

# Land Use Code Code Amendments

**PETITIONER:** Town Staff and Planning Commission

**PETITION:** Amendments to Title 17, Town of Oak Creek  
Land Use Code

**PLANNING  
COMMISSION  
HEARING DATE:** March 21, 2012 @ 7:00 p.m.

**BOARD OF TRUSTEE  
HEARING DATE:** April 12, 2012 @ 7:00 p.m.

**STAFF CONTACT:** Mary Alice Page-Allen  
Town Administrator/Clerk

**ATTACHMENTS:** Housing Types and Jurisdictional Authority –  
Colorado Division of Housing

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## **HISTORY AND PROJECT DESCRIPTION:**

The Town of Oak Creek adopted a restated Land Use Code (Code) in March, 2011 and an amendment to portions of the Code was completed in February, 2012. At the time of the hearing for the 2012 amendments, Board members, Planning Commission members, staff and members of the public had identified several other areas of the Code that needed to be considered for change. This project is in follow-up to those identified issues.

Amendments to the Code require that the method and notice of such proposed changes be in accordance with C.R.S. § 31-23-304. This section requires that a public hearing be held with the Board of Trustees for which no less than fifteen (15) days notice of the

time and place of the hearing is published. Notice of both the Planning Commission meeting and the Board of Trustee public hearing was published on March 18, 2012.

## COMPLIANCE WITH THE TOWN OF OAK CREEK COMPREHENSIVE PLAN

Section 17.01.03 (A) of the Code states that the Code is enacted to “[i]mplement the policy recommendations of the Town of Oak Creek Comprehensive Plan Update” (Plan.) Therefore any changes proposed herein should be considered in light of the applicable policies of the Plan. While the Plan contains numerous policies regarding land use, staff has selected the following checklist to highlight the policies most directly applicable to this petition. Interested parties are encouraged to review the Plan to determine if there are other policies that may be applicable to the review of this petition.

### Chapter One – Use of the Updated Plan

Complies		Section	Policies (Staff comments in bold)
Yes	No		
_____	_____	a.	Revise the Land Use Code to eliminate inconsistency with updated Comprehensive Plan policies. <b>Staff comment: All proposed changes to the Code must be consistent with the Plan to meet this standard.</b>

### Chapter Two – Land Use & Community Character

Complies		Section	Policies (Staff comments in bold)
Yes	No		
_____	_____	2.	The Town shall work with the County to ensure compliance with Town and County master plans by development interests. <b>Staff comment: County and Town Master/Comprehensive Plans should guide any changes to the Code to meet this standard.</b>

## PROPOSED CHANGES TO THE TOWN OF OAK CREEK LAND USE CODE

The following items have been identified by Planning Commission and Town Board members, staff and members of the public as issues within the Land Use Code (Code) that need consideration. Staff has attempted to incorporate this feedback into the

information provided below as recommendations for changes to the cited sections of the Code.

## Chapter 17.02 – Definitions

Proposed Change		Section	
Yes	No		
_____	_____	06	<b>Agricultural use</b> means the use and working of 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. Keeping and raising of chickens in accordance with Ord. 600, 2010, shall not be interpreted as agricultural use by this definition. <b>Staff comment: The change intended in this definition is to differentiate that an agricultural use does not include industrial or commercial growing operations located within a building.</b>
_____	_____	020	<b>Dwelling unit</b> means one or more rooms in a structure designed for human occupancy and equipped with a kitchen and a bathroom.
_____	_____	033	<b>Industrial use</b> 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 the Town and similar enterprises. <b>Staff comment: The change is intended to affirm that OGP and MIP operations are considered industrial uses by the Town.</b>
_____	_____	020	<b>Manufactured home</b> means a single-family dwelling which is partially or entirely manufactured in a factory; is installed on an engineered, permanent foundation; has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and complies with the US Housing and Urban Development or Unified Building Code Standards, as applicable, or meets or exceeds equivalent requirements and performance engineering standards. <b>Staff comment: Staff is suggesting that the Town does not define manufactured housing by its size, but only by its</b>

**construction and architectural attributes.**

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**Mobile home** means a movable residential dwelling unit manufactured in one or more sections and designed to be transportable after fabrication on its own wheels, attached wheels, or low boy, suitable for year-round occupancy, and containing a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, plumbing and electric connections provided for attachment to appropriate external systems. Pre-sectionalized, modular or prefab housing which does not meet the definition of a “manufactured home” or “modular home” as defined herein shall be regarded as a mobile home. Each mobile home shall bear a manufacturer’s label certifying that the mobile home has been inspected in accordance with the requirements of the US Department of Housing and Urban Development and is constructed in conformance with the federal manufactured home construction and safety standards in effect on the date of manufacture or have been built in Colorado between 1971 and 1976 and have received a State of Colorado Mobile Home Certification Label to confirm code compliance at the time. **Staff comment: The changes proposed herein incorporate the language regarding the types of mobile home housing that meet the threshold safety standards incorporated by both HUD and the State of Colorado.**

		043.1	<p><b>Modular home</b> means a factory-built or modular home labeled as a Colorado factory-built residential structure that meets or exceeds the currently adopted codes in Colorado, including the 2009 International Energy Conservation Code (IECC). These homes are identified by a permanent, silver-colored label that is located in the kitchen sink cabinet of the home and is installed on an engineered, permanent foundation has brick, wood or cosmetically equivalent exterior siding and a pitched roof; and complies with the US Housing and Urban Development or Unified Building Code Standards, as applicable, or meets or exceeds equivalent requirements and performance engineering standards. <b>Staff comment: This definition mirrors the definition found in the State of Colorado Division of Housing standards defining modular housing.</b></p>
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**Residential** means the use of land for housing and related accessory structures and uses.

## Chapter 17.03 – Development Applications, Review and Procedures

Proposed Change		Section	
Yes	No		
_____	_____	09	<p>D. Notice by property posting.</p> <ol style="list-style-type: none"> <li>1. If notice by posting of the property is required by statues 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 us 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.</li> <li>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.</li> <li>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 address or approximate address or a short legal description. <b>Staff comment: This addition identifies the responsibility of posting properties with adequate notice of meetings and hearings.</b></li> </ol>
_____	_____	014	<p>Every approval for a change in land use shall expire upon the first occurrence of the following events:</p> <ol style="list-style-type: none"> <li>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</li> <li>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</li> <li>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.</li> </ol>

Abandonment shall be determined at the sole discretion of the Routt County Building Official 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. **Staff comment: This addition to the regulations clarifies the vesting of property rights under the approvals given by the Town.**

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018 Review Process Chart. **Staff comment: A Review Process Chart will be developed and added to this Chapter that incorporates the various Town approval processes, noticing requirements, identifies the approval authority, public meeting and/or hearing requirements, where appeals may be heard and what documentation will be issued and/or processed by the Town, e.g. permit, letter of approval, plat.**

**Chapter 17.10 – Community Design Standards**

Proposed Change		Section	
Yes	No		
_____	_____	02	A. Setbacks shall be provided between structures and parcel boundary lines as listed in Section 17.11 in Performance Districts 3, 4, 5 and 6.

The Planning Commission’s role is to make a recommendation to the Town Board for their consideration during the public hearing scheduled for April 12, 2012.

**OPTIONS**

1. **Recommend approval of the Code changes as proposed** if it is determined that the proposed changes further the intent and purpose of the Town of Oak Creek’s Land Use Code and Comprehensive Plan.
2. **Recommend denial of the Code changes as proposed** if it is determined that the proposed changes do not further the intent and purpose of the Town of Oak Creek’s Land Use Code and Comprehensive Plan.

3. **Table action on the changes as proposed** if it is determined additional information is needed to evaluate the proposal. Give specific direction to staff.
4. **Recommend approval of the Code changes** with changes or conditions if it is determined that certain changes or conditions are necessary to ensure that the proposed changes further the intent and purpose of the Town of Oak Creek's Land Use Code and Comprehensive Plan.

**FINDINGS OF FACT** that may be appropriate with any recommendation for approval:

1. The proposed changes to the Town of Oak Creek's Land Use Code are in conformance with the intent and purpose of the Town of Oak Creek Comprehensive Plan Update.