

Article 8. Administration and Enforcement Standards

Sec. 17.0801. Administration	1
Sec. 17.0802. General Application Provisions.....	5
Sec. 17.0803. Administrative Review and Approval.....	6
Sec. 17.0804. Legislative Review and Approval	15
Sec. 17.0805. Enforcement.....	31

Sec. 17.0801. Administration

(a) **Community Development Director.**

- (1) **Responsibility.** The Community Development Director, or their designee, shall be responsible for interpreting and administering this Zoning Ordinance.
- (2) **Duties.** The duty of the Community Development Director, or a designee, shall be to:
 - a. Maintain permanent and current records of all approvals and other actions, including, but not limited to, all maps, zoning ordinance amendments, building permits, conditional use permits, planned unit development approvals, temporary use approvals, sign permits, site plans, certificates of compliance, variances, appeals, interpretations, and applications.
 - b. Determine that all building permit applications and their constituent plans, certificate of occupancy applications, sign permit applications and their constituent plans, and site plans comply with all the provisions of this Article.
 - c. Make interpretations regarding the provisions of this Article.
 - d. Receive, file, and forward (to the appropriate person, committee or agency) all applications for any permit or procedure provided for in this Article.
 - e. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Article.
 - f. Issue Permits per the regulations of this Article.

- g. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Article to the owner, resident, agent, or occupant of the premises.
 - h. Be permitted access to premises and structures during reasonable hours to make those inspections as deemed necessary by them to ensure compliance with this Article. If, however, they are refused entry after presentation of their identification, they may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin Statutes.
 - i. Prohibit the use or erection of any structure, land or water until they has inspected and approved such use or erection.
 - j. Institute, in the name of the City of Oak Creek, any appropriate action or proceeding against a Article violator, as provided by law.
 - k. Request Assistance and cooperation from the City Police Department and City Attorney as deemed necessary.
 - l. Attend all meetings of the City Plan Commission and the City Board of Housing and Zoning Appeals.
- (b) **Zoning Administrator.** The Zoning Administrator, or their designee, shall be responsible for the administration of the City of Oak Creek’s floodplain ordinance.
- (c) **Building Commissioner.** The Building Commissioner, or a designee, shall be responsible for the actions detailed in Section 15.01 of the Municipal Code.
- (d) **Board of Housing and Zoning Appeals.**
- (1) **Responsibility.** The Board of Housing and Zoning Appeals, as described in Section 2.64 and 2.69 of the Municipal Code, shall be responsible for varying the standards of this Zoning Ordinance, when all necessary standards are met, and shall review and decide appeals of administrative actions taken under this Zoning Ordinance.
 - (2) **Organization.** The Board of Housing and Zoning Appeals shall organize and adopt rules of procedure for its own governance in accordance with the provisions of Section 2.64 and 2.69 of the Municipal Code of the City of Oak Creek and this Article.
 - a. Meetings shall be held at the call of the chairman and shall be open to the public.
 - b. Minutes of the proceedings and a record of all actions shall be kept by the secretary, or other designated person, showing the vote of each member upon each question, the reasons for the Board’s determination, and its finding of facts. These records shall be filed in the office of the City Clerk and shall be a public record.

- c. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official; grant a variance; or make an interpretation.

(3) **Duties.** The duty of the Board of Housing and Zoning Appeals shall be to:

- a. Review and take final action to approve, approve with conditions, or deny variance applications as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Article shall be observed and the public safety and welfare secured and substantial justice done. Use variances shall not be granted.
- b. Hear appeals of administrative decisions and take final action to uphold or overturn the administrative official's decision for all matters where appeal powers have not been specifically assigned to the Plan Commission or Common Council.
 - 1. In exercising its powers, the Board of Housing and Zoning Appeals may, in conformance with the provisions of this Zoning Ordinance reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determinations as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken.
 - 2. In considering all appeals from rulings made under this Zoning Ordinance, the Board of Housing and Zoning Appeals shall, in making its findings on any specific case, consider any applicable plans and policies of the City, including the Comprehensive Plan, and determine the effect of the proposed change upon adjacent property, the congestion of the public streets, the public safety from fire and other hazards, and any other factors relating to the public health, safety, comfort, morals, and general welfare of the people of the City.
 - 3. Every ruling made upon any appeal to the Board of Housing and Zoning Appeals shall be accompanied by a written finding of fact based upon the testimony received at the hearing afforded by the Board and shall specify the reason for granting or denying the appeal.
- c. Request assistance from other city officials, departments, commissions, and boards.
- d. Administer oaths and compel the attendance of witnesses by the Chairman or Vice Chairman only.

(4) **Appeals of Board of Housing and Zoning Appeals Determinations.** Determinations by the Board of Housing and Zoning Appeals may only be appealed to the Milwaukee County Circuit Court.

(e) **Plan Commission.**

- (1) **Responsibility.** The Plan Commission, as described in Section 2.63 of the Municipal Code, shall be responsible for reviewing and making recommendations to the Common Council on all requests for conditional use permits, planned unit developments, conditional use permit amendments, planned unit development amendments, rezonings, zoning text amendments, Official Map of the City of Oak

Creek amendments, certified survey maps, minor land divisions, affidavits of correction, final subdivision plats, comprehensive plan amendments, and street or right-of-way vacations.

(2) **Duties.** The duty of the Plan Commission shall be to:

- a. Make and adopt a comprehensive plan for the physical development of the City. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the commission's recommendations for such physical development. The Plan Commission may from time to time amend, extend, or add to the comprehensive plan or carry any part or subject matter into greater detail.
- b. Make reports and recommendations related to the planning and development of the City to public officials, agencies, public utility companies, civic, educational, professional and other organizations, and citizens.
- c. Review the Official Map of the City of Oak Creek and Zoning Map amendment requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
- d. Review text amendment requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
- e. Review conditional use permit requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
- f. Review land subdivision requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
- g. Review planned unit development requests and to recommend the approval, approval with conditions, or denial of the request to the Common Council.
- h. Review and approval of processes as detailed in Section 62.23 of Wisconsin State Statute, including but not limited to review of the location and architectural design of any public building, the location of statues or other memorials, the location acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisitions, of land for or lease of land for any street, alley, or other public way, park, playground, airport, area for parking vehicles, or other memorial or public grounds.

(f) **Common Council.**

(1) **Responsibility.** The Common Council, as described in Section 2.20 of the Municipal Code, shall be responsible for final action regarding the text of this Zoning Ordinance and the Official Zoning Map.

(2) **Duties.** The duty of the Common Council shall be to:

- a. Review Plan Commission recommendations on Official Map of the City of Oak Creek and Zoning Map amendment requests and to take final action to approve or deny the request.

- b. Review Plan Commission recommendations on text amendment requests and to take final action to approve or deny the request.
- c. Review Plan Commission recommendations on conditional use permit requests and to take final action to approve, approve with conditions, or deny the request.
- d. Review Plan Commission recommendations on land subdivision requests and to take final action to approve, approve with conditions, or deny the request.
- e. Review Plan Commission recommendations on planned unit development requests and to take final action to approve, approve with conditions, or deny the request.

Sec. 17.0802. General Application Provisions

- (a) **Who has Authority to File Applications.** An application for Administrative Review or Legislative Review under this Zoning Ordinance must be filed by the person having legal authority to take action in accordance with the approval sought. Unless otherwise expressly stated, that person is presumed to be the record owner, purchaser under contract from the record owner with signature from that owner, or the duly authorized agent of the record owner in the absence of satisfactory proof to the contrary. City officials are authorized to require proof of legal authority to take the action sought. The City may initiate action under this Zoning Ordinance with or without an application from the property owner.
- (b) **Where to File Applications.** Applications for Administrative Review or Legislative Review shall be submitted to the Community Development Director or their designee.
- (c) **How to File Applications.** Applications for Administrative Review or Legislative Review must be submitted on forms and in such numbers as required by the Community Development Director or their designee.
- (d) **Application Fees.** Applications must be accompanied by the nonrefundable fee established by the Common Council in Section 3.40 of the Municipal Code or by resolution. Fees may be waived or modified by actions of the Common Council only, requests for which shall be submitted by the applicant in writing to the Community Development Director or their designee.
- (e) **Incomplete Applications.** Applications that do not include required information, or that are not accompanied by required fees, will be returned to the applicant as incomplete, and no further processing of the application will occur until the deficiencies are corrected. If the Community Development Director or their designee determines it is complete, the application will be processed. If the Community Development Director or their designee determines that the application is incomplete, the application will be returned to the applicant along with an explanation of the application's deficiencies.
- (f) **Application Processing Cycles.** Officials responsible for accepting applications, after consulting with review and decision-making bodies, may provide processing cycles for applications. Processing cycles may establish:

- (1) Deadlines for receipt of complete applications.
 - (2) Dates of regular meetings.
 - (3) The scheduling of staff reviews and staff reports on complete applications.
 - (4) All required steps in the application process (including public hearings, and reviews by other agencies).
 - (5) Required timeframes for action by review and decision-making bodies.
- (g) **Application Reconsideration.** Applications recommended for denial by the Plan Commission or denied by the Plan Commission and Common Council shall not be resubmitted for a period of six (6) months unless substantially altered as determined by the Community Development Director or their designee.
- (h) **Successive Applications.** Applications denied by the Common Council shall not be resubmitted for a period of twelve (12) months unless substantially altered as determined by the Community Development Director or their designee.

Sec. 17.0803. Administrative Review and Approval

(a) **Administrative Authority.**

- (1) The Community Development Director or their designee or the Building Commissioner shall have the authority to receive applications and make determinations for the following Administrative Review procedures:
 - a. Letter of Interpretation
 - b. Administrative Adjustment
 - c. Certificate of Zoning Compliance
 - d. Building Permit
 - e. Certificate of Occupancy
 - f. Permanent Sign Permit
 - g. Temporary Sign Permit
 - h. Temporary Use Permit

(2) The following table summarizes the Administrative Review procedures and lists the appropriate body for appeals of administrative determinations or decisions.

Table 17.0803(a)(2) Summary of Administrative Review Procedures

Procedure	Section	Community Development Director	Building Commissioner	Board of Housing and Zoning Appeals	Plan Commission
<i>Letter of Interpretation</i>	17.0803(b)	•		◆	
<i>Administrative Adjustment</i>	17.0803(c)	•		◆	
<i>Certificate of Zoning Compliance</i>	17.0803(d)	•		◆	
<i>Building Permit</i>	17.0803(e)		•		
<i>Certificate of Occupancy</i>	17.0803(f)		•		
<i>Permanent Sign Permit</i>	17.0803(g)		•		◆
<i>Temporary Sign Permit</i>	17.0803(h)	•			◆
<i>Temporary Use Permit</i>	17.0803(i)	•			◆
• = Review and Final Determination					
◆ = Appeal Body					

(b) **Letter of Interpretation.**

- (1) **Applicability.** A letter of interpretation, upon request, may be issued by the Community Development Director or their designee for an official interpretation of the language of this Ordinance.
- (2) **Application.** An application for a letter of interpretation shall include the following:
 - a. Identification of the part of the text of this Ordinance for which the interpretation is requested and the specific questions the applicant has regarding said text.
 - b. If the requested interpretation relates to the application of this Ordinance to a specific property, the additional following information shall be required:
 1. A map of the generalized location of the subject property in related to the City as a whole.
 2. A map of the subject property (at a minimum scale of one (1) inch equals eighty (80) feet) showing all lands for which the interpretation is requested and all other lands within two hundred (200) feet of the boundaries of the subject property, together with the names and addresses of the owners of all lands on the map as the names appear on the current records of the Register of Deeds. The map shall clearly indicate the current zoning of the subject property and its environs and the jurisdiction(s) which maintain that control. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
 3. A written description if the reason for the requested interpretation and how the proposed interpretation relates to the type of activities, buildings, and structures currently located on, and proposed for, the subject property.
 - c. If the requested interpretation relates to determination of a use not listed in Table 17.03.04(b) or Table 17.0304(c) being substantially similar to a use listed Table 17.03.04(b) or Table 17.0304(c), the additional following information shall be required:
 1. A narrative description of the use not listed including a definition of the use, hours of operation, external impacts and/or outdoor activity, and any other relevant information requested by the Community Development Director or their designee.
 2. A narrative comparison of the use not listed and the substantially similar use.
 3. A narrative description of the applicability of use specific standards required for the substantially similar use.

(c) **Administrative Adjustment.**

- (1) **Applicability.** Administrative adjustments, upon request, may be granted by the Community Development Director or their designee for minor departures from the regulations of this Zoning Ordinance, which would result in no discernable affects on other properties and improvements in the vicinity of the subject property. Administrative adjustments may include the following and shall

only be granted to the minimum extent necessary, in order to closely maintain the intention of the standard:

- a. Up to a ten (10) percent reduction in one (1) of the required yard setbacks established by this Zoning Ordinance, where the adjustment is the only adjustment required for the structure.
 - b. A reduction of the applicable off-street parking or bicycle parking requirements by not more than one (1) space.
 - c. An increase of the maximum building height by not more than five (5) percent beyond the limitations of the applicable regulations.
- (2) **Exception for Wheelchair Ramps.** The Community Development Director or their designee may authorize an administrative adjustment for any required yard setback for wheelchair ramps accessory to residential uses.
- (3) **Application.** An application for an administrative adjustment shall include a brief description of the requirement to be varied and any other material deemed necessary by the Community Development Director or their designee to ensure the Administrative Adjustment Review Criteria are met.
- (4) **Administrative Adjustment Review Criteria.** To approve an application for an administrative adjustment, the Community Development Director or their designee shall make an affirmative finding that the following criteria are met:
- a. That granting the administrative adjustment will ensure the same general level of land use compatibility as the otherwise applicable standards.
 - b. That granting the administrative adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks, and other land use considerations.
 - c. That granting the administrative adjustment will be generally consistent with the purposes and intent of this Zoning Ordinance.
 - d. That the administrative adjustment granted is the minimum amount necessary for the application.
- (5) **Review and Action.** The Community Development Director or their designee shall review the application and approve, approve with conditions, or deny the application based upon the review criteria. A written decision including the findings on the review criteria shall be rendered to the applicant.
- (6) **Appeals.** Appeal of an administrative adjustment denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals.

(7) **Expiration of Approval.** The applicant shall have twelve (12) months from the date of the approval of the administrative adjustment to secure any necessary permits to carry out the proposed improvements. If such permits have not been obtained within twelve (12) months of the date of approval, the approval shall expire.

(d) **Certificate of Zoning Compliance.**

(1) **Applicability.** Whenever any existing building is occupied by a new use; before any accessory structure is erected, constructed, or placed; or before a building permit or certificate of occupancy is issued, a certificate of zoning compliance shall be required by the Community Development Director or their designee, to certify compliance with all applicable provisions of this Zoning Ordinance. Certificates of zoning compliance may also be requested when a change of use or new construction has not occurred.

(2) **Application.** When a certificate of zoning compliance is required, such application shall be submitted on a form established by the Community Development Director or their designee.

(3) **Certificate of Zoning Compliance Review Criteria.** To approve a certificate of zoning compliance, the Community Development Director or their designee shall make an affirmative finding that all applicable requirements of this Zoning Ordinance have been met.

(4) **Review and Action.** The Community Development Director or their designee shall review the application and approve, approve with conditions, or deny the application based upon the review criteria. A written decision including the findings on the review criteria shall be rendered to the applicant.

(5) **Appeals.** Appeal of a certificate of zoning compliance denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals.

(6) **Expiration of Approval.** The applicant shall have twelve (12) months from the date of the approval of the certificate of zoning compliance to secure any necessary permits to carry out the proposed improvements. If such permits have not been obtained within twelve (12) months of the date of approval, the approval shall expire.

(e) **Building Permit.** Building permits shall be required and issued pursuant to **Section 15.12** of the City of Oak Creek Municipal Code.

(f) **Certificate of Occupancy.** Certificates of Occupancy shall be required and issued pursuant to **Section 15.12** of the City of Oak Creek Municipal Code.

(g) **Permanent Sign Permit.**

(1) **Applicability.** A permanent sign permit shall be required prior to the display, construction, erection, or alteration of a permanent sign, and its structural components, on any property. All permanent signs must comply with Article 17.06 of this Zoning Ordinance, and the applicable sections of the building code as adopted by the City. All electrical installations associated with the erection and installation of a sign must be performed by an electrical contractor licensed by the City.

- (2) **Application.** Applications for a permanent sign permit shall be made on forms provided by the Community Development Director or their designee and shall contain at least the following information:
- a. Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
 - b. Name of person, firm, corporation, or association erecting the sign.
 - c. Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
 - d. A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment. Said drawing shall be drawn at a scale no smaller than one-eighth (1/8) inch equals one (1) foot and shall be prepared, signed and sealed by a registered professional engineer when required by the Community Development Director or their designee.
 - e. A scale drawing indicating the location and position of such sign in relation to nearby buildings or structures. Said drawing shall be at a scale no smaller than one (1) inch equals fifty (50) feet.
 - f. Copies of any other permits required.
 - g. In the case of an electrical sign, the name and address of the electrical contractor.
 - h. Signs requiring state approval shall provide a copy of such approval with the sign permit application.
 - i. Additional information as may be required by the Community Development Director or their designee or Plan Commission.
- (3) **Permanent Sign Permit Review Criteria.** To approve an application for permanent sign permit, the Community Development Director or their designee shall make an affirmative finding that all requirements of Article 17.06, the Building Code, and all other City ordinances are met.
- (4) **Review and Action by Building Commissioner.** The Community Development Director or their designee shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Building Commissioner shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Board of Housing and Zoning Appeals.
- (5) **Expiration and Lapse of Approval.** A sign permit shall become null and void, if work authorized under the permit has not been completed within six (6) months of the date of issuance.
- (6) **Appeals.** Appeals of permanent sign permits denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals within thirty (30) days of the date the interpretation was rendered, in accordance with the procedures in Section 17.0804(h).

(h) **Temporary Sign Permit.**

- (1) **Applicability.** A temporary sign permit shall be required prior to the display or erection of a temporary sign, and its structural components, on any property. All temporary signs must comply with Article 17.06 of this Zoning Ordinance, and the applicable sections of the building code as adopted by the City.
- (2) **Application.** Applications for temporary sign permits shall be submitted to the Community Development Director or their designee at least ten (10) days prior to the proposed start date of the temporary sign display duration period and shall be made on forms provided by the Community Development Director or their designee and shall contain at least the following information:
 - a. Name, address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
 - b. Name of person, firm, corporation, or association erecting the sign.
 - c. Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
 - d. The start and end date of the temporary sign display duration period.
 - e. Additional information as may be required by the Community Development Director or their designee.
- (3) **Temporary Sign Permit Review Criteria.** To approve an application for temporary sign permit, the Community Development Director or their designee shall make an affirmative finding that all requirements of Article 17.06 are met.
- (4) **Review and Action by Community Development Director or their designee.** The Community Development Director or their designee shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Community Development Director or their designee shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Board of Housing and Zoning Appeals.
- (5) **Appeals.** Appeals of temporary sign permits denied by the Community Development Director or their designee shall be taken to the Board of Housing and Zoning Appeals within thirty (30) days of the date the interpretation was rendered, in accordance with the procedures in Section 17.0804(h).
- (6) **Temporary Sign Removal.** Temporary signs and any structural components shall be removed upon the expiration of the display duration period.

(i) **Short-Term Temporary Use Permit.**

- (1) **Applicability.** A short-term temporary use permit shall be required prior to the commencement of a temporary use identified in 17.0304(b) and 17.0304(c) lasting equal to or fewer than fourteen (14) days.

- (2) **Application.** An application for a short-term temporary use permit shall be submitted to the Community Development Director or their designee at least ten (10) days prior to the proposed start date of the temporary use and include the following information:
- a. Name, address, and contact information, of the applicant.
 - b. Location of the proposed short-term temporary use.
 - c. A written description of the proposed short-term temporary use or event, the duration of the use or event, the hours of operations, anticipated attendance, and any buildings, structures, signs or attention-attracting devices used in conjunction with the event.
 - d. Proof of compliance with all applicable use specific standards as established in Article 17.04.
 - e. A response to each of the criteria established in the Short-Term Temporary Use Approval Criteria below.
 - f. A sketch plan showing the location of proposed structures (including on-site restrooms and trash receptacles), parking areas, activities, signs, and attention attracting devices in relation to existing buildings, parking areas, streets, and property lines.
 - g. Written confirmation from the property owner agreeing to the short-term temporary use.
 - h. Any additional information deemed necessary by the Community Development Director or their designee.
- (3) **Short-Term Temporary Use Permit Approval Criteria.** To approve an application for a short-term temporary use, the Community Development Director or their designee shall make an affirmative finding that the following criteria are met:
- a. **Land Use Compatibility.** The temporary use must be compatible with the purpose and intent of this Zoning Ordinance and the zoning district in which it will be located. The temporary use shall not impair the normal, safe, and effective operation of a permanent use on the same site. The temporary use shall not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.
 - b. **Compliance with Other Regulations.** A building permit or temporary certificate of occupancy may be required before any structure used in conjunction with the temporary use is constructed or modified. All structures and the site as a whole shall meet all applicable building code, zoning district, and fire code standards and shall be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site shall be returned to its previous condition (including the removal of all trash, debris, signage, attention attracting devices, or other evidence of the special event or use).

- c. **Hours of Operation and Duration.** The duration and hours of operation of the temporary use shall be consistent with the intent of the event or use, and compatible with the surrounding land uses. The duration and hours of operation shall be established by the Community Development Director or their designee at the time of approval of the temporary use permit. However, in no instance shall the duration of a temporary use exceed fourteen (14) days. Temporary use permits for longer periods may be issued by the Plan Commission in accordance with the provisions established in Section 17.0804(c).
- d. **Traffic Circulation.** The temporary use, as determined by the City Engineer, shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
- e. **Off-Street Parking.** Adequate off-street parking shall be provided for the temporary use, as determined by the Community Development Director or their designee, and it shall not create a parking shortage for any of the other existing uses on the site.
- f. **Public Conveniences and Litter Control.** Adequate on-site restroom facilities may be required. Adequate on-site solid waste containers may also be required. The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City.
- g. **Appearance and Nuisances.** The temporary use shall be compatible in intensity, appearance, and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment, or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- h. **Signs and Attention-Attracting Devices.** The Community Development Director or their designee shall review all signage in conjunction with the issuance of the permit, although a Sign Permit is not required. The Community Development Director or their designee may approve the temporary use of attention-attracting devices. The number and types of signs and attention-attracting devices allowed shall be evaluated on the following criteria:
 - 1. Type and size of the proposed event or use.
 - 2. Safety considerations (sight distance setbacks, sidewalks in area, etc.).
 - 3. Lighting considerations (disturbance of nearby residents or adverse effects to traffic on adjacent streets).
 - 4. Aesthetic concerns (appearance, illumination, number, and size of signs and attention-getting devices proposed).
- i. **Other Conditions.** The Community Development Director or their designee may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for

screening/buffering, and guarantees for site restoration and cleanup following the temporary use. Conditions may include, but shall not be limited to:

1. Modifications or restrictions to the hours of operation, duration of the event, size of the activity or other operational characteristics.
2. The posting of a performance bond to help ensure that the operation of the event or use and the subsequent restoration of the site are conducted according to required stipulations.
3. If the permit applicant requests the City to provide extraordinary services or equipment or if the Community Development Director or their designee otherwise determines that extraordinary services (e.g., traffic control or security personnel) or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the City a fee sufficient to reimburse the City for the costs of these services if not provided by the applicant. This requirement shall not apply if the event or use has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.
4. Obtaining liability and personal injury insurance in such form and amount as the Community Development Director or their designee finds necessary to protect the safety and general welfare of the community.

(4) **Review and Action by the Community Development Director or their designee.** The Community Development Director or their designee shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Community Development Director or their designee shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Plan Commission.

(5) **Appeals.** Appeals of short-term temporary use permits denied by the Community Development Director or their designee shall be taken to the Plan Commission within thirty (30) days of the date the interpretation was rendered, in accordance with the procedures in Section 17.0804(h).

Sec. 17.0804. Legislative Review and Approval

(a) Authority to Receive Legislative Requests.

- (1) The Community Development Director or their designee shall have the authority to receive applications for the following legislative requests to City boards, commissions, or councils including but not limited to:
 - a. Long-Term Temporary Use Permit
 - b. Variance
 - c. Conditional Use Permit

- d. Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment
- e. Site Plan and Architectural Review
- f. Appeals
- g. Planned Unit Developments

(2) The following table summarizes the Legislative Review procedures and lists the appropriate body for appeals of legislative determinations or decisions.

Table 17.0804(a)(2) Summary of Legislative Review Procedures

Procedure	Section	Board of Housing and Zoning Appeals	Plan Commission	Common Council	Milwaukee County Court
Long-Term Temporary Use Permit	17.0804(c)		•	◆	
Variance	17.0804(d)	•			◆
Planned Unit Development	17.07		■	•	
Conditional Use Permit	17.0804(e)		■	•	
Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment	17.0804(f)		■	•	
Site Plan and Architectural Review	17.0804(g)	◆	•		
Appeals	17.0804(h)	•			
● = Decision Making Body					
■ = Recommending Body					
◆ = Appeal Body					

(b) **Notice Requirements.** Applications for legislative review and approval shall be noticed as required by Section ##.## of the Wisconsin State Statute and shall be mailed to all property owners within three hundred (300) feet of lands included in the application. The Alderperson of the impacted district may extend the notice boundary.

(c) **Long-Term Temporary Use Permit.**

(1) **Applicability.** A long-term temporary use permit shall be required prior to the commencement of a temporary use identified in 17.0304(b) and 17.0304(c) lasting more than fourteen (14) days.

(2) **Application.** An application for a long-term temporary use permit shall be submitted to the Community Development Director or their designee and include the following information:

- a. Name, address, and contact information, of the applicant.
- b. Location of the proposed long-term temporary use.
- c. A written description of the proposed long-term temporary use or event, the duration of the use or event, the hours of operations, anticipated attendance, and any buildings, structures, signs or attention-attracting devices used in conjunction with the event.
- d. Proof of compliance with all applicable use specific standards as established in Article 17.04.

- e. A response to each of the criteria established in the Long-Term Temporary Use Approval Criteria below.
- f. A sketch plan showing the location of proposed structures (including on-site restrooms and trash receptacles), parking areas, activities, signs, and attention attracting devices in relation to existing buildings, parking areas, streets, and property lines.
- g. Written confirmation from the property owner agreeing to the long-term temporary use.
- h. Any additional information deemed necessary by the Community Development Director or their designee.

(3) **Long-Term Temporary Use Permit Approval Criteria.** To approve an application for a long-term temporary use, the Plan Commission shall make an affirmative finding that the following criteria are met:

- a. **Land Use Compatibility.** The temporary use must be compatible with the purpose and intent of this Zoning Ordinance and the zoning district in which it will be located. The temporary use shall not impair the normal, safe, and effective operation of a permanent use on the same site. The temporary use shall not endanger or be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.
- b. **Compliance with Other Regulations.** A building permit or temporary certificate of occupancy may be required before any structure used in conjunction with the temporary use is constructed or modified. All structures and the site as a whole shall meet all applicable building code, zoning district, and fire code standards and shall be promptly removed upon the cessation of the use or event. Upon cessation of the event or use, the site shall be returned to its previous condition (including the removal of all trash, debris, signage, attention attracting devices, or other evidence of the special event or use).
- c. **Hours of Operation and Duration.** The duration and hours of operation of the temporary use shall be consistent with the intent of the event or use, and compatible with the surrounding land uses. The duration and hours of operation shall be established by the Community Development Director or their designee at the time of approval of the temporary use permit. However, in no instance shall the duration of a temporary use exceed fourteen (14) days. Temporary use permits for longer periods may be issued by the Plan Commission.
- d. **Traffic Circulation.** The temporary use, as determined by the City Engineer, shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
- e. **Off-Street Parking.** Adequate off-street parking shall be provided for the temporary use, as determined by the Community Development Director or their designee, and it shall not create a parking shortage for any of the other existing uses on the site.

- f. **Public Conveniences and Litter Control.** Adequate on-site restroom facilities may be required. Adequate on-site solid waste containers may also be required. The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City.
- g. **Appearance and Nuisances.** The temporary use shall be compatible in intensity, appearance, and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment, or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- h. **Signs and Attention-Attracting Devices.** The Community Development Director or their designee shall review all signage in conjunction with the issuance of the permit, although a Sign Permit is not required. The Community Development Director or their designee may approve the temporary use of attention-attracting devices. The number and types of signs and attention-attracting devices allowed shall be evaluated on the following criteria:
 - 1. Type and size of the proposed event or use.
 - 2. Safety considerations (sight distance setbacks, sidewalks in area, etc.).
 - 3. Lighting considerations (disturbance of nearby residents or adverse effects to traffic on adjacent streets).
 - 4. Aesthetic concerns (appearance, illumination, number, and size of signs and attention-getting devices proposed).
- i. **Other Conditions.** The Plan Commission may establish any additional conditions deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for site restoration and cleanup following the temporary use. Conditions may include, but shall not be limited to:
 - 1. Modifications or restrictions to the hours of operation, duration of the event, size of the activity or other operational characteristics.
 - 2. The posting of a performance bond to help ensure that the operation of the event or use and the subsequent restoration of the site are conducted according to required stipulations.
 - 3. If the permit applicant requests the City to provide extraordinary services or equipment or if the Plan Commission otherwise determines that extraordinary services (e.g., traffic control or security personnel) or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the City a fee sufficient to reimburse the City for the costs of these services if not provided by the applicant. This requirement shall not apply if the event or use has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

4. Obtaining liability and personal injury insurance in such form and amount as the Plan Commission finds necessary to protect the safety and general welfare of the community.

(4) **Review and Action by the Plan Commission.** The Plan Commission shall make a determination whether to approve, approve with conditions, or deny the permit. Any applicant denied a permit by the Plan Commission shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Common Council.

(5) **Appeals.** Appeals of long-term temporary use permits denied by the Plan Commission shall be taken to the Common Council within thirty (30) days of the date the interpretation was rendered.

(d) **Variance.**

(1) **Applicability.** The Board of Housing and Zoning Appeals is authorized to hear and grant appeals for variances as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Article shall be observed, and the public safety and welfare secured, and substantial justice done. Use variances shall not be granted.

(2) **Applications.** Variance applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Community Development Director or their designee. Variance applications may be submitted only after the issuance of a denial for a Building Permit or Letter of Denial by the Community Development Director or their designee. Such applications shall include the following and any other material deemed necessary by the Community Development Director or their designee to ensure the Variance Criteria are met.

- a. Name and address of the applicant.
- b. Plat of survey prepared by a registered land surveyor showing all of the information required under Section 17.0803 for a Building Permit when required by the Building Commissioner or a designee, Community Development Director or their designee or a sketch drawn to a recognized map scale may be submitted.
- c. Additional information required by the City Engineer, Board of Housing and Zoning Appeals, Community Development Director or their designee, Building Commissioner, or a designee.
- d. A filing fee, as set forth in Sec. 3.40 of the Municipal Code, shall be submitted with the application.

(3) **Notice to DNR.** The Board of Housing and Zoning Appeals shall transmit a copy of each application for a variance to regulations of the Floodplain or the Shoreland Wetland Conservancy Districts to the Wisconsin Department of Natural Resources (DNR) in accordance with Section 17.1050(c)(2)b.1. A copy of the final decision regarding variance applications related to conservancy district regulations or to floodplain district regulations shall be transmitted to the DNR in accordance with Section 17.1050(c)(2)c.2.

- (4) **Variance Review Criteria.** No variance to the provisions of this Article shall be granted by the Board of Housing and Zoning Appeals unless it finds by a preponderance of the evidence that all the following facts and conditions exist and so indicates such in the minutes of its proceedings. A negative finding of fact on any of the following criteria shall require a negative vote on the application as a whole.
- a. **Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
 - b. **Exceptional Circumstances.** There must be unique circumstances or conditions applying to the lot, parcel, or structure that do not apply generally to other properties of uses in the same zoning classification, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
 - c. **Economic Hardship and Self-Imposed Hardship not Grounds for Variance.** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - d. **Preservation of Property Rights.** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and same vicinity.
 - e. **Absence of Detriment.** No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Zoning Ordinance or the public interest.
 - f. **Additional Requirements in Floodplain Districts.** The criteria in Section 17.1050(c)(4) must be met.
- (5) **Review and Action by the Board of Housing and Zoning Appeals.** The Board of Housing and Zoning Appeals shall review major variance applications and any public comment received during the public hearing, as required by Section 17.0804(c), then act to approve, approve with conditions, or deny the request within thirty (30) days after the public hearing. The Board of Housing and Zoning Appeals shall transmit a signed copy of their decision to the applicant, Building Commissioner or designee, Community Development Director or their designee, and Plan Commission. The final decision regarding the major variance application related to floodplain district regulations shall be in accordance with Section 17.1050(c)(2)c.
- (6) **Appeals.** Appeal of a major variance denied by the Board of Housing and Zoning Appeals shall be taken to the County Court within thirty (30) days of the date the interpretation was rendered. The court shall not stay proceedings upon the decision appealed from, but may, on application, on notice to the Board of Housing and Zoning Appeals and on due cause shown, grant a restraining order. The Board of Housing and Zoning Appeals shall not be required to return the original papers acted upon

by it, but it shall be sufficient to return certified or sworn copies thereof. If necessary for the proper disposition of the matter, the court may take evidence, or appoint a referee to take evidence and report findings of fact and conclusions of law as it directs, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.

- (7) **Expiration of Approval.** Variances granted by the Board of Housing and Zoning Appeals, relating to the commencement of construction of a building or structure, shall expire within a period of time established by the Board of Housing and Zoning Appeals, but in no case shall such period exceed twelve (12) months unless a building permit has been issued pursuant to such variance. The variance shall remain valid only so long as the building permit shall remain valid. If the variance expires, it is null and void and the applicant must reapply for a variance.

(e) **Conditional Use Permit.**

- (1) **Applicability.** Uses designated under the various zoning districts herein as conditional uses are so classified because they may have site-specific impacts that require the discretionary review of the Common Council. The following procedure is established to integrate the conditional uses properly with other land uses located in the district. These uses shall be reviewed and authorized or denied according to the following procedure.
- (2) **Application.** Applications for conditional use permits shall be submitted to the Community Development Director or their designee and shall include, but not be limited to the following where pertinent and necessary for proper review by the Plan Commission.
- a. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
 - b. Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located.
 - c. Site plan including the information required by the Community Development Director or their designee.
 - d. Additional information as may be required by the Plan Commission, City Engineer, Building Commissioner, Plumbing Inspector, Electrical Inspector, or Fire Inspector.
- (3) **Conditional Use Permit Review Criteria.** A conditional use permit may be granted upon finding in the review of the application that all applicable use specific provisions per Article 17.04 of this Zoning Ordinance as well as the following criteria are met. A negative finding of fact on any of the following criteria shall require a negative vote on the application as a whole.
- a. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.

- b. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- c. Adequate utilities, access roads, drainage, parking supply, internal circulation improvements, including but not limited to vehicular, pedestrian, bicycle, and other necessary site improvements have been or are being provided.
- d. Measures have been or will be taken to provide adequate ingress and egress and designed to minimize traffic congestion and to ensure public safety and adequate traffic flow, both on-site and on the public streets.
- e. The conditional use conforms to all applicable regulations of the district in which it is located.

- (4) **First Review and Recommendation by the Plan Commission.** At the First Review and Recommendation meeting, the Plan Commission shall review the conditional use permit application against the review criteria and all other provisions of this Zoning Ordinance and recommend that the application be advanced to the Second Review and Recommendation meeting or be denied.
- (5) **Second Review and Recommendation by the Plan Commission.** At the Second Review and Recommendation meeting, the Plan Commission shall establish the conditions by which the conditional use permit shall be considered by the Common Council or recommend to the Common Council that the application be denied.
- (6) **Review and Action by the Common Council.** The Common Council shall hold a public hearing on each application giving public notice as required by this Article. The Council may subsequently approve, approve with conditions, or deny the issuance of the conditional use permit, or require the submittal of a modified application. The conditional use permit shall be granted or denied in writing.
- (7) **Conditions and Restrictions.** The City may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Plan Commission.
- (8) **Notice to DNR.** The Plan Commission shall transmit a copy of each application for a conservancy conditional use in the C-1 Shoreland Wetland Conservancy District to the Wisconsin Department of Natural Resources (DNR) by certified mail at least ten (10) days prior to the public hearing. Final action on the application by the Common Council shall not be taken for thirty (30) days from the date the DNR receives notice of public hearing by certified mail or until the DNR has made its recommendation, whichever comes first. A copy of all shoreland conservancy conditional use decisions shall be transmitted to the DNR within ten (10) days following the decision.
- (9) **Expiration of Approval.** The conditional use permit shall expire within no less than twelve (12) months of the date of issuance of the permit if no work has commenced. The issuance of the building permit shall constitute commencement of work. The conditional use permit shall remain valid only so long as the building permit shall remain valid. The time period to commence work and to complete the project shall be determined by the Plan Commission; and both, if not complied

with, shall warrant consideration for revocation of the conditional use permit in accordance with Section 17.0804(e) of this Article.

- (10) **Amendments.** Changes subsequent to the initial issuance of a conditional use permit which would substantially affect the conditions listed this Article shall require an amendment to the conditional use permit. The process for amending a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this Section.
- (11) **Revocation of Conditional Use Permit.** Should a conditional use permit applicant, their heirs or assigns, fail to comply with the conditions of the permit issued by the Community Development Director or their designee or should the use, or characteristics of the use be changed without prior approval by the Common Council, the conditional use permit may be revoked. The process for revoking a permit shall generally follow the same procedures as those required for granting a conditional use permit as set forth in this Section.
- (12) **Existing Conditional Uses.** All uses existing on the effective date of this Article which would be classified as conditional uses in the particular districts concerned, if they were to be established after the effective date of this Article, are hereby declared to be conforming conditional uses. Any proposed change or expansion, including signage and parking, of the existing operation shall be subject to the conditional use procedures and regulations in this section, as if such use were being newly established.

(f) **Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment.**

- (1) **Applicability.** The Common Council may, by Ordinance, change the district boundaries or amend, change, or supplement the regulations established by this Zoning Ordinance or amendments thereto. A text or map amendment may be initiated by the Common Council or Plan Commission or by an application of one or more of the owners, lessees, or contract purchasers of the property proposed to be changed.
- (2) **Applications.** Applications for any amendment to the district boundaries or to the text of this Zoning Ordinance shall be filed with the Community Development Director or their designee, and shall contain a legal description of the premises to be rezoned or the regulations to be amended. If the application is submitted by a contract purchaser, a copy of the offer to purchase shall be included with the application. The application shall list the reasons which justify the application, and specify the proposed use, or provide the proposed amended wording in the regulation.
- (3) **Zoning Text Amendment / Rezoning / Official Map of the City of Oak Creek Amendment Review Criteria.** The decision to amend the Zoning Text, Zoning Map, and/or Official Map of the City of Oak Creek is a matter of legislative discretion that is not controlled by any single review criterion. In making recommendations and decisions on Zoning Text Amendments / Rezoning / Official Map of the City of Oak Creek Amendments, the Plan Commission and Common Council must consider all relevant factors, including at minimum the following three (3) criteria:

- a. Whether the proposed amendment is consistent with the policy and intent of the Comprehensive Plan.
- b. Whether the proposed amendment corrects an error or inconsistency or is necessary to meet the challenge of a changed or changing condition.
- c. Whether the proposed amendment is deemed necessary and appropriate based on the policy and intent of City Plans, other than the Comprehensive Plan.

(4) **Review and Recommendation by the Plan Commission.** The Plan Commission shall review all proposed text and map amendments within the corporate limits and shall recommend to the Common Council that the legislative request be approved as requested, modified and approved, or denied.

(5) **Review and Action by the Common Council.** The Common Council shall hold a public hearing upon each application giving public notice thereof as specified in this Article, listing the time, place, and the changes of amendments proposed. The Common Council shall also give at least ten (10) days' prior written notice to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment. As soon as possible after such public hearing, and after careful consideration of the Plan Commission's recommendations, the Common Council shall act to either approve, modify and approve, or deny the application.

(6) **Protest.** In the event of a protest against a district change duly signed and acknowledged by the owners of twenty (20) percent or more either of the areas of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one-hundred (100) feet therefrom, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the Common Council membership present and voting on the proposed change.

(7) **Shoreland Wetland Amendments.**

- a. **Notice to DNR.** The City shall transmit a notice of any proposed change (text or map) in the C-1 Shoreland Wetland Conservancy District to the Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:
 - 1. A copy of every application for a text or map change shall be mailed within five (5) days of filing with the Director of Community Development.
 - 2. At least ten (10) days prior notice of any public hearing on a shoreland wetland zoning amendment shall be provided.
 - 3. Notice of a City Plan Commission recommendation no later than ten (10) days following the recommendation shall be provided.

4. Notice of a Common Council decision no later than ten (10) days following the decision shall be provided.
- b. **Review Standards.** No wetland in the C-1 district shall be rezoned if the rezoning may result in a significant adverse impact on storm or floodwater storage capacity; maintenance of dry season stream flow, the discharge of groundwater from the wetland to another area, or the flow of groundwater through a wetland; filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters; shoreline protection against soil erosion; fish spawning, breeding, nursery or feeding grounds; wildlife; habitat; or areas of special recreational, scenic or scientific interest, including scarce wetland types.
- c. **DNR Objections.** If the DNR has notified the City Plan Commission that an amendment to the C-1 District may have a significant adverse impact upon any of the criteria listed in Paragraph (b) above, that amendment, if approved by the Common Council, shall contain the following provision:
 1. “This amendment shall not take effect until more than thirty (30) days have elapsed since written notice of the Common Council’s approval of this amendment was mailed to the Department of Natural Resources.

During that thirty (30) day period, the Department of Natural Resources may notify the Common Council that it will adopt a superseding shoreland ordinance for the City pursuant to Section 62.231 of the Wisconsin Statutes. If the Department does so notify the Common Council, the effect of this amendment shall be stayed until the Section 62.231 adoption procedure is completed or otherwise terminated.”

(a) **Site Plan and Architectural Review.**

- (1) **Applicability.** For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure without first obtaining the approval of detailed site and architectural plans, as set forth in this section, prior to the issuance of a building permit. However, this process shall not be required for any single-family or two-family dwelling or in the A-1 Limited Agricultural District, the ER, Rs-1, Rs-2, Rs-3, Rs-4, and Rd-1 Residential Districts.
- (2) **Application.** When site plan and architectural review are required, such plans shall be submitted in a form established by the Community Development Director or their designee, along with a nonrefundable fee as set forth in Sec. 3.40 of the Municipal Code. The application shall contain the following information as well as all other information required by the Community Development Director or their designee to ensure compliance with the Site Plan and Architectural Review Criteria.
 - a. Plans shall be submitted as Adobe Acrobat compatible PDFs and CAD files on a USB jump drive. Security settings shall allow reviewers to mark-up digital documents, create notes, and to insert / remove sheets.

- b. Labels for the date, scale, north point, title, name of owner, and name of person preparing the plan.
 - c. A map layout showing the location of existing boundary lines and dimensions of the legal lot(s) or tract of land, any existing easements, and utility locations. An official survey prepared by a surveyor registered in the State of Wisconsin may be required by the Community Development Director or their designee for any application, as needed to satisfy this requirement.
 - d. The location, size, and setbacks from the property lines, of all existing and proposed structures, buildings, and land improvements.
 - e. A Building Elevation Plan, showing the height, façade design, and exterior building materials (including schedule of materials and percent of the elevation upon which material shall be used) and window specifications, for all proposed buildings.
 - f. A Parking Plan, showing the location and size of existing and proposed streets and alleys, sidewalks, parking and loading spaces, ADA compliant spaces, drive aisles, driveways, vehicular and pedestrian circulation, cross-access connections, fire lanes, bumpers, curbs, wheel stops, landscaping areas, and a detail of the surfacing materials.
 - g. A Landscaping Plan, as detailed in Section 17.0505.
 - h. A Grading Plan showing existing and proposed contours, drainage features, and stormwater management and green infrastructure features.
 - i. A Lighting Plan, showing the location, height, and direction of all outdoor lighting, lot boundary lines with foot-candle distribution, and light fixtures specifications.
 - j. The location, size, and type of proposed signs, if known.
- (3) **Site Plan and Architectural Review Criteria.** To implement and define criteria for the purposes set forth above, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.
- a. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades of surrounding properties and presents an attractive appearance to the public. Predominant exterior building materials must be of high quality. Acceptable exterior materials include split face concrete masonry, decorative block, 4-inch brick veneer, 4-inch stone veneer, cut stone panels, pre-cast concrete wall panels, and terra cotta. Proposals to use other materials, including cement fiber products or cultured stone shall require a three-fourths (3/4) majority of the Plan Commission. Materials such as smooth-faced concrete block, EIFS products (such as Dryvit) or pre-fabricated steel panels are not permitted as a primary exterior building material and shall only be allowed as an accent material comprising no more than 25 percent of the visible perimeter of the building. Material and color samples shall be submitted to the Plan Commission for

- review and approval. The Plan Commission has the discretion to adjust this minimum for building additions.
- b. The relative proportion of a building to its neighboring buildings or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
 - c. The visual continuity of roofs of neighboring buildings and their contributing elements (parapet walls, coping, and cornices) shall be maintained wherever possible in building development and redevelopment. A flat roof appearance is not permitted in commercial or office and professional business zoning districts. There must be some type of visible roof form (parapets, overhanging eaves, sloped roofs) incorporated into the design of the building.
 - d. Buildings shall be designed in such a manner that long expanses of blank wall are broken up by the use of windows, articulation or modulation of the building footprint and/or changes in building materials and colors. Visible building facades in excess of one-hundred (100) feet in length must incorporate recesses and projections along the length of the façade. Windows, awnings, and arcades must be an integral part of the façade abutting a public street. Sides of a building that are visible from adjoining residential properties and/or public streets should contribute to the pleasing scale features of the building by featuring characteristics similar to the front façade of the building. Each principal building shall have a clearly defined, highly visible customer entrance with features such as canopies or porticos, arcades, arches, wing walls, and integral planters.
 - e. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions of the City.
 - f. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. The Plan Commission may require that drainage easements be executed.
 - g. Each retail or service establishment in excess of twenty-five thousand (25,000) square feet gross floor area must contribute to the establishment or enhancement of community and public spaces by providing a community amenity on the premises such as a patio/seating area, water feature, clock tower, or pedestrian plaza with benches. Retail establishments in excess of one-hundred thousand (100,000) square feet gross floor area must provide at least two of these amenities.
 - h. Buildings and uses shall be provided with dumpsters and trash receptacles in a number and location appropriate for the use as determined by the Plan Commission.
 - i. Wetlands shall not be cleared, filled or drained if the development will result in significant adverse impacts to the functional values of the affected wetlands, significant adverse impacts to water quality or other environmental consequences. They shall be protected within an overall development plan for the property. In order to make this determination, the owner or developer of any property or properties that are involved with any of the following shall have

any wetland on the property, as outlined on the 1987 Final Wetland Inventory Map, identified, staked and legally described:

1. Rezoning
 2. Subdivision Plat
 3. Conditional Use
 4. Official Map Amendment
 5. Certified Survey Map
 6. Building Permit
- j. Tree preservation requirements included in Section 17.0505 shall be met.
- (4) **Review Criteria Modification.** The Plan Commission may modify any of the site plan review criteria by a three-fourths ($\frac{3}{4}$) majority vote of those Commissioners present at a meeting, but only if supplemental design elements or improvements are incorporated into the project which compensate for the modifications of the particular standard.
- (5) **Review and Approval by the Plan Commission.** The Plan Commission shall review and evaluate the request in light of the text of this Zoning Ordinance and any other relevant information. The Plan Commission shall impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule; as well as the approved protection of the identified wetlands and woodlands on the approved plan. The Plan Commission shall render an approval or approval with conditions in writing to the applicant, only when satisfied that the proposed project complies with all applicable provisions of this Zoning Ordinance and with all adopted plans and policy documents of the City. If the Plan Commission is not satisfied that the proposed project complies with all applicable provisions of this Zoning Ordinance and with all adopted plans and policy documents of the City, they shall render a denial to the applicant. The Plan Commission may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into compliance with this Zoning Ordinance and adopted plans and policy documents. Any notice of denial shall state the reason for denial.
- (6) **Appeals.** Any person or persons aggrieved by any decisions of the Plan Commission related to plan review may appeal the decision to the Board of Housing and Zoning Appeals. Such appeal shall be filed with the City Clerk within thirty (30) days after the decision of the Plan Commission.

(b) **Appeals.**

- (1) **Applicability.** The Board of Housing and Zoning Appeals is authorized to hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by any administrative official.

- (2) **Applications.** Appeals of the decision of any administrative official concerning the literal enforcement of this Article may be made by any person aggrieved or by any officer, department, or board of the City. Such appeals shall be filed with the City Clerk within thirty (30) days after receipt of written notice of the decision or order of any administrative official. Such appeals applications shall include the following:
- a. Name and address of the appellant and all abutting and opposite property owners of record.
 - b. Plat of survey prepared by a registered land surveyor showing all of the information required for a Building Permit when required by the Building Commissioner or a designee, Zoning Administrator or designee or a sketch drawn to a recognized map scale may be submitted.
 - c. Additional information required by the Plan Commission, City Engineer, Board of Housing and Zoning Appeals, Community Development Director or their designee, Building Commissioner, or a designee.
 - d. A filing fee, as set forth in Sec. 3.40 of the Municipal Code, shall be submitted with the application.
- (3) **Appeal Review Criteria.** An appeal of an administrative decision shall be sustained only if the Board of Housing and Zoning Appeals finds that the administrative official erred.
- (4) **Review and Action by Board of Housing and Zoning Appeals.**
- a. The Board of Housing and Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the public hearing, any party may appear in person or by agent or by attorney.
 - b. The Board of Housing and Zoning Appeals shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
 - c. In exercising the appeal power, the Board of Housing and Zoning Appeals shall have all the powers of the official from whom the appeal is taken, and the Board of Housing and Zoning Appeals may reverse or affirm wholly or partly or may modify the decision being appealed. The Board of Housing and Zoning Appeals' decision is final.
 - d. If the Board of Housing and Zoning Appeals determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.
- (5) **Effect of Appeal.** An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Housing and Zoning Appeals after the notice of appeal shall have been filed with them that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case,

proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Housing and Zoning Appeals or by a court of record on application and notice to the officer from whom the appeal is taken and on the cause shown.

Sec. 17.0805. Enforcement

- (a) **Types of Violations.** Violations of this Zoning Ordinance and of law will be subject to the remedies and penalties provided in this Zoning Ordinance, the City of Oak Creek Municipal Code, and state law. Violations of this Zoning Ordinance include but are not limited to:
- (1) **Work Without Required Permits or Approvals.** It is a violation of this Zoning Ordinance to engage in any development, use, construction, remodeling, or other activity of any nature without obtaining all the permits, approvals, certificates, and other forms of authorization required by this Zoning Ordinance.
 - (2) **Work Inconsistent with Permit.** It is a violation of this Zoning Ordinance to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required in order to engage in such activity.
 - (3) **Work Inconsistent with Conditions.** It is a violation of this Zoning Ordinance to violate, by act or omission, any term, condition, or qualification imposed by a decision-making body upon a required permit, certificate, or other form of authorization.
 - (4) **Work Inconsistent with Zoning Ordinance.** It is a violation of this Zoning Ordinance to erect, construct, reconstruct, remodel, alter, maintain, move, or use any building or structure or to use any land in violation or contravention of any zoning, subdivision, or other regulation of this Zoning Ordinance, or any amendment thereof.
 - (5) **Making Lots or Setbacks Nonconforming.** It is a violation of this Zoning Ordinance to reduce or diminish any lot area so that the setbacks or open spaces are smaller than prescribed by this Zoning Ordinance, except in accordance with the procedural and substantive requirements of this Zoning Ordinance.
 - (6) **Increasing Intensity of Use.** It is a violation of this Zoning Ordinance to increase the intensity of use of any land or structure, except in accordance with the procedural and substantive requirements of this Zoning Ordinance.
 - (7) **Continuing Violations.** It is a violation of this Zoning Ordinance to continue any of the violations specified in this Article. Each day that a violation continues shall be considered a separate offense.
- (b) **Responsibility for Violations.** Each person having an ownership interest in land shall be responsible for any violations of this Zoning Ordinance existing upon such land, regardless of whether such person created the violation.
- (c) **Remedies and Enforcement Powers.** The City shall have the following remedies and enforcement powers:
- (1) **Withhold Permits.**
 - a. The City may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of this

Zoning Ordinance or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City.

- b. Instead of withholding or denying an authorization, the City may grant a permit when the work to be completed includes correction of the violation.

(2) **Revoke Permits.** A permit may be revoked when the Community Development Director or their designee determines that:

- a. There is departure from the plans, specifications, or conditions as required under terms of the permit;
- b. The plans, specifications, or conditions were obtained by false representation or was issued by mistake; or
- c. Any of the provisions of this Zoning Ordinance are being violated.

(3) **Stop Work.** The City may stop work on any building or structure on any land on which there is an uncorrected violation of this Zoning Ordinance or of a permit or other form of authorization issued hereunder.

(4) **Revoke Plan or Other Approval.** When a violation of this Zoning Ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Common Council may, upon notice to the applicant and property owner(s) (including any holders of building permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security or such other conditions as the Common Council may reasonably impose.

(5) **Injunctive Relief.** The City may seek an injunction or other equitable relief to stop any violation of this Zoning Ordinance or of a permit, certificate or other form of authorization granted hereunder.

(6) **Abatement.** The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

(7) **Penalties.** The penalty for a violation of this Zoning Ordinance shall be governed by the penalty provisions of the City of Oak Creek Municipal Code.

(8) **Other Remedies.** The City shall have such other remedies as are and as may be from time to time provided by Wisconsin law and other City codes for the violation of Zoning Ordinance provisions.

- a. **Remedies Cumulative.** The remedies and enforcement powers established in this Zoning Ordinance are cumulative.

(d) **Enforcement Powers.**

(1) **Non-Emergency Matters.**

- a. In the case of violations of this Zoning Ordinance that do not constitute an emergency, the Community Development Director or their designee shall give notice of the nature of the violation to the property owner and to any other person who is party to the agreement and to any applicant for any relevant permit, after which the persons receiving notice shall have ten (10) days, or such longer period as the Community Development Director or their designee allows, to correct the violation.
 - b. If the violation is not corrected within the required timeframe, the Community Development Director or their designee and City Attorney shall use all penalties, remedies and enforcement powers available under this Zoning Ordinance.
 - c. Notice must be given in-person, by United States Mail, or by posting notice on the premises. Notices of violation must state the nature of the violation, the time period allowed for coming into compliance, the corrective steps necessary, the nature of subsequent penalties and enforcement actions should the situation not be corrected, and the appeal procedures for the Notice of Violation.
- (2) **Emergency Matters.** In the case of violations of this Zoning Ordinance that constitute an emergency, the City shall use all remedies, penalties and enforcement powers available under this Article without prior notice, but the Community Development Director or their designee must send notice simultaneously with beginning enforcement action to the property owner and to applicants for any relevant permit.
- (e) **Other Enforcement Matters.**
- (1) **Other Powers.** In addition to the enforcement powers specified in this Article, the City may exercise any and all enforcement powers granted to them by Wisconsin law.
 - (2) **Continuation.** Nothing in this Zoning Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.