

## ARTICLE 39

# Conditional Use Review

### SECTION 3.39.000 Purpose

A conditional use is an activity which is basically similar to the uses permitted in a particular zone but which may not be entirely compatible with those uses permitted outright. Therefore, a conditional use must be approved through the Administrative Action procedure to insure that the use is made compatible with the permitted uses in the zone or other adjacent permitted uses which may be adversely affected. Conditions of approval may be imposed to ensure that any use may be made compatible with adjacent permitted uses and that nonresource uses permitted in resource areas do not interfere with accepted resource management practices. Nothing herein shall be construed to require the granting of a conditional use permit.

### SECTION 3.39.050 Criteria for Review

The Approving Authority may grant a request for conditional use approval if the following criteria are met:

1. The proposed use is or may be made compatible with existing adjacent permitted uses and other uses permitted in the underlying zone.
2. The proposed use complies with other development approval criteria within the applicable zone.

### SECTION 3.39.100 Conditions

Reasonable conditions necessary to ensure the compatibility of a conditional use to adjacent permitted uses and as are necessary to fulfill the purpose stated in §3.39.000, pursuant to §2.120.3. Such conditions may include but are not limited to the following:

1. Special yards and spaces.
2. Fences and walls.
3. Special parking and/or loading provisions.
4. Street dedication and improvements or bonds in lieu of improvements.
5. Control of points of vehicular ingress and egress.
6. Special provisions for signs.

7. Landscaping and maintenance of grounds.
8. Control of noise, vibration, odors, or other similar nuisances.
9. Limitation on time of day for which certain activities may be conducted.
10. A time period in which a proposed use shall be developed.
11. A limit of total duration of use.

### **SECTION 3.39.150 Wireless Utility and Communication Facility Siting**

In addition to the criteria of Section 3.39.050, those criteria of specific zoning classifications, and the conditions of Section 3.39.100, the approving authority may grant a Conditional Use Permit for a wireless utility or communication facility if, on the basis of the application, investigation, and evidence submitted, the facility complies with all specifications of its definition and the following provisions are addressed or provided:

1. A site plan of the facility and any accessory uses, including facility setback(s) from property lines adequate to protect any adjacent residence from damage in the event of a structural failure.
2. Scientific and/or engineering data which document the suitability or locational dependency of the proposed facility location and demonstrates the relationship of the proposed site to the applicants overall service coverage.
3. A visual impact mitigation plan for any proposed facility which exceeds 50' in height, including photo simulations demonstrating the location and design of the facility on the proposed site and camouflaging alternatives.
4. Any facility lighting including Federal Aeronautics Administration (FAA) and Oregon Department of Aviation (ODA) requirements.
5. Agreements for facility maintenance, access, abandonment and removal.
6. Evidence (for service providers) documenting good faith effort to co-locate on existing facilities and if co-location is not possible, the reasons why the applicant could not co-locate. For tower owners, evidence shall be submitted to demonstrate that, depending on tower height, the tower will be constructed to accommodate additional service providers and that co-location opportunities will be made available at reasonable rates.

### **SECTION 3.39.175 Medical Marijuana Grow Site (MMGS) Standards**

In addition to the criteria of Section 3.39.050, those criteria of specific zoning classifications, and the conditions of Section 3.39.100, the approving authority may grant a Conditional Use Permit for the establishment or expansion of a Medical Marijuana Grow Site (MMGS), subject to the following standards which shall apply to the approval:

1. A new dwelling in conjunction with the growing of marijuana as a farm use is not permitted;
2. A farm stand, as described in ORS 215.283, used in conjunction with the growing of marijuana as a farm use is not permitted;
3. A commercial activity, as described in ORS 215.283, carried on in conjunction with the growing of marijuana as a farm use is not permitted;
4. The establishment of a new or expanded MMGS requires proof of valid registration from OHA.
5. Marijuana use authorization shall be subject to annual compliance review as a condition of approval.

### **SECTION 3.39.200 Invalidation of Conditional Use Permit**

A conditional use permit will become invalid without special action if:

1. The permit is not exercised within two (2) years of the date of approval.
2. The use approved by the conditional use permit is discontinued for any reason for one (1) continuous year or more.

### **SECTION 3.39.250 Accessory Uses**

Once a conditional use permit has been granted, accessory uses to the conditional use may be permitted outright provided original conditions and property development standards are met.

### **SECTION 3.39.300 Granting of Extensions**

An applicant may request an extension of the validity of a conditional use permit approval. Such request shall be considered a Ministerial Action and shall be submitted to the Director, prior to the expiration of such approval, in writing, stating the reason why an extension should be granted.

The Director may grant an extension of up to one (1) year in the validity of the conditional use permit approval if it is determined that a change of conditions, for which the applicant was not responsible, would prevent the applicant from commencing his operation within the original time limitation.