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**STAFF REPORT FOR THE PLANNING COMMISSION HEARING  
JUNE 7, 2021**

**HOUSEKEEPING AMENDMENTS -  
RE-ESTABLISHING HOME OCCUPATION STANDARDS IN CERTAIN URBAN BASE ZONES AND  
DELETING AN OPTIONAL CUSTOMARY FARM DWELLING QUALIFICATION PROVISION IN THE  
EFU BASE ZONE (MCC 39.4265(B)(3))**

**(PC-2021-14207)**

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**1.0 INTRODUCTION**

The following staff report presents two housekeeping amendments:

- 1) Re-establishing in certain base zones home occupation standards inadvertently deleted during the last significant home occupation amendments in 2013 and in subsequent amendments in 2018 when former County Chapter 11.15 Zoning Code was consolidated into current County Chapter 39 Zoning Code; and
- 2) Deleting MCC 39.4265(B)(3), an optional customary farm dwelling qualification provision in the Exclusive Farm Use (EFU) zone, because it requires the County to conduct a study using data that effectively is no longer available, while retaining other provisions for establishing a dwelling in the EFU zone.

**2.0 RE-ESTABLISHING HOME OCCUPATION STANDARDS IN URBAN BASE ZONES**

A home occupation is a lawful commercial activity that is conducted within a dwelling unit (or in some cases, within an accessory building) by a business operator and is subordinate to the residential use of the property. Multnomah County Code Chapter 39 provides for three types of home occupations – Type A, B, and C – with three different sets of standards. Those standards were incorporated into both the rural and urban base zones in 2013 and are attached to this report as Appendix A.

In the urban base zones, however, current code provides for “home occupations” in the MUF, UF-20, LR-5, LR-7, LR-10 and MR-4 zones, but does not indicate which type or types of home occupations are allowed or what standards apply to those home occupations. The lack of clear standards results from two inadvertent omissions during prior Code revisions:

- (1) When the County adopted its last significant update of its home occupation standards in Ordinance 1197 in 2013, the findings stated that the amendments should apply to all zones in Chapter 11.15, which would have included the MUF, UF-20, LR-5, LR-7, LR-10, and MR-4 zones. However, Ordinance 1197 applied the new home occupation standards only to the LR-7 and LR-10 zones, and the rest of the urban base zones were not amended in the ordinance. As a result, the MUF, UF-20, LR-5, and MR-4 zones continued to reference standards that were deleted in Ordinance 1197, leaving those zones effectively without clear standards for home occupations.
- (2) The standards of approval for home occupations that were incorporated into the LR-7 and LR-10 zones in Ordinance 1197 subsequently were inadvertently deleted in 2018 when the former Chapter 11.15 Zoning Code was consolidated into current Multnomah County Chapter 39 Zoning Code, leaving those base zones without clear standards for home occupations.

To address those omissions, this proposal:

- (1) Re-establishes home occupation standards in the MUF, UF-20, LR-5 and MR-4 urban base zones by adopting the current Chapter 39 Type A, B, and C home occupation standards in MCC 39.8800 (Type A), MCC 39.8850 (Type B), and MCC 39.7400 through 39.7410 (Type C). This proposal is consistent with the stated intent of Ordinance 1197 to incorporate the new home occupation provisions into all zones that allowed home occupations in Chapter 11.15.
- (2) Re-establishes Type A, B and C home occupation standards in the LR-7 and LR-10 urban base zones authorized in 2013 through Ordinance 1197 and inadvertently deleted in 2018.

In general summary, Type A home occupations may only occur in an existing dwelling and county code requires the business operator to register the business with county Land Use Planning. Type B home occupations may occur in the dwelling and/or accessory building and code requires a discretionary land use review. Type C home occupations involve the greatest level of business activity and code requires the review and approval of a Conditional Use permit after the holding of a public hearing.

The Retail Commercial C-3 and Urban Light Manufacturing LM urban base zones did not contain any home occupation allowances prior to Chapter 39 adoption, do not currently contain any such allowances, and are therefore are not being modified by this proposal. Multnomah County sent a “Ballot Measure 56” notice of the public hearing to all affected property owners.

The following text is used within the proposed amendments:

Double Underline = Proposed new language

~~Strikethrough~~ = Language proposed for removal

\* \* \* Indicates a gap in the code, typically within the same section. Used to reduce report length.

**2.1 4.D.1 – MULTIPLE USE FOREST (MUF)**

**§ 39.4705 PRIMARY USES.**

(G) Type A home occupations pursuant to MCC 39.8800.

**§ 39.4707 USES PERMITTED UNDER PRESCRIBED CONDITIONS.**

(D) Type B home occupations when approved pursuant to MCC 39.8850.

**§ 39.4710 CONDITIONAL USES.**

(E) Type C home occupations as provided for in MCC 39.7400 through 39.7410.

**§ 39.4712 ACCESSORY USES.**

(A) Signs, pursuant to the provisions of MCC 39.6700 through 39.6820.

(B) Off-street parking and loading; and

~~(C) Home occupations; and~~

~~(D)~~ Other structures or uses customarily accessory or incidental to any use permitted or approved in this base zone.

**2.2 4.D.3.a – URBAN FUTURE (UF-20)**

**§ 39.4751 PRIMARY USES.**

(G) Type A home occupations pursuant to MCC 39.8800.

**§ 39.4752 USES PERMITTED UNDER PRESCRIBED CONDITIONS.**

~~(C) Home occupations, as defined in MCC 39.2000; A Type B home occupation when approved pursuant to MCC 39.8850;~~

**§ 39.4753 CONDITIONAL USES.**

(C) Type C home occupations as provided for in MCC 39.7400 through 39.7410.

**2.3 4.D.5.b – URBAN LOW DENSITY RESIDENTIAL – 5 BASE ZONE (LR-5)**

**§ 39.4822 PRIMARY USES.**

(E) Type A home occupations pursuant to MCC 39.8800.

**§ 39.4824 USES PERMITTED UNDER PRESCRIBED CONDITIONS.**

(G) ~~Home occupations, as defined in MCC 39.2000. A Type B home occupation when approved pursuant to MCC 39.8850.~~

**§ 39.4826 CONDITIONAL USES.**

(F) Type C home occupations as provided for in MCC 39.7400 through 39.7410.

**2.4 4.D.5.c – URBAN LOW DENSITY RESIDENTIAL – BASE ZONE (LR-7)**

**§ 39.4852 PRIMARY USES.**

(E) Type A home occupations pursuant to MCC 39.8800.

**§ 39.4854 USES PERMITTED UNDER PRESCRIBED CONDITIONS.**

(H) ~~Home occupations, as defined in MCC 39.2000. A Type B home occupation when approved pursuant to MCC 39.8850.~~

**§ 39.4856 CONDITIONAL USES.**

(F) Type C home occupations as provided for in MCC 39.7400 through 39.7410.

**2.5 4.D.5.d – URBAN LOW DENSITY RESIDENTIAL – 10 BASE ZONE (LR-10)**

**§ 39.4872 PRIMARY USES.**

(E) Type A home occupations pursuant to MCC 39.8800.

**§ 39.4874 USES PERMITTED UNDER PRESCRIBED CONDITIONS.**

(F) ~~Home occupations, as defined in MCC 39.2000. A Type B home occupation when approved pursuant to MCC 39.8850.~~

**§ 39.4876 CONDITIONAL USES.**

(D) Type C home occupations as provided for in MCC 39.7400 through 39.7410.

**2.6 4.D.6.a – URBAN MEDIUM DENSITY RESIDENTIAL – 4 BASE ZONE (MR-4)**

**§ 39.4975 PRIMARY USES.**

(G) Type A home occupations pursuant to MCC 39.8800.

**§ 39.4980 USES PERMITTED UNDER PRESCRIBED CONDITIONS.**

(G) ~~Home occupations, as defined in MCC 39.2000. A Type B home occupation when approved pursuant to MCC 39.8850.~~

## § 39.4985 CONDITIONAL USES.

(F) Type C home occupations as provided for in MCC 39.7400 through 39.7410.

### **3.0 DELETING OPTIONAL EFU CUSTOMARY FARM DWELLING QUALIFICATION PROVISION MCC 39.4265(B)(3) – NOT HIGH VALUE FARMLAND SOILS, MEDIAN ANNUAL GROSS SALES INCOME TEST**

This section of the report outlines statutory provisions available for siting a new single-family dwelling in the Exclusive Farm Use (EFU) zone and explains why staff recommend deleting one (1) of the seven (7) provisions available for authorization of a customary farm dwelling.

Multnomah County is subject to the provisions of Oregon Revised Statutes (ORS) 215.283, which, among other things, establish and limit a property owner's ability to site a dwelling in the EFU. ORS provisions are crafted and codified by the Oregon legislature. The authority for new farm dwellings in the EFU zone is provided in ORS 215.283(1)(d) – *relative farm help dwelling* and in ORS 215.283(1)(e) – “*Subject to ORS 215.279, primary or accessory dwellings and other buildings customarily provided in conjunction with farm use.*” ORS 215.279, ORS 215.705 and ORS 215.282 establish farm income requirements for new dwellings proposed in conjunction with farm use.

Administrative regulations promulgated by Oregon agencies are captured in the Oregon Administrative Rules (OAR). The OAR generally elaborate on the requirements of ORS and carry the force of law. Not every land use authorized by the ORS has a correlating OAR section.

The rules implementing the state's EFU dwelling requirements, along with other EFU uses, are found in OAR Section 660, Division 33 – Land Conservation and Development, Agricultural Land. More specifically, OAR 660-033-0135 (*Dwellings in Conjunction with Farm Use*) outlines different avenues for dwelling establishment on EFU land.

These statutory farm dwelling provisions are found in the following Multnomah County Code Sections, which have been summarized below by staff to highlight the main distinguishing factors between the various options.

#### **General Summary of Review Options for Dwellings in the EFU Zone MCC 39.4225(B)-(E)**

##### **39.4225(B) - Relative Farm Help Dwelling. Subject to 39.4265(A) [Implements ORS 215.283(1)(d) and OAR 660-033-0130(9)]**

- Secondary (accessory) farm dwelling located on same lot or parcel as the farm operator dwelling and occupied by a relative of farm operator if relative's assistance is required in management of the farm use.

##### **39.4225(C) - Primary Farm Dwelling. Subject to 39.4265(B). Six dwelling options.**

[Implements ORS 215.283(1)(e) and associated OARs outlined below]

- Option 1 (MCC 39.4265(B)(1)): High-value farmland soils, \$80,000 annual farm income. [Implements OAR 660-033-0135(4)]
- Option 2 (MCC 39.4265(B)(2)): Not high-value farmland soils, 160-acres. [Implements OAR 660-033-0135(1)]

- Option 3 (MCC 39.4265(B)(3)): Not high-value farmland soils, capable of producing median level of annual gross sales of county indicator crops. [Implements OAR 660-033-0135(2)]
- Option 4 (MCC 39.4265(B)(4)): Not high-value farmland soils, \$40,000 annual farm income or mid-point of median income range. [Implements OAR 660-033-0135(3)]
- Option 5 (MCC 39.4265(B)(5)): Commercial dairy farm. \$40,000-\$80,000 annual farm income requirement depending on soils, or median income range of certain farms in Multnomah County. [Implements OAR 660-033-0135(7)]
- Option 6 (MCC 39.4265(B)(6)): Relocating dwelling to another farm. Certain income and farm size requirements. [Implements (combines) various sections of OAR 660-033-0135 related to primary farm dwelling allowance]

**39.4225(D) - Accessory Farm Dwelling. Subject to 39.4265(C)** [Implements ORS 215.283(1)(e) and OAR 660-033-0130(24)]

- Secondary (accessory) dwelling occupied by person principally engaged in farming and on the same tract as the primary farm dwelling. Certain income requirements based on soils.

**39.4225(E) - Primary Heritage Tract Dwelling. Subject to 39.4265(D)** [Implements ORS 215.705 and OAR 660-033-0130(3)]

- Tract is non-high value farmland soils, vacant, and not in a big game habitat area.
- Deed demonstrating current ownership back to at least January 1, 1985.

County provision MCC 39.4225(C) / MCC 39.4265(B)(3) –“Option 3” – underlined above implements OAR 660-033-0135(2) addressing a scenario where a farm tract is not primarily composed of high value farmland soils and is not actively being farmed, but is proven capable of producing at least the median level of annual gross sales of indicator crops specific to Multnomah County.

To make that provision available for use by applicants, a county must conduct a study to determine the estimated potential gross sales per acre for properties within one mile of the subject property. The table produced as a result of that study must be approved by the Department of Land Conservation and Development and is valid for a period of four years. Likely because of the resource burden placed on counties to conduct the required gross sales study, Oregon counties are not required to provide for this specific farm dwelling use and staff understand that few Oregon counties have adopted these optional provisions.

For those counties that have adopted this optional provision, the OARs prescribe a specific process for conducting the necessary study, which begins with a county identifying three “indicator crop types \* \* \* using the most recent OSU Extension Service Commodity Data Sheets, Report No. 790, ‘Oregon County and State Agricultural Estimates,’ or other USDA/Extension Service documentation.” OAR 660-033-0135(2)(c)(A). However, Oregon State University no longer produces the cited agricultural indicator crop reports. While the OARs reference data from other USDA/Extension Service documentation as an acceptable alternative, the USDA statistician for this area recently communicated to county staff that federal budget reductions have resulted in data collection for certain crops being eliminated, and reporting intervals reduced from once a year to once every five years. Therefore, the information

required for counties to implement this provision effectively is no longer available, making it difficult for staff to provide guidance to applicants or otherwise implement this provision.

Applications submitted to Multnomah County under the provision proposed for removal are quite rare. Staff only recall one such application submitted over the past two decades. Removal of MCC 39.4265(B)(3) will not affect a property owner’s ability to apply for a permit under the other EFU dwelling provisions. Multnomah County sent a “Ballot Measure 56” notice of the public hearing to all affected property owners as required by state law.

**4.A.2 – EXCLUSIVE FARM USE (EFU)**

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**§ 39.4225 REVIEW USES.**

\* \* \*

(C) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use subject to the standards in MCC 39.4265 (B).

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**§ 39.4265 STANDARDS FOR SPECIFIED FARM DWELLINGS.**

\* \* \*

(B) Customary Farm Dwelling: A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use as provided in MCC 39.4225(C) is not allowed unless the following standards are met:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years, or the average farm income earned on the tract in the best three of the last five years; and

(b) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. “Farm or ranch operation” shall mean all lots or parcels of land owned by the farm or ranch operator that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;
2. Only gross income from land owned, not leased or rented, shall be counted; and
3. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and
4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as “Exhibit A” in OAR 660-033-0135(5)(b) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.
2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.
6. The Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

- (a) The parcel on which the dwelling will be located is at least 160 acres; and
- (b) The subject tract is currently employed for farm use, as defined in ORS 215.203; and
- (c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
- (d) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract.

~~(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:~~

- ~~(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract [the median size of commercial farm and ranch tracts shall be determined pursuant to OAR 660-33-135(3)]; and~~
- ~~(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and~~
- ~~(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and~~
- ~~(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres; and~~
- ~~(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on the subject tract; and~~
- ~~(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and~~
- ~~(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section.~~

~~(3)~~(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years, three of the last five years, or the average farm income earned on the tract in the best three of the last five years, or the lower of the following:

1. At least \$40,000 in gross annual income from the sale of farm products; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land owned by the farm or ranch operator that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation; and
2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income.

This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

3. Only gross income from land owned, not leased or rented, shall be counted; and
4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and
5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(5)(b) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.

6. The Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

~~(4)(5)~~ Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and (b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and 468B.200 to 468B.230 and has approved a Producer License for the sale of dairy products under ORS 621.072.

(g) “Commercial dairy farm” is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk.

~~(5)(6)~~ Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in at least three of the last five years, in each of the last two years, or the average farm income earned on the tract in the best three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or
2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or
3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or
2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or
3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and
2. Only gross income from land owned, not leased or rented, shall be counted.

**APPENDIX A: CURRENT CHAPTER 39 TYPE A, B AND C HOME OCCUPATION  
REQUIREMENTS**

**\*\*\*NO CHANGES PROPOSED - FOR REFERENCE ONLY\*\*\***

**§ 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, but not within or in association with an accessory dwelling unit, 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 base zone. 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 base zones, the home occupation will not unreasonably interfere with other uses permitted in the general base zone 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.

#### **7.A.5 – TYPE C HOME OCCUPATION (CU)**

##### **§ 39.7400- PURPOSES.**

The purposes of the type C home occupation section are to address the need for home based business that are small scale businesses (not more than 5 employees) and that fit in with the characteristic of the neighborhood or the area. The regulations are designed to:

- (A) Protect the individual characteristics of areas in unincorporated Multnomah County and maintain the quality of life for all residents of the communities.
- (B) Join in an effort to reduce vehicle miles traveled, traffic congestion and air pollution in the State of Oregon.

##### **§ 39.7405 CRITERIA FOR APPROVAL.**

(A) A Type C home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, 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 signage. No outdoor storage, business activities, or displays shall occur outside of an enclosed building.
- (2) Type C home occupation shall not exceed 35 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, or 1,500 sq. ft., whichever is less.
- (3) The home occupation shall not employ more than five employees.
- (4) No more than a total of 40 vehicle trips per day by customers of the home occupation, delivery service providers serving the home occupation and employees may be authorized through the conditional use process. No deliveries or pick-ups associated with

the home occupation and between the hours of 7 p.m. - 7 a.m. are permitted. Deliveries or pick-ups shall occur on the premises only. The road serving the tract may not be used for loading or unloading purposes.

(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. No use, parking or storing on the premises of any vehicle in excess of a gross vehicle weight of 11,000 pounds.

(6) Notwithstanding MCC 39.6700–39.6820, only one sign shall be permitted for the home occupation. The sign may be freestanding or a fascia sign.

(a) The sign shall be a maximum of eight square feet;

(b) A freestanding sign shall not exceed six feet in height;

(c) A fascia sign shall be placed on the building used for the business and shall not exceed the height of the first floor;

(d) The sign shall face the access point to the property. A freestanding sign shall not be placed within the vision clearance area;

(e) Indirect lighting of the sign may occur only during the hours the business is operating.

(7) The combination of all uses on the premises associated with the home occupation will not generate noise above 50 dB(A) (decibels adjusted) at the property lines between 7 a.m. and 6 p.m. daily. During all other hours, the home occupation shall not create noise detectable at the property line. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

(8) The use shall not generate vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

(9) 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.

(10) No building or structure is proposed to be constructed or modified in a manner that would not otherwise be allowed in the base zone. 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.

(11) In the EFU and CFU base zones, the home occupation will not unreasonably interfere with other uses permitted in the base zone.

(12) The approval criteria listed in MCC 39.7015.

(B) Each approval issued by a hearings officer 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 C home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type C home occupation is personal to the business operator and specific to the authorized premises. Approval of a Type C home occupation terminates automatically, immediately and without notification if the business operator ceases to reside full-time on the authorized premises.

(D) Existing Type C Home Occupations that were approved prior to August 18, 2012, which complied with all provisions of their permit, may continue provided any alteration, expansion or establishment of a new home occupation shall be subject to the above home occupation regulations. The adoption of this ordinance is not intended to make these existing businesses non-conforming and proposals for alteration, expansion or replacement of the Type C home occupation shall be pursuant to this ordinance.

#### **§ 39.7410 TYPE C HOME OCCUPATION RENEWAL.**

(A) The 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 C 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 C 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 home occupation may be renewed an unlimited number of times.

(3) To obtain a renewal of the 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 its expiration date, the business operator may continue the home occupation pending the County's final decision on the renewal request.

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

(B) The Planning Director may consider minor modifications to the Hearings Officer's decision required by MCC 39.7405(B) and the conditions of approval if requested by the business operator as part of a Type C home occupation renewal application. A minor modification may be approved if it:

(1) Is consistent with the prior approval.

(2) Is consistent with MCC 39.7405(A).

(3) Does not increase the intensity of use of the premises.