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8.1 - DESIGN REVIEW

§ 39.8000 PURPOSES

MCC 39.8000 through 39.8050 provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and human-made environment.

§ 39.8005 ELEMENTS OF DESIGN REVIEW PLAN

The elements of a Design Review Plan are: The layout and design of all existing and proposed improvements, including but not limited to, buildings, structures, parking and circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, accessways, pedestrian walkways, buffering and screening measures.

§ 39.8010 DESIGN REVIEW PLAN APPROVAL REQUIRED

No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this Code.

§ 39.8015 EXCEPTIONS

The provisions of MCC 39.8000 through 39.8050 shall not be applied to the following:

- (A) Single family residences.
- (B) Type C Home Occupations unless located in the RC, BRC, OR, PH-RC or SRC districts.
- (C) Type C Home Occupations located in the RC, BRC, OR, PH-RC, or SRC districts that require the addition of less than 400 square feet of ground coverage.
- (D) Commercial photovoltaic solar power generation facility.

§ 39.8020 APPLICATION OF REGULATIONS

- (A) Except those exempted by MCC 39.8015, the provisions of MCC 39.8000 through 39.8050 shall apply to all conditional and community service uses, and to specified uses, in any district.
- (B) Uses subject to Design Review that require the creation of fewer than four new parking spaces pursuant to MCC 39.6590 shall only be subject to the following Design Review approval criteria: MCC 36.8040A)(1)(a) and (1)(c), (4) and (7), except when located in the RC, BRC, OR, OCI, PH-RC or SRC zone districts.
- (C) All other uses are subject to all of the Design Review Approval Criteria listed in MCC 39.8040 and 39.8045.
- (D) Alteration or modification of the physical development previously reviewed through the Design Review process shall be subject to the Design Review Approval Criteria listed in MCC 39.8040 and 39.8045.
- (E) A multiplex, garden apartment or apartment dwelling or structure.
- (F) A boarding, lodging or rooming house.
- (G) A hotel or motel.
- (H) A business or professional office or clinic.
- (I) A use listed in any commercial district.
- (J) A use listed in any manufacturing district.

§ 39.8025 DESIGN REVIEW PLAN CONTENTS

(A) The design review application shall be filed on forms provided by the Planning Director and shall be accompanied by a site plan, floor plan, architectural elevations and landscape plan, as appropriate, showing the proposed development.

(B) Plans shall include the following, drawn to scale:

- (1) Access to site from adjacent rights-of-way, streets, and arterials;
- (2) Parking and circulation areas;
- (3) Location, design, materials and colors of buildings and signs;
- (4) Orientation of windows and doors;
- (5) Entrances and exits;
- (6) Existing topography and natural drainage;
- (7) Pedestrian circulation;
- (8) Boundaries of areas designated Significant Environmental Concern, Geologic Hazards and Areas of Special Flood Hazards;
- (9) Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery;
- (10) Areas to be landscaped;
- (11) Exterior lighting location and design;
- (12) Special provisions for handicapped persons;
- (13) Surface and storm water drainage and on-site waste disposal systems;
- (14) The size, species, and approximate locations of plant materials to be retained or placed on the site; and
- (15) Proposed ground-disturbance, grading, filling and site contouring.

§ 39.8030 FINAL DESIGN REVIEW PLAN

Prior to land use approval for building permit review or commencement of physical development where no additional permits are necessary, the applicant shall revise the plans to show compliance with the land use approvals granted, all conditions of approval and required modifications. Final design review plan shall contain the following, drawn to scale:

- (A) Site Development and Landscape Plans drawn to scale, indicating the locations and specifications of the items described in MCC 39.8025, as appropriate;
- (B) Architectural drawings, indicating floor plans, sections, and elevations; and
- (C) Approved minor exceptions from yard, parking, and sign requirements.

§ 39.8035 DELAY IN THE CONSTRUCTION OF A REQUIRED FEATURE

When the Planning Director determines that immediate execution of any feature of an approved final design review plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall, as a precondition to the issuance of a required permit under MCC 39.8010 and 39.8020, require the posting of a performance bond, cash deposit, or other surety, to secure execution of the feature at a time certain.

§ 39.8040 DESIGN REVIEW CRITERIA

- (A) Approval of a final design review plan shall be based on the following criteria:
 - (l) Relation of Design Review Plan Elements to Environment.
 - (a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.
 - (b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.
 - (c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter related, and shall provide spatial variety and order.

(2) Safety and Privacy - The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.

(3) Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and braille signs.

(4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.

(5) Pedestrian and Vehicular Circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.

(6) Drainage - Surface drainage and stormwater systems shall be designed so as not to adversely affect neighboring properties or streets. Systems that insure that surface runoff volume after development is no greater than before development shall be provided on the lot.

(7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.

(8) Utilities - All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.

(9) Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.

(B) Guidelines designed to assist applicants in developing design review plans may be adopted by the Planning Commission.

§ 39.8045 REQUIRED MINIMUM STANDARDS

(A) Private and Shared Outdoor Recreation Areas in Residential Developments:

(1) Private Areas - Each ground level living unit in a residential development subject to design review plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents and their guests.

(2) Shared Areas - Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development, as follows:

(a) One or two-bedroom units: 200 square feet per unit.

(b) Three or more bed-room units: 300 square feet per unit.

(B) Storage

Residential Developments - Convenient areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be entirely enclosed.

(C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

(1) A minimum of 15% of the development area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.

(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

(3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;
2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and
3. Vegetative ground cover.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(e) A parking landscape area shall have a width of not less than 5 feet.

(4) Provision shall be made for watering planting areas where such care is required.

(5) Required landscaping shall be continuously maintained.

(6) Maximum height of tree species shall be considered when planting under overhead utility lines.

(7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

§ 39.8050 MINOR EXCEPTIONS: YARD, PARKING, SIGN, AND LANDSCAPE REQUIREMENTS

(A) In conjunction with final design review plan approval, the Planning Director may grant minor exceptions from the following requirements:

- (1) Dimensional standards for yards as required in the primary district;
- (2) Dimensional standards for off-street parking as required under MCC 39.6560 and 39.6565;

(3) Standards for minimum number of off-street parking spaces as required in the primary district; and

(4) Dimensional standards for signs as required in the primary district;

(5) In the case of a proposed alteration, standards for landscaped areas under MCC 39.8045 (C).

(B) Except under subsection (A) (5) above, no minor exception shall be greater than 25% of the requirement from which the exception is granted.

(C) Approval of a minor exception shall be based on written findings, as required in this subsection.

(1) In the case of a minor yard exception, the Planning Director shall find that approval will result in:

(a) More efficient use of the site;

(b) Preservation of natural features, where appropriate;

(c) Adequate provision of light, air, and privacy to adjoining properties; and

(d) Adequate emergency accesses.

(2) In the case of a minor exception to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the Planning Director shall find that approval will provide adequate off-street parking in relation to user demands. The following factors may be considered in granting such an exception:

(a) Special characteristics of users which indicate low demand for off-street parking (e.g., low income, elderly);

(b) Opportunities for joint use of nearby off-street parking facilities;

(c) Availability of public transit;

(d) Natural features of the site (topography, vegetation, and drainage) which would be adversely affected by application of required parking standards.

(3) In the case of a minor exception to the dimensional standards for signs, the Planning Director shall find that approval is necessary for adequate identification of the use on the

property and will be compatible with the elements of the design review plan and with the character of the surrounding area.

(4) In the case of a minor exception to the standards for landscaped areas, the Planning Director shall find that approval is consistent with MCC 39.8000, considering the extent and type of proposed alteration and the degree of its impact on the site and surrounding areas.

8.2 – ADJUSTMENTS AND VARIANCES

§ 39.8200 PURPOSE

(A) The regulations of this Zoning Code are designed to implement the Policies of the Comprehensive Plan. However, it is also recognized that because of the diversity of lands and properties found in the county there should be a zoning provision that permits justifiable departures from certain Zoning Code dimensional standards where literal application of the regulation would result in excessive difficulties or unnecessary hardship on the property owner.

(B) To address those situations, modification of the dimensional standards given in MCC 39.8205 may be permitted if the approval authority finds that the applicant has satisfactorily addressed and met the respective approval criteria in MCC 39.8210, Adjustments, or 39.8215, Variances. If an Adjustment or Variance request is approved, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

(C) The Adjustment review process provides a mechanism by which certain dimensional standards may be modified no more than 40 percent if the proposed development continues to meet the intended purpose of the regulations. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the regulation.

(D) The Variance review process differs from the Adjustment review by providing a mechanism by which a greater variation from the standard than 40 percent may be approved for certain zoning dimensional requirements. The Variance approval criteria are based upon the traditional variance concepts that are directed towards consideration of circumstances or conditions on a subject property that do not apply generally to other properties in the same vicinity.

All proposed modification of the dimensional standards given in MCC 39.8205(A)(2) shall be reviewed under the Variance review process regardless of the proposed percentage modification.

§ 39.8205 SCOPE

(A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

(1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts are prohibited. Additionally, reductions to the fire safety zones in the Commercial Forest Use zones are not allowed under the Adjustment process; and

(2) Reduction of yards and setback requirements within the Geologic Hazards overlay shall only be reviewed as a Variance; and

(3) Reduction of yards/setback/buffer/re-source protection setback requirements within the Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be reviewed as Variances; and

(4) Minor modification of yards and setbacks in the off-street parking and design review standards are allowed only through the “exception” provisions in each respective Code section.

(B) Dimensional standards that may be modified under a Variance review are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, building height, sign height, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:

(1) Reduction of resource protection setback requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts; and

(2) Modification of fire safety zone standards given in Commercial Forest Use districts; and

(3) Increase to any billboard height or any other dimensional sign standard.

(C) The dimensional standards listed in (A) and (B) above are the only standards eligible for Adjustment or Variance under these provisions. Adjustments and Variances are not allowed for any other standard including, but not limited to, minimum lot area, modification of a threshold of review (e.g. cubic yards for a Large Fill), modification of a definition (e.g. 30 inches of unobstructed open space in the definition of yard), modification of an allowed density in a Planned Development or houseboat moorage, or to allow a land use that is not allowed by the Zoning District.

§ 39.8210 ADJUSTMENT APPROVAL CRITERIA

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (E) are met:

(A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

(B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

(C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

(D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and

(E) If in the Rural Residential (RR), Rural Center (RC), Burlington Rural Center (BRC), Orient Residential (OR), Orient Commercial-Industrial, Pleasant Hill Rural Center, or Springdale Rural Center zone, the proposal will not significantly detract from the livability or appearance of the residential area.

§ 39.8215 VARIANCE APPROVAL CRITERIA

The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (F) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or zoning district. The circumstance or condition may relate to:

- (1) The size, shape, natural features and topography of the property, or
- (2) The location or size of existing physical improvements on the site, or
- (3) The nature of the use compared to surrounding uses, or
- (4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or district, or
- (5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.
- (6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant's or present property owner's making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.

(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.

(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affects the appropriate development of adjoining properties.

(E) The Variance requested is the minimum necessary variation from the Code requirement which would alleviate the difficulty.

(F) Any impacts resulting from the variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.

8.3 - NONCONFORMING USES

§39.8300 NONCONFORMING USES

(A) The purpose of MCC 39.8300 through 39.8315 is to establish standards and procedures regulating the continuation, alteration, expansion, and replacement of nonconforming uses. The intent is to allow procedures for considering changes to nonconforming uses that do not increase the level of adverse impacts on the neighborhood, or changes required for the use to comply with State or County health or safety requirements.

(B) The Planning Director must consider the purpose of the current zoning provisions that cannot be satisfied when determining whether or not the alteration, expansion, or replacement of the nonconforming use will have a greater adverse impact on the neighborhood under MCC 39.8315 (C).

(C) Nonconforming uses shall be allowed to continue without additional permission, except that such uses may be replaced, altered or expanded only as provided in MCC 39.8310 and 39.8315 after verification under MCC 39.8305.

(D) If a nonconforming use is abandoned or discontinued for any reason for more than two years, it shall not be re-established unless the resumed use conforms with the requirements of this Zoning Code at the time of the proposed resumption.

(E) Notwithstanding any other provisions of this Code, a surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:

(1) The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a State of Oregon exemption from surface mining regulation; and

(2) The surface mining use was not inactive for a period of 12 consecutive years or more.

(3) For purposes of this subsection, inactive means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

(F) A nonconforming use may be maintained with ordinary care.

(G) A change in ownership or occupancy of a nonconforming use is permitted.

(H) No application under this section is required for the alteration, expansion, or replacement of a lawfully established habitable dwelling when a governing zoning district regulates such alteration, expansion, or replacement and the proposed alteration, expansion, or replacement satisfies the dimensional requirements of the district.

§ 39.8305 VERIFICATION OF NONCONFORMING USE STATUS

(A) The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:

(1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

(2) Has not been abandoned or interrupted for a continuous two year period.

(B) The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the Planning Director shall consider:

(1) Description of the use;

(2) The types and quantities of goods or services provided and activities conducted;

(3) The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;

(4) The number, location and size of physical improvements associated with the use;

(5) The amount of land devoted to the use; and

(6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.

(7) A reduction of scope or intensity of any part of the use as determined under this subsection (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.

(C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was

established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.

(D) Except for nonconforming uses considered under MCC 39.8315 (B), the Planning Director may impose conditions to any verification of nonconforming use status to ensure compliance with said verification.

(E) An applicant may prove the continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application. Evidence proving the continuity, nature and extent of the use for the 10-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

(F) For purposes of verifying a nonconforming use, the Planning Director shall not require an applicant for verification to prove the existence, continuity, nature and extent of the use for a period exceeding 20 years immediately preceding the date of application. Evidence proving the continuity, nature and extent of the use for the 20-year period preceding application does not create a rebuttable presumption that the use lawfully existed at the time the applicable zoning ordinance or regulation was adopted.

§ 39.8310 RESTORATION OR REPLACEMENT DUE TO FIRE, OTHER CASUALTY OR NATURAL DISASTER

After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 39.8305, the Planning Director may authorize restoration or replacement of that nonconforming use based on findings that:

(A) The restoration or replacement is made necessary by fire, other casualty or natural disaster, and

(B) The application for restoration or replacement must be submitted within one year from the date of occurrence of the fire, casualty or natural disaster.

§ 39.8315 ALTERATION, EXPANSION OR REPLACEMENT OF NONCONFORMING USES

(A) Alteration, expansion or replacement of a nonconforming use includes a change in the use, structure, or physical improvement of no greater adverse impact on the neighborhood, or alterations, expansions or replacements required for the use to comply with State or County health or safety requirements.

(B) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 39.8305, the Planning Director shall authorize alteration of a nonconforming use when it is demonstrated that:

(1) The alteration, expansion or replacement is necessary to comply with state or local health or safety requirements, or

(2) The alteration is necessary to maintain in good repair the existing structures associated with the nonconformity.

(C) After verification of the status of a nonconforming use pursuant to the applicable provisions of MCC 39.8305, the Planning Director may authorize alteration, expansion or replacement of any nonconforming use when it is found that such alteration, expansion or replacement will not result in a greater adverse impact on the neighborhood. In making this finding, the Planning Director shall consider the factors listed below. Adverse impacts to one of the factors may, but shall not automatically, constitute greater adverse impact on the neighborhood.

(1) The character and history of the use and of development in the surrounding area;

(2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood;

(3) The comparative numbers and kinds of vehicular trips to the site;

(4) The comparative amount and nature of outside storage, loading and parking;

(5) The comparative visual appearance;

(6) The comparative hours of operation;

(7) The comparative effect on existing flora;

(8) The comparative effect on water drainage or quality; and

(9) Other factors which impact the character or needs of the neighborhood.

(D) Any decision on alteration, expansion or replacement of a nonconforming use shall be processed as a Type II permit as described in Part I of this Zoning Code.

8.4 - SPECIAL PERMITS AND APPLICATIONS

§ 39.8400 BUS PASSENGER SHELTERS

(A) In addition to all other uses permitted in any district, bus passenger shelters (hereinafter shelters) intended for use by the general public and owned or controlled by a city, county, state or municipal corporation shall be allowed.

(B) Prior to installing a shelter, the sponsor shall notify owners of property located within 150 feet of the center point of the proposed site location that the sponsor intends to apply to the Planning Director for authority to install a shelter. Thereafter, the sponsor may submit to the Planning Director an application which shall include a plot plan setting out the location of and plans and specifications for the proposed shelter. With the consent of the Director, more than one shelter location may be included in an application.

(C) Within 30 days after the application, the Planning Director shall review it in light of the effects on:

- (1) Surrounding land uses;
- (2) Vehicular traffic and pedestrian safety;
- (3) Drainage;
- (4) Native or landscaped vegetation;
- (5) Public and private utilities;
- (6) Road construction and maintenance;
- (7) Access or egress from adjacent property; and
- (8) Compliance with the applicable building code.

(D) If the application is approved, the shelter may be installed. If the application is not approved, the sponsor shall be given written notice of that determination and the basis therefore.

§ 39.8450 HISTORICAL STRUCTURES AND SITES PERMITS

The following requirements and procedures shall apply in addition to the provisions of the State Building Code, to a permit application under MCC Chapter 29, Building Regulations, concerning any historical landmark as defined in MCC 39.5155, or any building structure or premises classified HP under MCC 39.5100.

(A) In addition to the other applicable provisions of this Chapter, approval of a building permit to enlarge, alter, repair, improve or convert a building or structure described in this Section or to erect, construct, locate or relocate a building or structure on any premises so described, shall also be subject to the applicable design review provisions of MCC 39.8000 through 39.8050.

(B) In addition to the final design review criteria listed in MCC 39.8040 and the standards and exceptions of MCC 39.8045 and 39.8050, approval of a final design review plan for a building or structure described in this Section shall be based on the following criteria:

(1) The appearance as to the design, scale, proportion, mass, height, structural configuration, materials, architectural details, texture, color, location and similar factors shall relate harmoniously with the historical characteristics of the premises and of any existing building or structure, consistent with Building Code requirements.

(2) The factors listed in subpart (B) (1) which have previously been changed and which significantly depart from the original historical character of the premises, building or structure, shall be restored to the maximum practical degree, within limitations of the scope of the work proposed under the permit.

(C) An application for a permit to remove or demolish a building or structure described in this Section shall be subject to the following:

(1) The permit shall not be issued for 120 days following the date of filing, unless otherwise authorized by the Board under subpart (7) of this subsection.

(2) The permit application shall be considered a Type IV decision to be initiated by the record owner or the owner's agent.

(3) Except as otherwise provided in this subsection, the application shall be subject to the applicable provisions of Part 1 of this Zoning Code.

(4) A hearing on the application shall be held by the Planning Commission.

(5) The decision of the Planning Commission shall be in the form of a recommendation to the Board.

(a) The Planning Commission may recommend measures to preserve the building or structure, with or without conditions, including by purchase, trade, relocation or by approval of a change of use notwithstanding the use limitations of the district;

(b) The Planning Commission may recommend removal or demolition of the building or structure based upon a finding that practical preservation measures are inadequate or unavailable.

(c) The Planning Commission recommendation shall be based upon findings in relation to the applicable policies of the Comprehensive Plan.

(6) The Planning Commission decision shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced.

(7) The Board shall conduct a de novo hearing on the application under the notice and review procedures of a type IV decision and the approval criteria in (5) above. The Board may affirm, reverse, or modify the recommendation of the Planning Commission. The approval criteria of MCC 39.1205 shall not apply to the decision.

(8) In the event the Board fails to act on the application within the 120-day period specified in subpart (C) (1) of this subsection, the Building Official may issue the permit.

(D) Notwithstanding the provisions of MCC 29.009, action to abate an unsafe building nuisance or an abandoned drive-in business nuisance, by demolition or removal of a building or structure described in this Section, shall be subject to the provisions of subsection (C) above.

(E) Exception. Abatement of an unsafe building or structure may proceed under MCC 29.009, upon a finding by the Director of Community Services that the condition of the building or structure is beyond practical repair or restoration or is a continuous threat to the safety of life or property which cannot otherwise be eliminated.

§ 39.8500 MARIJUANA BUSINESS

(A) The purpose of this section is to protect and preserve the public health, safety and general welfare of the community by establishing restrictions on the siting and operation of Marijuana Businesses. The nature, extent, scope, and operation of Marijuana Businesses is

authorized and prescribed by state law and administrative rule, not by this or any other County ordinance or act. No County ordinance or other act shall be interpreted as authorizing any person to engage in any activity prohibited by law nor shall any County ordinance or other act be applied in any manner that would authorize any person to engage in any activity prohibited by law. Accordingly, this section, through Table A and the other provisions of this section, imposes restrictions on the establishment and operation of Marijuana Businesses and does not constitute a separate source of authority for the establishment and operation of Marijuana Businesses. Nothing in this section regulates the personal use of marijuana.

(B) In construing this section, including the definitions of the terms given in paragraph (C), related provisions of state law and administrative rule provide relevant context.

(C) The following definitions apply to this section and to the implementation of this section through other provisions of the Multnomah County Code.

(1) The term “Marijuana Business” and its derivations means an enterprise authorized by state law involving medical or recreational marijuana production, medical or recreational marijuana processing, recreational marijuana wholesaling, medical marijuana dispensing, or retailing of recreational marijuana. Nothing in this section authorizes collocation of medical and recreational enterprises beyond that allowed under state law.

(2) The term “Outdoor Production” means producing marijuana:

(a) In an expanse of open or cleared ground; or

(b) In a greenhouse, hoop house or similar non-rigid structure that does not utilize any artificial lighting on mature marijuana plants, including but not limited to electrical lighting sources.

(3) The term “Indoor Production” means producing marijuana in any manner:

(a) Utilizing artificial lighting on mature marijuana plants; or

(b) Other than “outdoor production,” as that is defined in this section.

(D) A proposal for establishing, altering, expanding or replacing a Marijuana Business will be reviewed as specified in Table A below and is subject to the specified criteria therein as well as the criteria set forth in paragraph E of this section. For purposes of MCC 39.8315, a proposal for the alteration or expansion of an existing building or structure by more than 400 square feet of floor area or ground coverage, or for replacement of a building or

structure shall be deemed to have a greater adverse impact on the neighborhood. Where no review process for a particular Marijuana Business in a particular zoning district is specified in Table A, the Marijuana Business may not operate in that zoning district.

Table A

X = Not Allowed

Zoning District	Marijuana Production	Marijuana Processing	Marijuana Wholesaling	Marijuana Dispensing or Retailing
CFU CFU-1 CFU-2 CFU-3 CFU-4 CFU-5	Outdoor Production only 39.4070(C)	X	X	X
EFU	39.4220(A)	39.4225(L)	X	X
MUA-20	39.4310(A)	39.4320(B)(2)	X	X
UF-20	39.4751(B)	39.4753(B)(2)	X	X
RR	Indoor Production only and the total combined footprint of the Marijuana Business shall not exceed 2,500 square feet. 39.4360(B)	X	X	X
LR-5	X	X	X	X
LR-7	X	X	X	X
LR-10	X	X	X	X
RC	Indoor Production only 39.4410(A)	39.4420(B)(4)	39.4420(B)(3)(a)	39.4420(B)(1)
PH-RC	Indoor Production only 39.4510(A)	39.4520(B)(6)	39.4520(B)(4)	39.4520(B)(1)

OR	Indoor Production only and the total combined footprint of the Marijuana Business shall not exceed 2,500 square feet. 39.4610(B)	X	X	X
OCI	Indoor Production only 39.4660(B)	39.4665(C)	39.4665(B)(3)	39.4665(A)
BRC	Indoor Production only 39.4460(A)	39.4470(B)(3)	X	39.4470(B)(1)
SRC	Indoor Production only 39.4560(A)	39.4570(B)(3)	X	39.4570(B)(1)
All Other Zoning Districts	X	X	X	X

(E) A Marijuana Business is required to meet the criteria referenced in Table A and must comply with the following:

(1) A Marijuana Business shall be located a minimum of 1,000 feet from a public or private school.

(a) The measurement in the Exclusive Farm Use zone shall be made using a straight line extending horizontally from the closest school property line to the closest part of any canopy area or building or structure used for marijuana production or marijuana processing.

(b) The measurement in all other zoning districts shall be made using a straight line extending horizontally from the closest point anywhere on the property line of the Marijuana Business property to the closest school property line.

(2) Outdoor marijuana canopies, buildings and structures used for indoor or outdoor marijuana production, and buildings and structures used for marijuana processing shall be located at least 100 feet from any property line, unless an Adjustment or Variance is approved. The distance shall be measured using a straight line extending horizontally from the closest part of the canopy area or building or structure used for marijuana

production or marijuana processing to the closest property line. This 100 foot setback does not apply to a building or structure lawfully established prior to January 1, 2016.

(3) All Marijuana Business buildings must be equipped with an air filtration system designed and verified by an Oregon licensed mechanical engineer to ensure no marijuana odor at property lines. The system must be operated and maintained in the manner designed and instructed by the Oregon licensed mechanical engineer. Doors and windows shall remain closed, except for the minimum length of time needed for ingress to or egress from the building. The air filtration system requirement does not apply to a building used as part of outdoor production.

(4) A Marijuana Business in a Rural Residential (RR) zoning district shall not produce or permit to be produced sound that is detectable at the property line. A Marijuana Business in all other zoning districts shall comply with the county Sound Control Law, MCC 15.265 – 15.274. A Marijuana Business is not eligible for a variance as prescribed in MCC 15.271 of the county Sound Control Law.

(5) During the period commencing 30 minutes before sunset and ending 30 minutes after sunrise the following day, artificial lighting shall not be visible from outside a building or structure used for marijuana production.

(6) With respect to the establishment, alteration, expansion or replacement of a Marijuana Business supported by a building or other structure, MCC 39.5500 through MCC 39.5860 (Significant Environmental Concern) shall not apply to a building or structure lawfully established prior to January 1, 2016, but shall apply to all other buildings and structures in a Significant Environmental Concern subdistrict. The farm use exception in MCC 39.5515(A) from Significant Environmental Concern permit requirements shall apply only to marijuana production in the Exclusive Farm Use Zoning District and shall not apply to a Marijuana Business in any other instance.

(7) Fences, walls or other barriers:

(a) Shall be limited in area by being located no more than 20-feet in any direction from the outer extent of all areas used for Marijuana Business activities, including but not limited to buildings, structures, outdoor marijuana canopies, and areas used for off-street parking, loading, and storage.

(b) Shall not be electrified, use barbed wire, razor wire, concertina coils, anti-climb spikes or any other similar security feature designed to discourage ingress through the potential of causing bodily harm.

(c) Shall not include plastic sheeting, knitted polyethylene, woven polypropylene, vinyl coated polyester, or similar materials.

(d) No variance, adjustment, deviation or any other modification to these fencing standards is allowed.

(8) No more than one of each of the following Marijuana Businesses may be established on the same Lot of Record.

- (a) Marijuana production
- (b) Marijuana processing
- (c) Marijuana wholesaling
- (d) Marijuana retailing
- (f) Marijuana dispensary.

(9) The following uses are not allowed as a Home Occupation: Marijuana Business, private or public research of cannabis, or laboratory for the testing of marijuana items.

(10) Notwithstanding ORS chapters 195, 196, 197 and 215, the following are not permitted uses:

- (a) A new dwelling used in conjunction with a marijuana crop.
- (b) A farm stand, as described in ORS 215.213(1)(r) or 215.283(1)(o), used in conjunction with a marijuana crop.
- (c) A commercial activity, as described in ORS 215.213(2)(c) or ORS 215.283(2)(a), carried on in conjunction with a marijuana crop.

MOBILE HOMES AND MOBILE HOME PARKS (MH)

§ 39.8600 DEVELOPMENT STANDARDS FOR MOBILE HOMES ON INDIVIDUAL LOTS WITHIN URBAN DISTRICTS

A mobile home on an individual lot located in any Urban District shall:

- (A) Be a *manufactured home* constructed after June 15, 1976, and carry a State insignia indicating compliance with applicable Oregon State mobile home construction or equipment standards;

- (B) Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, meet the State standards for mobile home construction evidenced by the required insignia;
- (C) Be placed on an excavated and back-filled foundation and enclosed at the perimeter;
- (D) Have a minimum floor area of 1,000 square feet;
- (E) Have a pitched roof with a pitch of at least a nominal three feet in height for each 12 feet in width (3:12);
- (F) Be multi-sectional. A "tip-out" or "expandable" unit is not a multi-sectional home.
- (G) Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the state building code as defined in ORS 455.010.

§ 39.8605 MOBILE HOME PARK APPROVAL CRITERIA

In approving a mobile home park the approval authority shall find that the proposal:

- (A) Is located outside a "Developed Neighborhood" as designated in the Community Plan;
- (B) Will have direct pedestrian and two-way vehicular access to a publically maintained road;
- (C) Will be located on a site free from development limitations such as slopes exceeding 20%, severe erosion or earth slide potential, or a high seasonal water table;
- (D) Will provide for the privacy of the occupants of the mobile homes, of adjoining dwellings and of outdoor living areas through such means as the placement of mobile homes and accessory structures, the arrangement of landscaping, parking and circulation and the preservation of natural vegetation and other features;
- (E) Will provide for the conservation of energy through orientation of mobile homes, accessory structures and open spaces with regard to solar exposure and climatic conditions (MCC 39.4798 through 39.4803);
- (F) Will provide outdoor or indoor recreation spaces of a type and location suitable to the needs of the residents of the park; and

(G) Will satisfy the mobile home park development standards of MCC 39.8610.

§ 39.8610 MOBILE HOME PARK DEVELOPMENT STANDARDS

A mobile home park approved under this Chapter shall comply with the State standards in effect at the time of construction, the other applicable requirements of this Chapter, and the following:

- (A) Application for a permit shall include evidence that the park will be eligible for a certificate of sanitation required by State law;
- (B) The space provided for each mobile home shall be supplied with piped potable water and electrical and sewage disposal connections;
- (C) Not more than 40 percent of the area of a mobile home space may be occupied by a mobile home and any attached or detached structure used in conjunction with the mobile home;
- (D) Only those accessory structures authorized by Oregon Administrative Rule may be attached to a mobile home;
- (E) The only detached structures located on a mobile home space shall be a carport or a fully-enclosed storage building;
- (F) A mobile home and any attached accessory structure shall not be located less than:
 - (1) Ten feet from any other mobile home or accessory structure attached thereto;
 - (2) Ten feet from any detached accessory building or other building located within the mobile home park; or
 - (3) Five feet from a mobile home park property line.
- (G) A permanent building in a mobile home park shall not be located less than ten feet from another permanent building and shall meet the yards as required in the zoning district;
- (H) A sight-obscuring fence of not less than six feet in height, with openings only for required entrances or exits to a street or public place, shall be provided between mobile homes and a mobile home park property line;
- (I) Each vehicular way in a mobile home park of 50 spaces or more shall be named and marked with signs of a design similar to those for public streets. A map of the named vehicular ways and of the mobile home space numbers shall be provided by the owner to the fire district;
- (J) There shall be no outdoor storage of furniture, electrical appliances, tools, equipment, building materials or supplies within a mobile home park;
- (K) Any mobile home in a mobile home park within an LR-7 or LR-5 district shall:

- (1) Be located in a mobile home space which complies with the standards of this subsection;
 - (2) Be a *manufactured home* constructed after June 15, 1976, and carry a State insignia indicating compliance with applicable Oregon State mobile home construction or equipment standards;
 - (3) Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the State standards for mobile home construction evidenced by the required insignia;
 - (4) Have a minimum floor area of not less than 800 square feet;
 - (5) Have a roof with a minimum slope of 16 percent (2:12); and
- (L) Any mobile home in a mobile home park within an MR-4 district shall:
- (1) Be located in a mobile home space which complies with the standards of this subsection;
 - (2) Be a *residential trailer* or *manufactured home* which has a state insignia or other documentation indicating compliance with Oregon State mobile home construction and equipment standards in effect at the time of manufacture, reconstruction or equipment installation;
 - (3) Notwithstanding deterioration which may have occurred due to misuse, neglect, accident or other cause, the mobile home shall meet the State standards for mobile home construction evidenced by the required insignia;
 - (4) Have a minimum floor area of not less than 225 square feet;
 - (5) Be equipped with a water closet, lavatory, shower or bath tub, and with a sink in a kitchen or other food preparation space;
 - (6) Be provided with a continuous skirting; and
 - (7) If a single-wide unit, be tied down with devices which meet state tie-down standards.

§ 39.8700 TEMPORARY DWELLING FOR A HEALTH HARDSHIP PERMIT

(A) The purpose of the Temporary Dwelling for a Health Hardship Permit is to allow the convenient provision of supervision and/or assistance with daily care to a person or persons with a demonstrated health hardship by allowing the placement of one temporary dwelling on a lot with a single-family dwelling on a renewable term. This use is temporary in nature and shall not increase the residential density in the rural plan area.

(B) The Planning Director may grant a Temporary Dwelling for a Health Hardship Permit to allow occupancy of a temporary dwelling on a lot in conjunction with an existing single-family dwelling allowed in the zone subject to the following:

(1) The person with the health hardship is either one of the property owners or is a relative of one of the property owners.

(a) If the person with the health hardship is one of the property owners, then the care provider in the other residence is not required to be a relative.

(b) If the person with the health hardship is a relative of one of the property owners, then the care provider must be a relative.

(c) For the purposes of this section, a relative is defined as a grandparent, grandchild, parent, child, brother or sister, wife, husband, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, first cousin, step-parent, step-child, step-grandparent, or step-grandchild either by blood or legal relationship.

(2) For each person with a health hardship, a written statement by a licensed physician dated within 90 days of submittal of the initial application, verifying the following information:

(a) The person identified in the application has a health hardship as defined in MCC 39.2000;

(b) The person needs supervision and/or assistance with daily care as that term is defined in MCC 39.2000; and

(c) The proposed care provider is capable of providing the supervision and/or assistance with daily care needed by the person with the health hardship.

(3) Each proposed care provider shall provide a written statement dated within 90 days of submittal of the initial application that the provider understands the physician's determination of the extent of daily care required and is capable of providing and will provide the necessary supervision and/or assistance during implementation of the Temporary Health Hardship Permit.

(4) The following criteria are satisfied:

(a) The temporary dwelling shall be either a mobile home, park-model recreational vehicle or travel trailer.

(b) The temporary dwelling shall be located within 100 feet of the single-family dwelling on the subject lot, unless an adjustment or variance pursuant to MCC 39.8200 through 39.8215 is approved. This distance shall be measured from the closest portion of each building.

(c) The temporary dwelling shall be connected to the same utilities (on-site sewage disposal, power main, well/water meter) as the single-family dwelling. In addition, the temporary dwelling shall be accessed by the same driveway entrance as the single-family dwelling, although the driveway may be extended.

(d) The temporary dwelling will not require any attached or detached accessory structures other than wheelchair ramps.

(C) Prior to installation of the temporary dwelling on the site, the property owner shall:

(1) Obtain the necessary permits to place the temporary dwelling on the site and connect utilities,

(2) The property owner shall record a covenant that states that the dwelling is temporary and must be removed as set forth in (G) below and that the Temporary Health Hardship Permit is not transferable to another party.

(3) In the EFU and CFU zones, the property owner shall record a statement that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules and to conduct accepted farming practices.

(D) Expiration of the Temporary Dwelling for a Health Hardship Permit. The Temporary Dwelling for a Health Hardship Permit expires automatically two years after the date of final approval of the permit unless an extension is approved as set forth in (E) below.

(E) Extension of the Temporary Dwelling for a Health Hardship Permit. The expiration date of a Temporary Dwelling for a Health Hardship Permit may be extended upon satisfaction of the requirements in (B)(1) through (4) above. More than one extension may be granted, but each extension is limited to a period of two years from the date the permit would have otherwise expired. To obtain an extension, the property owner shall use the forms provided by the Planning Director and shall submit the application at least 30 days

prior to expiration of the permit. Upon approval of an extension, the Planning Director shall mail notification to the property owners that are contiguous to the subject lot.

(F) Occupancy of the Temporary Dwelling. Occupancy of the temporary dwelling may occur only while the person for which the Temporary Health Hardship Permit was granted lives on the property.

(G) Removal of Temporary Dwelling. The temporary dwelling shall be removed and utility and septic connections shall be terminated within 30 days of expiration of the Temporary Health Hardship Permit, end of the health hardship or the provision of supervision or assistance with daily care.

§ 39.8750 TEMPORARY PERMITS FOR CERTAIN USES

(A) Notwithstanding the limitations of use as established by this Chapter in each of the several zoning districts, the Planning Director may issue temporary permits, valid for a period of not more than one year after issuance, for structures, or uses which are of a temporary nature, such as:

- (1) Storage of equipment during the building of roads or developments;
- (2) Real estate office used for the sale of lots or housing in subdivisions;
- (3) Temporary storage of structures or equipment;
- (4) Sheds used in conjunction with the building of a structure;
- (5) Temporary housing; or
- (6) Other uses of a temporary nature when approved by the Planning Director.

§ 39.8800 TYPE A HOME OCCUPATION

(A) Type A home occupation is a lawful commercial activity that is conducted within a dwelling unit by a business operator, is subordinate to the residential use of the dwelling unit, is registered with the Planning Director by completing and filing a form provided by the Planning Director, and complies with the following:

- (1) Type A home occupation shall not exceed 20 percent of the gross floor area of the dwelling and attached garage, or 500 sq. ft., whichever is less.

(2) No more than one non-resident employee or two customers on the premises at any one time. A maximum of eight customer visits may happen per day.

(3) Modifications to the dwelling to facilitate the use shall be limited to the alteration, replacement or addition of windows or doors or other typically used residential appurtenances.

(4) No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m. - 7 a.m. are permitted. Deliveries and pick-ups shall occur on the premises only. The road serving the premises may not be used for loading or unloading purposes. No more than two pick-ups or deliveries shall occur on any given day.

(5) No outdoor storage or displays shall occur on the premises. Outdoor parking of the business vehicle, motor vehicle owned by the employee or customer is allowed. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 pounds is prohibited.

(6) No signage shall be allowed, including temporary signage and those exempted under MCC 39.6720 with the exception of property numbers.

(7) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises, but does apply to idling vehicles. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

(8) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, and chain saws. No operation of a dispatch center where employees enter the premises for the purpose of being dispatched to other locations.

(B) Notwithstanding the transfer of approval rights in MCC 39.1230, registration of a Type A home occupation does not run with the land and is not transferred with ownership of the land. Registration of a Type A home occupation is personal to the business operator and specific to the registered dwelling unit. Registration of a Type A home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time in the registered dwelling unit.

(C) Existing Type A Home Occupations that were registered prior to August 18, 2012, which complied with all provisions of the ordinance then in effect, may continue provided any alteration, expansion or establishment of a new home occupation shall be subject to the applicable home occupation regulations. The adoption of this ordinance is not intended to make these existing registrations non-conforming and proposals for alteration, expansion or establishment of a new Type A home occupation on the parcel shall be pursuant to this ordinance.

§ 39.8850 TYPE B HOME OCCUPATION

(A) Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

- (1) The on-site business functions of the home occupation shall take place entirely within a dwelling unit or enclosed accessory building on the premises, except for employee and customer parking and allowed signage. No outdoor storage, business activities or displays shall occur outside of an enclosed building.
- (2) Type B home occupation shall not exceed 25 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, or 1,000 sq. ft., whichever is less.
- (3) The home occupation shall not employ more than one non-resident employee. There shall be no more than two customers on the premises at any one time.
- (4) No more than a total of 20 vehicle trips per day by customers of the home occupation, delivery service providers serving the home occupation and the employee may be authorized through the review process. No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m. – 7 a.m. are permitted. Deliveries and pick-ups shall occur on the premises only. The road serving the premises may not be used for loading or unloading purposes. No more than two pick-ups or deliveries shall occur on any given day.
- (5) In addition to the required residential parking, the premises has on-site parking pursuant to MCC 39.6500 – 39.6600 to accommodate the total number of employees and customers proposed to be on the premises at any one time. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 pounds is prohibited.

(6) Notwithstanding MCC 39.6700 –39.6820, only one, non-illuminated, identification sign not to exceed two square feet in area may be attached to a building used for the business.

(7) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises, but does apply to idling vehicles. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

(8) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, and chain saws.

(9) No building or structure is proposed to be constructed or modified in a manner that would not otherwise be allowed in the zoning district. Buildings or structures used as part of the home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the building official.

(10) In the CFU and EFU zone districts, the home occupation will not unreasonably interfere with other uses permitted in the general district and the use will:

(a) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

(b) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel.

(B) Each approval issued by the approval authority shall be specific for the particular home occupation and reference the business operator, number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

(C) Notwithstanding the transfer of approval rights in MCC 39.1230, approval of a Type B home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type B home occupation is personal to the business operator and specific to the authorized premises. Approval of a Type B home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time on the authorized premises.

(D) The Type B home occupation may continue for a period of three years from date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the Type B home occupation from the property expires automatically unless the permit is renewed for an additional three year period pursuant to the following:

(1) The Type B home occupation has been conducted in full compliance with the permit for a preponderance of the time since the prior approval.

(2) Each renewal period shall be for a three year period from the last expiration date. The Type B home occupation may be renewed an unlimited number of times.

(3) To obtain a renewal of the Type B home occupation, the business operator shall use the forms provided by the Planning Director and shall submit the application prior to expiration of the permit. Provided the renewal application is submitted on or before the expiration date, the business operator may continue the Type B home occupation pending the County's final decision on the renewal request.

(4) A Type B home occupation renewal shall be processed pursuant to the Type II approval process in MCC 39.1105.

(5) The Planning Director may consider minor modifications to the business activities authorized in (B) above and the conditions of approval if requested by the business operator as part of a Type B home occupation renewal application. A minor modification may be approved if it:

- (a) Is consistent with the prior approval;
- (b) Is consistent with MCC 39.8850(A); and
- (c) Does not increase the intensity of use of the premises.