

**TOWN OF OAK CREEK**

**ORDINANCE NO. 651**

**AN ORDINANCE AMENDING AND MODIFYING THE OAK CREEK LAND USE CODE AT VARIOUS SECTIONS; REPEALING ALL CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Oak Creek Planning Commission held a public meeting on March 20, 2019 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 a public hearing was published on March 24, 2019 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 11, 2019 to consider the Planning Commission's recommendation and to hear public comments regarding the proposed amendments to the Land Use Code. Public comment was [was not] received at said public hearing; and

**WHEREAS**, Trustee Gustafson 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 McElfish 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:

- A.** Section 17.01.06 is amended as follows (additions are underlined, deletions are struck-through):  
Attached hereto as Appendices B, C, D and E are the Bylaws for the Oak Creek Planning Commission, Town of Oak Creek Land Use ~~Checklist~~ and Application Forms, Town of Oak Creek Land Use Code Fee Schedule, and ~~Oak Creek Parcels~~ Routt County Assessor 2014 Form of Final Plat, Signature Blocks and Plat Notes applicable to applications and petitions under this code. The Appendices may from time to time hereafter be amended by resolution of the Oak Creek Board of Trustees. Amendments to these Appendices are not subject to the public hearing and notice requirements of Section 31-23-305, Colorado Revised Statutes, as the Appendices are attached to the Land Use Code for convenience only and are not a part thereof.
- B.** Chapter 17.02 is amended as follows (additions are underlined):

### **17.02.268 Mobile food unit**

“Mobile food unit” means a non-motorized movable wheeled cart or similar device, motorized wheeled vehicle, or towed vehicle, that is designed and equipped to serve prepared food or prepare and serve food for immediate consumption. A mobile food unit can operate or solicit business from fixed or variable locations. A mobile food unit is allowed provided that it:

- (1) Is not located within a public right-of-way unless a separate permit for use of the public right- of- way has been authorized by the Town or in sensitive environmental areas such as wetlands or floodways; and
- (2) Does not displace required parking spaces for uses on any property; and
- (3) Serves walk-up customers only; and
- (4) Is located on an all-weather surface; and
- (5) Is situated in a manner that minimizes adverse impacts to adjacent properties; and
- (6) Is designed and built meeting normal industry standards and maintained in good order; and
- (7) Does not obstruct visibility, parking lot circulation, emergency access, access to or along a public street, alley, sidewalk, or trail; and
- (8) Trash and recycling receptacles are provided, and the operator shall be responsible for their storage and daily disposal; and
- (9) Signage shall not project from the mobile food unit, and shall be permanently affixed to or painted on the unit. Portable signs may be permitted in accordance with Section 17.10.011 (8) of this code; and
- (10) All health department regulations are met including the applicable provisions of the Colorado Retail Food Establishment Rules and Regulations.

This section does not apply to mobile food units in Town owned parks which are authorized and managed in accordance with Town park use policies.

### **17.02.338 Planned unit development**

“Planned Unit Development (PUD)” means development in accordance with Chapter 17.14 of this code that is intended to allow flexibility in development in a manner varying from the constraints upon innovative design and creative land use that might otherwise be imposed by strict compliance with requirements of the performance district in which such development occurs.

- C. Section 17.03.05 is amended as follows (additions are underlined, deletions are struck-through):
- L. Growing of marijuana within a residential structure as defined in Section 17.02 only if all of the following conditions exist.
1. The use is compliant with all of the general provisions outlined in Section ~~17.19~~17.03.020.
- M. Establishment of a cottage industry;
- N. Mobile food units
- D. Section 17.03.06 is amended as follows (additions are underlined, deletions are struck-through):
- E. Establishment of a cottage industry~~Reserved;~~

- F. ~~Residential subdivision~~ Subdivision of no more than two parcels;
- M. Growing of marijuana within a residential structures and primary residences as each are defined in Section 17.02 in a defined area(s) that exceeds three hundred square feet and the use is compliant with all of the general provisions outlined in Section ~~17.19~~ 17.03.020 of this code.
- E. Section 17.03.007 is amended as follows (additions are underlined):
- G. Planned unit development
- F. Section 17.03.012 is amended as follows (additions are underlined):
- E. Technical Filing Requirements. In the event a final plan or plat is required, the applicant shall submit properly notarized plats, engineering drawings, and other documents as may be required by the Town. The Town will not accept the dedication or maintenance of roads until the technical filings and other applicable requirements under this code have been complied with to its satisfaction. The final plan or plat shall meet the applicable standards as noted in Appendix E.
- G. Section 17.03.013 is amended as follows (additions are underlined, deletions are struck-through):
- C. Technical Filing Requirements. If the final plan submission is approved, the applicant shall submit properly notarized plats, engineering drawings, and other documents as may be required by the Town. The Town will not accept the dedication or maintenance of roads until the technical filings and other applicable requirements under this code have been complied with to its satisfaction. The final plan or plat ~~may contain all of the information required by the conceptual plan as well as the following:~~ shall meet the applicable standards of Appendix E.
- ~~1. — Locations of Monuments. Locations of iron pin monuments one half inch in diameter and thirty inches long as set in concrete at least five inches in diameter. These shall be located in the ground at all intersections of sidelines of streets and alleys with platted boundary lines and at all points on streets, alleys, or boundary lines where there is a change of direction or curvature or intersection of such lines. All monuments shall be properly set in the ground to existing grade before the final plan is approved. If existing grade is different than final grade, then a temporary monument will be allowed until such time as final grade is established at which time a permanent monument shall be installed.~~
  - ~~2. — Engineer Certification. Certification by a registered professional engineer or land surveyor to the effect that the final plan represents a survey made by him and that the monuments shown thereon actually exist as located and that all dimensions and other details are correct.~~
  - ~~3. — Notary Statement. Notarized certification by the owner or owners of the adoption of the final plan.~~
  - ~~4. — Approval of Improvements. Approval by the town Public works director, Consulting Engineer, public utilities, and other appropriate authorities concerned with the specifications and inspection of utility rights of way, installations and improvements.~~
  - ~~5. — Deed Restrictions or Protective Covenants. A letter shall accompany the final plan attesting to the recording of deed restrictions or protective covenants, which shall not appear on the face of the plat.~~

6. ~~Public Land. A conveyance to the school district of land set aside for schools and to the town of land set aside for parks, playgrounds or other public uses and a dedication of streets, alleys and other public rights of way for public purposes shall accompany the final plan. Approval of a plat shall not be deemed to constitute or affect an acceptance by the public of any street or other open space shown upon the plat. Such acceptance, if any, shall be given by action of the board.~~
7. ~~Performance Bond. A performance bond to secure to the town the actual construction and installation of an improvement where such an improvement is not installed.~~
8. ~~Certificate of the town clerk of approval by the board and action by the board on an offer of dedication.~~
9. ~~Certificate of the county recorder as to taxes.~~
10. ~~Line of high water to be shown on the final plan should the subdivision adjoin a stream channel, irrigation ditch or other body of water.~~
11. ~~Boundary Lines. The boundary lines with accurate angles, bearings and distances and the widths of all existing or recorded streets intersecting the boundary of the tract. All dimensions shall be determined by an accurate field survey which must balance and close within limit of one in five thousand.~~
12. ~~Relationship to Known Monument. True bearings and distances to the nearest established street lines or official monuments which shall be accurately described on the plat and municipal, township, county or section lines accurately related to the lines of the subdivision by distances and bearings.~~
13. ~~The length of all arcs and radii, internal angles, points of curvature and lengths and bearings of tangents.~~
14. ~~All easements as approved by public utilities.~~
15. ~~All lot lines and other parcels of land with accurate dimensions in feet and hundredths of a foot with bearings or angles to street and alley lines. Lot dimensions shall close to one in five thousand.~~
16. ~~Identification. All lots and blocks shall be numbered in an acceptable manner.~~
17. ~~Cross sections of typical proposed streets showing widths of roadways, location and widths of sidewalks, gutters, etc.~~
18. ~~Profiles. Profiles to a suitable scale of streets and alleys and to the satisfaction of the town engineer. One tracing and one print of the same shall be required.~~
19. ~~The final plan shall be accompanied by a certificate from the county treasurer that taxes have been paid and that no delinquent taxes, liens, etc., are assessed against the property; and proof of title by an abstract of the title or the title insurance policy.~~
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.~~

H. Section 17.03.018 is hereby repealed and replaced in its entirety as shown in the attached Exhibit A.

I. Chapter 17.11 is revised as follows (additions are underlined):

**17.11.01 Performance District One**

The following regulations only govern land within Performance District Seven.

**B. Permitted, conditional, and prohibited uses.**

- 1. Permitted uses;
  - a. Commercial
  - b. Office
  - c. Auto-oriented commercial uses
  - d. Mobile food units

**17.11.07 Performance District Seven**

The following regulations only govern land within Performance District Seven.

**B. Permitted, conditional, and prohibited uses.**

- 1. Conditional uses:
  - a. Single family residential
  - b. Duplex
  - c. Accessory dwellings
  - d. Cottage industries
  - e. Commercial
  - f. Auto-oriented commercial
  - g. Office
  - h. Institutional
  - i. Light industrial
  - j. Industrial
  - k. Live-work units
  - l. Medical marijuana and Retail marijuana establishments
  - m. Mobile food units

**J.** Chapter 17.14 is added to read as follows:

**CHAPTER 17.14 PLANNED UNIT DEVELOPMENT (PUD)**

Sections

- 17.14.01 Objectives.
- 17.14.02 General Provisions.
- 17.14.03 Dimensional and Development Standards.
- 17.14.04 General Procedures.
- 17.14.05 Amendments.
- 17.14.06 Revocation.

**17.14.01 Objectives.**

This section is intended to allow flexible development patterns that are not specifically provided for in this Land Use Code and in accordance with the provisions of the Planned Unit Development Act of 1972, CRS 24-67-101 et seq (the "PUD Act"). It is the objective of this Chapter:

- A. To promote and permit flexibility that will encourage innovative and imaginative approaches in land development and renewal that will result in a more efficient, aesthetic, desirable and economic use of land while maintaining density and intensity of use consistent with the applicable adopted plans, regulations and policies of the Town;
- B. To promote development within the Town that can be conveniently, efficiently and economically served by existing utilities and services or by their logical extension;
- C. To promote design flexibility, including placement of buildings, use of open space, pedestrian and vehicular circulation systems to and through the site and off-street parking areas in a manner that will best use potential on-site characteristics such as topography, geology, geography, size and proximity;
- D. To provide for the preservation of historic or natural features where they are shown to be in the public interest including, but not limited to, such features as drainage ways, floodplains, existing topography, unique areas of vegetation, historic landmarks or structures;
- E. To provide for compatibility with the area surrounding the project site;
- F. To provide for usable and suitably located open space such as, but not limited to, trails, bicycle paths, playground areas, courtyards, planned gardens, outdoor seating areas, outdoor picnic areas, undeveloped natural areas and similar open space;
- G. To minimize adverse environmental impacts of development;
- H. To improve the design, quality and character of new development; and
- I. To provide compensating community benefits to offset any impacts of the development and in recognition of design flexibility.
- J. To encourage integrated planning in order to achieve the above objectives.

**17.14.02 General Provisions.**

All of the following criteria shall be met for a property to be eligible to apply for PUD approval.

- A. Properties of any size acreage and any number of units are eligible for PUD approval.
- B. The proposed development shall be consistent with the Town's Comprehensive Plan.
- C. The proposed development shall be consistent with the intent and spirit of the PUD objectives in Section 17.14.01.
- D. The proposed development shall not impede the continued use of development of surrounding properties for uses that are permitted under these Regulations or planned for in the Town's Comprehensive Plan.
- E. A recognizable and material benefit will be realized by both the future residents and the Town as a whole through the establishment of a PUD, where such benefit would otherwise be infeasible or unlikely.
- F. Long-term conservation of natural, historic, architectural or other significant features or open space will be achieved, where such features would otherwise be destroyed or degraded by development as such may be permitted under these Regulations.
- G. Sufficient land area has been provided to comply with all applicable regulations to adequately serve the needs of all permitted uses in the PUD projects and to ensure compatibility between uses and the surrounding neighborhood.

**17.14.03 Development and Dimensional Standards.**

The following dimensional and development standards shall apply to all PUDs.

- A. A PUD shall be an overlay district and shall be applied over the underlying performance district.
- B. PUD uses shall not be limited to those allowed in the underlying performance district.
- C. The applicable provisions of Chapter 17.03, Development Applications, Review and Procedures, related to a Land Use Change of Major Impact shall apply to PUD projects, except as otherwise required by the PUD Act .
- D. Subdivision review, if applicable, shall be carried out concurrently with the review of the PUD development plans. If subdivision approval is required for the subject property, the PUD plans required under this Chapter shall be submitted in a form that satisfies the requirements for a Land Use Change of Major Impact conceptual and final plan approvals. If any provisions of this Chapter conflict with the subdivision procedures or standards of these Regulations, the more restrictive or detailed requirements shall be met, unless specifically altered by the Town Board.
- E. The application for a PUD shall include sufficient detail to provide an opportunity for the Planning Commission and Town Board to make informed decisions and evaluate compliance with the applicable approval criteria. The plan, at a minimum, shall include:
  - a. A quantitative summary of existing conditions on the subject property;
  - b. A list of uses to be allowed within the PUD;
  - c. Parking analysis based on proposed uses;
  - d. Density of uses proposed;
  - e. Location of public and private open space;
  - f. Location of existing and proposed buildings on the site;
  - g. Road, street and pedestrian networks proposed;
  - h. Drainage facilities;
  - i. Existing and proposed utilities and public services;
  - j. If development is to be phased, a description of the phase components and timing;
  - k. A statement that development on the site will meet applicable standards of the underlying performance district and these Regulations or a statement specifying the standards of the underlying performance district and these Regulations to which modifications are proposed and the justification for such modifications; and
  - l. A statement specifying the public benefits to be contained in or associated with the PUD.
  - m. The following criteria shall provide the basis for a recommendation or decisions to approve a PUD plan or process a PUD amendment:
    - i. The PUD addresses a unique situation, confers a substantial benefit to the Town or incorporates a creative site design such that it achieves the purposes of these Regulations and represents an improvement in quality over what could have been accomplished through strict application of otherwise applicable development standards. Such improvements in quality may include, but are not limited to, improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, utilities or other services; or increased choice of living and housing environments;
    - ii. The PUD will promote the public's health, safety and general welfare;
    - iii. The PUD is consistent with the Town's Comprehensive Plan and the purposes of these Regulations;
    - iv. Facilities and services (including roads and transportation, water, electric, police and fire protection and sewage and waste disposal, as applicable) will be

- available to serve the subject property while maintaining adequate levels of service to existing development;
- v. Compared to the underlying performance district, the PUD is not likely to result in significant adverse impacts upon the natural environment including air, water, noise, storm water management, wildlife and vegetation, or such impacts will be substantially mitigated;
  - vi. Compared to the underlying performance district, the PUD is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property; and
  - vii. Future uses on the subject property will be compatible in scale with uses or potential future uses on other properties in the vicinity of the subject property.
- n. The PUD final plan, in addition to the applicable requirements set forth in Chapter 17.03 related to a Land Use Change of Major Impact, shall include the following:
- i. A document describing any proposed phasing program of the development of all structures, recreational and other common facilities and open space improvements, including time schedule for commencement and completion dates of construction of each phase. A pro rated allocation of common open space shall be made as each phase is developed.
  - ii. A copy of the formal agreement with a public agency or private association, as such is approved by the Town Board, for the ownership and maintenance of the common open space is required.
  - iii. A copy of any subdivision plat or plat of dedication that may be a necessary part of the PUD.
  - iv. A restrictive covenant in a form acceptable to the Town Attorney limiting development upon the tract to such development and construction in compliance with the PUD final plan as such is approved by the Town Board and including a provision granting the Town a right to enforce the same.
- o. The PUD final plan, as approved, shall be recorded in the office of the Routt County Clerk and Recorder within thirty (30) days or such extended date as the Town Board shall approve. If the PUD final plan is not recorded by such deadline, the approval of the Town shall be deemed to have been withdrawn and the approval shall be null and void unless an extension is sought from and approved by the Town Board.

**17.14.05 Amendments.**

Unless a PUD final plan contains different amendment procedures, amendments to a PUD final plan shall be governed by this section. The PUD amendment process is dependent upon the type of amendment.

- A. Categories of PUD amendments are established and defined as follows for the purpose of determining the appropriate review procedure:
  - a. A proposed PUD amendment is considered under the applicable provisions of Chapter 17.03 as a Land Use Change of No Impact if it provides for the correction of any errors caused by mistakes that do not materially alter the substance of the PUD development plan as represented to the Town.



- b. A proposed PUD amendment that does not meet the criteria of the above subsections shall be considered under the applicable provisions of Chapter 17.03 as a Land Use Change of Major Impact.

**17.14.06 Revocation.**

Subject to the requirements and limitations of the PUD Act, a PUD final plan may be modified, removed, or released by in whole or in part pursuant to the procedures and criteria set forth in this section. .

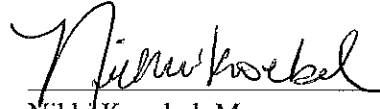
- A. Modification, removal, or release of the provisions of the PUD, in whole or in part, may be initiated by the Town or by any property owner within the PUD. No modification, removal, or release of the provisions of the PUD shall be applicable to any property within the PUD without the consent of the owner of such property unless the Town Board finds after a public hearing that such property is in violation of the PUD. Any modification, removal, or release of a PUD shall comply with the PUD Act and Section 17.14.03 of this Code
- B. A proposed PUD modification, removal, or release shall be considered under the applicable provisions of Chapter 17.03 as a Land Use Change of Minor Impact if the owner of the property within the PUD that is the subject of such modification, removal, or release has consented to such modification, removal, or release and the following criteria is satisfied , as determined by the Town Administrator:
  - a. The PUD modification, removal, or release does not increase density, increase the amount of non-residential land use or significantly alter any approved building scale and mass of development.
  - b. The PUD modification, removal, or release does not change the character of the development and maintains the intent and integrity of the PUD.
  - c. The PUD modification, removal, or release does not result in a net decrease in the amount of open space or result in a change in character of any of the open space proposed within the PUD.
- C. All other applications to modify, remove or release a PUD in whole or in part shall be processed as a Land Use Change of Major Impact. .

**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.

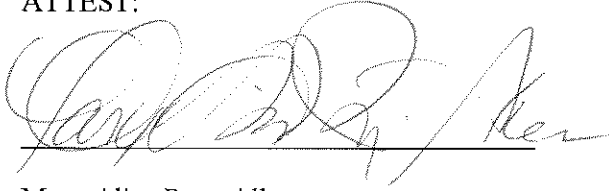
**SECTION 3. EFFECTIVE DATE.** This ordinance shall take effect and be in full force and effect thirty (30) days after adoption and publication pursuant to C.R.S. § 31-16-105.

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INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED this 11<sup>th</sup> day of April, 2019.

  
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Nikki Knoebel, Mayor

ATTEST:

  
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Mary Alice Page-Allen  
Town Administrator/Clerk



**EXHIBIT A**

<b>17.03.018 Review Process Chart</b>										
<b>Requirements for all applications prior to processing:</b>										
Submitted 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)										
Approval Requested	Notice Requirements			Approval Authority	Required Public Meeting and/or Public Hearing	Appeals	Final Documentation	Notes	Key	
	Mailed	Posted	Published						Referral	BP - Building Permit
Building Permit Sign-off				TAC, PWD and DFC	None	BOA	BP issuance		PWD - Public Works Director	
Land Use Change of No Impact	15 days prior to PC public hearing	15 days prior to PC public hearing	15 days prior to PC public hearing	TAC, PWD and DFC	No Public Meeting or Public Hearing - Administrative Review by PWD, TAC and DFC - 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 TAC	Application includes Form D-1; Signs reviewed under Section 17.10.011 use this process	DFC - District Fire Chief	
Land Use Changes of Minor Impact	15 days prior to PC public hearing	15 days prior to PC public hearing	15 days prior to PC public hearing	BOT after review and recommendation by PC	PC - Public Hearing (recommendation to BOT)	District Court	Letter from TAC and recordation of subdivision plat if applicable	Application includes Form D-2		
Land Use Changes of Major Impact - Conceptual	30 days prior to PC public hearing	30 days prior to PC public hearing	30 days prior to PC public hearing	BOT after review and recommendation by PC	BOT - Public Hearing (final decision within 30 days of public hearing)	District Court	Letter from TAC; Resolution (annexation) and/or BOT req'd Agreements	Application includes Form D-3; 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 public hearing	30 days prior to PC public hearing	BOT after review and recommendation by PC	PC - Public Hearing (recommendation to BOT)	District Court	Letter from TAC; record BOT	Application includes Form D-3; Approval valid for 12 months		
Flood Hazard Area Permit				Fluorplain Administrator	None	BOA	Floodplain Development Permit is issued			
Vacation of ROW or Public Utility Easement	15 days prior to PC public meeting	15 days prior to PC public meeting	15 days prior to PC public meeting	BOT after review and recommendation by PC	PC - Public Meeting (recommendation to BOT)	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 TAC			

- Proposals to be reviewed by PC, BOT and BOA will be scheduled on the first open agenda for which all notification requirements can be met.
- The TAC, PC, BOT or BOA may delay the review of any proposal if additional information is required to determine if all applicable Land Use Code standards can be met.
- Proposals must comply with all applicable standards of the Land Use Code to be approved.
- Conditions may be placed on any approval if they are deemed necessary to ensure compliance with the applicable standards of the Land Use Code.
- Renewal of land use change approvals must follow the same procedures as the original approval unless otherwise noted.
- No process listed above shall result in a site-specific development plan approval or a vesting of property rights except as may be provided in Chapter 17.13 of the Land Use Code.
- TAC may authorize a concurrent review of any of the processes listed above provided all minimum notification requirements are met.