

TOWN OF OAK CREEK

ORDINANCE NO. 616

AN ORDINANCE AMENDING AND MODIFYING THE OAK CREEK LAND USE CODE AT SECTIONS 17.02 AND 17.03 OF THE OAK CREEK MUNICIPAL CODE.

WHEREAS, the Oak Creek Planning Commission held a public meeting on March 22, 2012 and forwarded a recommendation to the Oak Creek Board of Trustees on various proposed amendments to the Town of Oak Creek Land Use Code (Land Use Code) to be considered at a duly noticed public hearing; and

WHEREAS, notice of the public hearing was published on March 18, 2012 in the Steamboat Pilot, a paper of general circulation in the Town; and

WHEREAS, the Oak Creek Board of Trustees held a public hearing on April 12, 2012 to consider the Planning Commission's recommendation and to hear public comments regarding the proposed amendments to the Land Use Code. No public comment was received at said public hearing; and

WHEREAS, Trustee Gagnè made a motion to approve the recommendation of the Planning Commission regarding amendments to the Land Use Code with the finding of fact that the proposed changes to the Town of Oak Creek's Land Use Code are in conformance with the purpose and intent of the Town of Oak Creek's Comprehensive Plan. Trustee Meyers-Story seconded the motion. The motion passed unanimously.

NOW, THEREFORE, be it ordained by the Board of Trustees of the Town of Oak Creek as follows:

SECTION 1. AMENDMENTS. The Oak Creek Land Use Code codified as Chapter 17 of the Oak Creek Municipal Code is hereby amended as follows (additions are underlined, deletions are struck-through):

1. Section 17.02.06. Agricultural use means the use and working of real property land, ground or soil for the production of food and/or fiber, including farming for food or cash crops and the raising of farm animals; ~~as part of a recognized commercial enterprise.~~ Keeping and raising of chickens in accordance with Ord. 600, 2010, and optional grow premises as such may be defined by the State of Colorado shall not be interpreted as agricultural use by this definition.
2. Section 17.02.020. Dwelling unit means one or more rooms in a structure designed for human occupancy and equipped with a kitchen and a bathroom.
3. Section 17.02.033. Industrial use, ~~light~~ means enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Warehousing, wholesaling and distribution of the finished products are allowed. In addition, it shall include trucking and equipment repair facilities, construction and excavation companies,

storage facilities, optional grow premises and marijuana-infused products as such may be defined by the State of Colorado, and similar enterprises.

4. Residential means the use of land for housing and related accessory structures and uses.
5. Section 17.03.09.

D. Notice by property posting.

1. If notice by posting of the property is required by statutes or this code, such notice shall occur by prominently posting signs on the property that is the subject of the proposed action. Such signs shall be posted no less than fifteen (15) days prior to the hearing for land use change of minor impact and no less than thirty (30) days prior to the hearing for land use change of major impact and shall be easily legible from the nearest public streets. For projects that include more than one lot or one acre, the town clerk may require additional signs to be posted.
 2. Posting shall be required for all applications for land use changes of minor impact and all applications for land use changes of major impact.
 3. The town clerk shall cause to be prepared, and the applicant shall post signs upon the parcel under consideration which provide notice of the kind of action requested; the hearing authority; the time, date and location of hearing; and the location of the parcel by physical address, legal description or by Routt County Assessor Parcel number. .
 4. The applicant shall submit an affidavit of posting in the form provided by the town clerk prior to the scheduled meetings and hearings confirming that the property was properly posted.
6. Section 17.03.012
- A. Application: Applicant submits Form D-2, Application for Minor Land Use Change, to the town clerk accompanied by the review fee on file with the town clerk and such other information required by this code for a complete application.
 - B. The town clerk shall notify surrounding property owners as specified in section 17.03.09.C and shall forward referrals to appropriate referral agencies including but not limited to the town Public Works department, Oak Creek Fire Protection District, RE3-J School District, State of Colorado Division of Wildlife, Colorado State Engineer, or Colorado Geologic Survey no less than 15 days in advance of the planning commission meeting.
 - C. Town clerk submits completed Form D-2 to planning commission a minimum of one week before scheduled public hearing.
 - D. Planning commission public hearing on application: After receipt of all application materials, the town clerk shall set the matter for public hearing before the planning commission. The planning commission shall consider the application at the public hearing and forward its recommendation to approve, deny or approve as a conditional use. Conditional uses may be permitted subject to such conditions and limitation as the town may prescribe to ensure that the location and operation of the conditional uses will be in accordance with the conditional use criteria listed in Section 17.03.017. As part of the conditional use approval, the planning commission may recommend that the board grant the conditional use approval for a limited time period and/or require periodic reviews of the development once completed to ensure compliance with the approved conditions. ~~If the planning commission determines that additional information from the applicant is necessary or that the application needs to~~

~~be reviewed by the town Public works director or any other state, local or federal agency prior to its action, the public hearing shall be continued until such information has been received. The applicant is responsible for the above costs incurred by the town~~

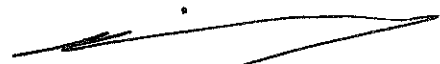
7. Section 17.03.013 (A) (1). Application. Applicant submits Form D-3, Application for Major Land Use Change, to the town clerk, accompanied by the review fee on file with the town clerk and such other information required by this code for a complete application. Applications for annexations, establishment or enlargement of mobile home parks, multi-family dwellings, and residential subdivisions shall also be accompanied by a fiscal impact analysis in accordance with Section 17.07.01(H)(2).
8. Section 17.03.013 (B) (1). Application. Applicant submits updated fiscal impact analysis (if new information has become available) to the town clerk. Applicant submits to the town clerk review fee and a retainer determined by the town clerk for which all fees associated with the final application, including but not limited to engineering fees, professional planner fees, etc., shall be billed against said retainer. Review fee shall be in accordance with the Fee Schedule approved by the town board and kept on file with the town Clerk clerk and such other information required by this code for a complete application.
9. Section 17.03.013 (C). 20. Subdivision Improvements Agreement in a form prescribed by the town to secure the construction of improvements as are required by the town and shall include collateral acceptable to the Board of Trustees.
10. Section 17.03.014.
Every approval for a change in land use shall expire upon the first occurrence of the following events:
 - A. Three (3) years from its effective date, unless application for a building permit is made within the term of the land use change approval or unless application for renewal of the land use change approval is approved, pursuant to this Chapter; or
 - B. Upon expiration of the building permit for such development if such expiration occurs more than three (3) years following the effective date of the land use change permit; or
 - C. Upon abandonment of the land use change, if such abandonment occurs at least three (3) years following the effective date of the land use change permit. Abandonment shall be defined as the date one (1) year after the last significant progress toward the construction of the development occurred. Abandonment shall be determined at the sole discretion of the Routt County Building Official Inspector and such determination may be appealed pursuant to Section 17.09.06.
 - D. Nothing herein shall result in a site specific development plan approval or in a vesting of property rights except where the result is a development agreement which specifically provides for the vesting of property rights or as may be allowed per Chapter 17.13.
11. Section 17.03.015 (A). A land use change approval may be renewed for a period not to exceed one year from its expiration date or abandonment date, whichever is later, by the planning commission. Application for renewal shall be submitted to the town Clerk at least thirty days before the planning commission meeting at which it is to be reviewed, and which shall be accompanied by the applicable renewal fee and such other information required by this code for a complete application.

12. Section 17.03.018 – Review Process Chart in the form presented with a correction under the Vacation of ROW reflecting that the Planning Commission is a public meeting not a public hearing (See Exhibit A.)
13. Appendix D Fee Schedule as presented with a change of the fee for a Pre-Application Worksession to \$100 and the addition of a note that such fee will be applied to the subsequent application if such moves forward (See Exhibit B.)


SECTION 2. SEVERABILITY, CONFLICTING ORDINANCES REPEALED. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. All other ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect and be in full force and effect thirty (30) days after adoption and publication pursuant to C.R.S. § 31-16-105.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED this 10th day of May, 2012.



Nikki Knoebel, Mayor
Chuck Wisecup / Mayor Pro Tem

ATTEST:


Mary Alice Page-Allen, Town Administrator/Clerk

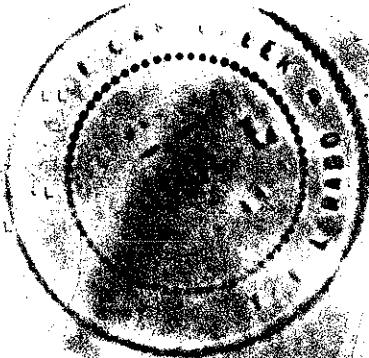


Exhibit A

17.03.018 Review Process Chart

Requirements for all applications prior to processing:

Submittal of a complete application (application completeness to be determined by Town Clerk)
 Payment of all required fees

Pre-application meeting with Town Clerk to review approval process and submittal requirements (recommended)

Key	BP - Building Permit	TC - Town Clerk
	PC - Planning Commission	PWD - Public Works Director
	BOT - Board of Trustees	DFC - District Fire Chief
	BOA - Board of Adjustment	ROW - Public Right of Way

Approval Requested	Notice Requirements			Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes
	Mailed	Posted	Published					
Building Permit Sign-off				TC, PWD and DFC	None	BOA	BP issuance	
Land Use Change of No Impact				TC, PWD and DFC	No Public Meeting or Public Hearing - Administrative Review by Public Works Director, Town Clerk and District Fire Chief - Approval or Denial issued within 15 days of receipt of complete application	PC and BOT as requested by TC, PWD and/or DFC	Letter from TC	Application includes Form D-1 & Land Use Checklist; Signs reviewed under Section 17.10.011 use this process
Land Use Changes of Minor Impact	15 days prior to PC public hearing	15 days prior to PC and BOT public hearings	15 days prior to PC and BOT public hearings	BOT after review and recommendation by PC	PC - Public Hearing (recommendation to BOT) BOT - Public Hearing (final decision within 30 days of public hearing)	District Court	Letter from TC and recordation of subdivision plat, if applicable	Application includes Form D-2 & Land Use Checklist
Land Use Changes of Major Impact - Conceptual	30 days prior to PC public hearing	30 days prior to PC and BOT public hearings	30 days prior to PC and BOT public hearings	BOT after review and recommendation by PC	PC - Public Hearing (recommendation to BOT) BOT - Public Hearing (final decision within 30 days of public hearing unless add'l information req'd and then within 30 days of receipt of add'l information)	District Court	Letter from TC; record BOT Resolution (annexation) and/or BOT req'd Agreements	Application includes Form D-3 & Land Use Checklist; Approval valid for 12 months
Land Use Changes of Major Impact - Final Plan	30 days prior to PC public hearing	30 days prior to PC and BOT public hearings	30 days prior to PC and BOT public hearings	BOT after review and recommendation by PC	PC - Public Hearing (recommendation to BOT) BOT - Public Hearing (final decision within 30 days of public hearing unless add'l information req'd and then within 30 days of receipt of add'l information)	District Court	Letter from TC; record subdivision plats and/or BOT req'd Agreements	Application includes Form D-3 & Land Use Checklist; Requires Conceptual approval
Flood Hazard Area Permit				BOT	BOT - Public Meeting	District Court	Flood Hazard Area Permit is issued	
Vacation of ROW or Public Utility Easement	15 days prior to PC public hearing	15 days prior to PC and BOT public hearings	15 days prior to PC and BOT public hearings	BOT	PC - Public Meeting (recommendation to BOT) BOT - Public Hearing (final decision)	District Court	Record Ordinance and Publish Notice of Ordinance Adoption	May apply to a dedication of a ROW or Public Utility Easement
Variances	30 days prior to BOA public hearing	30 days prior to BOA public hearing	30 days prior to BOA public hearing	BOA	BOA - Public Hearing	District Court	Letter from TC	

Exhibit B

APPENDIX D
TOWN OF OAK CREEK LAND USE CODE
FEE SCHEDULE
Effective: TBD

MINIMUM BASIC FEES: The Minimum Basic Fees listed shall be paid in full at the time of application. An application will not be deemed and scheduled for review until the Minimum Basic Fee has been paid in full. The Minimum Basic Fee is designed to cover basic filing, publication and processing costs. It also includes the minimum amount of staff time typically required for an application of that type.

HOURLY FEES: Hourly Fees will be charged for staff time not covered by the Minimum Basic Fees. Staff time will be charged at a minimum rate of \$100/hr. This rate may be adjusted by the Town Administrator/Clerk as necessary. Hourly Fees apply to all review processes unless otherwise noted.

RENEWAL FEES: 50% of the Minimum Basic Fee will be charged to process renewals that are authorized under the original conditions of approval or in the Land Use Code.

SPECIAL FEES: Special fees may be charged at the discretion of the Board of Trustees for professional consultants or special research/analysis that is required to ensure adequate review of an application.

APPROVALS/PERMITS ARE CONTINGENT ON FULL PAYMENT OF ALL APPLICABLE FEES: This includes any and all Minimum Basic Fees, Hourly Fees, Surcharges, and/or Special Fees. Approvals/Permits with outstanding balances that exceed 90 days will be revoked.

REVIEW PROCESS	MINIMUM BASIC FEE	NOTES
Building Permit Sign-Off	\$50	Collected at permit application through Routt County Regional Building Dept. Hourly rates apply for reviews more than ½ hour
Land Use Change of No Impact	\$100	
Sign Approvals	\$50	No Hourly Fee
Land Use Changes of Minor Impact	\$250	
Land Use Changes of Major Impact -- Conceptual Plan	\$1000	
Land Use Changes of Major Impact -- Final Plan	\$100/Residential Unit \$500/Other Constructed Units	
Pre-Application Worksession	\$100	Fee will be applied to subsequent application if such moves forward
Flood Hazard Area Permit	\$100	
Vacation of Plat, Right-of-Way or Public Utility Easement	\$250	
Variances	\$500	
Subdivision Exemption (Board of Trustee Review Only)	\$1000	
Subdivision Improvement Agreement	\$1000 or \$100/lot whichever is less	

Other Review Requiring Town Approval (for example Comprehensive Plan Amendments, Land Use Code Amendments)		Hourly fees only. A deposit of \$500 against which the hourly rate will be applied is required. Any unused balances will be returned to applicant.
<p>RESEARCH¹: <u>First three (3) hours no charge; each additional hour will be charged at the current rate for Hourly Fees.</u> Research requests shall be submitted to the Town Clerk and are subject to approval prior to the initiation of any staff research. The Town Clerk shall determine if the requested research is appropriate based on the nature of the research requested, the amount of research requested, and the available staff time.</p>		
<p>DETERMINATION/INTERPRETATION LETTER: Hourly Fees will apply (\$50 minimum).</p>		
<p>¹Research is defined as the interpretation of documents in the Town's land use files. By way of example and not limitation, a party may request research as to the land use history of a particular parcel or for the history and status of a land use approval for a specific parcel. This section is not intended to replace or nullify a citizen's rights under the Open Records Act to inspect and copy a specifically described document or documents or file.</p>		
<p>APPEALS: Appeals in accordance with the Land Use Code will be charged Minimum Basic Fees and Hourly Fees at the same rate as the original application.</p>		
<p>AFTER THE FACT REVIEW: An additional charge equal to the total applicable Minimum Basic Fees shall be applied to all applications for Approvals/Permits that are received after the state of construction and/or operation. These additional fees will not be used to offset any Hourly Fees that may apply.</p>		
<p>MULTIPLE PROCESSES: In general, an application will be charged the total of all applicable Minimum Basic Fees at the time of application. However, the Town Clerk may adjust the aggregate of fees for concurrent multiple processes based upon the scope and complexity of each affected application and the cost to the Town to complete the reviews.</p>		
<p>REFUNDS: Fees will not be refunded for any processing or partial processing of an application except as approved by the Board of Trustees.</p>		
<p>OTHER DEPARTMENT AND AGENCY FEES: Applicant will be responsible for any and all fees charged by other departments or agencies necessary to process application including but not limited to:</p> <ul style="list-style-type: none"> a. Oak Creek Rural Fire Protection District b. Clerk and Recorder Fees c. Routt County Regional Building Department Fees d. Colorado State Engineer e. Colorado Geological Survey 		
<p>CRITERIA FOR THE WAIVER OF FEES FOR SPECIAL PROJECTS: Fees may be reduced or waived by the Town Clerk or the Board of Trustees. In general, but not limited to, the following categories will be used to determine if a fee reduction or waiver is appropriate:</p> <ul style="list-style-type: none"> a. Projects of public entities; b. Projects of non-profit entities that will have a substantial benefit to the citizens of the Town of Oak Creek; or c. Projects initiated by the Town of Oak Creek 		