

# TOWN OF OAK CREEK

## ORDINANCE NO. 615

### AN ORDINANCE ADOPTING AMENDMENTS TO THE TOWN OF OAK CREEK LAND USE CODE PURSUANT TO THE INITIATIVE PETITION SUBMITTED BY SCOTT WEDEL AND KERRY EATON REGARDING PERFORMANCE DISTRICT 1

WHEREAS, a sufficient petition for an initiated ordinance under C.R.S. Article 11, Title 31 to amend the Land Use Code within the Town of Oak Creek has been presented pursuant to ~~C.R.S. Section 12-43-106~~the Board of Trustees; and

WHEREAS, Scott Wedel and Kerry Eaton, representing the proponents of the petition in all matters affecting the petition pursuant to C.R.S. Section 31-11-106(2), have agreed in writing to amend the language of the initiated ordinance as set forth below; and

WHEREAS, the Board of Trustees has agreed pursuant to C.R.S. Section 31-11-104 to adopt such ordinance and order its publication in the Steamboat Pilot.

### NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF OAK CREEK, COLORADO:

**Section 1.** The following changes to the referenced sections of the Town of Oak Creek Land Use Code are hereby approved and shall become effective as provided by law:

#### 17.03.04 Exemptions.

- A. Internal modification to commercial, industrial, multi-family, and mixed use structures. An alteration, modification, or change of a commercial, industrial, multi-family or mixed-use structure that is internal to the structure, or does not alter or affect the exterior of the structure, ~~does not result in an increase in traffic impacts, and does not result in any noncompliance with any development or dimensional standard contained within this code.~~

#### 17.03.05 Land use changes of no impact.

These will be reviewed administratively by the town Public Works director, town Clerk, and the District Fire Chief within the scope of their authority in accordance with the current adopted Uniform Fire and Building Codes in all cases and selected sections of this code where specifically referenced, and require no review by the planning commission and the board of trustees unless requested by the Public Works director, town Clerk, and/or the District Fire Chief (see Section 17.03.11), and include:

- J. Changes in use of an existing commercial or industrial development or relocation of an existing commercial or industrial use within Performance Districts ~~1, 2,~~ or 7 only if all of the following conditions exist:
1. The proposed use does not substantially differ from the previous use of a building or land, ~~and where such change does not result in different parking requirements,~~

~~access or circulation patterns, traffic impacts, drainage patterns, building configurations, lighting, or generation of noise, heat, glare, vibration, smoke, odor, or dust.~~

2. The proposed structure will be located in an existing structure.
- ~~3. Structural alteration of less than seventy five percent of the existing gross floor area of the existing structure is required;~~
- ~~4.~~ 3. The proposed business does not require exterior ~~structural~~ change;
- ~~5.~~ 4. The proposed use conforms to all applicable provisions of the land use code, utility rules and regulations and the Oak Creek Municipal Code.
- ~~6.~~ 5. The proposed use conforms generally to the Oak Creek Comprehensive Plan and its components.

K. Changes in use of an existing commercial or industrial development within Performance District 1 only if all of the following conditions exist:

1. The proposed use is not from a retail or commercial use to residential uses;
2. The proposed use does not change to industrial;
3. The proposed business will be located in an existing structure;
4. The proposed business does not require exterior change;
5. The proposed use conforms to all applicable provisions of the land use code, utility rules and regulations and the Oak Creek Municipal Code;
6. The proposed use conforms generally to the Oak Creek Comprehensive Plan and its components.

17.03.06 Land use changes of minor impact.

I. Changes in use of existing commercial or industrial developments ~~or relocation of an existing commercial or industrial use~~ within Performance Districts ~~1,2~~ or 7, if:

1. The proposed business will be located in an existing structure; and
- ~~2. Structural alteration of less than seventy five percent of the existing gross floor area of the existing structure is required; and~~
- ~~3.~~ 2. One or more of the following conditions exist:
  - a. The development will require exterior ~~structural~~ change;
  - b. The proposed use does not meet the dimensional standards of the associated performance district or other requirements of this code;
  - c. The proposed use substantially differs from the previous use of a building or land or where such change in use may result in different parking requirements, access or circulation patterns, traffic impacts, drainage patterns, building configurations, lighting, or generation of noise, heat, glare, vibration, smoke, odor, dust, or lighting.

J. Changes in use in Performance District 1 that are not exempt, no impact or major impact.

K. Establishment of any new commercial or industrial use if the proposed use will be located in a new structure.

17.03.07 Land use changes of major impact.

~~C. Establishment of any new commercial or industrial use or relocation of an existing commercial or industrial use (exclusive of cottage industry) if either of the following conditions exist:~~

- ~~1. The proposed use will be located in a new structure;~~
- ~~2. The proposed use will require structural alteration of more than seventy five percent of the existing gross floor area of an existing structure.~~

~~CD. Construction of a triplex or multi-family dwellings, including townhomes and condominiums;~~

~~DE. Establishment or enlargement of a mobile home park;~~

~~EF. Annexation of land.~~

~~FG. Public and quasi-public buildings (fire, school, police, etc.)~~

#### 17.03.010 Pre-application worksession.

~~Applicants for change of use of a commercial or industrial development within Performance Districts 1, 2 or 7 shall~~may request a pre-application worksession with the planning commission and board of trustees to determine the appropriate level of review and to discuss submittal requirements. The town clerk will schedule the pre-application worksession ~~within five business days after the request for such worksession by the applicant~~on the next available agendas.

#### 17.03.011 Review procedure for land use changes of no impact.

Land use changes of no impact, as listed above, need not be reviewed by the planning commission or board of trustees. However, before doing the work, the land owner shall first submit Form D-1, Application for Land Use Change of No Impact, and such other information required by this code for a complete application and obtain ~~a letter from the town Public Works director, town Clerk, and the District Fire Chief confirming compliance with any permits that may be required (fences, signs, sidewalks, etc.)~~ The town Clerk shall forward to the planning commission and board of trustees one copy of all draft submittals. ~~administrative approval from the town Public Works director, town Clerk and District Fire Chief. Such administrative approval or denial shall be issued within 15 days of receipt of a complete application.~~

#### 17.10.09 Parking Standards.

~~A. Commercial uses in Performance District 1 are exempt from these requirements.~~

~~B. Paved off-street parking outside of Performance District 1 shall be provided according to the minimum requirements as~~s specified below:

#### 17.11.01 Performance District One.

The following regulations only govern land within Performance District One.

##### A. Character and Vision

1. Current Use: Performance District One forms the heart of the Town of Oak Creek with a majority of its retail and commercial uses located on Main Street. The uses quickly transition to residential as one moves away from Main Street.

2. Vision for the Performance District: This district should work to achieve an active, pedestrian-oriented, retail district. Auto-oriented commercial uses shall only be allowed in Performance District One as a conditional use. Auto-oriented uses permitted within Performance District One shall locate parking and automobile drive-thru facilities to the rear or side of the primary structure. ~~New residential development in Performance District One shall be limited to non-street frontage locations above businesses. Sales tax generating~~ Commercial uses are the preferred use for the first floor of all buildings along Main Street and Moffat and Sharpe Avenues. ~~Non-sales tax generating businesses and offices may be allowed to locate on street level on Sharpe Street and Moffat Avenue; however sales tax generating businesses are preferred. Multi-family residential developments are prohibited along Main Street, unless incorporated into a mixed-use development with sales tax generating retail uses occupying the development's street level space.~~
  3. Building and Site Design: The existing commercial buildings are primarily single story or story and a half with a few two story buildings scattered throughout the district. A majority of the buildings in this district are board and batten or masonry in a style reflective of a small western town. New construction in this district shall adhere to the following design regulation:
    - a. Appropriate architectural styles and form vary within the Town of Oak Creek; however, designers should look to the historic structures of Oak Creek for inspiration, e.g. Bonfiglio Drug located at 118 W Main, Dovetail Furniture located at 100 W Main, and the Lynx Realty building located at 130 E Main.
    - b. Upper Story Setbacks. Third stories or other elements of structures in Performance District One shall be set back a minimum of 15 feet from the front façade of the structure's street level floor.
    - c. Entries and windows. Transparent entries and large store-front windows at the street level are strongly encouraged. Office and residential windows organized in a generally regular pattern are encouraged. Recessed and other styles of window openings are desired. Blank walls over 8 feet in length are prohibited at the street level.
    - d. Building Orientation. Buildings should be located to front on and relate primarily to streets. Building setbacks from local and collector streets shall be minimized in order to establish a visually continuous, pedestrian-oriented street-front. If a building is setback from the lot line, streetscape improvements shall be provided within the setback area, with proposed improvements reviewed by planning and approved by the town board.
    - e. Parking Lots. Parking requirements shall be provided to the greatest extent possible by spaces at the rear of the building. Parking lots shall only be allowed on the sides of buildings on non-corner lots and if rear lots are not feasible. Parking lots shall be setback a minimum of six feet from the right of way or property line and be landscaped per the landscaping section found in Section 17.10.08(C).
    - f. Trash receptacles of commercial, office, or multi-family buildings should be located in the rear of the building and screened from view from any public right-of-way by an enclosure or fencing.
- B. ~~Conditional and prohibited uses:~~ Permitted and conditional uses:
1. ~~Conditional Permitted~~ Permitted uses:

- a. Commercial
- b. Office
- c. Auto-oriented commercial uses
- 2. Conditional uses:
  - a. Mixed use – Commercial uses located within the street front portions of buildings, with office and/or residential uses on upper floors above street level or within non-street-front spaces.
  - b. Institutional uses
  - c. Light industrial
  - d. Residential uses
  - e. Cottage industry
  - f. Live-work
  - g. Agricultural
  - e. ~~Mixed use – Sales tax generating commercial uses located within the street front portions of buildings, with office and/or residential uses on upper floors above street level or within non-street-front spaces.~~
  - d. ~~Multi family residential~~
  - e. ~~Institutional uses~~
  - f. ~~Auto-oriented commercial uses~~
  - g. ~~Light industrial~~
- 2. ~~Prohibited uses:~~
  - a. ~~Residential uses on the street front, first floor portions of structures~~
  - b. ~~Single family residential~~
  - e. ~~Duplex~~
  - d. ~~Mobile homes~~
  - e. ~~Cottage industry~~
  - f. ~~Accessory dwellings~~
  - g. ~~Live work~~
  - h. ~~Agricultural~~

**Section 2.** The provisions of this ordinance hereby are severable. If any portion of this ordinance shall be judicially determined to be invalid or unenforceable, such determination shall not affect the remaining provisions of such ordinance or question.

**Section 3.** All ordinances or parts of ordinances of the Town of Oak Creek, Colorado, in conflict herewith are expressly repealed.

**Section 4.** This Ordinance shall take effect as provided by law.

**INTRODUCED, READ, PASSED AND ORDERED PUBLISHED** this 9<sup>th</sup> day of February, 2012.

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Nikki Knoebel, Mayor

ATTEST:

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Vivian Johnson, Acting Town Clerk