MCC 34.2800~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
  - (5) ~~Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
  - (6) ~~Not require public services beyond those existing or programmed for the area.~~
- (B) ~~Except as provided in MCC 34.2860 (D), no Lot of Exception shall be approved unless:~~
- (1) ~~The Lot of Record to be divided exceeds the area requirements of MCC 34.2855 (A), and~~
  - (2) ~~The division will create no more than one lot which is less than the minimum area required in MCC 34.2855 (A).~~
- (C) ~~The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 34.2800.~~
- (D) ~~The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

~~(B)(E)~~ Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

**34.2870 Lot of Record**

- (A) ~~For the purposes of this district, a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services or was in recordable form prior to October 6, 1977, and which, when established, satisfied all applicable laws.~~  
In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:
- (1) July 10, 1958, SR zone applied;
  - (2) July 10, 1958, F-2 zone applied;
  - (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
  - (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;
  - (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;
  - (6) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.
- (B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 34.2885, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.
- ~~(C) — Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~
- ~~(C)(D)~~ Except as otherwise provided by MCC 34.2860, 34.2875, and 34.4300 through 34.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

#### **34.2875 Lot Sizes for Conditional Uses**

The minimum lot size for a Conditional Use permitted pursuant to MCC 34.2830, except subpart (C)(1) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties; and

(C) Consideration of the purposes of this district; and

(D) A finding that the lot or parcel is at least two acres in area.

\*\*\*\*\*

#### **PART 4. ZONES**

##### **Rural Residential (RR)**

\*\*\*\*\*

#### **34.3115 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 34.3120 through 34.3150 3130 when found to comply with MCC 34.3155 through 34.3185.

#### **34.3120 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record; and,

\*\*\*\*\*

#### **34.3125 Review Uses**

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:



(1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained.

(3) The dwelling shall have a minimum floor area of 600 square feet.

(B) ~~Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 34.3120 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 34.3120 (C) or MCC 34.3125 (A), subject to the following conditions:~~

~~(1) In the event the dwelling is constructed off-site, construction shall comply with MCC 34.3125 (A) (1) and (3).~~

~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:~~

~~(a) The use is needed to carry out a use listed in MCC 34.3120 (A) or (B);~~

~~(b) The standards of MCC 34.3155 (C) through (E) are satisfied; and~~

~~(c) The minimum distance between dwellings will be 20 feet.~~

~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 34.0785 and 34.0790.~~

Temporary uses when approved pursuant to MCC 34.0510 and 34.0515.

\*\*\*\*\*

(F) Property Line Adjustment pursuant to the provisions of MCC 34.3160 (E).

\*\*\*\*\*

### **34.3130 Conditional Uses**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

(B) The following Conditional Uses under the provisions of MCC 34.6300 through 34.6660:

\*\*\*\*\*

(8) Planned Developments for single family residences as provided in MCC 34.4300 through 34.4970 34.4360 and the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004;

\*\*\*\*\*

(E) Lots of Exception pursuant to the provisions of MCC 34.3160 (A) through (C) or 34.3160 (D).

### **34.3155 Dimensional Requirements**

(A) Except as provided in MCC 34.3160, 34.3170, 34.3175 and 34.4300 through

34.43704360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

\*\*\*\*\*

### **34.3160 Lots of Exception and Property Line Adjustments**

#### **(A) Lots of Exception**

An exception to permit creation of a lot parcel of less than five acres, after ~~October 6, 1977~~ out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 34.3155(C) through (E). Any exception shall be based on the following findings that the ~~proposal~~ will:

- (1) ~~Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent *habitable dwellings*;
- (2) ~~Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent *habitable dwellings* were lawfully established on the Lot of Record before October 4, 2000;
- (3) ~~Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the *habitable dwellings*; and
- (4) ~~Be consistent with the purposes described in MCC 34.3100~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
- (5) ~~Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
- (6) ~~Not require public services beyond those existing or programmed for the area.~~

~~(B) Except as provided in MCC 34.3160 (D), no Lot of Exception shall be approved unless:~~

- ~~(1) The Lot of Record to be divided exceeds the area requirements of MCC 34.3155 (A), and~~
- ~~(2) The division will create no more than one lot which is less than the minimum area required in MCC 34.3155 (A).~~

~~(C) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 34.3170.~~

~~(D) The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

(B)(E) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

**34.3170 Lot of Record**

- (A) ~~For the purposes of this district, a Lot of Record is a parcel:~~
- ~~(1) For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to October 6, 1977; and~~
  - ~~(2) Which, when established, satisfied all applicable laws.~~  
In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:
- (1) July 10, 1958, SR zone applied;
  - (2) July 10, 1958, F-2 zone applied;
  - (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
  - (4) October 6, 1977, RR zone applied, Ord. 148 & 149;
  - (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;
  - (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;
  - (7) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.
- (B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 34.3185, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.
- (C) ~~Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~

~~(C)(D)~~ Except as otherwise provided by MCC 34.3160, 34.3175, and 34.4300 through 34.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes:

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

### **34.3175 Lot Sizes for Conditional Uses**

The minimum lot size for a conditional use permitted pursuant to MCC 34.3130, except subpart (B)(8) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to the impacts on nearby properties;  
and

(C) Consideration of the purposes of this district; and

(D) A finding that the lot or parcel is at least two acres in area.

## **PART 4. ZONES**

### **Rural Center (RC)**

\*\*\*\*\*

### **34.3315 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 34.3320 through 34.33503330 when found to comply with MCC 34.3355 through 34.3385.

### **34.3320 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record.

\*\*\*\*\*

### 34.3325 Review Uses

- (A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

- (1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.
- (2) The dwelling shall be attached to a foundation for which a building permit has been obtained.
- (3) The dwelling shall have a minimum floor area of 600 square feet.

- ~~(B) Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 34.3320 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 34.3320 (C) or MCC 34.3325 (A), subject to the following conditions:~~

- ~~(1) In the event the dwelling is constructed off site, construction shall comply with MCC 34.3325 (A) (1) and (3).~~
- ~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:
  - ~~(a) The use is needed to carry out a use listed in MCC 34.3320 (A) or (B);~~
  - ~~(b) The standards of MCC 34.3355 (C) through (E) are satisfied; and~~
  - ~~(c) The minimum distance between dwellings will be 20 feet.~~~~
- ~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 34.0785 and 34.0790.~~

Temporary uses when approved pursuant to MCC 34.0510 and 34.0515.

\*\*\*\*\*

- (F) Property Line Adjustment pursuant to the provisions of MCC 34.3360-(E).

\*\*\*\*\*

### 34.3330 Conditional Uses

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

- (C) Planned Developments pursuant to the provisions of MCC 34.4300 through 34.43704360. If the property is outside of an "acknowledged unincorporated community", then the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004 shall also be satisfied.

\*\*\*\*\*

- (G) Lots of Exception pursuant to the provisions of MCC 34.3360-(A) through (C) or 34.3360-(D).

\*\*\*\*\*

### 34.3355 Dimensional Requirements

- (A) Except as provided in MCC 34.3360, 34.3370, 34.3375 and 34.4300 through 34.4370~~3360~~, the minimum lot size for new parcels or lots shall be one acre for those RC zoned lands inside the boundary of an "acknowledged unincorporated community". For RC zoned properties outside an "acknowledged unincorporated community" the minimum lot size is two acres except for those properties within one mile of the Urban Growth Boundary and then the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

\*\*\*\*\*

### 34.3360 Lots of Exception and Property Line Adjustments

#### (A) Lots of Exception

An exception to permit creation of a lot parcel of less than one acre, ~~after October 6, 1977~~ out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 34.3355(C) through (E). Any exception shall be based on the following findings that the proposal will:

- (1) ~~Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent *habitable dwellings*;
  - (2) ~~Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent *habitable dwellings* were lawfully established on the Lot of Record before October 4, 2000;
  - (3) ~~Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the *habitable dwellings*; and
  - (4) ~~Be consistent with the purposes described in MCC 34.3300~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
  - (5) ~~Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
  - (6) ~~Not require public services beyond those existing or programmed for the area.~~
- (B) ~~Except as provided in MCC 34.3360 (D), no Lot of Exception shall be approved unless:~~
- (1) ~~The Lot of Record to be divided exceeds the area requirements of MCC 34.3355 (A), and~~
  - (2) ~~The division will create no more than one lot which is less than the minimum~~

area required in MCC 34.3355 (A).

- (C) ~~The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 34.3300.~~
- (D) ~~The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

(B)(E) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

**34.3370 Lot of Record**

- (A) For the purposes of this district, a Lot of Record is a parcel of land:
  - (1) ~~For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to October 6, 1977; and~~
  - (2) ~~Which, when established, satisfied all applicable laws.~~  
In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:
    - (1) July 10, 1958, SR and R zones applied;
    - (2) July 10, 1958, F-2 zone applied;
    - (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
    - (4) October 6, 1977, RC zone applied, Ord. 148 & 149;
    - (5) October 13, 1983, zone change to RC for some properties, Ord. 395;
    - (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004 applied a minimum 2 acre lot size to RC zoned areas outside "acknowledged unincorporated communities" except where properties are within one mile of the Urban Growth Boundary the minimum is 20 acres;
    - (7) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.

- (B) A Lot of Record which has less than the area minimum lot size for new parcels or

lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 34.3385, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~

~~(C)(D)~~ Except as otherwise provided by MCC 34.3360, 34.3375, and 34.4300 through 34.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

\*\*\*\*\*

**Section 3.** The following subsections of Multnomah County Code Volume II: Land Use, Chapter 35 East of Sandy River Rural Plan Area are amended as follows:

## **PART 1. GENERAL PROVISIONS**

### **Definitions**

\*\*\*\*\*

#### **35.0005 Definitions**

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

\*\*\*\*\*

(D) (1) **Date of Creation and Existence** – As used in the EFU and CFU districts and applicable only to those districts, when a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a Lot of Record or tract for the siting of a dwelling, the date of the re-configuration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

(2)(1) **Day Nursery** – \*\*\*\*\*

(3)(2) **Development** – \*\*\*\*\*



(4)(3) Director – \*\*\*\*\*

(5)(4) Drive-In – \*\*\*\*\*

(6)(5) Dwelling Unit – \*\*\*\*\*

(7)(6) Dwelling (Duplex or Two-Unit) – \*\*\*\*\*

(8)(7) Dwelling (Single Family Detached) – \*\*\*\*\*

(9)(8) Dwelling (Multi-Plex Structure) – \*\*\*\*\*

(10)(9) Duplex Dwelling – \*\*\*\*\*

\*\*\*\*\*

(H)(1) Habitable dwelling – An existing dwelling that:

(a) Has intact exterior walls and roof structure;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights; and

(d) Has a heating system.

(2)(1) Hearings Officer – \*\*\*\*\*

(3) Heritage Tract Dwelling – A type of single family detached dwelling in the EFU and the CFU zoning districts with approval criteria that includes a requirement for ownership of the lot or parcel prior to January 1, 1985. The complete description of approval standards are in the use sections of the districts.

(4)(2) High School – \*\*\*\*\*

(5)(3) Highway (State) – \*\*\*\*\*

(6)(4) Historical Building – \*\*\*\*\*

(7)(5) Historical Resources – \*\*\*\*\*

(8)(6) Home Occupation – \*\*\*\*\*

(9)(7) Horticulture – \*\*\*\*\*

(10)(8) Hotel – \*\*\*\*\*

\*\*\*\*\*

(L)(1) **Large Acreage Dwelling** – A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement for single ownership of 160 contiguous forest zoned acres or single ownership of 200 forest zoned acres in Multnomah County or adjacent counties that are not contiguous. The complete description of approval standards are in the use sections of the districts.

(2)(4) **Large Fill** – \*\*\*\*\*

(3) **Lawfully established dwelling** – A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed.

(4)(2) **Loading Space** – \*\*\*\*\*

(5)(3) **Lot** – A unit of land created by a subdivision of land, see definition in MCC 35.7705. Depending upon the context in which the term appears in this Chapter, a Lot may also mean a A-plot lot, parcel (result of partitioning), or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

(6)(4) **Lot Area** – \*\*\*\*\*

(7)(5) **Lot (Corner)** – \*\*\*\*\*

(8)(6) **Lot Coverage** – \*\*\*\*\*

(9)(7) **Lot Lines** – \*\*\*\*\*

(10)(8) **Lot Line (Front)** – \*\*\*\*\*

(11)(9) **Lot Line (Rear)** – \*\*\*\*\*

(12)(10) **Lot Line (Side)** – \*\*\*\*\*

(13) **Lot of Record** – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access require-

ments.

(b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See *Date of Creation and Existence* for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.
2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

(14)(14) Lot Width – \*\*\*\*\*

\*\*\*\*\*

(M) (4) **Mortgage Lot** – ~~A lot having less than the minimum area required under this Chapter, created out of a tract which itself conforms to lot area requirements, to enable the contract purchaser of the tract to finance construction of a single family residence thereon.~~ An area of land created solely for the purposes of financing a dwelling. A Mortgage Lot is not a Lot of Record and shall not be conveyed separate from the Lot of Record out of which it was described. The tax roll accounts of the Mortgage Lot and the parent Lot of Record shall be consolidated into one account when title to both is secured. A Mortgage Lot

may be created only in the EFU and CFU districts.

\*\*\*\*\*

(P) (1) **Parcel** – A unit of land created by a partitioning of land, see definition in MCC 35.7705. Depending upon the context in which the term appears in this Chapter, *Parcel* and *Lot* may at times be used interchangeably.

(1) **Permit Section** – The division of the Department of Environmental Services authorized to issue building and other land development permits or its designee.

\*\*\*\*\*

(R) (3) **Recordable form** – A form sufficient to create the parcel on the date the document was signed if the deed or land sales contract had been recorded with the office responsible for public records. Characteristics of *recordable form* include a complete description of the property, the consideration given, and verification of the transaction by a witness such as a Notary Public.

(4)(3) **Recreational Vehicle Park** – \*\*\*\*\*

(5)(4) **Residential Care Facility** – \*\*\*\*\*

(6)(5) **Residential Home** – \*\*\*\*\*

(7)(6) **Residential Trailer** – \*\*\*\*\*

(8)(7) **Residential Treatment Facility** – \*\*\*\*\*

(9)(8) **Road (County)** – \*\*\*\*\*

\*\*\*\*\*

(T) (1) **Template Dwelling** – A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement that a certain number of parcels and dwellings exist within a 160-acre square (map template) centered on the subject tract. The complete description of requirements are in the use sections of the district.

(2)(1) **Timber Growing** – \*\*\*\*\*

(3)(2) **Trade School** – \*\*\*\*\*

(4)(3) **Two-Unit Dwelling** – \*\*\*\*\*

\*\*\*\*\*

## **35.0015 Zoning Map**

\*\*\*\*\*

(B) A paper version of the Zoning Map and each amendment thereto shall be and

remain on file in the office of the Director of the Division of Land Use Planning Department of Environmental Services.

(1) The set of paper Zoning Maps with the cover page dated the 15<sup>th</sup> of November, 1962 and signed by the Board of County Commissioners shall be deemed to be the accurate depiction of the Zoning Maps adopted for successive geographic areas from April 19, 1955 through December 11, 1958.

## **PART 4. ZONES**

### **Commercial Forest Use-3 (CFU-3)**

#### **35.2000 Purposes**

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land; the Commercial Forest Use policies of the East of Sandy River Rural Area Plan, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

\*\*\*\*\*

#### **35.2010 Definitions**

As used in MCC 35.2000 through 35.2110, unless otherwise noted, the following words and their derivations shall have the following meanings:

\*\*\*\*\*

(D) *Contiguous* - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

(E)(D) *Cubic Foot Per Acre* - \*\*\*\*\*

(F)(E) *Cubic Foot Per Tract Per Year* - \*\*\*\*\*

(F) *Date of Creation and Existence* - When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC 33.2075 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

\*\*\*\*\*

(H) Same Ownership - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

(I)(H) Tract - One or more contiguous Lots of Record, pursuant to MCC 35.2075, in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

### 35.2015 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 35.2020 through 35.2055 2030 when found to comply with MCC 35.2045 through 35.2110.

### 35.2020 Allowed Uses

\*\*\*\*\*

(D) Alteration, maintenance, or expansion of an existing lawfully established single family habitable dwelling subject to the following:

~~(1) The existing dwelling~~

~~(a) Has intact exterior walls and roof structures;~~

~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

~~(c) Has interior wiring for interior lights; and~~

~~(d) Has a heating system.~~

~~(1)(2) Satisfies t~~ The dimensional standards of MCC 35.2060 are satisfied; and

~~(2)(3) Satisfies t~~ The development standards of MCC 35.2105(A)(5) and (B) are satisfied if an the expansion that exceeds 400 square feet of ground coverage.

(E) Replacement of an existing lawfully established single family habitable dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

- (a) ~~Has intact exterior walls and roof structures;~~
  - (b) ~~Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
  - (c) ~~Has interior wiring for interior lights;~~
  - (d) ~~Has a heating system;~~
  - (e) ~~Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and~~
- (3) The replacement dwelling shall satisfy the dimensional standards of MCC 35.2060 and the development standards of MCC 35.2105.

\*\*\*\*\*

### 35.2025 Review Uses

- (A) Replacement of an existing lawfully established single-family habitable dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:
- (1) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :
    - (a) ~~Has intact exterior walls and roof structures;~~
    - (b) ~~Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
    - (c) ~~Has interior wiring for interior lights;~~
    - (d) ~~Has a heating system; and~~
    - (e) ~~Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;~~
  - (2) The location of the replacement dwelling shall satisfy the dimensional standards of MCC 35.2060 and the development standards of MCC 35.2105.
- (B) Restoration or replacement of a lawfully established single-family habitable dwelling on the same lot when the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject to the following:
- (1) Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster; and
  - (2) A replacement dwelling located more than 200 feet from the prior dwelling location shall satisfy the dimensional standards of MCC 35.2060 and the development standards of MCC 35.2105.
  - (3) ~~The existing dwelling at the time of the fire, casualty, or natural disaster:~~
    - (a) ~~Had intact exterior walls and roof structures;~~
    - (b) ~~Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~

- ~~(c) Had interior wiring for interior lights; and~~
- ~~(d) Had a heating system.~~

\*\*\*\*\*

### 35.2060 Dimensional Requirements

- (A) Except as provided in MCC 35.2065, 35.2070, 35.2075, and 35.2080, the minimum lot size for new parcels or lots shall be 80 acres.

\*\*\*\*\*

### 35.2075 Lot of Record

- (A) In addition to the Lot of Record definition standards in MCC 35.0005, F for the purposes of this district ; a Lot of Record is either:

- (1) A parcel of land:

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;~~
- ~~(b) Which satisfied all applicable laws when the parcel was created; and~~
- ~~(c) Which satisfies the minimum lot size requirements of MCC 35.2060, or~~

- (2) A parcel of land:

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws when the parcel was created;~~
- ~~(c) Does not meet the minimum lot size requirements of MCC 35.2060; and~~
- ~~(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or~~

- (3) A group of contiguous parcels of land:

- ~~(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws when the parcels were created;~~
- ~~(c) Which individually do not meet the minimum lot size requirements of MCC 35.2060, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and~~
- ~~(d) Which are held under the same ownership.~~

- (1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or

- (2) A group of *contiguous* parcels or lots:

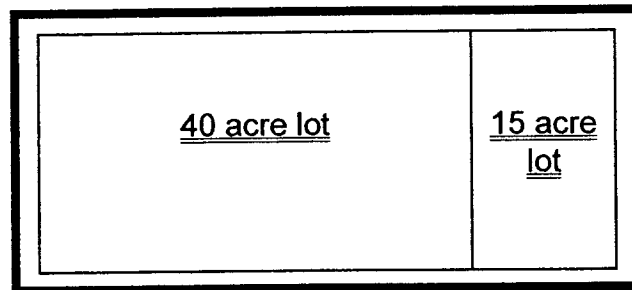
- (a) Which were held under the *same ownership* on February 20, 1990; and

- (b) Which, individually or when considered in combination, shall be aggre-

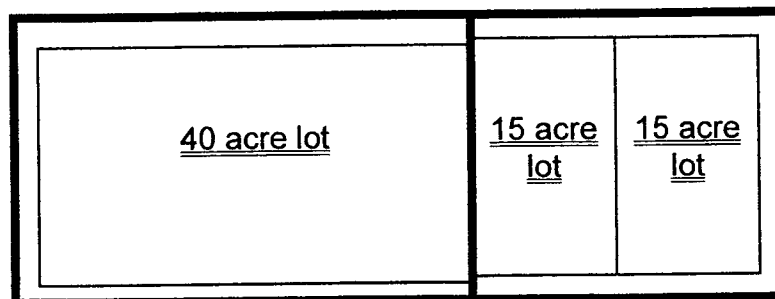


gated to comply with a minimum lot size of 19 acres, without creating any new lot line.

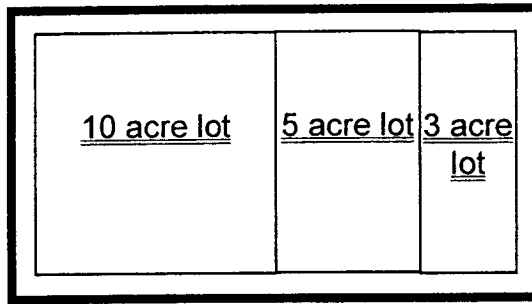
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.
2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:  
One 55 acre Lot of Record



Example 2:  
One 40 acre Lot of Record and  
one 30 acre Lot of Record



Example 3:  
One 18 acre Lot of Record

(3) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.

(b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.

(B) For the purposes of this subsection:

- (1) Contiguous refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.
- (2) Substandard Parcel refers to a parcel which does not satisfy the minimum lot size requirements of MGC 35.2060 and
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;

(5) February 20, 1990, Lot of Record definition amended, Ord. 643;

(6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;

(7) August 8, 1998, CFU-3 zone applied, Ord. 916;

(8) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 35.2090, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC 35.2060 (A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:~~

~~(1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.~~

~~(2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.~~

~~(3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.~~

~~(4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.~~

The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

\*\*\*\*\*

## **PART 4. ZONES**

### **Commercial Forest Use—4 (CFU-4)**

#### **35.2200 Purposes**

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife

habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land, the Commercial Forest Use policies of the East of Sandy River Rural Area Plan; and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

\*\*\*\*\*

### **35.2210 Definitions**

As used in MCC 35.2200 through 35.2310, unless otherwise noted, the following words and their derivations shall have the following meanings:

\*\*\*\*\*

(D) Contiguous - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

(E)(D) Cubic Foot Per Acre - \*\*\*\*\*

(F)(E) Cubic Foot Per Tract Per Year - \*\*\*\*\*

~~(F) Date of Creation and Existence - When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC 35.2275 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.~~

\*\*\*\*\*

~~(H) Heritage Tract - A tract of land that was acquired by the present owner:~~

~~(1) Prior to January 1, 1985; or~~

~~(2) By devise or by intestate succession by an antecedent of the person who acquired the lot or parcel prior to January 1, 1985.~~

~~(3) For purposes of this definition, "antecedent" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.~~

(H) Same Ownership - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

- (l) *Tract* - One or more contiguous Lots of Record, pursuant to ~~MCC 35.2275~~, in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

### 35.2215 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 35.2220 through ~~35.2255~~2240 when found to comply with MCC 35.2245 through 35.2310.

### 35.2220 Allowed Uses

\*\*\*\*\*

- (D) Alteration, maintenance, or expansion of an existing lawfully established single family habitable dwelling subject to the following:

~~(1) The existing dwelling~~

- ~~(a) Has intact exterior walls and roof structures;~~
- ~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
- ~~(c) Has interior wiring for interior lights; and~~
- ~~(d) Has a heating system.~~

~~(1)(2) Satisfies t~~ The dimensional standards of MCC 35.2260 are satisfied; and

~~(2)(3) Satisfies t~~ The development standards of MCC 35.2305(A)(5) and (B) are satisfied if an the expansion that exceeds 400 square feet of ground coverage.

- (E) Replacement of an existing lawfully established single-family habitable dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :

- ~~(a) Has intact exterior walls and roof structures;~~
- ~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
- ~~(c) Has interior wiring for interior lights;~~
- ~~(d) Has a heating system;~~
- ~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and~~

- (3) The replacement dwelling shall satisfy the dimensional standards of MCC 35.2260 and the development standards of MCC 35.2305.

\*\*\*\*\*

### 35.2225 Review Uses

- (A) Replacement of an existing lawfully established single-family habitable dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

- (1) ~~The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and :~~

- ~~(a) Has intact exterior walls and roof structures;~~
- ~~(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
- ~~(c) Has interior wiring for interior lights;~~
- ~~(d) Has a heating system; and~~
- ~~(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;~~

- (2) The location of the replacement dwelling shall satisfy the dimensional standards of MCC 35.2260 and the development standards of MCC 35.2305.

- (B) Restoration or replacement of a lawfully established single-family habitable dwelling on the same lot when the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject to the following:

- (1) Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster; and

- (2) A replacement dwelling located more than 200 feet from the prior dwelling location shall satisfy the dimensional standards of MCC 35.2260 and the development standards of MCC 35.2305.

- ~~(3) The existing dwelling at the time of the fire, casualty, or natural disaster:~~

- ~~(a) Had intact exterior walls and roof structures;~~
- ~~(b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
- ~~(c) Had interior wiring for interior lights; and~~
- ~~(d) Had a heating system.~~

\*\*\*\*\*

### 35.2240 Template and Heritage Tract Dwellings

\*\*\*\*\*

- (B) A *heritage tract dwelling* may be sited, subject to the following:

(1) On a *tract*:

- (a) That is not developed with a single family residence, and
- (b) That is not capable of producing 5,000 cubic feet per year of commercial tree species based on soil type, and
- (c) That is located within 1,500 feet of a dedicated public right-of-way that provides or will provide access to the subject tract.
  - 1. The public right-of-way shall be maintained to the standards set forth in the County Right-of-Way Access Permit, and
  - 2. The public right-of-way shall not be a U.S. Forest Service road or Bureau of Land Management road.
- (d) For which deeds or other instruments creating the lots or parcels were recorded with the Department of General Services, or were in recordable form prior to January 1, 1985; and
- (e) That is comprised of lots or parcels that were lawfully created; and
- (f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, F that was acquired by the present owner:
  - 1. Prior to January 1, 1985; or
  - 2. By devise or by intestate succession by an antecedent of the person who acquired the lot or parcel prior to January 1, 1985.
  - 3. For purposes of this subsection, "antecedent" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

\*\*\*\*\*

### **35.2260 Dimensional Requirements**

- (A) Except as provided in MCC 35.2265, 35.2270, 35.2275, and 35.2280, the minimum lot size for new parcels or lots shall be 80 acres.

\*\*\*\*\*

### **35.2275 Lot of Record**

- (A) In addition to the Lot of Record definition standards in MCC 35.0005, F for the

purposes of this district , a Lot of Record is either:

(1) A parcel of land:

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;~~
- ~~(b) Which satisfied all applicable laws when the parcel was created; and~~
- ~~(c) Which satisfies the minimum lot size requirements of MCG 35.2260, or~~

(2) A parcel of land:

- ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws when the parcel was created;~~
- ~~(c) Does not meet the minimum lot size requirements of MCG 35.2260; and~~
- ~~(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or~~

(3) A group of contiguous parcels of land:

- ~~(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;~~
- ~~(b) Which satisfied all applicable laws when the parcels were created;~~
- ~~(c) Which individually do not meet the minimum lot size requirements of MCG 35.2260, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and~~
- ~~(d) Which are held under the same ownership.~~

(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of *contiguous* parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

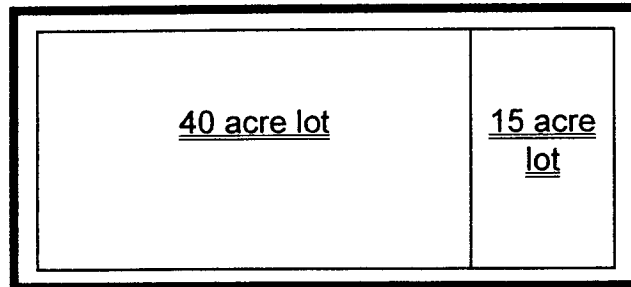
(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

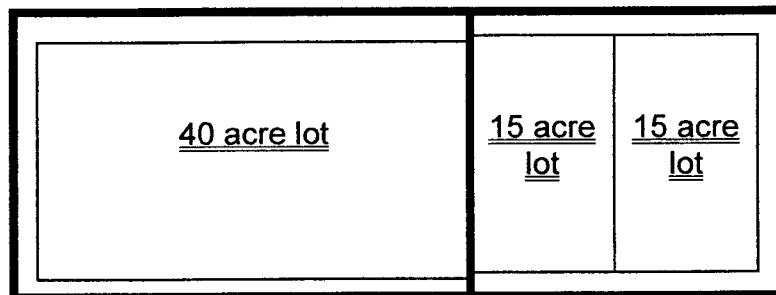
2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.



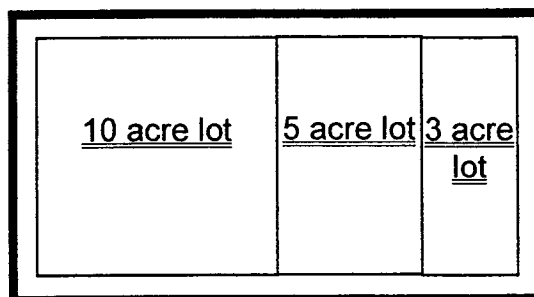
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:  
One 55 acre Lot of Record



Example 2:  
One 40 acre Lot of Record and  
one 30 acre Lot of Record



Example 3:  
One 18 acre Lot of Record

(3) Exceptions to the standards of (A)(2) above:

- (a) Where two contiguous parcels or lots are each developed with a lawfully established *habitable dwelling*, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the *same ownership* on February 20, 1990.
- (b) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot Size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the *same ownership* on February 20, 1990.
- (c) Dis-aggregation of a Lot of Record for consideration of a new *template or heritage tract dwelling* may be allowed subject to the standards in (E) below.

(B) For the purposes of this subsection:

- ~~(1) Contiguous refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way.~~
- ~~(2) Substandard Parcel refers to a parcel which does not satisfy the minimum lot size requirements of MCC 35.2260 and~~
- ~~(3) Same Ownership refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership or business entity, separately or in tenancy in common.~~

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, F-2 zone applied;
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;
- (5) February 20, 1990, Lot of Record definition amended, Ord. 643;
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;
- (7) August 8, 1998, CFU-4 zone applied, Ord. 916;
- (8) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

(C) A Lot of Record which has less than the minimum lot size for new parcels, less

than the front lot line minimums required, or which does not meet the access requirements of MCC 35.2290, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC 35.2260 (A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:~~

- ~~(1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.~~
- ~~(2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.~~
- ~~(3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.~~
- ~~(4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.~~

The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes.

(2) An area of land created by the foreclosure of a security interest.

(3) A Mortgage Lot.

(4) An area of land created by court decree.

(E) Dis-aggregation of Lots of Record existing on or before August 8, 1998, being the effective date of Ordinance 916.

(1) A Lot of Record may be dis-aggregated for consideration of a new dwelling under MCC 35.2240 if:

(a) It consists of two legally created, aggregated lots or parcels and:

1. The dis-aggregation occurs along existing lot or parcel lines without creating any new lots or parcels;
2. One of the lots or parcels is currently developed with a legally established dwelling;
3. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and
4. The lots or parcels constituting the dis-aggregated Lot of Record were ~~owned by the current owner in the same ownership~~ prior to January 1, 1985.

(b) It consists of three or more lots or parcels and:

1. Only one lot of less than 19 acres shall be dis-aggregated;
2. The remaining lots or parcels shall be combined into a single lot; and
3. The dis-aggregation occurs along existing lot or parcel lines without creating any new lots or parcels;
4. One of the lots or parcels is currently developed with a legally established dwelling;
5. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and
6. The lots or parcels constituting the dis-aggregated Lot of Record were ~~owned by the current owner~~ in the same ownership prior to January 1, 1985.

(2) A property that was originally a portion of a Lot of Record that would otherwise satisfy the standards of 35.2275(E)(1) above, but has subsequently been legally transferred to another owner, may be developed with a single family dwelling if found to satisfy the standards of MCC 35.2240 (A) or (B).

\*\*\*\*\*

## **PART 4. ZONES**

### **Exclusive Farm Use (EFU)**

#### **35.2600 Purpose**

The purposes of the Exclusive Farm Use District are to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic and wildlife resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related and compatible uses which are deemed appropriate. Land within this district shall be used exclusively for farm uses as provided in the Oregon Revised Statutes Chapter 215 and the Oregon Administrative Rules Chapter 660, Division 33 as interpreted by this Exclusive Farm Use code section.

One of the implementation tools to carry out the purposes of this District is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

\*\*\*\*\*

### 35.2610 Definitions

As used in MCC 35.2600 through MCC 35.2690, unless otherwise noted, the following words and their derivations shall have the following meanings:

\*\*\*\*\*

- (C) *Contiguous* refers to parcels or lots of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

\*\*\*\*\*

- (H) *Same Ownership* refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.

- (I)(H) *Suitable for farm use* \*\*\*\*\*

- (J)(I) *Tract* means one or more contiguous lots in the same ownership.

### 35.2615 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 35.2620 through 35.2630 when found to comply with MCC 35.2660 through 35.2690.

\*\*\*\*\*

### 35.2620 Allowed Uses

\*\*\*\*\*

- (L) Alteration, restoration or replacement of a lawfully established habitable dwelling that has:

- (1) ~~Intact exterior walls and roof structure;~~
- (2) ~~Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;~~
- (3) ~~Interior wiring for interior lights; and~~
- (4) ~~A heating system.~~

In the case of a replacement dwelling, the existing dwelling is must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

\*\*\*\*\*

### 35.2625 Review Uses

\*\*\*\*\*

- (F) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land not identified as high-value farmland when:

\*\*\*\*\*

### 35.2630 Conditional Uses

The following uses may be permitted when approved by the Hearings Officer pursuant to the provisions of MCC 35.6300 to 35.63406335:

\*\*\*\*\*

- (O) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

\*\*\*\*\*

- (P) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a A single family *heritage tract dwelling* may be allowed on land identified as high-value farmland when:

\*\*\*\*\*

### 35.2670 Lot Line Adjustment

- (A) An adjustment of the common lot line between contiguous legal lots 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 dimensional requirements of MCC 35.2660(A) and (C) are met; or
- (3) The reconfigured lot areas will each retain the same lot area that existed prior to the exchange.

~~The decision of the Planning Director may be appealed to the approval authority pursuant to MCC 35.0785 and 35.0790.~~

### 35.2675 ~~Lot, Parcel and Tract Requirement~~ Lot of Record

- (A) ~~The Lot, Parcel and Tract requirement shall be applied to all uses in this district except for Single Family Heritage Tract Dwellings: MCC 35.2625 (F), MCC 35.2630 (O) or MCC 35.2630 (P). In addition to the Lot of Record definition standards in MCC 35.0005, F for the purposes of this district a Lot of Record is either:~~  
~~a lot, parcel or tract is defined as:~~

- (1) ~~A lot or parcel of land:~~
  - (a) ~~For which a deed or other instrument creating the parcel was recorded with the Department of Environmental Services or its predecessors; and~~

- ~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~
- ~~(c) Which satisfies the minimum lot size requirements of MCC 35.2660, or~~
- ~~(2) A lot or parcel of land:~~
  - ~~(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;~~
  - ~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~
  - ~~(c) Does not meet the minimum lot size requirements of MCC 35.2660; and~~
  - ~~(d) Which was not contiguous to another substandard parcel or parcels under the same ownership on or after February 20, 1990, or~~
- ~~(3) A Tract of land:~~
  - ~~(a) For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;~~
  - ~~(b) Which satisfied all applicable laws, including but not limited to land divisions and zoning ordinance, when the parcel was created; and~~
  - ~~(c) Which were held under the same ownership on or after February 20, 1990; and~~
  - ~~(d) Which individually do not meet the minimum lot or parcel size requirements of MCC 35.2660, but, when considered in combination:~~
    - ~~1. One legal lot or parcel shall comply nearly as possible with a minimum area of nineteen acres, without creating any new lot lines; or~~
    - ~~2. More than one legal lot or parcel, each property must comply with the minimum area of nineteen acres, without creating any new property line.~~

(1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or

(2) A group of *contiguous* parcels or lots:

(a) Which were held under the *same ownership* on February 20, 1990; and

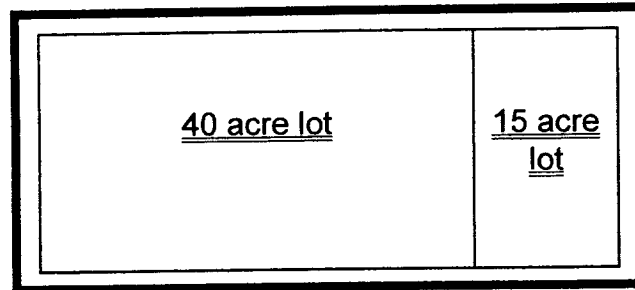
(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

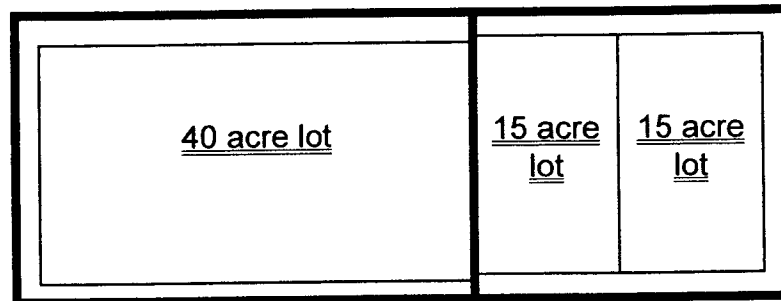
2. An exception to the 19 acre minimum lot size requirement shall occur when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire group-

ing shall be one Lot of Record.

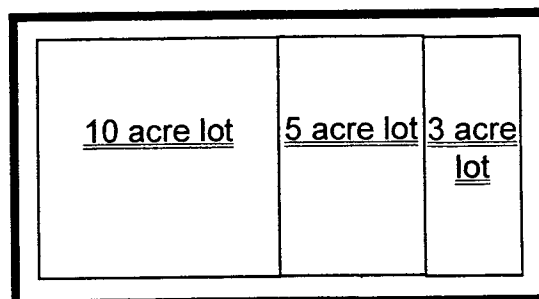
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:  
One 55 acre Lot of Record



Example 2:  
One 40 acre Lot of Record and  
one 30 acre Lot of Record



Example 3:  
One 18 acre Lot of Record



(3) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

~~(B) For the purposes of this subsection:~~

- ~~(1) Substandard Lot or Parcel refers to a parcel which does not satisfy the minimum lot size requirements of MCC 34.2660; and~~
- ~~(2) Same Ownership refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, in tenancy in common or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a lot or parcel, whether directly or through ownership or control or an entity having such ownership or control.~~

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;

(7) (Adoption date), Lot of Record section amended, Ord. \_\_\_\_\_;

~~(C) A lot, parcel or tract which satisfies the applicable requirements of MCC 35.2675 and front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district. A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 35.2690 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.~~

(D) The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

\*\*\*\*\*

## **PART 4. ZONES**

### **Multiple Use Agriculture-20 (MUA-20)**

\*\*\*\*\*

#### **35.2815 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 35.2820 through 35.2850 2830 when found to comply with MCC 35.2855 through 35.2885.

#### **35.2820 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record; and,

\*\*\*\*\*

#### **35.2825 Review Uses**

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

(1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained.

(3) The dwelling shall have a minimum floor area of 600 square feet.

~~(B) Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 35.2820 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 35.2820 (C) or MCC 35.2825 (A), subject to the following conditions:~~

~~(1) In the event the dwelling is constructed off-site, construction shall comply with~~

- ~~MCC 35.2825 (A) (1) and (3).~~
- ~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:~~
- ~~(a) The use is needed to carry out a use listed in MCC 35.2820 (A) or (B);~~
- ~~(b) The standards of MCC 35.2855 (C) through (E) are satisfied; and~~
- ~~(c) The minimum distance between dwellings will be 20 feet.~~
- ~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 35.0785 and 35.0790.~~
- Temporary uses when approved pursuant to MCC 35.0510 and 35.0515.

\*\*\*\*\*

- (F) Property Line Adjustment pursuant to the provisions of MCC 35.2860 (E).

\*\*\*\*\*

### **35.2830 Conditional Uses**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

- (C) The following Conditional Uses may be permitted on lands not predominantly of Agricultural Capability Class I, II, or III soils:

- (1) Planned Developments for single family residences, as provided in MCC 35.4300 through 35.43704360 and the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004;

\*\*\*\*\*

- (F) Lots of Exception pursuant to the provisions of MCC 35.2860 (A) through (C) or 35.2860 (D).

### **35.2855 Dimensional Requirements**

- (A) Except as provided in MCC 35.2860, 35.2870, 35.2875 and 35.4300 through 34.43704360, the minimum lot size for new parcels or lots shall be 20 acres.

\*\*\*\*\*

### **35.2860 Lots of Exception and Property Line Adjustments**

- (A) Lots of Exception

An exception to permit creation of a lot parcel of less than 20 acres, after October 6, 1977 out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 35.2855(C) through (E). Any exception shall be based on the following findings that the proposal will:

- (1) ~~Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more per-

manent habitable dwellings;

- (2) ~~Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000;
- (3) ~~Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the habitable dwellings; and
- (4) ~~Be consistent with the purposes described in MGC 34.2800~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
- (5) ~~Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
- (6) ~~Not require public services beyond those existing or programmed for the area.~~
- (B) ~~Except as provided in MGC 35.2860 (D), no Lot of Exception shall be approved unless:~~
  - (1) ~~The Lot of Record to be divided exceeds the area requirements of MGC 35.2855 (A), and~~
  - (2) ~~The division will create no more than one lot which is less than the minimum area required in MGC 35.2855 (A).~~
- (C) ~~The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MGC 35.2800.~~
- (D) ~~The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

(B)(E) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record ~~lots or parcels~~ upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

**35.2870 Lot of Record**

- (A) ~~For the purposes of this district, a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Ad-~~

~~ministrative Services or was in recordable form prior to October 6, 1977, and which, when established, satisfied all applicable laws.~~

In addition to the Lot of Record definition standards in MCC 35.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR zone applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;

(6) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.

(B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 35.2885, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~

~~(C)~~(D) Except as otherwise provided by MCC 35.2860, 35.2875, and 35.4300 through 35.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

### **35.2875 Lot Sizes for Conditional Uses**

The minimum lot size for a Conditional Use permitted pursuant to MCC 35.2830, except subpart (C)(1) thereof, shall be based upon:

- (A) The site size needs of the proposed use;
- (B) The nature of the proposed use in relation to its impact on nearby properties; and
- (C) Consideration of the purposes of this district; and
- (D) A finding that the lot or parcel is at least two acres in area.

\*\*\*\*\*

## **PART 4. ZONES**

### **Rural Residential (RR)**

\*\*\*\*\*

#### **35.3115 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 35.3120 through 35.3150 3130 when found to comply with MCC 35.3155 through 34.3185.

#### **35.3120 Allowed Uses**

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- (C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record; and,

\*\*\*\*\*

#### **35.3125 Review Uses**

- (A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:
  - (1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.
  - (2) The dwelling shall be attached to a foundation for which a building permit has been obtained.
  - (3) The dwelling shall have a minimum floor area of 600 square feet.
- (B) ~~Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 35.3120 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 35.3120 (C) or MCC 35.3125 (A), subject to the following conditions:~~
  - ~~(1) In the event the dwelling is constructed off-site, construction shall comply with~~

- ~~MCC 35.3125 (A) (1) and (3).~~
- ~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:~~
- ~~(a) The use is needed to carry out a use listed in MCC 35.3120 (A) or (B);~~
- ~~(b) The standards of MCC 35.3155 (C) through (E) are satisfied; and~~
- ~~(c) The minimum distance between dwellings will be 20 feet.~~
- ~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 35.0785 and 35.0790.~~
- Temporary uses when approved pursuant to MCC 35.0510 and 35.0515.

\*\*\*\*\*

- (F) Property Line Adjustment pursuant to the provisions of MCC 35.3160 ~~(E)~~.

\*\*\*\*\*

### **35.3130 Conditional Uses**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

- (B) The following Conditional Uses under the provisions of MCC 35.6300 through 35.6660:

\*\*\*\*\*

- (8) Planned Developments for single family residences as provided in MCC 35.4300 through 35.4970 4360 and the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004;

\*\*\*\*\*

- (E) Lots of Exception pursuant to the provisions of MCC 35.3160 ~~(A) through (C)~~ or 34.3160 (D).

### **35.3155 Dimensional Requirements**

- (A) Except as provided in MCC 35.3160, 35.3170, 35.3175 and 35.4300 through 35.4370 4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

\*\*\*\*\*

### **35.3160 Lots of Exception and Property Line Adjustments**

- (A) Lots of Exception

An exception to permit creation of a lot parcel of less than five acres, ~~after October 6, 1977~~ out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 35.3155(C) through (E). Any exception shall be based on the following findings that ~~the proposal will~~:

- (1) ~~Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent *habitable dwellings*;
  - (2) ~~Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent *habitable dwellings* were lawfully established on the Lot of Record before October 4, 2000;
  - (3) ~~Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the *habitable dwellings*; and
  - (4) ~~Be consistent with the purposes described in MCC 35.3100~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
  - (5) ~~Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
  - (6) ~~Not require public services beyond those existing or programmed for the area.~~
- (B) ~~Except as provided in MCC 35.3160 (D), no Lot of Exception shall be approved unless:~~
- (1) ~~The Lot of Record to be divided exceeds the area requirements of MCC 35.3155 (A), and~~
  - (2) ~~The division will create no more than one lot which is less than the minimum area required in MCC 35.3155 (A).~~
- (C) ~~The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 35.3170.~~
- (D) ~~The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

(B)(E) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*



### 35.3170 Lot of Record

(A) ~~For the purposes of this district, a Lot of Record is a parcel:~~

~~(1) For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form prior to October 6, 1977; and~~

~~(2) Which, when established, satisfied all applicable laws.~~

In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, SR zone applied;

(2) July 10, 1958, F-2 zone applied;

(3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(4) October 6, 1977, RR zone applied, Ord. 148 & 149;

(5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;

(6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;

(7) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.

(B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 35.3185, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.

~~(C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~

~~(C)~~(D) Except as otherwise provided by MCC 35.3160, 35.3175, and 35.4300 through 35.4370~~4360~~, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

### **35.3175 Lot Sizes for Conditional Uses**

The minimum lot size for a conditional use permitted pursuant to MCC 35.3130, except subpart (B)(8) thereof, shall be based upon:

(A) The site size needs of the proposed use;

(B) The nature of the proposed use in relation to the impacts on nearby properties;  
and

(C) Consideration of the purposes of this district; and

(D) A finding that the lot or parcel is at least two acres in area.

\*\*\*\*\*

## **PART 4. ZONES**

### **Rural Center (RC)**

\*\*\*\*\*

### **35.3315 Uses**

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 35.3320 through 35.3350 3330 when found to comply with MCC 35.3355 through 35.3385.

### **35.3320 Allowed Uses**

\*\*\*\*\*

(C) Residential use consisting of a single family dwelling constructed on a 1 Lot of Record.

\*\*\*\*\*

### **35.3325 Review Uses**

(A) Residential use, consisting of a single family dwelling constructed off-site, including a mobile or modular home placed on a Lot of Record, subject to the following conditions:

(1) Construction shall comply with the standards of the Building Code or as prescribed in ORS 446.002 through 446.200, relating to mobile homes.

(2) The dwelling shall be attached to a foundation for which a building permit has been obtained.

(3) The dwelling shall have a minimum floor area of 600 square feet.

~~(B) Residential use consisting of a single family dwelling for the housing of help required to carry out a primary use listed in MCC 35.3320 (A) or (B), when the dwelling occupies the same lot as a residence permitted by MCC 35.3320 (C) or MCC 35.3325 (A), subject to the following conditions:~~

~~(1) In the event the dwelling is constructed off-site, construction shall comply with MCC 35.3325 (A) (1) and (3).~~

~~(2) The location of the dwelling shall be subject to approval of the Planning Director on a finding that:~~

~~(a) The use is needed to carry out a use listed in MCC 35.3320 (A) or (B);~~

~~(b) The standards of MCC 35.3355 (C) through (E) are satisfied; and~~

~~(c) The minimum distance between dwellings will be 20 feet.~~

~~(3) The decision of the Director may be appealed to the Hearings Officer pursuant to MCC 35.0785 and 35.0790.~~

Temporary uses when approved pursuant to MCC 35.0510 and 35.0515.

\*\*\*\*\*

(F) Property Line Adjustment pursuant to the provisions of MCC 35.3360 (E).

\*\*\*\*\*

### **35.3330 Conditional Uses**

The following uses may be permitted when found by the Hearings Officer to satisfy the applicable Ordinance standards:

\*\*\*\*\*

(C) Planned Developments pursuant to the provisions of MCC 35.4300 through 35.43704360. If the property is outside of an "acknowledged unincorporated community", then the applicable current "planned unit developments" standards within the Oregon Administrative Rules Chapter 660, Division 004 shall also be satisfied.

\*\*\*\*\*

(G) Lots of Exception pursuant to the provisions of MCC 35.3360 (A) through (C) or 34.3360 (D).

\*\*\*\*\*

### **35.3355 Dimensional Requirements**

(A) Except as provided in MCC 35.3360, 35.3370, 35.3375 and 35.4300 through 35.43704360, the minimum lot size for new parcels or lots shall be one acre for those RC zoned lands inside the boundary of an "acknowledged unincorporated community". For RC zoned properties outside an "acknowledged unincorporated community" the minimum lot size is two acres except for those properties within one mile of the Urban Growth Boundary and then the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

\*\*\*\*\*

### 35.3360 Lots of Exception and Property Line Adjustments

#### (A) Lots of Exception

An exception to permit creation of a lot parcel of less than one acre, after ~~October 6, 1977~~ out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 35.3355(C) through (E). Any exception shall be based on the following findings that the proposal will:

- ~~(1) Substantially maintain or support the character and stability of the overall land use pattern of the area~~ The Lot of Record to be divided has two or more permanent habitable dwellings;
- ~~(2) Be situated upon land generally unsuitable for the production of farm crops and livestock or for forest use, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location or size of the tract~~ The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000;
- ~~(3) Be compatible with accepted farming or forestry practices on adjacent lands~~ Each new parcel created by the partition will have at least one of the habitable dwellings; and
- ~~(4) Be consistent with the purposes described in MCC 35.3300~~ The partition will not create any vacant parcels on which a new dwelling could be established. ;
- ~~(5) Satisfy the applicable standards of water supply, sewage disposal and minimum access; and~~
- ~~(6) Not require public services beyond those existing or programmed for the area.~~

~~(B) Except as provided in MCC 35.3360 (D), no Lot of Exception shall be approved unless:~~

- ~~(1) The Lot of Record to be divided exceeds the area requirements of MCC 35.3355 (A), and~~
- ~~(2) The division will create no more than one lot which is less than the minimum area required in MCC 35.3355 (A).~~

~~(C) The approval authority may attach conditions to the approval of any Lot of Exception to insure that the use is consistent with the Comprehensive Plan and the purposes described in MCC 35.3300.~~

~~(D) The approval authority may grant a Lot of Exception based on a finding that the permitted number of dwellings will not thereby be increased above that otherwise allowed in this district.~~

#### (B)(E) Property Line Adjustment

Pursuant to the applicable provisions in the Multnomah County Land Division Ordinance, the approval authority may grant a property line adjustment between

two contiguous Lots of Record lots or parcels upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

\*\*\*\*\*

### 35.3370 Lot of Record

- (A) ~~For the purposes of this district, a Lot of Record is a parcel of land:~~
- ~~(1) For which a deed or other instrument dividing land was recorded with the Department of Administrative Services, or was in recordable form, prior to October 6, 1977; and~~
  - ~~(2) Which, when established, satisfied all applicable laws.~~
- In addition to the Lot of Record definition standards in MCC 35.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:
- (1) July 10, 1958, SR and R zones applied;
  - (2) July 10, 1958, F-2 zone applied;
  - (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
  - (4) October 6, 1977, RC zone applied, Ord. 148 & 149;
  - (5) October 13, 1983, zone change to RC for some properties, Ord. 395;
  - (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004 applied a minimum 2 acre lot size to RC zoned areas outside "acknowledged unincorporated communities" except where properties are within one mile of the Urban Growth Boundary the minimum is 20 acres;
  - (7) (Adoption date of this Ord.), Lot of Record section amended, Ord. \_\_\_\_\_.
- (B) A Lot of Record which has less than the area minimum lot size for new parcels or lots, or less than the front lot line minimums required, or which does not meet the access requirement of MCC 35.3385, may be occupied by any allowed use, permitted review use or approved conditional use when in compliance with the other requirements of this district.
- ~~(C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.~~
- ~~(C)~~(D) Except as otherwise provided by MCC 35.3360, 35.3375, and 35.4300 through 35.43704360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or

width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes:

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

\*\*\*\*\*

**Section 4.** The effective date of this ordinance amending Chapters 33, 34, and 35 is June 8, 2002.

FIRST READING:

May 2, 2002

SECOND READING:

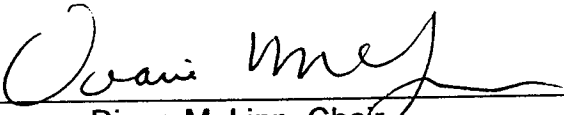
May 9, 2002

THIRD READING AND ADOPTION:

May 16, 2002



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Diane M. Linn, Chair

REVIEWED:

THOMAS SPONSER, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
Sandra N. Duffy, Deputy County Attorney