



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PLANNING & DEVELOPMENT DEPARTMENT

DATE: OCTOBER 19, 2021

RE: ORDINANCE 2021- 21, 2ND READING, AN ORDINANCE REPEALING AND REENACTING TITLE 17, THE FRUITA LAND USE CODE, OF THE FRUITA MUNICIPAL CODE.

BACKGROUND

This is a request to repeal and reenact the Fruita Land Use Code, which is Title 17 of the Fruita Municipal Code. There are a number of minor changes which are meant to align with the Fruita In Motion: Plan Like a Local Comprehensive Plan which was adopted in early 2020. Once the Comprehensive Plan was adopted, Staff began the process of putting a team together to get the Land Use Code amended. The goals of the proposed amendments are to bring the Land Use Code in alignment with the Comprehensive Plan, provide greater clarity in language, standardize processes, and simplify for easier understanding by Staff, elected and appointed officials, and the community. Many of the major changes like parking, design standards, density bonuses and zoning were already amended and adopted in early 2021. Since early-2020 City Staff, Design Workshop, Planning Commission, City Council and a Land Use Focus Group have been working toward a final draft of the Fruita Land Use Code, which is proposed with this Staff Report.

Prior to the version presented with this Staff Report, Staff and Design Workshop presented the updates to the Planning Commission at their June 22nd meeting seeking feedback for moving forward. Additionally, Staff presented the updates to the City Council most recently at their July 6th meeting and their August 31st Workshop. The proposed amendments with this Staff Report have included the direction received after these meetings from both the Planning Commission and City Council.

The Fruita Planning Commission recommended approval to the City Council by a vote of 4-0 at their September 14, 2021, public hearing. The motion from the Planning Commission meeting read as follows:

I move to recommend approval of the proposed Land Use Code Amendments to repeal and reenact Title 17 of the Fruita Municipal Code to the Fruita City Council with the following suggested edits from the Planning Commission as amended.

- *Amend Table 17.04.020 to reflect Administrative Review for Minor Subdivision and Vacation of ROW by changing the table to reflect a “D” under staff and remove references to “R” or “D” under Planning Commission and City Council.)*
- *Delete 17.05.050, subsection D.5*

The Ordinance is reflective of the minor scrivener's errors that Staff and the Planning Commission have discovered, in addition to renumbering the Chapters to allow for any future additions to the Land Use Code.

FISCAL IMPACT

No fiscal impact is expected from this Land Use Code Amendment.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The main focus toward the Land Use Code changes come from the Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan) which contains numerous city goals and objectives. Because the Master Plan is a guiding document, many of the Land Use Code elements are intended to implement the guiding principles contained in the Master Plan with the objective to reach and meet the City's goals. Additionally, the City of Fruita focuses on three strategic outcomes built upon a base of providing core services. These are Quality of Place, Economic Health, and Lifestyle. Furthermore, one of the current City Council's goals is a commitment to review the Land Use Code to help ensure that the regulations reflect the best promotion of the public health, safety, and welfare and improve the fiscal sustainability of the community.

Plan Vision contained on page 25 of the Comprehensive Plan states, “Fruita is a distinct city within the Grand Valley. It is an efficiently laid-out community with small-town character situated among agricultural lands and a breathtaking desert landscape. It has a thriving downtown vibrant with businesses, residents, and civic gathering spaces. Surrounding the downtown are well-connected neighborhoods that provide a variety of housing sizes, types, and styles.”

Goals contained in Chapter 3; Land Use & Growth contained in the Comprehensive Plan:

Goal #1.

Remain a “freestanding” community within Mesa County, with distinct municipal borders and a clear separation from other communities in the Grand Valley.

Goal #2.

Prioritize infill development over development at the edge of the city limits.

Goal #3.

Build upon the success of Fruita's downtown as the social and civic hub of the community.

Work towards improving existing civic spaces, parks, and streetscapes to be inviting to residents and visitors of all ages; creating more local businesses, and expanding residential options within

the walkable, historic downtown area.

Goal #4.

Allow and encourage a diversity of housing types to fit the needs of the Fruita community and provide the diverse “funky” character that is treasured by residents.

Goal #5.

Encourage and support commercial uses in existing commercial areas.

Goal #6.

Revitalize the State Highway 6&50 Corridor as an important gateway to the community.

Goal #7.

Ensure that development is compatible with the natural landscape and hazard areas and limit the risks of hazards to people and property.

OPTIONS AVAILABLE TO COUNCIL

1. Adopt Ordinance 2021-21, A request to approve an Ordinance repealing and reenacting Title 17, the Fruita Land Use Code, of the Fruita Municipal Code as amended.
2. Direct Staff to research any concerns the City Council has with regards to the proposed Ordinance.
3. Denial of the proposed Ordinance.

RECOMMENDATION

Staff recommends that the City Council move to:

Adopt Ordinance 2021-21, A request to approve an Ordinance repealing and reenacting Title 17, the Fruita Land Use Code, of the Fruita Municipal Code as amended.

ORDINANCE NO. 2021-21

AN ORDINANCE REPEALING AND REENACTING TITLE 17, FRUITA LAND USE CODE, OF THE FRUITA MUNICIPAL CODE.

WHEREAS, pursuant to C.R.S. §31-15-103 and §31-15-104, and pursuant to the home rule powers of the City of Fruita (“City”), the City Council has the power to make and publish ordinances necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of its inhabitants; and

WHEREAS, the City Council approved Resolution 2020-09 on February 4, 2020, thereby adopting the City of Fruita Comprehensive Plan Fruita In Motion: Plan Like a Local 2020 (the “Comprehensive Plan”); and

WHEREAS, the Comprehensive Plan summarized those actions intended to implement the goals and policies found throughout the Comprehensive Plan; and

WHEREAS, amendments to Title 17 (the “Land Use Code) of the Fruita Municipal Code (the “Municipal Code”) are necessary to implement certain action items identified within the Comprehensive Plan; and

WHEREAS, the Land Use Code has been established for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community;

WHEREAS, City staff has proposed additional amendments to the Land Use Code for consideration; and

WHEREAS, the Planning Commission reviewed the amendments contained here in on September 14, 2021 and formalized their recommendation regarding those amendments with a vote of 4-0 of those members present recommending approval of the proposed amendments; and

WHEREAS, the ordinance was introduced at first reading on September 21, 2021 pursuant to Section 2.13(B) of the City Charter; and

WHEREAS, pursuant Section 2.13(C) of the City Charter and Section 17.01.130 of the Municipal Code, a notice of public hearing was published in the Grand Junction Sentinel on August 27, 2021 and a notice was posted a Fruita City Hall on August 27, 2021 for the City Council meeting on October 19, 2021 to consider City staff and Planning Commission recommendations and receive public comments; and

WHEREAS, the City Council finds that passage of Ordinance 2021-21 will promote the health, safety and general welfare of the Fruita community;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the requirement of Section 2.13(B) of the City Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence and that approval of this Ordinance on first reading does not constitute a representation that the

City Council, or any member of the City Council, has determined to take final action on this Ordinance prior to concluding the public hearing on second reading.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council.

Section 2. Repealed and Re-enacted. Title 17, Fruita Land Use Code, of the Fruita Municipal Code is hereby repealed and re-enacted to read as shown in Exhibit A.

Section 3. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 4. Effective Date. This Ordinance shall take effect thirty days after the date of final passage in accordance with Section 2.13(G) of the City Charter.

Section 5. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 7. **Codification of Amendments.** The codifier of the City’s Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Municipal Code. The City Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 8. **Publication.** The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F)(1) of the Fruita Municipal Code.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
19TH DAY OF OCTOBER 2021.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

Exhibit A

TITLE 17 LAND USE CODE

Chapter 17.01 **GENERAL PROVISIONS**

Sections:

17.01.010	Title
17.01.020	Purpose
17.01.030	Authority
17.01.040	Applicability
17.01.050	Administration
17.01.060	Consistency with the Comprehensive Plan
17.01.070	Relationship to Other State, Federal, and Local Provisions
17.01.080	General Rules of Interpretation
17.01.090	Severability

17.01.010 TITLE.

Title 17 of the Fruita Municipal Code shall be known and may be cited as the Fruita Land Use Code, as amended.

17.01.020 PURPOSE.

- A. The purpose of this Chapter of the Fruita Municipal Code is to promote and protect the health, safety, and welfare of the citizens of the City through the establishment and enforcement of comprehensive, efficient, clear and consistent standards, regulations, and procedures for the planning, evaluation, approval and implementation of land uses and development within the City of Fruita.
- B. This Title is adopted in accordance with the City of Fruita Comprehensive Plan and is designed to:
 - 1. Lessen congestion in streets, avoiding an excessive amount of streets, facilitating traffic circulation, and minimizing conflicts between vehicular, bicycle and pedestrian traffic;
 - 2. Secure safety from fire, flood and other dangers;
 - 3. Provide adequate light and air;
 - 4. Protect and enhance the city's tax base;
 - 5. Secure economy in governmental expenditures;
 - 6. Foster business and economic development;
 - 7. Protect both urban and non-urban development and conserving the value of property;
 - 8. Prevent the overcrowding of land and avoiding undue concentration of population;

9. Separate incompatible uses and densities so as to avoid negative impacts of uses on each other;
10. Provide for a variety of housing and neighborhood types and densities and a range of housing costs;
11. Facilitate adequate provision of transportation, water, wastewater, schools, parks, recreation and other public services and utilities;
12. Avoid the effects of public nuisances; such as, noxious odors, fumes, air pollution, visibility impairment, noise and potential hazards such as fire, explosion, irradiation, chemical and nuclear pollution;
13. Ensure that new growth and development does not result in an economic burden to existing residents and taxpayers;
14. Ensure that the negative impacts resulting from new development, both onsite and offsite, are appropriately mitigated; and
15. Ensure that adequate provisions are made for infrastructure and services to new development including, but not limited to the following:
 - a Water service
 - b Wastewater service
 - c Natural gas service
 - d Electric service
 - e Communications service
 - f Cable service
 - g Parks and recreation
 - h Open space
 - i Irrigation

17.01.030 AUTHORITY.

- A. The provisions of this Title were originally adopted and became effective on March 27, 1995, and have been amended over time. This amended Title was adopted on _____, 2021 and became effective on _____, 2021.
- B. This Title is intended to incorporate and implement, without limitation, all legal power and home rule authority vested in the City under Article XX of the Colorado Constitution, the Home Rule Charter of the City of Fruita, and all land use and zoning regulatory power statutorily delegated to local and municipal governments by the General Assembly through the Colorado Revised Statutes.
- C. Whenever any provision of this Title refers to or cites a section of the Colorado Statutes and that section is later amended or superseded, this Title shall be deemed amended to refer to the amended section or most closely corresponding superseded section.
- D. This Title shall be applicable within the boundaries of the city.
- E. In addition to other locations required by law, a copy of a map showing the boundaries of the city shall be available for public inspection in the Community Development

Department.

17.01.040 APPLICABILITY.

- A. Except as otherwise specifically provided, the provisions and requirements of this Land Use Code shall become effective on the effective date of adoption, and shall be applicable to all developments, subdivisions or uses of land commenced within the city after said date. Any ordinance amending this Title shall become effective thirty (30) days following publication, unless otherwise specified in said ordinance, and shall be applicable to all developments, subdivisions or other uses of land commenced within the city after said date.
- B. Unless specifically exempted from its terms, no development of land or land uses shall be undertaken without first having been reviewed and approved, consistent with the provisions of this Title.
- C. The use of property may not be substantially changed; substantial clearing, grading, or excavating may not be commenced; and buildings, fences, or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with the requirements of this Title.
- D. Physical improvements to land to be subdivided may not be commenced except in accordance with approval by the City Council or after the completion of all requirements as certified by the Community Development Director and City Engineer.
- E. This Title shall apply to the activities of all public and governmental entities, agencies and districts, whether federal, state, county, or municipal, to the extent permitted by law.
- F. Except as otherwise provided herein, the provisions and requirements of this Land Use Code shall be deemed minimum requirements and stricter provisions may be imposed when the Planning Commission or City Council find such provisions to be necessary to promote the purposes and provisions of this Title.
- G. Upon submittal of a land development application as provided in this Land Use Code, the applicant expressly accepts the time schedules for review as set forth herein and waives any right to any other time schedule for review.
- H. If any provision of this Land Use Code conflicts with other provisions of the Fruita Municipal Code, the provisions of this Title shall control and take precedence.
- I. The City Council may temporarily suspend the operation and applicability of any provision of this Title in accordance with the Home Rule Charter in the event of a natural or man-made disaster or catastrophe.

17.01.050 ADMINISTRATION.

- A. Except as otherwise specifically provided, primary responsibility for administering and enforcing this Title is maintained by the Community Development Director. The Community Development Director may assign responsibility for administering and enforcing this Title to one or more individuals.
- B. The Community Development Director shall serve as the administrative head of the Community Development Department. The Community Development Director, City

Manager, and Mayor are authorized to sign plats indicating approval for plat, as may be required in this Title.

17.01.060 RELATIONSHIP TO CITY COMPREHENSIVE PLAN.

It is the intention of the city that this Title implement the planning policies adopted by the City Council in the Fruita Comprehensive Plan, and other planning documents. While the City Council reaffirms its commitment that this Title and any amendments thereto be in general conformity with adopted plans and other planning studies, the City Council hereby expresses its intent that neither this Title nor any amendment thereto may be challenged on the basis of any alleged nonconformity with any planning document, unless otherwise provided by law.

17.01.070 RELATIONSHIP TO OTHER STATE, FEDERAL, AND LOCAL PROVISIONS

- A. The provisions of this Title are the same in substance as previously adopted provisions in the City's zoning, subdivision, or flood control ordinances, and shall be considered as continuations and new enactments thereof, unless otherwise specifically provided. For example, if a land use did not constitute a lawful nonconforming use under a previously-adopted zoning ordinance, such use does not achieve lawful nonconforming status under this Title merely by the repeal of the previous zoning ordinance.
- B. This Title is not intended to repeal, abrogate, annul or in any way impair or interfere with existing laws or ordinances when there is no conflict between them. This Title is not intended to repeal, abrogate, annul or in any way impair or interfere with restrictive covenants running with any land to which the city is a party. In situations where this Title imposes a greater restriction upon land, building, or structure than was imposed or required by existing provisions of law, ordinance, contract, or deed, the provisions of this Title shall supersede.

17.01.080 GENERAL RULES OF INTERPRETATION.

- A. Meaning and Intent.
 - 1. Except as otherwise provided in this Title, the words, terms and phrases used in the Title shall be construed according to the plain meaning of such words, terms and phrases in their common and approved usage, with a view to effect the objects and purposes of the ordinances and to promote justice.
 - 2. If words, terms or phrases are specially defined in a chapter or section of this Title, that special definition shall govern the construction of such words, terms or phrases.
 - 3. If technical words, terms or phrases used in this Title have acquired a peculiar and appropriate meaning in the law, such words, terms or phrases shall be construed to give effect to that peculiar and appropriate meaning.
- B. Grammatical Interpretation.
 - 1. Words used in the present tense include the future tense, whenever appropriate within the context.

2. Words used in the singular number include the plural. Words used in the plural include the singular, unless the context of the specific usage clearly indicated otherwise.
3. Words used in the masculine gender include the feminine gender, and words used in the feminine gender include the masculine gender.

C. Mandatory and Discretionary Terms.

1. The words “shall,” “must,” and “will” are mandatory, establishing a duty or obligation to comply with the specific provision.
2. The words “shall not,” “must not,” and “will not” are mandatory, establishing a prohibition against acting.
3. The words “may,” and “should” are permissive.

D. Conjunctions. Unless context clearly suggests otherwise, conjunctions shall be interpreted as follows:

1. “And” indicated that all connected terms, items, condition, provisions, or events apply.
2. “Or” indicated that one or more of the connected terms, items, conditions, provisions, or events apply.

E. Text Controls.

1. In the event of a conflict or inconsistency between the text of this Title and any illustration, figure, table, heading, caption, or map, the text shall control.
2. Unless otherwise specifically indicated, lists or items or examples that use terms such as “for example,” “including,” and “such as,” or similar language are indented to provide examples and are not an exhaustive list of all possibilities.

F. Computation of Time.

1. Unless otherwise specifically provided, the time within which an act is to be done shall be based on calendar days and shall be computed by excluding the first and including the last day.
2. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is delivered by mail, three (3) days shall be added to the prescribed period.

17.01.090 SEVERABILITY

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, or phrases of this Title are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Title, since the same would have been enacted without the incorporation into this Title of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

TITLE 17 LAND USE CODE

CHAPTER 17.03 **ZONING DISTRICTS**

17.03.010	Generally
17.03.020	Zone Districts Established
17.03.030	Official Zone District Map
17.03.040	Application of Zone District Regulations
17.03.050	Residential Zone Districts
17.03.060	Commercial and Mixed-Use Zone Districts
17.03.070	Industrial Zone Districts
17.03.080	Government Zone Districts
17.03.090	Overlay Zone Districts
17.03.100	Planned Unit Developments
17.03.110	Future Land Use Districts

17.03.010 GENERALLY. In order to ensure that all development is consistent with the goals and objectives of the Fruita Comprehensive Plan and this Chapter, it is necessary and proper to establish a series of Zone Districts to ensure that each permitted and conditional use is compatible with surrounding land uses, is served by adequate public facilities and is consistent with the natural environment and natural resources surrounding the city.

- A. Unless expressly exempted, all regulations in this Chapter is subject to provisions of other applicable city, county, or state laws and regulations, and where the provisions of this Chapter impose a greater restriction than required by other land use regulations, the provisions of this Title shall govern.
- B. In their application and interpretation, the provisions of this Chapter shall be considered minimum requirements. Nothing herein shall impair the obligations of or interfere with private agreements or covenants in excess of the minimum requirements. Where this Title imposes a greater restriction than that imposed by existing contract, covenant or deed, the provisions of this Title shall control.
- C. District graphics depicting basic dimensional requirements shall be used for reference only. Dimensions shall be measured as defined in text of this Title, including exceptions, development standards, and definitions for terms of measurement (height, setbacks, lot, etc.).

17.03.020 ZONE DISTRICTS ESTABLISHED. The City of Fruita is hereby divided into several zones.

- A. **Base Zone Districts.** Base zone districts are established initially by the adoption of the City's Official Zone District Map and subsequently approved through a rezoning (see Section 17.09.070). Such approval authorizes the full range of development allowed by the standards applicable to the base zone district.
 - a. Within certain base zone districts, there are illustrations to articulate the different

dimensional allowances. Illustrations are intended only to show general characteristics of the dimensional requirements in a zone district, and do not show specific requirements related to locations or buildings. If a standard shown in an illustration is inconsistent with the respective table of dimensional standards, the standards in the table shall govern.

- B. Overlay Zone Districts.** Overlay zone districts are established initially by the adoption of the City's Official Zone District Map and subsequently approved through a rezoning (see Section 17.09.070). These zones are superimposed over one or more underlying Base Zone Districts or Planned Unit Development Zone Districts.
- C. Planned Unit Development Districts.** Planned Unit Development (PUD) districts are established by the City's approval of a PUD rezoning (see Section 17.19). Development in a PUD district is subject to the standards included in or referenced in an approved PUD Plan.
- D. Future Land Use Districts.** Future Land Use Districts are intended for lands not currently within City limits, but will be used to coordinate planning activities with the County and for annexations.

17.03.030 OFFICIAL ZONE DISTRICT MAP. The location and boundaries of the zones established by this Chapter are shown on the "Official Zone District Map" of the City of Fruita. Said Official Zoning Map, together with all data shown thereon and all amendments thereto, is, by reference, hereby incorporated into this Chapter. Changes in zones shall be made according to the requirements of this Title.

- A. Zone District Boundaries.** Except where otherwise indicated, zoning boundaries shall follow municipal corporation limits, section lines, lot lines, centerlines of watercourses, and right- of-way centerlines or extensions thereof.
 - 1. In unsubdivided land or where a zoning boundary divides a lot or parcel, the location of such boundary, unless indicated by dimensions, shall be determined by scale of the Official Zoning Map.
 - 2. Where a zoning boundary coincides with a right-of-way line and said right-of-way is subsequently abandoned, the zoning boundary shall then follow the zoning of the property to which the vacated right-of-way is connected.
 - 3. Land not part of public rights-of- way and which is not indicated as being in any zoning boundary shall be considered to be included in the most restrictive abutting zone, even when such zone is separated from the land in question by a public right-of-way.
 - 4. When any parcel of land contains more than one Base Zone District, the more restrictive requirements shall apply.
- B. Boundary Clarifications.** When there is a discrepancy on the Map or the Map does not reflect recent changes, the Director shall determine the zone district boundary. Any appeal of the Directors determination of a zone district boundary shall be heard by the

City Council per Chapter 17.25.

17.03.040 APPLICATION OF ZONE DISTRICT REGULATIONS. Except as hereinafter provided, within the municipal boundaries of the City of Fruita:

- A. No building or structure shall be erected or placed and no existing building or structure shall be moved, removed, altered or extended, nor shall any land, building or structure be used for any purpose or in any manner other than as provided among the uses listed in Chapter 17.05 (Land Use/Zoning Table) and the zoning requirements and regulations for the zone in which such land, building or structure is located.
- B. No building or structure shall be erected or placed nor shall any existing building or structure be moved, removed, altered, replaced or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner except in conformity with the lot area, lot coverage, setback and height provisions set forth in the zone in which such land, building or structure is located.
- C. No lot area, frontage, yard or other open space or parking space provided around any building or structure for purposes of compliance with provisions of this Title shall be considered as providing lot area, frontage, yard or other open space for any other building or structure on the same lot or on any other lot.
- D. Wastewater Access
 - 1. Connection to the city's wastewater collection and treatment system is required for all single-family residential lots smaller than three (3) acres in size. Larger lots may be required for multi-family and non-residential developments that do not connect to the city's wastewater collection and treatment system. All uses with existing individual sewage disposal systems that require repair or replacement, or are part of a larger development plan and are within four hundred (400) feet of the existing city wastewater collection system, as measured to the closest property line, shall connect to the city system. All property to be annexed with existing land uses using individual sewage disposal systems must connect to the city wastewater collection system if they are within four hundred (400) feet or will be within four hundred (400) feet of a city wastewater collection system once the development to be annexed is completed. For developments without access to the city's sanitary sewer system (farther than four hundred [400] feet away), the minimum lot size is required to be no less than three (3) acres. Larger lots may be required for certain non-residential landuses. There may be no more than one (1) septic system on any single parcel.
- E. Schedule of Density/Height/Bulk/Location Requirements in Zones.
 - 1. Maximum or desired density may not be achievable on every lot or parcel, as the development must conform to applicable setbacks, coverage, parking, drainage, public improvements, landscaping and other code requirements.
 - 2. For the purpose of calculating density in the DMU, one-half of the land area of all adjoining rights-of-way may be included in the gross lot area. The area of the

right-of-way shall not be included to determine compliance with minimum lot area requirements, setbacks, or any other required measurement.

3. Standards containing a slash (x/y) indicate standards for primary buildings (x) and accessory buildings (y).
4. Accessory buildings can be up to the maximum height limit for the zone when located within the primary building setbacks.
5. Lot coverage requirements do not apply to townhouses or condominiums, which instead are determined through the subdivision process.
6. All lots shall have access from the street.
7. Structures, lots, and land uses lawfully established prior to the effective date of this Code may continue pursuant to Chapter 17.27.
8. The abbreviation “du” or “DU” refers to Dwelling Units per Acre.

17.03.050 RESIDENTIAL ZONE DISTRICTS.

Residential zone districts are established to provide for a variety of neighborhoods in a range of densities to accommodate the different character areas of the City. These are considered Base Zone Districts.

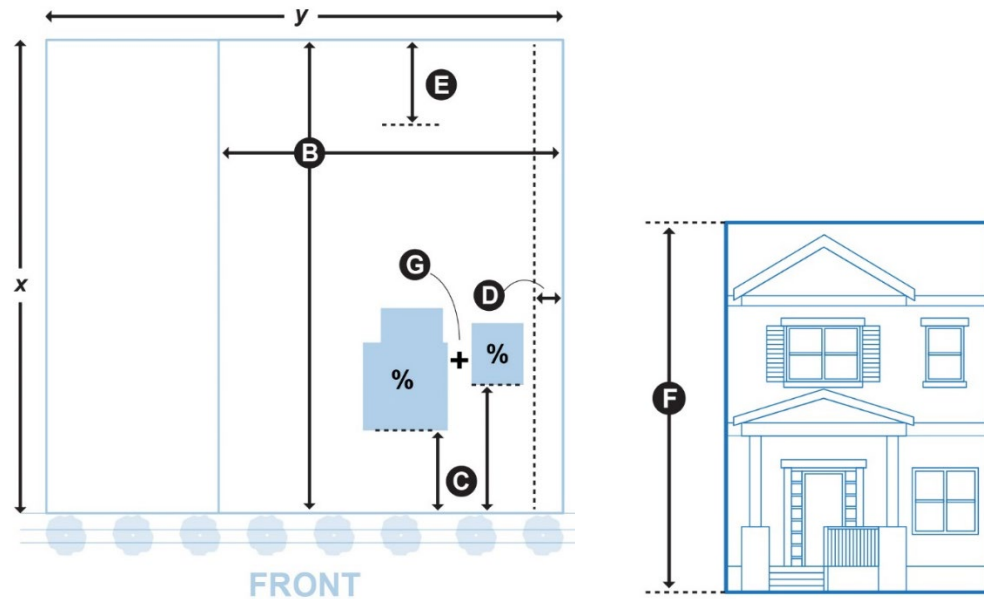
- A. Rural Estate (RE). The purpose of the RE zone is to allow low density residential uses compatible with rural areas. Areas in this zone district serve as a transition between open and resource lands and increased development in the City. Cluster developments are not encouraged in this zone district, and city sewer is not typically provided due to the low density nature of the development.
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Rural Estate (RE)	1 DU/3 acres	2 acres	30 feet	10 feet	30 feet	35 feet	20%

2. Illustrations

A 1 SF HOUSE ON 3 ACRES = 1 DU/3 AC
 $x * y = 3 \text{ AC}$



3. On properties that are used mainly for agricultural uses in the Rural Estate (RE) zone any structures used mainly for agricultural purposes (e.g., silos and barns) are exempt from the height limits for structures.

B. Community Residential (CR). The purpose of the CR zone is to allow for moderate density detached single-family residential neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g. apartments and townhouses). Innovative neighborhood design is encouraged in this zone district to provide opportunities for housing diversity. This area is served by public utility infrastructure and is appropriate for density of 4-8 du per acre.

1. Dimensional and Other Standards

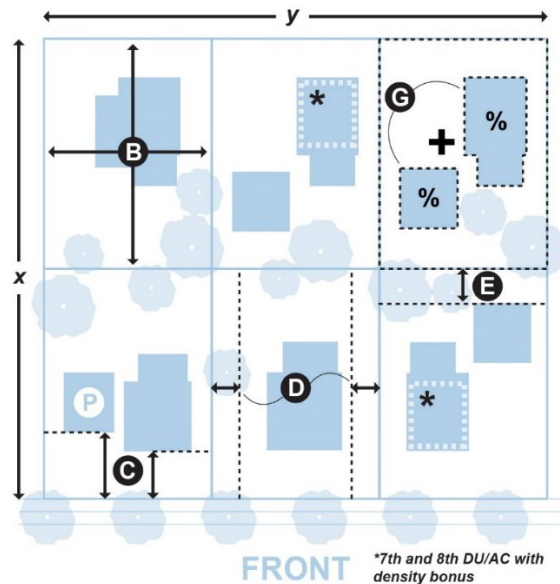
DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
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Community Residential (CR)	6 DU/acre by right 8 DU/acre thru Density Bonus	For properties with up to 6 DU/acre: 7,000 sq ft For properties with 7 to 8 DU/acre: 3,500 sq ft	15 feet for properties with alley loaded garages 25 feet for all facades with a garage opening facing the street 20 feet for elevations other than garage opening	16 feet total 5 feet for primary structures 3 feet for accessory structures except 0' where common wall or zero-lot line dev. Allowed	15 feet for primary structures 5 feet for accessory structures	35 feet for primary structures 16 feet for accessory structures	60%
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2. Illustrations

A 6 SF HOUSES ON 1 ACRE = 6 DU/AC
 $x * y = 1 \text{ AC}$



C. Large Lot Residential (LLR). The purpose of the LLR zone is to allow larger lot developments in the same areas as the CR zone and other areas as appropriate. Areas in this zone district are typically served by public utility infrastructure, and a density of 2-3 du per acre is appropriate.

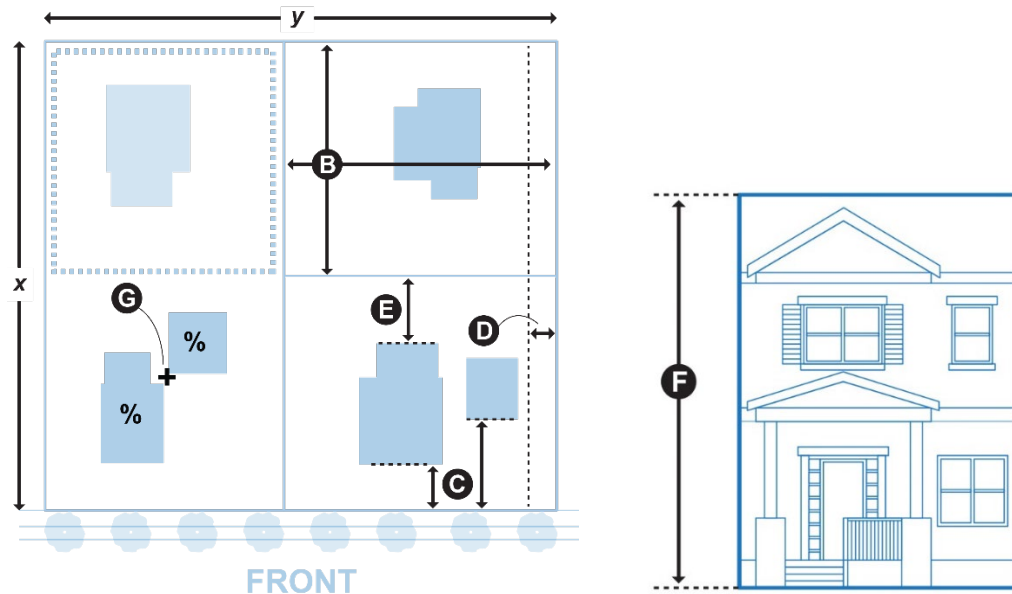
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Large Lot Residential (LLR)	3 DU/acre by right	10,000 sf	25 feet	10 feet for primary structures 5 feet for accessory structures	15 feet for primary structures 5 feet for accessory structures	35 feet for primary structures 16 feet for accessory structures	40%

2. Illustrations

A 3 SF HOUSE ON 1 ACRE = 3 DU/AC
 $x * y = 1 \text{ AC}$



- D. South Fruita Residential (SFR).** The purpose of the SFR zone is to allow a variety of low to moderate density residential areas compatible with existing low density development, the Colorado National Monument and the Colorado River. Due to its location near the Colorado River and in the 100-year flood plain, the area is most suitable to a density of 2-5 du per acre.

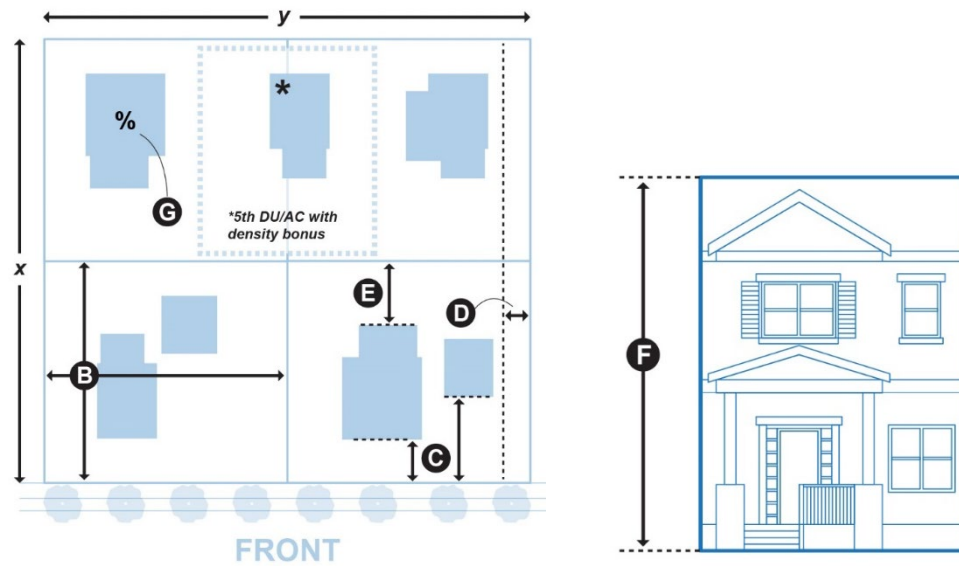
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
South Fruita Residential (SFR)	4 DU/acre by right 5 DU/acre thru Density Bonus	7,000 sf	25 feet	10 feet for primary structures 5 feet for accessory structures	15 feet for primary structures 5 feet for accessory structures	35 feet for primary structures 16 feet for accessory structures	50%

2. Illustrations

A 4 SF HOUSE ON 1 ACRE = 3 DU/AC
 $x * y = 1 \text{ AC}$



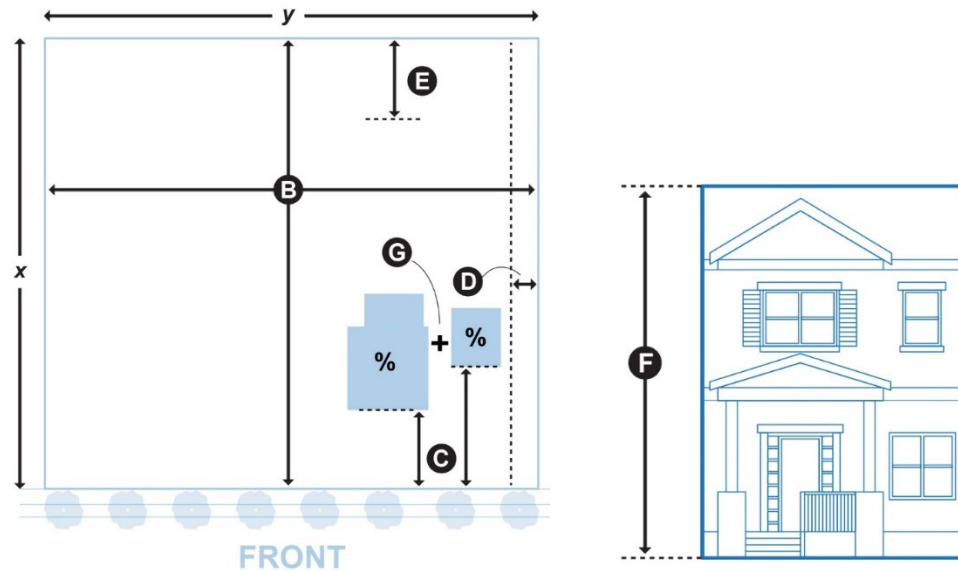
- E. Monument Preservation (MP).** The MP zone is intended to provide a recreational and environmental buffer between the Colorado National Monument and Bureau of Land Management lands, and urban development with low intensity uses that preserve open space quality. This zone district should be limited to areas immediately adjacent to the Colorado National Monument. Environmentally constrained lands are not appropriate for this zone district.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Monument Preservation (MP)	1 DU/2 acres	2 acres	25 feet	50 feet	20 feet for primary structures 10 feet for accessory structures	35 feet for primary structures 25 feet for accessory structures	20%

2. Illustrations

A 1 SF HOUSE ON 2 ACRES = 1 DU/2 AC
 $x * y = 2 \text{ AC}$



17.03.060 COMMERCIAL AND MIXED-USE ZONE DISTRICTS.

Commercial and Mixed-Use zone districts are established to provide for a variety of commercial areas suited to the difference neighborhoods and commercial needs if the city. The intent of these zones is to consolidate complimentary commercial uses in areas or nodes that are served by roads and sidewalks. These are considered Base Zone Districts.

- A. Downtown Mixed Use (DMU).** The purpose of the DMU zone is to maintain and enhance downtown as a vibrant, pedestrian-oriented commercial and residential area and as the civic heart of the community. Mixed-use development, such as commercial on the

ground floor and residential above the ground floor is encouraged within this zone. The intent of this zone with regard to housing is to allow existing residential uses and provide housing options within walking distance of commercial and civic uses without compromising the integrity of the downtown commercial core.

1. Dimensional and Other Standards

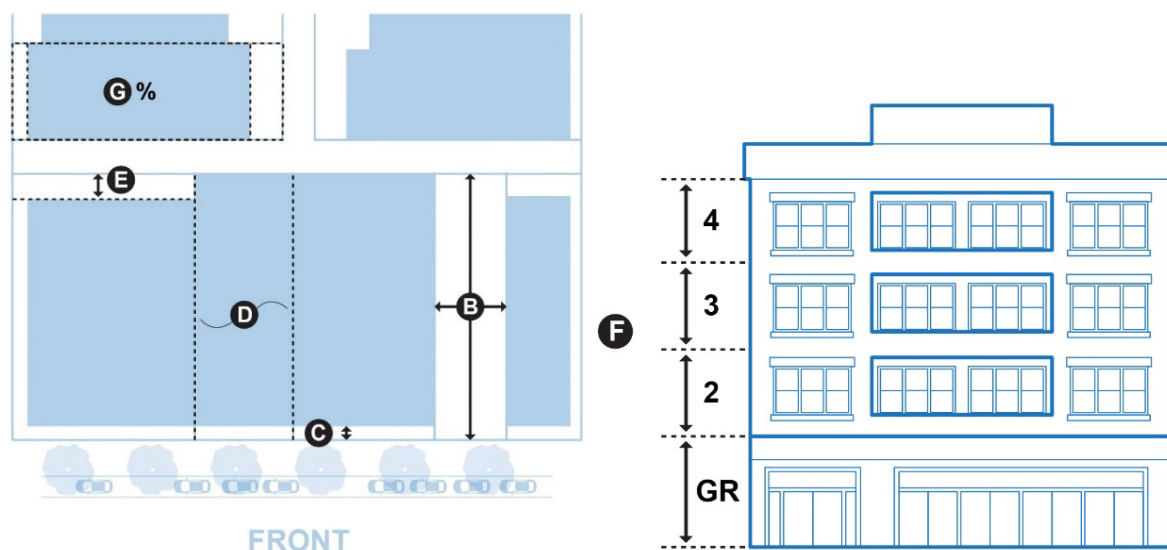
DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MIN/MAX LOT COVERAG E (G)
Downtown Mixed Use (DMU) – Core (as designated in the Fruita Community Plan - south of Pabor Avenue and west of Elm Street)	N/A	2,500 sq ft	0 feet, or as required per building code	0 feet, or as required per building code	0 feet, or as required per building code	Primary Structures: 4 stories; At least 2 upper stories must be residential; Ground story floor-to-ceiling heights shall not exceed 15 feet. All stories above the ground story shall not exceed a floor-to-ceiling height of 11 feet. Accessory Structures: 25 feet	50% minimum 90% maximum

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MIN/MAX LOT COVERAG E (G)

Downtown Mixed Use (DMU) – Outside Core	12 DU/acre by right	5,000 sq ft, except 6,000 sq ft for a corner lot; 7,500 sq ft for a duplex; 10,000 sq ft multi-family; 2,500 sq ft per each townhouse unit	25 feet for garage openings; 20 feet for elevations other than garage openings; except 0' for non-residential or mixed-use buildings, 15 feet for buildings with alley access only, and 15 feet for buildings with unenclosed front porches covering at least 30% of front elevation with a 6 foot minimum depth with the garage or parking area on the rear half of the lot	15 feet total 5 feet for primary structures 3 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	15 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	Primary Structures: 3 stories; At least 1 upper stories must be residential; Ground story floor-to-ceiling heights shall not exceed 15 feet. All stories above the ground story shall not exceed a floor-to-ceiling height of 11 feet. Accessory Structures: 16 feet	Maximum 35%; or 60% for mixed use buildings and lots with parking on rear half of lot and front porches on at least 30% of front elevation with a 6 foot minimum depth
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2. Illustrations

A NO MAX. RESIDENTIAL DENSITY



- B. Commercial-1 (C-1).** The C-1 zone is intended for land uses that are compatible with the future vision for the State Highway 6/50 Corridor. The area is appropriate for local-serving businesses such as restaurants, retail stores, and services. Multi-family residential

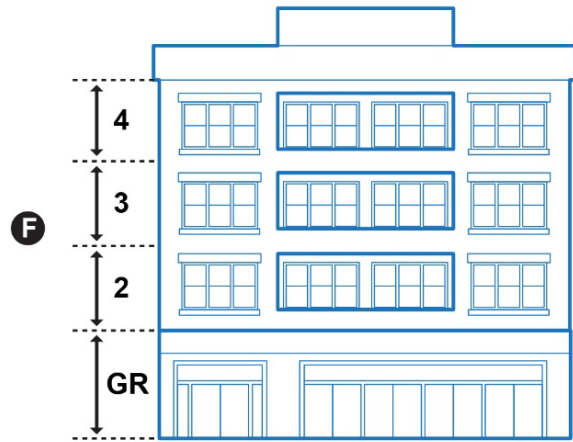
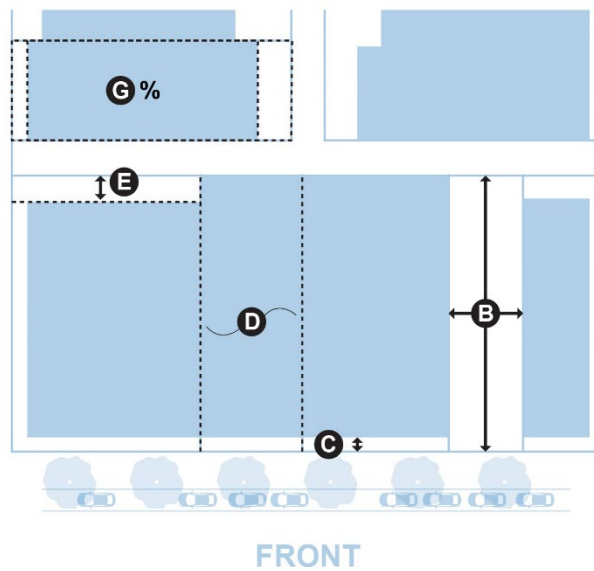
uses are encouraged in this zone. Development should have appropriate access, landscaping, frontage improvements, setbacks, screening and multi-modal access and connectivity.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Commercial-1 (C-1) Non-residential development	Not Applicable	5,000 sq ft	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	90%
Commercial-1 (C-1) Multi-family residential development	12 DU/acre Minimum Unit Size: 500 sf	5,000 sq ft per dwelling unit	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 for primary and accessory structures except 0 feet where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	80%

2. Illustrations

A 12 DU/AC MAX. RESIDENTIAL DENSITY



- C. Commercial-2 (C-2). The C-2 zone is intended to accommodate commercial development in appropriate areas with appropriate access, landscaping, frontage improvements, setbacks, screening and multi-modal access and connectivity. This zone district provides allowances for uses and dimensions that are larger in scale than those allowed downtown. This area has good access to I-70, and is appropriate for uses that serve residents, tourists, an pass-through traffic. Parcel sizes are larger than in the downtown and C-1 zone district, and are may accommodate more parking.

1. Dimensional and Other Standards

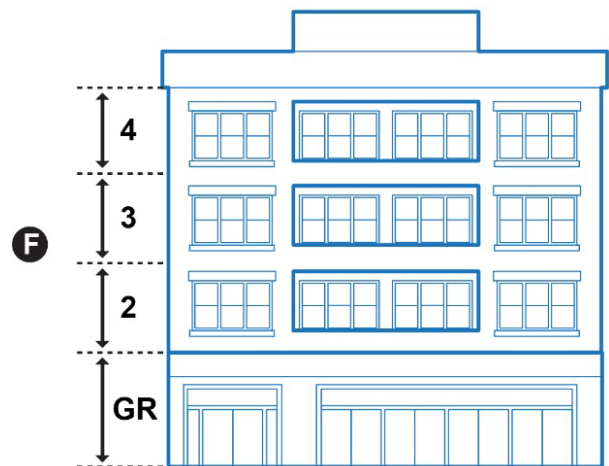
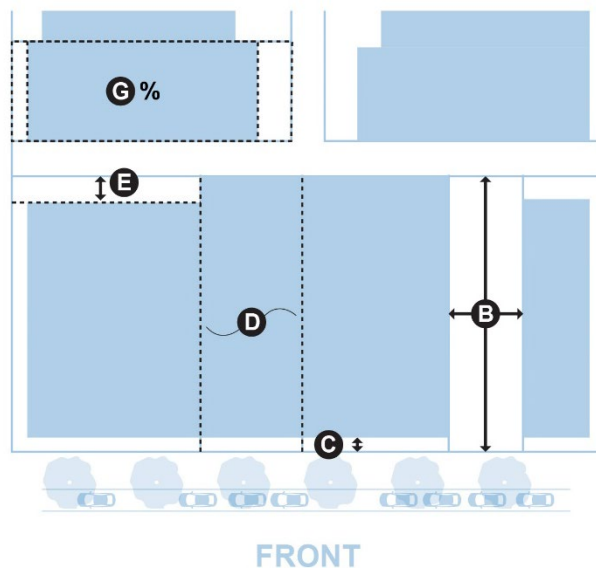
DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVER AGE (G)
Commercial-2 (C-2) Non-residential development	Not Applicable	5,000 sq ft	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 feet for primary structures 5 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	80%

Commercial-2 (C-2)	12 DU/acre	5,000 sq ft per dwelling unit	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 for primary and accessory structures except 0 feet where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	80%
Multi-family residential development	Minimum Unit Size: 500 sf						

2. Illustrations

A 12 DU/AC MAX. RESIDENTIAL DENSITY



17.03.070 INDUSTRIAL ZONE DISTRICTS.

The Industrial zone district is established to encourage non-polluting industrial and research and development activities designed to meet acceptable state and locally established standards for noise, dust, effluent (e.g., sewage pre-treatment), odor, and other impacts typically associated with industrial uses. These are considered Base Zone Districts.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT	MAX LOT COVER AGE

Industrial (I)	Not Applicable	10,000 sq ft	20 feet	20 feet for primary structures 10 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 feet for primary structures 10 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	50 feet / 70 feet	80%
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17.03.080 GOVERNMENT ZONE DISTRICTS.

Special zone districts provide opportunities for community facilities as well as preservation of critical open spaces and habitats. These are considered Base Zone Districts.

- A. Community Services and Recreation (CSR). The purpose of the CSR zone is to provide public and private recreational land, facilities, schools, fire stations, libraries, fairgrounds and other public and quasi-public lands and buildings. The zone includes open space areas, which are set aside to prevent environmental damage to sensitive areas and to limit development in areas that are unsuitable for development due to flooding or geologic hazards. The CSR zone may be applied to parks, outdoor recreation facilities, open space corridors, environmental areas, trails, recreational facilities, and similar areas. The CSR zone helps implement the open space, trails and parks policies of the city's Master Plan.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT	MAX LOT COVER AGE
Community Services Recreational (CSR)	No Specific Standards						

17.03.090 OVERLAY ZONE DISTRICTS.

Overlay zone districts are superimposed over portions of one or more underlying base zone districts or PUD districts in order to supplement that regulations with additional standards that address area-specific conditions, features, or plans.

- A. Neighborhood Commercial Overlay (NCO). The Neighborhood Commercial Overlay provides for additional commercial businesses in certain portions of the DMU and Zone District. This overlay is intended to enable small-scale businesses that fit in the neighborhood context, by allowing a diversity of business uses.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT	MAX LOT COVER AGE
Neighborhood Commercial Overlay (NCO) (running from Ottley on the north, Maple on the east, Little Salt Wash on the west, and Hwy 6 on the south)	Same as Base Zone	Same as Base Zone	Same as Base Zone	Same as Base Zone	Same as Base Zone	Same as Base Zone	Same as Base Zone

17.03.100 PLANNED UNIT DEVELOPMENTS

Planned Unit Developments (PUDs) are created to allow maximum flexibility in uses and dimensions in exchange for community benefits by designing quality developments that could not be achieved by strict adherence to the requirements of this Title. PUDs shall be approved pursuant to the requirements in Section 17.19.

A. Modification of Development Standards.

1. At the time of zoning a PUD, the City Council may modify the specifications, standards, or requirements of this Title. The PUD approval shall indicate which standards are being modified, and any standard not listed as being modified shall be assumed to use that of the Base Zone District or Overlay Zone District.
2. At the time of zoning a PUD, the City Council may modify the permitted and prohibited uses. If uses are not modified, the uses in a PUD shall comply with those of the Base Zone District and Overlay Zone District.

17.03.110 FUTURE LAND USE DISTRICTS

Future Land Use Districts are created established as a planning tool to address the City's three-mile planning area.

- #### **A. Future Land Use (FLU)).** The purpose of the FLU zone is to enable planning for future annexations and to coordinate development pressures and planning needs with Mesa County. Development parameters are intended to support large lots and agricultural uses and allow low

density residential uses compatible with rural areas.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT	MAX LOT COVERAGE
Future Land Use (FLU)	1 DU/4 acres	4 acres	30 feet	10 feet	30 feet	35 feet	20%

2. On properties that are used mainly for agricultural uses in, any structures used mainly for agricultural purposes (e.g., silos and barns) are exempt from the height limits for structures.

Chapter 17.05
LAND USE REGULATIONS

17.05.010	Purpose
17.05.020	Land Use Categories
17.05.030	Residential Land Use Categories
17.05.040	Commercial Land Use Categories
17.05.050	Industrial Land Use Categories
17.05.060	Institutional and Civic Land Use Categories
17.05.070	Other Use Categories
17.05.080	Allowed and Conditional Uses
17.05.090	Land Use Table
17.05.100	Supplemental Land Use Standards
17.05.110	Medical Marijuana
17.05.120	Sexually Oriented Businesses

17.05.010 PURPOSE

The purpose of this chapter is to identify the land uses allowed in the City of Fruita and to establish standards that apply to certain uses with unique characteristics or impacts. This Chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics. All uses are subject to the dimensional standards in each zone district, any regulations established by the zone district, and regulations applicable to the use, and the development standards.

17.05.020 LAND USE CATEGORIES

- A. Categorization.** Uses are assigned to the category whose description most closely describes the nature of the primary use. The "Characteristics" subsection of each use category describes the characteristics of each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses. It is the intent of this Chapter to group similar or compatible land uses into specific land use categories.
- B. Interpretation.** When a use's category is not clearly identifiable, the Community Development Director may determine the applicable use category or refer the question to the Planning Commission for a public hearing and determination following the procedure under Section 17.05.080.B. The following is considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:

 - 1. The description of the activity(ies) in relationship to the function and characteristics of each use category;
 - 2. The building or structure type associated with each use category, and the relative amount of site or floor space and equipment devoted to the activity;

3. Relative amounts of sales from each activity;
4. The customer type for each activity;
5. The relative number of employees in each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the activity;
10. Signs;
11. How the use advertises itself; and
12. Whether the activity would function independently of the other activities on the site.

C. Developments with multiple primary uses. When all of the primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a retail bakery and a cafe would be classified in the Retail Sales and Service category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the applicable regulations for that category.

D. Accessory Uses. Accessory uses are allowed by right, in conjunction with, the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use. Typical accessory uses are listed as examples with the categories.

E. Use of examples. The "Examples" subsection of each use category provides a list of examples of uses that are included in the use category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers, would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category. If the use cannot be located within one of the categories provided by this Section, the city may at its discretion refer to appropriate outside sources, such as the Land-Based Classification Standards (LBCS) of the American Planning Association or the North American Industry Classification System (NAICS); however, the City of Fruita is not obligated to consider these sources and is not liable for any damages resulting from such use, or resulting from future amendments to the LBCS or NAICS.

17.05.030 RESIDENTIAL USE CATEGORIES

A. GROUP LIVING.

1. **Characteristics.** Group Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size or composition of the group is different than that of a Household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Generally, Group Living structures typically have a common eating area for residents, though individual units may have a kitchen. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site.
2. **Accessory Uses.** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
3. **Examples.** Examples include dormitories; fraternities and sororities; monasteries and convents; nursing and convalescent homes; assisted living and similar retirement facilities where some level of daily care is provided by on-site staff; some group homes for the physically disabled, mentally retarded, or emotionally disturbed; some residential programs for drug and alcohol treatment; and alternative or post incarceration facilities. Group Living includes Large and Small Group Homes.
4. **Exceptions.**
 - a. Lodging where tenancy may be arranged for periods less than one (1) month is considered a hotel or motel use (or hospital) and is classified in the Retail Sales and Service or other category. However, in certain situations, lodging where tenancy may be arranged for periods less than one (1) month may be classified as a Community Service use such as publicly assisted, short term housing.
 - b. Lodging where the residents meet the definition of Household, and where tenancy is arranged on a month-to-month basis, or for a longer period is classified as Household Living.
 - c. Facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Detention Facilities category.
 - d. Bed and Breakfast.

B. HOUSEHOLD LIVING.

1. **Characteristics.** Household Living is characterized by the residential occupancy of a dwelling unit by a household. Where units are rented, tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living. Single Room Occupancy (SRO) housing, that do not have totally self-contained dwelling units (i.e., with kitchen and wash room facilities) are also included if at least two thirds of the units are rented on a monthly basis. SROs may have a common food preparation area, but meals are prepared individually by the residents. In addition, temporary medical hardship dwellings, and residential homes as defined by the State of Colorado, are included in the Household Living category.
2. **Accessory Uses.** Accessory uses commonly found are private yards and gardens, private recreational activities, raising of pets, hobbies, home occupations (subject to Code requirements), and parking of the occupants' vehicles, but not including residential occupancy of any vehicle. Home occupations, accessory dwelling units, Short-Term Rentals, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
3. **Examples.** Uses include living in houses, duplexes, apartments, condominiums, retirement center apartments (not otherwise categorized as Group Living), manufactured housing, and other structures with self-contained and permitted dwelling units. Examples also include living in Single Room Occupancy housing, if the provisions are met regarding length of stay and separate meal preparation.
4. **Exceptions.**
 - a. For purposes of this code, a recreational vehicle is not considered a dwelling.
 - b. Lodging in a dwelling unit or Single Room Occupancy Hotel (SRO) where less than two thirds of the units are rented on a monthly basis or longer is considered a hotel or motel use and is classified in the Retail Sales and Service category. SROs which include common dining are classified as Group Living.
 - c. Guest houses that contain kitchen facilities are not accessory to Household Living uses; such houses may be allowed as Accessory Dwellings or as part of a multifamily development, subject to applicable code requirements.
 - d. In certain situations, lodging where tenancy may be arranged for periods less than one (1) month may be classified as a Community Service use,

such as publicly assisted, short term housing or mass shelter in the event of an emergency declared by a government agency.

17.05.040 COMMERCIAL USE CATEGORIES

A. COMMERCIAL OUTDOOR RECREATION.

1. **Characteristics.** Commercial Outdoor Recreation uses are large, generally commercial uses that provide continuous or temporary recreation or entertainment oriented activities. They generally take place outdoors. They may take place in a number of structures, which are arranged together in an outdoor setting. (Temporary uses are subject to Section 17.05.100.)
2. **Accessory Uses.** Accessory uses may include concessions, restaurants, parking, caretaker's quarters, and maintenance facilities.
3. **Examples.** Examples include amusement parks, theme parks, golf driving ranges, farmer's market, flea market, arts and crafts fair, miniature golf facilities, and similar commercial venues.
4. **Exceptions.**
 - a. Golf courses, including up to two thousand (2,000) square feet of accessory commercial floor area (e.g., clubhouse, restaurant, equipment sales and rental) are classified as Parks and Open Space. Golf courses with a commercial component exceeding two thousand (2,000) square feet commercial floor area are considered Retail Sales and Service.
 - b. Uses that draw large numbers of people to periodic events, rather than on a continuous basis, are classified as Major Entertainment Event.

B. COMMERCIAL PARKING.

1. **Characteristics.** Commercial Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking facility.
2. **Accessory Uses.** In a parking structure only, accessory uses may include car washing, and vehicle repair activities.
3. **Examples.** Examples include short- and long-term fee parking facilities available to the public for a fee. Parking facilities constructed all or in part to fulfill parking requirements or parking needs for a specific use are not applicable.
4. **Exceptions.**

- a. Parking facilities that are accessory to a use, but which charge the public to park for occasional events nearby, are not considered Commercial Parking facilities.
- b. Parking facilities that are accessory to a primary use are not considered Commercial Parking uses, even if the operator leases the facility to the primary use or charges a fee to the individuals who park in the facility.

C. QUICK VEHICLE SERVICING.

- 1. **Characteristics.** Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits in the car before and while the service is performed. The development will include a drive-through facility, the area where the service is performed. Vehicle fueling stations are always classified as a primary use (Quick Vehicle Servicing), rather than an accessory use, even when the fueling component comprises less land than other uses of the site.
- 2. **Accessory Uses.** Accessory uses may include auto repair and tire sales, mini mart or similar convenience retail uses.
- 3. **Examples.** Examples include full-serve and mini-serve gas stations, unattended card key stations, car washes, and quick lubrication services where service is typically provided in less than one hour.
- 4. **Exceptions.**
 - a. Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) which are on the site where the vehicles are kept, are accessory to the use.

D. MAJOR ENTERTAINMENT EVENT.

- 1. **Characteristics.** Major Entertainment Event uses are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.
- 2. **Accessory Uses.** Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.
- 3. **Examples.** Examples include sports arenas, race tracks (auto, horse, dog, etc.), auditoriums, exhibition and meeting areas, concert halls, outdoor amphitheaters, and fairgrounds.
- 4. **Exceptions.**
 - a. Exhibition and meeting areas with less than ten thousand (10,000) square

feet of total event area are classified as Retail Sales and Service.

- b. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
- c. Theaters, including drive-in theaters, are classified as Recreation and Entertainment.

E. VOCATIONAL AND TRADE SCHOOLS.

- 1. **Characteristics.** Vocational and Trade Schools uses are characterized by activities conducted in an office setting and generally focusing on serving students with vocational education, or supplemental academic education, enrichment, and/or tutoring.
- 2. **Accessory Uses.** Accessory uses may include incidental retail (e.g., sale of instructional materials), parking, or other amenities primarily for the use of customers and employees.
- 3. **Examples.** Examples include vocational schools, tutoring centers, computer classes, after school learning centers for grades K-12, and arts and crafts classes.

F. OFFICE.

- 1. **Characteristics.** Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.
- 2. **Accessory Uses.** Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.
- 3. **Examples.** Examples include professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices and public utility offices; TV and radio studios; medical and dental clinics, and medical and dental labs.
- 4. **Exceptions.**
 - a. Offices that are part of and are located with a firm in another category may be considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other category.
 - b. Contractors and others who perform construction or similar services off-site are included in the Office category if equipment and materials are not

stored on the site and fabrication, services, or similar work is not carried on at the site.

- c. Governmental offices may be classified as Office, Community Service, or other use based on the use's predominate function.

G. RETAIL SALES AND SERVICE.

1. **Characteristics.** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services, or provide product repair or services for consumer and business goods.
2. **Accessory Uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking, subject to applicable Code requirements.
3. **Examples.** Examples include uses from the four subgroups listed below:
 - a. Sales-oriented: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
 - b. Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; tax preparers, accountants, real estate, legal, financial services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.
 - c. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.
4. **Exceptions.**
 - a. Lumber yards and other building material sales that sell to contractors and not retail customers are classified as Wholesale Sales.
 - b. Indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges;

theaters, health clubs, gyms, membership clubs, and lodges; hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days are classified as Recreation and Entertainment.

- c. Repair and service of consumer motor vehicles, motorcycles, light and medium trucks and small personal transportation devices (e.g., electric carts) and garden tractors, is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, including farm, construction and other heavy equipment, and heavy trucks is classified as Vehicle Repair.
- d. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop which is classified as Commercial Vehicle Servicing.
- e. In certain situations, hotels and motels may be classified as a Community Service use, such as publicly assisted, short term housing or mass shelter in the event of an emergency declared by a government agency. See Community Services.

H. SELF-SERVICE STORAGE.

- 1. **Characteristics.** Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.
- 2. **Accessory Uses.** Accessory uses may include security and leasing offices. Living quarters for one (1) resident manager per site are allowed. Other living quarters are subject to the regulations for Residential Uses. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Service Storage use. The rental of trucks or equipment is also not considered accessory to a Self- Service Storage use.
- 3. **Examples.** Examples include single story and multistory facilities that provide individual storage areas for rent; these uses are also called mini warehouses. Secured yards providing storage areas for recreational vehicles.
- 4. **Exceptions.** A transfer and storage business where any individual storage areas are incidental to transfer and storage operations, or where employees are the primary movers of the goods to be stored or transferred, is in the Warehouse and Freight Movement category.

I. VEHICLE REPAIR.

1. **Characteristics.** Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. (Different than Quick Vehicle Services category.)
2. **Accessory Uses.** Accessory uses may include offices, sales of parts, and vehicle storage.
3. **Examples.** Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
4. **Exceptions.** Repair and service of industrial vehicles and equipment, and of heavy trucks; and towing and vehicle storage including heavy vehicle storage are classified as Industrial Service.

J. Food and Beverage

1. **Characteristics.** Food and Beverage uses are those involved in the sale of food and beverage to the general public. They may also offer entertainment services to the public in addition to food and/or beverage sales.
2. **Accessory Uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking, subject to applicable Code requirements.
3. **Examples.** Examples include restaurants, cafes, delicatessens, taverns, bars, breweries, distilleries, and coffee shops.
4. **Exceptions.**
 - a. Indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges; theaters, health clubs, gyms, membership clubs, and lodges; hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days are classified as Recreation and Entertainment.
 - b. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop which is classified as Commercial Vehicle Servicing.

17.05.050 INDUSTRIAL USE CATEGORIES

A. INDUSTRIAL SERVICE.

1. **Characteristics.** Industrial Service firms are engaged in the repair or servicing of

industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

2. **Accessory Uses.** Accessory uses may include offices, parking, storage, rail spur or lead lines, and docks.
3. **Examples.** Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, or storage of heavy machinery, metal, and building materials; towing and vehicle storage; heavy truck servicing and repair; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; dry-docks and the repair or dismantling of ships and barges; laundry, dry- cleaning, and carpet cleaning plants; and photofinishing laboratories.
4. **Exceptions.**
 - a. Contractors and others who perform Industrial Services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication, or similar work is not carried on at the site.
 - b. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

B. MANUFACTURING AND PRODUCTION.

1. **Characteristics.** Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site, as distinguished from Retail Sales and Services where customers routinely come to the business.
2. **Accessory Uses.** Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, or truck fleets. Living quarters for one (1) caretaker per site are allowed. Other living quarters are subject to the regulations for Residential Uses.
3. **Examples.** Examples include processing of food and related products; catering

establishments; breweries, distilleries, and wineries; slaughter houses, and meat packing; feed lots and animal dipping; weaving or production of textiles or apparel; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie production facilities; ship and barge building; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; production of prefabricated structures, including mobile homes; and the production of energy.

4. Exceptions.

- a. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service; where the majority of traffic to the business is for retail sales and the manufacturing use is entirely indoors, the use will be categorized as Retail Sales and Service.
- b. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

C. WAREHOUSE, FREIGHT MOVEMENT AND DISTRIBUTION.

1. Characteristics. Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for the subject firm or other firms, including goods that are generally delivered to the final consumer. There is little on-site sales activity with the customer present, except for some will-call pickups.

2. Accessory Uses. Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, repackaging of goods, and will-call pickups.

3. Examples. Examples include separate or off-site warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.

4. Exceptions.

- a. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.
- b. Mini-warehouses are classified as Self-Service Storage uses.

D. WASTE-RELATED AND RECYCLING FACILITIES.

1. **Characteristics.** Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include commercial or industrial uses that receive, store, sort, and distribute post-consumer recyclable materials; and those that receive hazardous wastes from others and are subject to the regulations of OAR 340. 100-110, Hazardous Waste Management.
2. **Accessory Uses.** Accessory uses may include offices, repackaging and transshipment of by-products, and recycling of materials.
3. **Examples.** Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, recycling centers, and hazardous-waste-collection sites.
4. **Exceptions.**
 - a. Disposal of clean fill, as defined in OAR 340-093-0030, is considered a fill, not a Waste-Related use.
 - b. Sewer pipes that serve a development are considered a Basic Utility.
 - c. Excavation is considered Development or Mining, as applicable.

E. WHOLESALE SALES.

1. **Characteristics.** Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
2. **Accessory Uses.** Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.
3. **Examples.** Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building

hardware, and office supplies.

4. Exceptions.

- a. Firms that engage primarily in sales to the general public are classified as Retail Sales and Service.
- b. Firms that engage in sales on a membership basis are classified as either Retail Sales and Service or Wholesale Sales, based on a consideration of characteristics of the use and the customer traffic generated.
 - i. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse, Freight Movement, and Distribution.

17.05.060 INSTITUTIONAL AND CIVIC USE CATEGORIES

A. BASIC UTILITIES, PRIVATE OR PUBLIC.

- 1. **Characteristics.** Basic Utilities are infrastructure services which need to be located in or near the area where the service is provided. Basic Utility uses generally do not have regular employees at the site. Services may be public or privately provided. All public safety facilities are Basic Utilities.
- 2. **Accessory Uses.** Accessory uses may include parking; control, monitoring, data or transmission equipment.
- 3. **Examples.** Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; bus stops or turnarounds, suspended cable transportation systems, and public safety facilities, and emergency communication broadcast facilities when not accessory to a different primary use; except fire and police stations and holding cells within a police station are Community Services or Offices.
- 4. **Exceptions.**
 - a. Services where people are generally present, other than bus stops or turnarounds, and public safety facilities, are classified as Community Services or Offices.
 - b. Utility offices where employees or customers are generally present are classified as Offices.
 - c. Bus barns and similar facilities are classified as Warehouse and Freight Movement.

- d. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail Lines and Utility Corridors.

B. COMMUNITY SERVICES; GOVERNMENT OFFICES.

- 1. **Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community, except for Schools which are categorized separately. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Private lodges, clubs, and non-profit athletic or health clubs that have membership provisions are open to the general public to join at any time may be considered a Community Service. Uses providing mass shelter or short term housing where tenancy may be arranged for periods of less than one (1) month when operated by a public or non-profit agency may also be considered a Community Service. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- 2. **Accessory Uses.** Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; daycare uses; and athletic facilities.
- 3. **Examples.** Examples include city hall, county government and administrative offices, fire and police stations, libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, soup kitchens, and surplus food distribution centers.
- 4. **Exceptions.**
 - a. Private commercial athletic clubs, golf clubs (e.g., clubhouse or restaurant exceeding 2,000 square feet of floor area), and private museums and similar commercial uses are classified as Retail Sales and Services.
 - b. Parks are in Parks and Open Areas.
 - c. Uses where tenancy is arranged on a month-to-month basis, or for a longer period are residential, and are classified as Household or Group Living.
 - d. Public safety facilities are classified as Basic Utilities.

C. DAYCARE/CHILD CARE CENTER.

1. **Characteristics.** Daycare and Child Care Center uses include day or evening care of two (2) or more children or adults outside of their primary place of residence. See also, Daycare Home which is a different use category.
2. **Accessory Uses.** Accessory uses include: offices, play areas, and parking.
3. **Examples.** Examples include preschools, nursery schools, latch key programs, and adult daycare programs.
4. **Exceptions.** Daycare and Child Care Center uses do not include care given by the parents, guardians, or relatives of the children or adults, or by babysitters. Daycare use also does not include care given by a "family daycare" provider as defined by State law if the care is given to eight (8) or fewer children or adults at any one time not including the children of the provider. Daycare does not include public or private schools or facilities operated in connection with an employment use, shopping center or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity.

D. MEDICAL CENTERS.

1. **Characteristics.** Medical Centers includes uses providing medical or surgical care to patients and may offer overnight care.
2. **Accessory Uses.** Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing facilities for staff or trainees.
3. **Examples.** Examples include hospitals and medical complexes that include hospitals. Medical clinics (medical, dental, vision, and similar clinics) that provide care where patients are generally not kept overnight and urgency medical care clinics not otherwise part of a Medical Center also are included as examples.
4. **Exceptions.** Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Group Living category.

E. PARKS AND OPEN SPACE AREAS.

1. **Characteristics.** Parks and Open Space Areas are uses of land focusing on natural areas, public or private parks consisting mostly of playfields, playgrounds, turf or similar facilities for outdoor recreation, community gardens, trails, or public squares. Parks and open space areas tend to have few structures and structures are accessory to the primary park, trail, or outdoor recreation use.

2. **Accessory Uses.** Accessory uses may include club houses, maintenance facilities, concessions (as with athletic fields), caretaker's quarters, and parking.
3. **Examples.** Examples include parks, golf courses, cemeteries, public squares, plazas, recreational trails, community garden plots, botanical gardens, boat launching areas, nature preserves, and open space that is approved through design review and is not part of an Agricultural use.

F. RELIGIOUS INSTITUTIONS AND PLACES OF WORSHIP.

1. **Characteristics.** Religious Institutions are intended to primarily provide meeting areas for religious activities.
2. **Accessory Uses.** Accessory uses include Sunday school facilities, parking, caretaker's housing, one transitional housing unit, and group living facilities such as convents. A transitional housing unit is a housing unit for one (1) household where the average length of stay is less than sixty (60) days. Religious schools, when accessory to a religious institution, are different than a school as a primary use. Additional housing may be permitted as a primary use on the same site as a Religious Institution or Place of Worship subject to applicable Code requirements.
3. **Examples.** Examples include churches, temples, synagogues, and mosques.

G. SCHOOLS.

1. **Characteristics.** This category includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education.
2. **Accessory Uses.** Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school daycare.
3. **Examples.** Examples include public and private daytime schools, boarding schools and military and similar academies.
4. **Exceptions.**
 - a. Preschools are classified as Child Care uses.
 - b. Business and trade schools are classified as Vocational Schools.

H. DETENTION FACILITIES.

1. **Characteristics.** This category includes law enforcement incarceration facilities that are not accessory to a police station or law enforcement office.

2. **Accessory Uses.** Accessory uses include visitor areas, cafeterias, recreational and sport facilities, and educational facilities.
3. **Examples.** Examples include short- and long-term city, county, state, or federal law enforcement facilities, at any designated level of security.
4. **Exceptions.** Does not include police station holding cells and similar temporary incarceration facilities.

17.05.070 OTHER USE CATEGORIES

A. AGRICULTURE.

1. **Characteristics.** Agriculture includes activities that raise, produce or keep plants or animals.
2. **Accessory Uses.** Accessory uses include dwellings for proprietors and employees of the use, and animal training and veterinary services.
3. **Examples.** Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; veterinary services; farming, truck gardening, horticulture and wholesale plant nurseries.
4. **Exceptions.**
 - a. Processing of animal or plant products, including milk, and feed lots, are classified as Manufacturing and Production.
 - b. Livestock auctions are classified as Wholesale Sales.
 - c. Plant nurseries that are oriented to retail sales are classified as Retail Sales and Service.
 - d. When kennels are limited to boarding, with no breeding, or small animal veterinary services are provided without exterior holding pens, the city may determine the use category is Agriculture or Retail Sales and Service.

B. MINING AND SIMILAR EXTRACTIVE INDUSTRIES.

1. **Characteristics.** Mining includes mining or extraction of mineral or aggregate resources from the ground for off-site use.
2. **Accessory Uses.** Accessory uses include storage, sorting, stockpiling, or transfer off-site of the mined material.

3. **Examples.** Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil, gas, or geothermal drilling. Note: Planning clearance is required prior to any grading or clearing of vegetation from a site, even if the intended use is not Mining. In such case, the land use designation is the same as that for which the clearing or grading is proposed. Other permit requirements may also apply.

C. RADIO FREQUENCY TRANSMITTING FACILITIES.

1. **Characteristics.** Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures or supporting elements necessary to produce non- ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Towers may be self supporting, guyed, or mounted on poles or buildings.
2. **Accessory Uses.** Accessory use may include transmitter facility buildings.
3. **Examples.** Examples include broadcast towers, communication/cell towers, and point- to- point microwave towers.

4. Exceptions.

- a. Receive-only antennae are not included in this category.
- b. Radio and television studios are classified in the Office category.
- c. Radio Frequency Transmission Facilities that are public safety facilities are classified as Basic Utilities.

D. UTILITY CORRIDORS.

1. **Characteristics.** The category includes public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, natural gas, or other similar services on a regional level.
2. **Examples.** Examples include regional electrical transmission lines; and regional gas and oil pipelines.
3. **Exceptions.** Utilities exclusively serving the City of Fruita (e.g., utilities placed within a street or trail right-of-way or easement in conjunction with an approved subdivision) are not classified as utility corridors.

17.05.080 ALLOWED AND CONDITIONAL USES

- A.** All combinations of allowed uses and development standards may not be appropriate at a particular location within a zone, even if a use is designated as an allowed use in this Section. Any proposed land use must be compatible with the uses and site design of surrounding properties and meet the design standards set forth in this Title.
- B.** Unlisted Uses. The list of permitted uses is broad and comprehensive. However, it is impossible to contemplate every possible use or new use that may exist in the future. To ensure the fair administration of this Chapter as it relates to uses that are not listed in the Use Table, this subsection outlines the procedure to determine if the use is permitted, requires a Conditional Use approval, or is not allowed. When a use is not listed in the Use Table or the Use Table does not reflect recent changes, the Director shall determine if the proposed use is permitted, conditional, or not allowed. The Director may use a nationally accepted land use classification manual, such as the North American Industry Classification System (“NAICS”), American Planning Association or Land-Based Classification Standards LBCS Tables. Any appeal of the Directors determination of a zone district boundary shall be heard by the City Council per Section 17.25.

The use may be deemed an Allowed Use or a Conditional Use upon the finding of the following:

1. Such use is appropriate to the physiographic and general environmental character of the zone to which it is added;
 2. Such use does not create any more hazards to, or alteration of, the natural environment than the minimum amount normally resulting from the other permitted uses, or uses conditionally allowed, in the zone to which it is added, as applicable;
 3. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the zone to which it is added;
 4. Such use is generally consistent with the uses existing and permitted in the zone to which it is added; and
 5. Such use is in conformance with the goals, policies and Comprehensive Plan of the city and the purposes of this Title.
- C.** Land Use Compatibility Criteria. The City seeks to provide a fair and consistent manner in which to consider compatibility within the overall context of the Fruita Comprehensive Plan, existing adjacent land uses, applicable zoning district requirements, and other city codes and regulations. Nothing in this Section shall prevent the City of Fruita from denying a land use application based on relevant Code requirements or taking enforcement action against a property owner where a nuisance or other Code violation occurs.

1. For all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The applicable city decision-making body may consider other uses existing and approved and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between uses.

D. Schedule of Allowed and Conditional Uses. The Land Use/Zone Table in Section 17.05.090 indicates Allowed Uses and Conditional Uses. Tables specifying allowable development densities and the requirements for minimum lot area, minimum setbacks, maximum building height and maximum lot coverage in each of the zones is listed in the individual zone district tables in Chapter 17.03.

E. Key to Allowed and Conditional Uses. Uses may be allowed outright, allowed conditionally, or allowed subject to special use standards, as listed below. The “A” or “C” designation in the Table of Allowed Uses (17.05.090) does not constitute an authorization or assurance that such use will be permitted. Each is subject to other applicable review, as outlined in the definitions below.

* - Means not allowed

A - Means allowed outright in the indicated zone, subject to compatibility with surrounding properties, pursuant to Section 17.05.080.C, and any applicable special and supplementary zoning regulations and standards.

C - Allowed by Conditional Use Permit only, pursuant to Conditional Use Permit Section 17.05.030.

F. Key to Zones:

RE	Rural Estate	C-1	Commercial - 1
LLR	Large Lot Residential	C-2	Commercial - 2
CR	Community Residential	I	Industrial
DMU	Downtown Mixed Use	CSR	Community Services and Recreation
SFR	South Fruita Residential	NCO	Neighborhood Commercial Overlay
MP	Monument Preservation	FLU	Future Land Use

17.05.090 LAND USE TABLE

Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
RESIDENTIAL												
Household Living												
Business Residence	*	*	C	*	*	A	A	A	A	*	A	*
Dwelling, Single-Family Attached	C	A	A	A	*	A	*	*	*	*	A	A
Dwelling, Single-Family Detached	A	A	A	A	A	A	*	*	*	*	A	A
Duplex	C	*	A	*	*	A	*	*	*	*	A	C
Dwelling, Multi-Family	*	*	A	*	*	A	A	A	*	*	A	*
Manufactured Housing Park (See Chapter 31)	*	*	C	*	*	*	*	*	*	*	*	*
Mobile Home Park (See Chapter 31)	*	*	C	*	*	*	*	*	*	*	*	*
Manufactured Home (See Chapter 31)	C	C	C	C	C	C	*	*	*	*	*	*
Mobile Home (See Chapter 31)	C	C	C	C	C	C	*	*	*	*	*	*
Accessory Dwelling Unit (See Section 17.05.100.C)	A	A	A	A	A	A	A	*	*	*	A	A
Dwelling, Caretaker	*	*	*	*	*	*	A	A	A	*	A	A
Short Term Rental (See Section 17.09.060)	A	A	A	A	*	A	A	A	*	*	A	A
Home Occupation	Home Occupations are permitted as accessory to any permitted residential use, subject to the Home Occupation standards in Section 17.05.100.B											
Cultivation of Medical Marijuana by Patients and Caregivers in Residential Dwelling Units.	Medical Marijuana cultivation is permitted as accessory to any permitted residential use, subject to the supplemental standards of Section 17.05.110											
Child Care Home, Daycare Home	A	A	A	A	A	A	A	A	A	*	A	*
Group Living												
Small Group Homes	C	A	A	A	C	A	A	A	*	*	A	*
Large Group Homes	*	*	C	*	*	C	C	C	*	*	C	*
INSTITUTIONAL & CIVIC												
Community Service & Government Offices												
Public Building Uses	C	C	C	C	C	A	A	A	A	A	A	*
Museum, Art Galleries, Opera Houses	C	C	C	C	C	A	A	A	C	A	A	*
Public Safety and Emergency Response Services	C	C	C	C	C	C	C	C	C	A	A	*
Other Community Services	C	C	C	C	C	A	A	A	C	C	A	*
Daycare/Child Care												
Daycare Center	C	C	C	C	C	A	A	A	*	*	A	*
Child Care Center	C	C	C	C	C	A	A	A	*	*	A	*

Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
Detention Facilities												
Jails, Honor Camps, Reformatories, Detention Center	*	*	*	*	*	*	C	C	C	C	*	*
Community Corrections Facility	*	*	*	*	*	*	C	C	C	C	*	*
INSTITUTIONAL & CIVIC												
Medical Centers												
Medical and Dental Clinics	*	*	*	*	*	A	A	A	A	C	A	*
Counseling Centers (nonresidential)	*	*	*	*	*	A	A	A	A	C	C	*
Hospital/Mental Hospital	*	*	*	*	*	C	C	C	C	C	*	*
Physical and Mental Rehabilitation (resident)	*	*	*	*	*	C	C	C	C	C	*	*
All Other	*	*	*	*	*	C	C	C	C	*	*	*
Parks & Open Space Areas												
Cemetery	A	A	A	A	A	A	A	A	A	A	C	*
Golf Course or Golf Driving Range	C	C	C	C	C	*	A	A	A	A	*	*
Campground, Primitive (See Chapter 33)	*	*	*	*	C	*	C	C	*	C	*	*
Parks, Lakes, Reservoirs, Greenways, Trails	A	A	A	A	A	A	A	A	A	A	A	*
Other	C	C	C	C	C	C	C	C	C	A	C	*
Religious Institutions/Places of Worship												
All	A	A	A	A	A	A	A	A	A	A	A	*
Schools												
Boarding Schools	C	C	C	C	C	C	C	C	*	C	C	*
Elementary Schools	A	A	A	A	A	A	A	A	*	A	A	*
Secondary Schools	A	A	A	A	A	A	A	A	*	A	A	*
Utility, Basic												
Utility Service Facilities, (Underground)	A	A	A	A	A	A	A	A	A	A	A	*
Utility Treatment, Production or Service Facility	*	*	*	*	*	C	C	C	C	C	*	*
All Other Utility, Basic	C	C	C	C	C	C	C	C	C	A	C	*
Utility Corridors												
Transmission Lines (above ground)	C	C	C	C	C	C	C	C	C	A	C	*
Transmission Lines (underground)	C	C	C	C	C	C	C	C	C	A	C	*
All Other	C	C	C	C	C	C	C	C	C	C	C	*

Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
COMMERCIAL												
College, Trade & Vocational Schools												
Colleges and Universities	*	*	C	C	*	C	C	C	C	C	C	*
Vocational, Technical & Trade	*	*	C	C	*	A	A	A	A	C	C	*
All Other Education Institutions	*	*	C	C	*	A	A	A	A	C	C	*
Entertainment Event, Major												
Indoor Facilities	*	*	*	*	C	A	A	A	C	C	C	*
Outdoor Facilities	*	*	*	*	C	A	A	A	C	C	C	*
COMMERCIAL												
Office												
General Offices	*	*	*	*	*	A	A	A	A	*	A	*
Office with Drive-in Facilities	*	*	*	*	*	C	A	A	A	*	C	*
Parking, Commercial												
All, when not accessory to a permitted use	*	*	*	*	*	C	A	A	A	A	C	*
Recreation & Entertainment, Outdoor												
Campgrounds & Recreational Vehicle Parks (See Chapter 33)	*	*	*	*	C	*	C	C	C	C	*	*
Swimming Pools, Community	C	C	C	C	C	C	C	C	C	A	C	*
Shooting Ranges, Outdoor	*	*	*	*	*	*	*	*	C	C	*	*
Amusement Park	*	*	*	*	*	*	C	C	*	C	*	*
Drive-in Theater	*	*	*	*	*	*	C	C	*	C	*	*
Miniature Golf	*	*	*	*	C	A	A	A	*	A	*	*
Riding Academy, Roping or Equestrian Area	C	C	C	C	C	*	C	C	*	C	*	*
Zoo	*	*	*	*	C	*	C	C	*	C	*	*
All other Outdoor Commercial Recreation	C	C	*	C	C	C	A	A	A	A	C	*
Recreation & Entertainment, Indoor												
Health Club	*	*	C	*	*	A	A	A	A	A	C	*
Movie Theater	*	*	*	*	*	A	A	A	A	*	*	*
Skating Rink	*	*	*	*	*	A	A	A	A	A	*	*
Arcade	*	*	*	*	*	A	A	A	A	*	*	*
Shooting Ranges, Indoor	*	*	*	*	*	*	C	C	A	C	*	*
All Other Indoor Recreation	*	*	*	*	*	A	A	A	A	A	C	*

Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
COMMERCIAL												
Retail Sales & Service												
Alcohol Sales, Retail	*	*	*	*	*	A	A	A	A	*	C	*
Animal Clinic/Hospital/Boarding/Sales, Indoor (See Chapter 6.28 of the Municipal Code)	C	*	*	*	C	A	A	A	A	*	C	*
Animal Clinic/Hospital/Boarding/Sales, Outdoor (See Chapter 6.28 of the Municipal Code)	C	*	*	*	C	C	C	C	C	*	C	*
Bar/Nightclub	*	*	*	*	*	A	A	A	A	*	C	*
Bed and Breakfast (1-4 guest rooms) See Section 17.05.100.A	C	C	C	C	C	A	A	A	*	*	A	*
Bed and Breakfast (4+ Guest rooms)	*	*	*	*	C	A	A	A	*	*	C	*
Delivery and Dispatch Services (Vehicles on-site)	*	*	*	*	*	C	A	A	A	*	*	*
Drive-Up/Drive-Through Facilities (with permitted use)	*	*	*	*	*	C	A	A	A	*	*	*
Drive-Up/Drive-Through Facilities (not in conjunction with a permitted use; freestanding)	*	*	*	*	*	C	A	A	A	*	*	*
Food Service, Catering	*	*	*	*	*	A	A	A	A	*	A	*
Food Service, Restaurant (including alcohol sales)	*	*	*	*	*	A	A	A	A	*	A	*
Food Service, Restaurant (Not including alcohol sales)	*	*	*	*	*	A	A	A	A	*	A	*
Farm Implement/Equipment Sales/Service	*	*	*	*	*	A	A	A	A	*	*	*
Flea Market/Farmer's Market	*	*	*	*	*	C	C	C	C	A	*	*
Feed Store	*	*	*	*	*	C	A	A	A	*	*	*
Fuel Sales, Automotive/Appliance (not including Drive-Up/Drive-Through uses)	*	*	*	*	*	A	A	A	A	*	*	*
Fuel Sales, Heavy Vehicle (not including Drive-Up/Drive-Through uses)	*	*	*	*	*	A	A	A	A	*	*	*
Funeral Homes/Mortuaries/Crematories	*	*	*	*	*	C	C	C	C	*	*	*
General Retail Sales, Indoor Operations, Display and Storage	*	*	*	*	*	A	A	A	A	*	A	*
General Retail Sales, Outdoor Operations, Display or Storage	*	*	*	*	*	A	A	A	A	*	A	*

Hotels and Motels	*	*	*	*	*	A	A	A	C	*	*	*
Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
COMMERCIAL												
Retail Sales & Service (Continued)												
Nursery/Greenhouse, Retail (not Agriculture)	*	*	*	*	*	A	A	A	A	*	*	*
Manufactured Building Sales and Service	*	*	*	*	*	C	A	A	A	*	*	*
Pawn Shops (See Chapter 5.30 of the Municipal Code)	*	*	*	*	*	A	A	A	A	*	*	*
Rental, Home Oriented, Indoor Display/Storage	*	*	*	*	*	A	A	A	A	*	C	*
Rental, Heavy Equipment, Outdoor Display/Storage	*	*	*	*	*	A	A	A	A	*	*	*
Repair, Small Appliance/Small Engine	*	*	*	*	*	A	A	A	A	*	*	*
Repair, Large Appliance	*	*	*	*	*	A	A	A	A	*	*	*
Sexually Oriented Businesses (See Chapter 17.05.120 of the Land Use Code and 5.40 of the Municipal Code)	*	*	*	*	*	*	C	C	C	*	*	*
Personal Services	*	*	*	*	*	A	A	A	A	*	A	*
Medical Marijuana Centers See Section 17.05.110	*	*	*	*	*	*	*	*	*	*	*	*
Medical Marijuana Cultivation by Patients and Primary Caregivers in Non-Residential Units See Section 17.05.110	*	*	*	*	*	*	C	C	C	*	*	*
Medical Marijuana Optional Premises Cultivation Operations See Section 17.05.110	*	*	*	*	*	*	*	*	*	*	*	*
All Other Retail Sales and Service	*	*	*	*	*	A	A	A	A	*	C	*
Storage/Self Service Storage												
Mini Warehouse/Self Service Storage Facility	*	*	*	*	*	*	A	A	A	*	*	*
Outdoor Storage (Vehicles, Equip. Etc.)	*	*	*	*	*	*	A	A	A	*	*	*
Vehicle Repair, Except Quick Vehicle Servicing												
Auto and Light Truck Mechanical Repair Shop	*	*	*	*	*	C	A	A	A	*	*	*
Body Shop	*	*	*	*	*	*	A	A	A	*	*	*
Truck Stop/Travel Plaza/Truck Parking Area	*	*	*	*	*	*	C	C	C	*	*	*
Tire Recapping and Storage	*	*	*	*	*	*	C	C	C	*	*	*

All Other Vehicle Repair, Limited	*	*	*	*	*	C	A	A	A	*	*	*
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Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
Vehicle Service, Limited: Quick Vehicle Servicing												
Car Wash	*	*	*	*	*	C	A	A	A	*	*	*
Gasoline Service Station	*	*	*	*	*	C	A	A	A	*	*	*
Quick Lube	*	*	*	*	*	C	A	A	A	*	*	*
All Other Vehicle Service, Limited	*	*	*	*	*	C	A	A	A	*	*	*
INDUSTRIAL												
Indoor Operations or Storage												
Industrial Service	*	*	*	*	*	*	A	A	A	*	*	*
Assembly	*	*	*	*	*	*	A	A	A	*	*	*
Food Products	*	*	*	*	*	*	A	A	A	*	*	*
Manufacturing/Processing	*	*	*	*	*	*	A	A	A	*	*	*
All Other	*	*	*	*	*	*	C	C	A	*	*	*
Outdoor Operations or Storage												
Industrial Service	*	*	*	*	*	*	C	C	A	*	*	*
Assembly	*	*	*	*	*	*	C	C	A	*	*	*
Food Products	*	*	*	*	*	*	C	C	A	*	*	*
Manufacturing/Processing	*	*	*	*	*	*	C	C	A	*	*	*
All Other	*	*	*	*	*	*	C	C	C	*	*	*
INDUSTRIAL												
Junk Yard												
Junk Yard (See Municipal Code Chapter 5.24)	*	*	*	*	*	*	*	*	C	*	*	*
Impound Lot												
Impound Lot	*	*	*	*	*	*	C	C	A	*	*	*
Warehouse, Freight Movement & Distribution												
Indoor Operations, Storage and Loading	*	*	*	*	*	C	A	A	A	*	*	*
Indoor Storage with Outdoor Loading Docks	*	*	*	*	*	C	A	A	A	*	*	*
Outside Storage or Loading	*	*	*	*	*	*	C	C	A	*	*	*
Gas or Petroleum Storage	*	*	*	*	*	*	C	C	C	*	*	*
Sand or Gravel Storage	*	*	*	*	*	*	C	C	A	*	*	*
All Others	*	*	*	*	*	*	C	C	C	*	*	*
Waste Related Uses												
Non-Hazardous Waste Transfer	*	*	*	*	*	*	C	C	C	*	*	*
Medical/Hazardous Waste Transfer Station	*	*	*	*	*	*	C	C	C	*	*	*
Solid Waste Disposal Sites	*	*	*	*	*	*	*	*	C	*	*	*

Recycling Collection Points	*	*	*	*	*	*	C	C	C	C	*	*
All Other Waste Related/Recycling Center	*	*	*	*	*	*	*	*	C	C	*	*

Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
Wholesale Sales												
Wholesale Business (No highly flammable materials/liquids)	*	*	*	*	*	C	A	A	A	*	*	*
Agri Business Wholesaling	C	C	*	*	*	C	C	C	C	*	*	A
All Other Wholesale Uses	*	*	*	*	*	C	C	C	C	*	*	*
Agricultural												
Animals Agricultural; Confinement	C	*	*	*	*	*	*	*	C	C	*	A
Dairy	C	*	*	*	*	*	*	*	C	C	*	A
Winery	C	*	*	*	C	C	C	C	A	C	*	A
Confined Animal Feeding Operation, Feedlot	C	*	*	*	*	*	*	*	C	*	*	A
Forestry/Silviculture, Commercial	C	*	*	*	*	*	C	C	A	*	*	A
Pasture, Commercial	A	*	*	*	C	*	A	A	A	A	*	A
All Other Agriculture	A	*	*	*	A	*	*	*	A	A	*	A
INDUSTRIAL												
Aviation or Surface Passenger												
Airports/Heliports	*	*	*	*	*	*	C	C	C	C	*	*
Bus/Commuter Stops	A	A	A	A	A	A	A	A	A	A	A	*
Bus/Railroad Depot	*	*	*	*	*	C	A	A	A	A	C	*
Helipads	*	*	*	*	*	*	C	C	C	C	*	*
All Other Aviation or Surface Passenger Terminal	*	*	*	*	*	C	C	C	C	C	C	*
Mining (See Chapter 18)												
Oil or Gas Drilling	*	*	*	*	C	*	*	*	C	*	*	*
Sand or Gravel Extraction or Processing	*	*	*	*	C	*	C	C	C	*	*	*
All Other Mining, Extraction	*	*	*	*	C	*	C	C	C	*	*	*
Telecommunications Facilities												
Telecommunications Facilities, Towers and Support Structures	C	C	C	C	C	C	C	C	C	C	C	C

17.05.100 SUPPLEMENTAL LAND USE STANDARDS

In addition to regulations contained elsewhere in this Title, the use of land and buildings in all zones shall be governed by the following:

- A. Bed and Breakfast.** Where bed and breakfast uses are allowed, they must meet the following conditions and standards:
- a. Where the applicable zoning district allows bed and breakfast uses as a conditional use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;
 - b. Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;
 - c. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;
 - d. In residential zones (including residential developments in the DMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.15;
 - e. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;
 - f. The bed and breakfast facility shall comply with all Building Codes adopted by the city;
 - g. It shall be the responsibility of the applicant to demonstrate that any declarations, covenants, conditions or restrictions on the property allow for a bed and breakfast use; and
 - h. Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.
 - i. Bed and Breakfasts shall not operate as Short-Term Rentals.
- B. Home Occupations.** A Home Occupation is a commercial or business use within a dwelling unit by the residents thereof, which is incidental or secondary to the principle use of the dwelling for residential purposes. The purpose of this Section is to allow commercial ventures, which by the nature of the venture are appropriate in scale and intensity of use to be operated within a dwelling. Short-Term Rentals are not considered Home occupations. Home occupations require a City of Fruita Business License and any other local, state or federal permits that may be required. Two types of home occupations are authorized by this Code: 1) Home Occupations meeting the standards of this Section, as provided below, are permitted outright; and 2) Home Occupations exceeding the

criteria or standards of this Section may be permitted subject to approval of a Conditional Use Permit.

a. Outdoor Storage and Display:

1. All materials, vehicles, inventory, products, equipment, fixtures, and activities associated with the home occupation (i.e., that exceed what is customary for a single-family residence) shall be fully enclosed in a structure that complies with applicable building and land use codes. The owner is responsible for verifying building code compliance when no Planning Clearance is required. Oversized vehicles or equipment on properties over two acres in size are exempt from this requirement but must meet the requirements of Section 17.11.060.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable materials) beyond those normally incidental to residential use is prohibited.

b. Vehicles, Parking and Traffic:

1. The home occupation site shall not be used as a dispatch for employees or vehicles to other locations beyond that which is customary for a residential use.
2. There shall be no commercial vehicle deliveries to the home occupation during the hours of 9:00 p.m. to 7:00 a.m.
3. There shall be no more than one (1) client or customer vehicle at any one time and no more than eight (8) per day at the home occupation site.
4. The home occupation shall not adversely affect traffic flow and parking in the neighborhood.

c. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7:00 a.m. to 9:00 p.m. only, Monday through Friday.

d. Prohibited Home Occupation Uses:

1. There shall be no advertising display, signage, or other indication of the home occupation on the premises other than that which is allowed by the applicable zone for residential uses as provided for in the Sign Code in Chapter 17.08.
2. Any activity that produces radio, TV, or other electronic interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.

3. Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited; except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, produce or crafts produced on-site, and similar incidental items for sale by home business is allowed pursuant to this Section.
 4. Any activity that may produce wastes not typically associated with residential use of the property.
 5. The following uses are specifically excluded as permitted home occupations: sexually oriented businesses; car, truck or heavy equipment repair; medical, dental, tattoo, body piercing, or other similar personal service that creates biohazard wastes as a typical part of the service provided.
- e. Enforcement. The Community Development Director or designee may visit and inspect the site of a home occupation in accordance with this chapter periodically to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice.
- C. Accessory Dwelling Units. Accessory dwelling units are permitted on all lots containing a single family detached dwelling unit in: the Rural Estate (RE), Large Lot Residential (LLR), Community Residential (CR), South Fruita Residential (SFR), Monument Preservation (MP), Neighborhood Commercial Overlay, and in the Downtown Mixed Use (DMU), and Commercial-1 (C-1) zones.
- Accessory dwelling units must be located on a lot that contains a principle single family dwelling unit and cannot exceed one thousand (1,000) square feet of heated floor area, or fifty (50) percent of the size of the principle single family dwelling; whichever is greater. Accessory dwelling units can be attached or detached from the principal dwelling. If the unit is attached, it must be able to function separately from the principal home. Only one accessory dwelling unit is permitted per lot or parcel. The Community Development Director may grant an administrative square foot adjustment of up to 10% at Planning Clearance. On-site improvements shall be evaluated on a case-by-case basis based on the site's conditions as part of the Planning Clearance.
- D. Accessory Buildings (Except Accessory Dwelling Units). An accessory building shall not protrude beyond the front plane of the principal building. Shipping containers shall not be permitted as accessory buildings in any residential zone district.
- E. Temporary Uses. Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. A land use that occurs on a specific property for more than 6 months in a calendar year is not permitted

as a temporary use. Short-Term Rentals are not permitted as a temporary use. Temporary uses include, but are not limited to: construction trailers, leasing offices, garage sales, temporary carnivals and fairs, parking lot or sidewalk sales, mobile food vendors, seasonal sales such as Christmas tree sales, produce stands, and similar uses. Special Events such as city-wide festivals or carnivals conducted on school sites are exempt from these provisions (but a Special Event Permit may be required). Temporary uses must comply with the criteria listed below. The city may require a temporary use to cease at any time, if it is found to be in violation of any of these criteria.

a. The following criteria and standards apply to all temporary uses:

1. The applicant has the property owner's permission to place the use on the specified property.
2. Permanent changes to the site are prohibited.
3. The temporary use regulations do not exempt an applicant or operator from any other required permits; such as, health department permits.
4. The use does not interfere with travel on public ways (including pedestrian and vehicle travel) and does not interfere with access to another property.
5. Ingress and egress are safe and adequate when combined with the other uses of the property.
6. Temporary use sign(s) shall be permitted in compliance with the requirements of Chapter 41.
7. All businesses are required to have a current city business license.
8. A Temporary Use Permit is required for any use that exceeds three (3) consecutive days, occurs more than four times in a calendar year, or occupies more than 10,000 square feet of land. The Temporary Use Permit application will be required to address the following additional requirements at a minimum:
 - 1) The proposed site is adequate in size, shape and location to accommodate the temporary use;
 - 2) Adequate parking is available to accommodate the traffic expected to be generated by the temporary use;
 - 3) The temporary use will not jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare;
 - 4) Adequate sanitation facilities and solid waste collection facilities are provided as necessary; and

5) Adequate on-site security measures are provided as necessary.

F. Temporary Uses for a Period Greater Than Ninety (90) Days. For uses that occur for a period longer than ninety (90) days in a calendar year, all of the following criteria must be met. Uses occurring for longer periods of time are considered permanent uses and must follow all requirements regarding permanent uses.

1. The criteria for all temporary uses identified in subsection E above are met.
2. The proposed temporary use is permitted as an allowed use in the zone designated for the subject property according to the Land Use Table in Section 17.05.090 and does not violate any conditions of approval for the existing use of the subject property. If the principal use of a property is classified as a Conditional Use by the zone, and a proposed temporary use is not designated as allowed outright in the zone or is not specified as a permitted use by the existing Conditional Use Permit, an amended Conditional Use Permit is required. The use does not require use of more than ten (10) percent of the off-street parking needed to comply with the minimum parking requirement under Chapter 17.37 for an existing, permanent use of the property.
3. The use complies with the applicable setback requirements and other standards of the zone in which it is located.
4. The use does not create adverse off-site impacts, including vehicle traffic, noise, odors, vibrations, glare or lights, over and above the impacts that might be created by other uses permitted outright in the applicable zone.
5. The use is adequately served by public facilities or provides acceptable temporary/portable facilities, as approved by the city.
6. Conditions may be imposed regarding temporary utility connections, sanitary facilities, security and other requirements as necessary to protect public health, safety, or welfare.

G. Temporary Sales Office, Construction Office or Model House. A temporary sales office, temporary construction office or model house may be allowed in any zone based on compliance with the following criteria:

1. The temporary sales office, construction office, or model house shall be located within the boundaries of the subdivision or parcel of land in which the real property is to be sold and comply with applicable regulations;
2. The property to be used for a temporary sales office or construction office shall not be permanently improved for that purpose;

3. Conditions may be imposed regarding temporary utility connections, as necessary to protect public health, safety, or welfare; and
4. A temporary sales office, construction office, or model house may not be used as a dwelling unit. A model house may be used as a dwelling unit when the development in which it is located is permitted to obtain Planning Clearances for dwelling unit construction.
5. A temporary sales office, construction office or model house cannot be established before approval to begin site work has been obtained. A temporary sales office or a model house use must be removed within one week after the sale of the last unit in the development. A temporary construction office must be removed within one week of issuance of a Certificate of Occupancy or Certificate of Completion for the construction, or acceptance of the public improvements in a subdivision.

17.05.110 Medical Marijuana

A. Definitions. Definitions of terms specifically related to Medical Marijuana are contained in Chapter 5.15 of the Fruita Municipal Code.

B. Cultivation of Medical Marijuana by Patients and Primary Caregivers in Residential Dwelling Units. The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, shall be allowed in residential dwelling units subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 12-43.3-101, *et. seq.*, C.R.S., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.
2. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than four (4) ounces of a useable form of marijuana unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution and no more than twelve (12) marijuana plants, with six (6) or fewer being mature, flowering plants that are producing a useable form of marijuana shall be cultivated or permitted within a primary residence by a patient or a primary caregiver.
3. Cultivation of medical marijuana in a residential unit that is not a primary residence is not permitted.
4. For the purposes of this subsection, the term “primary residence” means the place that a person, by custom and practice, makes his or her principal domicile and address to which the person intends to return, following any temporary absence,

such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking in meals, vehicle and voter registration, or credit, water and utility billing. A person may only have one (1) primary residence. A primary residence shall not include accessory buildings.

5. Such cultivation, production or possession of marijuana plants shall be limited to the following space limitations within a residential unit:
 - a. Within a single family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 15.04 of the Fruita Municipal Code) a secure defined, contiguous area not exceeding 150 square feet within the residence of the patient or primary caregiver.
 - b. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 15.04 of the Fruita Municipal Code) a secure, defined, contiguous area not exceeding 100 square feet within the residence of the patient or primary caregiver.
6. For the purpose of this subsection, a “secure” area means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not licensed and authorized to possess medical marijuana.
7. Marijuana plants shall not be grown in the common area of a multi- family residential structure.
8. If a patient or primary caregiver elects to cultivate quantities of marijuana in excess of the amounts permitted under this Chapter, as permitted in Article XVIII, Section 14(4)(b) of the Colorado Constitution, such patient must be in full compliance with the Colorado Medical Marijuana Program as provided in Section 25-1.5- 106(10), C.R.S. and may grow medical marijuana for personal use as a patient or as a primary caregiver for patients as a conditional use within non-residential units or structures in the Commercial-1 (C-1), Commercial-2 (C-2), and the Industrial (I) zones only.
9. The cultivation of medical marijuana plants in a primary residence shall meet the requirements of all adopted city building, electrical, mechanical and safety codes. Any patient or primary caregiver cultivating medical marijuana in a primary residence shall have an initial building and safety inspection conducted by the city, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter.
10. The cultivation of medical marijuana plants shall not be permitted on the exterior portions of a residential dwelling unit. The cultivation, production or possession

of marijuana plants in a residential unit must not be perceptible from the exterior of the residential dwelling unit and shall comply with the following:

- a. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare, or brightness resulting from grow lamps that disturbs adjacent residents shall be prohibited; and excessive noise from ventilation fans shall be prohibited.
 - b. Marijuana plants shall be used or consumed exclusively by a patient for the patient's personal use and solely to address a debilitating medical condition.
11. Any primary caregiver cultivating medical marijuana for patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the city pursuant to Chapter 5.04 of the Fruita Municipal Code. Any primary caregiver transferring medical marijuana to a patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.12 of the Fruita Municipal Code concerning collection and payment of municipal sales tax. Any patient obtaining medical marijuana from a primary caregiver for consideration shall pay a medical marijuana excise tax in accordance with Chapter 3.19 of the Fruita Municipal Code which shall be collected by the primary caregiver and remitted to the city.

C. Cultivation of Medical Marijuana by Patients and Primary Caregivers in Non- Residential Zones. The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, may be allowed as a conditional use in non-residential buildings in the Commercial-1 (C-1), Commercial-2 (C-2), and the Industrial (I) zones only subject to the following conditions:

1. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 12-43.3-101, *et. seq.*, C.R.S., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.
2. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two (2) ounces of a useable form of marijuana per patient and no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana per patient, unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution, shall be cultivated. A caregiver may cultivate medical marijuana for no more than five (5) licensed patients. Two (2) or more primary caregivers shall not join together for the purpose of cultivating medical marijuana within any non-residential unit located in the Commercial-1 (C-1), Commercial-2

(C-2) and the Industrial (I) zones.

3. Marijuana plants shall not be grown in the common area of any commercial or industrial building.
4. The cultivation of medical marijuana plants in any building shall meet the requirements of all adopted city building, electrical, mechanical and safety codes. Any patient or primary caregiver cultivating medical marijuana shall have an initial building and safety inspection conducted by the city, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter.
5. The cultivation of medical marijuana plants shall not be permitted on exterior portions of a building. The cultivation, production or possession of marijuana plants within a building or unit must not be perceptible from the exterior of the building or unit.
6. Any form of signage, except for identification signs and courtesy signs, shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from grow lamps that disturbs adjacent property shall be prohibited; and excessive noise from ventilation fans shall be prohibited.
7. Any primary caregiver cultivating medical marijuana for patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the city pursuant to Chapter 5.04 of the Fruita Municipal Code. Any primary caregiver transferring medical marijuana to a patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.12 of the Fruita Municipal Code concerning the collection and payment of municipal sales taxes. Any patient obtaining medical marijuana from a primary caregiver for consideration shall pay a medical marijuana excise tax in accordance with Chapter 3.19 of the Fruita Municipal Code which shall be collected by the primary caregiver and remitted to the city.

D. Medical Marijuana Businesses. The cultivation, production or possession of marijuana plants by a medical marijuana center and a medical marijuana optional premises cultivation operation is prohibited. In the event that the voter approved ban on medical marijuana businesses as set forth in Section 5.15.025 of this Code is overturned or declared unconstitutional by legislative action, future voter approval or by applicable court rulings, the city desires to keep in place legislation regarding the regulation and licensing of said medical marijuana businesses. To that end, the following provisions are applicable in the event said ban is overturned.

The cultivation, production or possession of marijuana plants by a medical marijuana center and a medical marijuana optional premises cultivation operation may be allowed as a conditional use in non-residential buildings in the Commercial-1 (C-1), Commercial-2 (C-

2), and the Industrial (I) zones only subject to the requirements contained in Chapter 5.15 of the Fruita Municipal Code and the following provisions;

1. If the City of Fruita's population is less than 20,000 persons, only one (1) medical marijuana center and one (1) optional premises cultivation operation related to a medical marijuana center shall be approved as a conditional use. If the city's population is between 20,000 persons and 30,000 persons, the City of Fruita may grant two (2) conditional use permits for medical marijuana centers and two (2) conditional use permits for optional premises cultivation operations related to medical marijuana centers. Populations shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demography office. In the event more than one (1) application for a conditional use permit for a medical marijuana business of the same classification are submitted to the city within a period of thirty (30) days, the applications comply with all the requirements of the Fruita Land Use Code, Chapter 5.15 of the Fruita Municipal Code and the Colorado Medical Marijuana Code, but the city is not permitted to approve all of the applications because of the limitations set forth in this subsection, the city shall approve the application that the City Council finds and determines will best promote the intent and purposes of the Fruita Land Use Code, Chapter 5.15 of the Fruita Municipal Code and the Colorado Medical Marijuana Code.
2. The city shall not receive or act upon an application for a conditional use permit if the building in which the medical marijuana business is to be located is within one thousand feet (1,000') of the following:
 - a. A State licensed public or primary preschool or a State licensed public or private elementary school, middle, junior high or high school;
 - b. A State licensed residential child care facility;
 - c. An alcohol or drug treatment facility; or
 - d. A principal campus of a college, university, or seminary.

The distance shall be computed by direct measurement from the nearest property line of the land used for the above uses to the nearest portion of the building in which the medical marijuana business is to be located.

3. The city shall not receive or act upon an application for the issuance of a conditional use permit if the building in which the medical marijuana business is to be located is within five hundred feet (500') of the following:
 - a. Any residential land use;
 - b. Any public park or other publicly owned or maintained building open for use by the general public; or

- c. Any religious institution or place of worship.

The distance shall be computed by direct measurement from the nearest property line of the land used for the above uses to the nearest portion of the building in which the medical marijuana business is to be located.

4. The city shall not receive or act upon an application for the issuance of a conditional use permit if the application concerns a particular location that is the same as or within one thousand feet (1,000') of a location for which, within the two (2) years immediately preceding the date of the application, the city denied an application for a special use permit for a medical marijuana business due the nature of the use or other concerns related to the specific location.
5. Marijuana plants, products, accessories, and associated paraphernalia contained in a medical marijuana business shall not be visible to members of the public from a public sidewalk, public street or right- of- way, any other public place, or any portions of the building in which the medical marijuana business is located not restricted to access by patients and employees only.
6. All signage related to a medical marijuana Business shall meet the standards established in the Fruita Land Use Code. In addition, signs shall be restricted to a total of sixteen square feet, including all temporary signs. No signs associated with a medical marijuana business shall use the words "marijuana", "cannabis", or other any word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical" or the message of such sign includes the words "for medical use" or "for medicinal purposes" in letters that are no smaller than the largest letter on the sign. No depiction of marijuana plants or leaves shall appear on any exterior sign of a medical marijuana business.
7. Parking requirements for a medical marijuana center shall be based on parking requirements for high volume retail sales.
8. The medical marijuana business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.
9. Any conditional use permit granted for a medical marijuana business confers only a limited and conditional privilege subject to the requirements, conditions and limitations of Chapter 5.15 of the Fruita Municipal Code and State law. Any license granted for a medical marijuana business pursuant to Chapter 5.15 may be further regulated, limited or completely extinguished at the discretion of the City Council or the electors of the city, without any compensation to the licensee.
10. A conditional use permit for a medical marijuana business may be subject to conditions that are reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:

- a. Limits and requirements on parking and traffic flows;
- b. Limits on noise inside the medical marijuana business or on adjacent grounds;
- c. Prohibitions on certain conduct in the medical marijuana business;
- d. A limitation on the square footage that can be utilized by the medical marijuana business; and
- e. Any other conditions reasonably necessary to protect the public health, safety and welfare and fulfill the intent and purposes of the Fruita Land Use Code and Chapter 5.15 of the Fruita Municipal Code.”

17.05.120 Sexually Oriented Businesses

A. Purpose.

The purpose of this Chapter is to allow the reasonable location of sexually oriented businesses within the city in a manner which will protect property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses, while providing to those who desire to patronize sexually oriented businesses such opportunity in appropriate areas within the city. It is not the intent of this Chapter to suppress any speech activities protected by the First Amendment to the United States Constitution but to impose content neutral regulations which address the adverse secondary effects that sexually oriented businesses may have on adjoining properties.

It has been determined, and reflected in the land use studies of various U.S. cities, that businesses which have as their primary purpose the selling, renting or showing of sexually explicit materials have negative secondary impacts upon surrounding businesses and residences. The experience in other U.S. cities is that the location of sexually oriented businesses significantly increases the incidence of crimes, especially sex offenses, including sexual assault, indecent exposure, lewd and lascivious behavior, and child molestation.

It has been determined, and reflected in the land use studies of various U.S. cities, that sexually oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both the business and the residential segments of the neighborhood, causing blight and down- grading of property values.

It is the intent of these regulations to allow sexually oriented businesses to exist within the city in various dispersed locations rather than to allow them to concentrate in any one business area. It is further the purpose of these regulations to require separation requirements between sexually oriented businesses and residential uses, churches, parks, and educational institutions in an effort to buffer these uses from the secondary impacts

created by sexually oriented business activity.

B. Definitions.

1. Unless otherwise defined below, terms used in this Chapter pertaining to sexually oriented businesses shall be as defined in Section 5.40.020 of the Fruita Municipal Code.
2. Business: Means and includes a sexually oriented business as defined in subsection 5.40.020 (N) of Title 5 of the Fruita Municipal Code.

C. **Conditional Use Review Required.** A conditional use permit is required for the operation of a sexually oriented business in the Commercial-1 (C-1), Commercial-2 (C-2) or Industrial (I) zone districts, pursuant to Chapter 17.09.030. Applicants for a conditional use permit for a sexually oriented business shall submit a completed conditional use application form which contains the information required by 17.07.040, and, in addition, distances to other sexually oriented businesses, residentially zoned or used property, churches, day care centers, and park or educational institutions.

D. **Criteria for Conditional Use Approval.** It shall be unlawful for any person to conduct or establish any sexually oriented business activity or enterprise until a conditional use permit for a sexually oriented business has been approved by the City Council. In addition to the requirement applicable to all Conditional Uses, the following criteria shall be met:

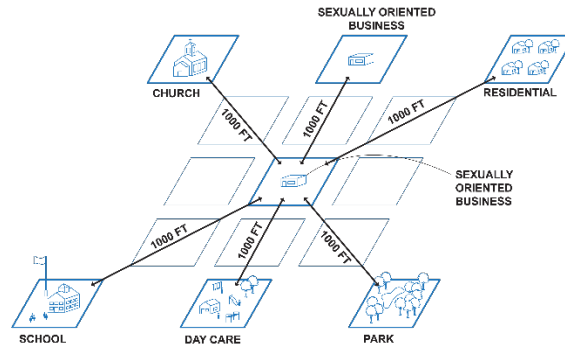
1. The subject property is zoned Commercial-1 (C-1), Commercial-2 (C-2) or Industrial (I);
2. The subject property meets the one thousand (1,000) foot separation requirements as set forth subsection (A) of Section 17.05.120.E or a waiver has been granted pursuant to subsection (B) of the same Section;
3. The subject property contains off-street parking in accordance with the requirements of Chapter 17.37; and
4. The building where the proposed sexually oriented business is located has a certificate of occupancy.

E. **SEPARATION REQUIREMENTS.** No sexually oriented business shall be located within one thousand (1,000) feet of another sexually oriented business, residentially zoned or used property, church, day care center, park or educational institution (whether within or without the city). A waiver of the foregoing restrictions may be applied for in accordance with subsection 2 of this Section.

1. **Method of Measurement.** The one thousand (1,000) feet separation measurement shall be made in a straight line without regard to intervening structures or objects from the nearest property line of the proposed sexually oriented business to the

nearest property line of another sexually oriented business, residentially zoned or used property, church, park, day care center or educational institution.

a. Illustration



2. Waiver Criteria. In establishing the provisions of this Section, the City Council hereby finds and determines that there may be exceptional or extraordinary circumstances or conditions which are applicable to properties within the city or to the intended uses of properties within the city that do not generally apply to the property or class of uses in the same zone, and such that denial of an application for relief would result in an inability to reasonably utilize property. Therefore, it is necessary to provide for such extraordinary relief in the form of a waiver. In reviewing such applications for waivers, the burden shall be upon the applicant to meet the criteria set forth in this Section.

- a. A waiver to the separation requirements set forth in this Section may be granted as a part of the conditional use review process if the presumptions in Section 17.05.120.A of this Chapter are overcome by proof that the establishment of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business establishment or establishment of a sexually oriented business within one thousand (1,000) feet of any residential zone, residential use, park, church or educational institution as applicable, will not have a deleterious effect on surrounding residential and business areas by creating blight, downgrading of property values or tending to cause an increase in crime.
- b. In granting a waiver to the separation requirements the Planning Commission or City Council may impose reasonable conditions relating to hours of operation, screening, buffering and signage as long as the conditions imposed are not designed to prohibit the dissemination of protected materials under the First Amendment to the United States Constitution.

Chapter 17.07 Standard Review Procedures

SECTIONS:

17.07.010	Purpose
17.07.020	Summary of Procedures
17.07.030	Planning Clearance
17.07.040	Common Development Review Procedures
17.07.050	Required Land Development Applications
17.07.060	Amendments to Approved Land Development Applications
17.07.070	Expiration and Extensions of Approval
17.07.080	Temporary Postponement of Improvements
17.07.090	Certificate of Occupancy Required

17.07.010 PURPOSE

The purpose of this chapter is to describe the procedures for review of applications for land use and development activity in the City of Fruita. This chapter is intended to ensure consistency and efficiency in the administration of the City's land use regulations.

17.07.020 SUMMARY OF PROCEDURES

- A. The following table summarizes the major procedures for review of applications for land use and development activity in the City of Fruita. Not all procedures addressed in this chapter are summarized in this table; see the subsequent sections of this chapter for additional details on each procedure.

Table 17.07.020, Summary of Review Procedures						
Application Review Procedure (Does not include all application types)	Pre-Application Meeting	Neighborhood Meeting	Staff Review	Planning Commission	Board of Adjustment	City Council
	M = Mandatory O = Optional		R = Recommendation D = Decision			
Land Development Applications						
Annexation	M	M	R	R	-	D
Concept Plan Review	M	O	R	R	-	R
Conditional Use Permit	M	O/M	R	D	-	-
Density Bonus	M	M	R	R	-	D
Design Guideline Review	M	O	D	-	-	-
Home Occupation Permit	O	O	D	-	-	-
Sign Permit	O	O	D	-	-	-
Site Design Review	M	O	D	-	-	-

Short Term Rental Permit	O	O	D	-	-	-
Subdivision - Major	M	M	R	R	-	D
Subdivision - Minor	M	O	D	-	-	-
Subdivision - Final Plat	M	O	D	-	-	-
Temporary Use Permit	O	O	D	-	-	-
Vacation of ROW	M	O	D	-	-	-
Vested Rights Extension	M	O	R	-	-	D
Amendments						
Change in Use	O	O	D	-	-	-
General Rezoning	M	M	R	R	-	D
PUD Rezoning	M	M	R	R	-	D
Text Amendments	M	O	R	R	-	D
Relief Procedures						
Variance	M	O	R	-	D	-
Administrative Adjustments	O	O	D	-	-	-
Appeals	O/M*	O	-	-	D*	D
Sign Variances	M	O	R	-	-	D

*A Pre-Application Conference shall be required for an appeal of a decision made by the Planning Commission, Historic Preservation Board, or Board of Adjustment. The Board of Adjustment has the authority to hear and decide appeals related to the denial of an administrative adjustments only. All other appeals are heard and decided by City Council.

B. The following deadlines for submittal processing and review of a multi-step development approval shall apply.

1. For land development applications deemed to be complete which require a public hearing before both the Planning Commission and City Council, with the exception of annexations, the following decision deadlines apply:
 - a. Planning Commission - 75 days
 - b. City Council - 110 days
2. For annexation applications deemed to be complete, the following decision deadlines apply:
 - a. Setting the City Council hearing date to find the property eligible for annexation – 75 days
 - b. City Council hearing to find the property eligible – 120 days
 - c. Setting the hearing date to annex the property shall coincide with the accompanying land use final approval (Subdivision, Site Design Review, Conditional Use Permit, etc.). If an annexation agreement is to be used instead, the decision deadlines to annex property shall be 75 days for the

Planning Commission and 110 days for the City Council.

3. For Variance applications deemed to be complete, the Board of Adjustment shall render a decision within 75 days.
4. For applications deemed to be complete which require no public hearings and can be administratively approved by staff, the following decision deadlines apply:
 - a. Planning Clearances – 5 days
 - b. Administrative Modifications – 70 days
 - c. Site Design Review – 70 days
 - d. Final Plats – 70 days
 - e. Sign Permits – 5 days
 - f. Temporary Use Permits – 5 days
 - g. Home Occupation Permits – 5 days
 - h. Short Term Rental Permits – 30 days
 - i. Subdivisions – 70 days
 - j. Planned Unit Developments (PUD) – 70 days

17.07.030 PLANNING CLEARANCE

- A. A Planning Clearance is required for any development requiring a building permit and any of the following, whether a building permit is required or not:
 1. changes in land use or development, including but not limited to new or replacement structures;
 2. significant exterior remodels of existing structures; changes to vehicle access or circulation; landscaping (except single-family residential land uses);
 3. parking, or lighting of the same; changes in building use;
 4. changes in occupancy type, as defined in applicable building codes;
 5. temporary uses;
 6. fences;
 7. sheds and any other accessory building or structure covering more than eighty (80) square feet of land area;
 8. canopies exceeding eight (8) feet in height and other accessory structures covering over eighty (80) square feet of land area, whether permanent or temporary;
 9. fireplaces and wood burning stoves (including replacement of the same);
 10. grading, excavation, or fill of more than fifty (50) cubic yards of material; and
 11. similar changes as determined by the Community Development Director.
- B. Procedure. The Community Development Director can administratively approve Planning Clearances.
- C. Approval Criteria. Planning Clearances shall be approved only if the application meets

or can meet all applicable requirements of this Title and other Titles of the Municipal Code. Planning Clearances shall be contingent upon completing the project in accordance with the city's approval and conditions thereof.

D. Expiration. Planning Clearances expire automatically if:

1. Within one (1) year after the issuance of such permit, the use or development authorized by such permit has not commenced; or
2. Within one (1) year after the issuance of such permit, less than ten (10) percent of the total cost of all construction, alteration, excavation, demolition or similar work on any development authorized by such permit has been completed on the site. With respect to phased development this provision shall apply only to the phase under construction; or
3. After some physical alteration to land or structures begins to take place, such work is discontinued for a period of three (3) years.

17.07.040 COMMON DEVELOPMENT REVIEW PROCEDURES

The common development review procedures in this Section shall apply to all types of development applications in this Title; unless an exception to the common procedures is expressly identified in subsequent sections of this chapter, or in the applicable process section.

A. Pre-Application Meeting

1. Purpose. To help minimize development-planning costs, avoid misunderstandings or misinterpretation of city requirements, and ensure compliance with the requirements of this Title, a pre-application meeting between the applicant and the Community Development Department and other staff is encouraged or required as provided in this Title. The Director or authorized staff may provide recommendations and/or inform the applicant of any potential issues that might be presented to the applicable decision-making body.
2. Applicability.
 - a. Required Pre-Application Meeting. A pre-application meeting is required prior to the following types of applications:

Review Procedures	
Land Development Applications	
Annexation	M
Concept Plan Review	M
Conditional Use Permit	M
Density Bonus	M
Design Guideline Review	M
Site Design Review	M

Subdivision - Major	M
Subdivision - Minor	M
Subdivision - Final Plat	M
Vacation of ROW	M
Vested Rights Extension	M
Amendments	
General Rezoning	M
PUD Rezoning	M
Text Amendments	M
Relief Procedures	
Variance	M
Sign Variances	M

- b. Optional Pre-Application Meeting. A pre-application meeting is optional, upon the request of the applicant, prior to submission of all other applications under this Code not listed above.

Review Procedures

Land Development Applications

Home Occupation Permit	O
Sign Permit	O
Short Term Rental Permit	O
Temporary Use Permit	O

Relief Procedures

Administrative Modifications	O
Appeals	O/M

3. Pre-Application Conference Content. The pre-application meeting is intended to be informational; staff will review the applicant's preliminary proposal and provide informal feedback on applicable city codes and requirements. The intent is to promote efficiency and two-way communication early in the development review process between applicants and the city.

Pre-application meetings may not adequately address all city requirements or requirements of outside agencies (e.g., CDOT, Health Department, Mesa County). Applicants are encouraged to seek information on permit requirements from other agencies, as applicable.

4. Pre-Application Conference Process.
- The applicant shall request in writing a pre-application meeting with the Director. The applicant shall provide the required information as determined necessary by the Director to provide an informal evaluation and any recommendations. The applicant shall provide requested materials to the Director at least fifteen business days in advance of a pre-application

meeting.

- b. The Director shall schedule a pre-application conference after receipt of a proper request.
 - c. Prospective applicants are strongly encouraged to contact adjacent property owners for the purpose of soliciting neighborhood input prior to formally submitting an application.
 - d. Following the pre-application conference, once the applicant has fully prepared its application for a permit or approval, the applicant is encouraged to schedule and hold a pre-submittal meeting with Community Development Department staff prior to submittal of the development application to help ensure the application will be correct and complete when submitted. For applications in which a pre-application meeting is required, a pre-submittal meeting will not be held unless a pre-application meeting has been held.
 - e. Pre-application meetings are valid for a period of six (6) months from the date of the meeting, after which a new pre-application meeting may be required.
 - f. Pre-application meetings may not adequately address all city requirements or requirements of outside agencies (e.g., CDOT, Health Department, Mesa County). Applicants are encouraged to seek information on permit requirements from other agencies, as applicable.
5. Waiver. The Director may waive the pre-application conference requirement for applications if s/he finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

B. Application Submittal

- 1. Application Form and Materials. The Director shall compile the requirements for application contents, forms, and fees and make such materials available to the public. Applications for land development approvals shall be submitted in the form and numbers as determined by the Community Development Director and accompanied by the requisite application fee(s) adopted by the City Council. An application shall not be processed or scheduled for public hearing until the Community Development Director deems it complete. The Director may amend and update the application materials from time to time.
 - a. An applicant for a land development application approval, including planning clearances, sign permits, conditional use permits, annexation petitions, subdivisions, planned unit developments, zoning amendments, variances, and other land development applications, shall pay the required fees as established by the City Council.

2. Authority to Submit Applications.
 - a. Unless otherwise specified in this Code, applications for review and approval may be initiated by:
 - i. The owner of the property that is the subject of the application;
 - ii. The owner's authorized representative; or
 - iii. Any review or decision-making body for the City of Fruita.
 - b. When an authorized representative files an application under this Code on behalf of the property owner, the representative shall provide the City with written documentation that the owner has authorized the filing of said application.
 - c. When a review or decision-making body initiates action under this Code, it does so without prejudice toward the outcome.
 3. Concurrent Review of Applications. Where a project involves more than one application under this Title, the Community Development Director may require that all relevant applications for the project to be submitted together for concurrent processing and review; except that variance applications shall be reviewed separately by the Board of Adjustment or the City Council as applicable.
 4. Review of Multiple Applications when Subject to Different Review Procedures. Where a project involves multiple applications with different review procedures (e.g., public hearing review of a "major" application or administrative review of a "minor" application as specified herein), the Community Development Director may process the subject applications individually under the respective review procedures, or where the Community Development Director deems it in the public interest, he or she may refer all applications for the project to the applicable hearing body for concurrent review.
 5. Waivers. The Director may waive certain submittal requirements in order to eliminate redundancy, reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements where s/he finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.
- C. Determination of Completeness and Review by the Community Development Director.
1. Determination of Completeness. After a development application has been received, the Director shall make a determination of application completeness within fifteen (15) business days of application filing. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Code.
 - a. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the application packet, and is accompanied by the applicable fee.

- b. If the application is determined to be incomplete, the Director shall provide notice to the applicant that includes an explanation of the application deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a resubmittal.
 - c. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed void and a new application must be submitted together with payment of applicable development review fees.
 - d. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Title, or other applicable codes, and it shall not preclude a request for additional information or materials in the future to complete the review of the application.
- 2. Application Review and Recommendation by Community Development Director.
 - a. Referral Comments. Following a determination that an application is complete, the Director shall circulate the application to staff and appropriate referral entities for review and comment. The Director shall compile all comments and recommendations from appropriate City staff persons, departments and referral agencies, which shall be provided to the applicant prior to any decision or public hearing.
 - i. The Director may request a meeting with the applicant to discuss the application and any written comments. Based on the written comments, the applicant may request an opportunity to revise the application prior to further processing. Additional submittals and reviews may be subject to additional fees as determined by the Director.
 - b. Report and Recommendation. Once written comments have been adequately addressed according to the Director, the Director shall prepare a Staff Report and recommendation to the appropriate decision-making body on the development application. The written report and recommendation shall state whether the application complies with the applicable review standards, and whether the application should be continued, approved, approved with conditions, or denied. If the Staff Report finds that the application fails to comply with applicable requirements of this Title, it shall identify the requirements in question and specifically state supporting reasons for the proposed findings. The Staff Report shall be available for prior to the scheduled hearing. The Community Development Department shall provide copies of the application, review comments, public comments and other applicable information to the Planning Commission or the Board of Adjustment, as applicable.
 - c. The burden of persuasion on the issue of whether the development or use applied for, if completed as proposed, will comply with the requirements of this Title and should be approved remains, at all times, on the applicant. The Community Development Director may request additional information from the applicant during the course of reviewing the application if, based

on professional expertise or relevant input provided by the Planning Commission or City Council, the Director believes that such information would be helpful in evaluating the application for compliance with the requirements of this Land Use Code.

- d. Administrative Decisions. If the application is subject to an administrative review, the Director shall complete a notice of approval once all applicable review standards have been deemed met or met with conditions.
 - i. Minor Subdivisions and Site Design Review shall require public notice prior to the administrative decision the same as the public hearing decision requirements stated in subsection D of this section.
 - ii. Planning Clearances, Sign Permits, Temporary Use Permits, Home Occupation Permits and Final Plats require no public notice.

D. Neighborhood Meeting. In order to facilitate citizen participation early in the development review process, the City requires certain development applications to complete a neighborhood meeting to inform neighbors and interested members of the public about the project.

- 1. The applicant is required to provide information about the proposal, which may include a written summary, drawings, renderings, or a physical model. The applicant must show a concerted effort to inform neighbors and the public about the application prior to the first public hearing.
- 2. The applicant is required to complete a summary of the feedback received, and provide that to the Director at least seven (7) days prior to the public hearing. Any documentation that was presented to the public as part of the outreach should also be included as part of the official record.
- 3. The Director may, as part of the pre-application meeting, suggest certain forms that would be most appropriate for the development application.
- 4. The applicant must choose to complete one or more of the following forms for a neighborhood meeting:
 - a. In-Person Meeting. The applicant must hold an informational meeting to gain input from neighbors and citizens. The meeting must be open and accessible to the general public and held in a location in proximity to the proposed development, or in a publicly accessible building such as the Library or City Hall. The applicant or applicant's representative shall attend the neighborhood meeting and be available to answer questions from the public. The applicant must conduct a minimum level mailing of notice, as outlined in section 17.07.040.E.1.d, to ensure neighbors are aware of the meeting. The city shall provide the applicable mailing list, but the applicant shall be responsible for completing the mailing. Proof of notice shall be required, pursuant to 17.07.040.E.6.
 - b. On-line Meeting. The applicant must hold an informational meeting to gain input from neighbors and citizens. The meeting must be open and accessible to the general public. The applicant or applicant's representative shall attend the neighborhood meeting and be available to answer questions from the public. The applicant shall be responsible for scheduling and coordinating the meeting. The applicant must conduct a minimum level mailing of notice,

as outlined in section 17.07.040.E.1.d, to ensure neighbors are aware of the meeting. The city shall provide the applicable mailing list, but the applicant shall be responsible for completing the mailing. Proof of notice shall be required, pursuant to 17.07.040.E.6.

- c. Individual Outreach. The applicant must conduct individual or small group meetings with neighbors of the project. The applicant or applicant's representative shall be responsible for organizing and attending the meetings.

E. Public Notice. The Director shall establish a place and time certain for a hearing, if required by this Title, on the development application.

- 1. For every public hearing required by this Title, unless otherwise required by law or this Title, the city shall notify the public of such hearing by:

- a. Publication once in a newspaper of general circulation within the city, at least fifteen (15) days prior to the public hearing; and
- b. Posting notice at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, at least five (5) days prior to the hearing; and
- c. Sign(s) shall be posted on or near the subject property, and shall be sufficiently conspicuous in terms of size, location and content to provide reasonably adequate notice to potentially interested persons of the land use action at a specified date and time. Such notice(s) shall be posted at least fifteen (15) days prior to the public hearing; and
- d. Written notice shall be mailed to property owners, as recorded at the office of the Mesa County Assessor, of property within three hundred and fifty (350) feet of the subject property, or more until a minimum of twenty (20) unique property owners are provided notice. Notice shall be provided at least fifteen (15) days prior to the public hearing. This requirement does not apply to applications that are not property specific such as Land Use Code or Master Plan amendments.

- 2. All notices for public hearings shall include the following information:

- a. The date, time, and place of the hearing;
- b. The address or description of the subject property (in any);
- c. The purpose of the hearing, including the scope and nature of the proposed action;
- d. The applicable review board holding the hearing;
- e. The right of interested persons to appear and make public comments; and How to obtain additional information on the application and applicable review.

- 3. When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

4. Major Activity Notice. When a subdivision or commercial or industrial activity is proposed which will cover five (5) or more acres of land, the City of Fruita shall send notice to the Colorado Land Use Commission, the State Geologist, and the Board of County Commissioners of the proposal prior to approval of any zoning change, subdivision or planning clearance for a building permit application associated with such a proposed activity.
 5. Notice to Mineral Estate Owners. In addition to the notices described above, and in accordance with Section 24-65.5-103, C.R.S., not less than thirty (30) days before the date scheduled for the first (1st) public hearing on an application for a subdivision creating more than one additional buildable lot, the applicant shall provide notice to mineral estate owners, as defined in Section 24-65.5-102(5), C.R.S. The notice shall be sent and shall contain all of the information required by Section 24-65.5-103, C.R.S. Proof of the giving of such notice shall be submitted by the applicant to the Community Development Department, on forms provided by the Community Development Department, prior to commencement of the hearing.
 6. Proof of Notice. Proof of giving notice by mail, personal delivery, posting of a sign, or publication in a newspaper may be established by affidavits of the person with personal knowledge of the giving of notice. The affidavit shall be prima facie evidence of its contents and shall be a part of the record at the subject hearing.
- F. Actions by Decision-Making Bodies. All decision-making bodies shall act in accordance with the time limits established in this Title and the City of Fruita. The city shall make every reasonable effort to process review applications as expeditiously as possible, consistent with the need to ensure that the application conforms to the requirements of this Title.
1. Criteria for Approval. Reviews of all applications under the Land Use Code shall be based on the applicable provisions of the Code and other applicable regulations. The burden shall be on the applicant to demonstrate conformity with the applicable regulations. Upon city approval, the applicant shall address all of the conditions imposed by the city decision-making body.
 2. Public Hearings. All public hearings with the Planning Commission, Board of Adjustment, Historic Preservation Board, or City Council be conducted in accordance with the following:
 - a. The applicant, or the applicant's representative, shall be present at the public hearing to represent the application.
 - b. The Community Development Department shall provide to the review body the application information, a Staff Report, review comments, any applicable recommendation from a City review body, written public comments and other related documents.
 - c. At the public hearing, the review body shall accept oral and written testimony from staff, the applicant and members of the public. For the

record, Community Development Department staff shall be provided a copy of all new written or graphic information provided by the applicant or the public at the public hearing.

- d. The review body shall consider whether the application complies with all of the applicable requirements of this Title. At the close of the public hearing, the review body shall make a decision, as outlined in section 3, below.
3. Decision. After consideration of the application, the staff report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the review body shall make a recommendation or make a decision, depending on their review role for the application.
 - a. For review bodies making a recommendation to City Council or another board or commission, they shall take one of the following actions:
 - i. Continue the hearing to gather more information; or
 - ii. Recommend that the application be approved, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
 - iii. Recommend denial of the application, stating the specific reasons for recommending denial.
 - iv. The recommendation for approval, approval with conditions or denial of the application shall include specific findings, based upon the evidence submitted, justifying such a recommendation.
 - b. For review bodies making a decision on the application, they shall take one of the following actions:
 - i. Continue the hearing to gather more information; or
 - ii. Approve the application, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
 - iii. Deny the application, stating the specific reasons for denial.
 - iv. The decision approving, approving with conditions or denying, the application shall include specific findings, based upon the evidence submitted, justifying such a conclusion.
4. Conditions of Approval. A decision-making body may place reasonable conditions on an application to bring the proposal into compliance with this Title or other applicable regulations, or to mitigate the impacts of that development on the surrounding properties or streets. Any condition of approval shall be based on standards adopted by the City, or be reasonably related to the anticipated impacts of the proposed use or development.
 - a. During its consideration, the decision-making body may consider alternative potential conditions, and no discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate the federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the

decision-making body unless and until the decision-making body takes formal action to attach that condition to a development approval.

- b. Applicant Representations. Any representations of an applicant in submittal materials or during a public hearing shall be considered binding as conditions of approval.
- 5. Recording of Decisions. Once an application is approved, the approving documentation shall be filed with the Town Clerk and, if required, recorded in the Office of the Mesa County Clerk and Recorder.
- 6. Effect of a Denial. Whenever City Council denies an application, such action may not be reconsidered by the City for one (1) year unless the applicant clearly demonstrates that circumstances affecting the subject property have substantially changed, or new information is available that could not with reasonable diligence have been presented at the previous hearing.
 - a. Nothing contained in this Section shall preclude the submission of a substantially new application as determined by the Community Development Director or the City Engineer.

17.07.050 REQUIRED LAND DEVELOPMENT APPLICATIONS.

- A. Land development applications are approved under this Title only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Title, if completed as proposed, including any conditions of approval. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in this Title, all developments shall occur strictly in accordance with such approved plans, applications, and conditions of approval, as applicable.
- B. Physical improvements to land subject to land development application requirements may be approved by the city staff to allow expedited construction of certain specific improvements prior to permit and approval issuance in unique and special circumstances where delays would cause unacceptable impacts to city projects or activities. Such approval requires an administrative order or letter signed by the Public Works Director, City Engineer, or Community Development Director stating the reason for the approval.
- C. Land development application approvals issued under this Title shall be issued in the name of the applicant or the applicant's agent (authorized representative), as applicable. Land development application approvals made under this Title shall identify the property involved and the proposed use, shall incorporate by reference, the plans submitted and shall contain any special conditions or requirements lawfully imposed by the permit issuing authority.
- D. Approval of a land development application authorizes the recipient to commence the activity resulting in a change of use of the land or; to obtain a building permit, if required pursuant to the Fruita Municipal Code, to commence work to construct, erect, move, place, or substantially alter buildings or other structures or; to make necessary

improvements to a subdivision. However, except as otherwise permitted in this Title, the intended use may not be commenced, and no building may be occupied, until all of the requirements of this Title and all additional requirements imposed pursuant to the issuance of a permit or approval have been complied with.

17.07.060 AMENDMENTS TO APPROVED LAND DEVELOPMENT APPLICATIONS

- A. The Community Development Director may authorize minor deviations from the original approved application, including approvals by the City Council. The Community Development Director shall determine whether amendments to and modifications of approved land development applications are minor or major.
- B. Major deviations shall be subject to review and approval by the city decision-making body that approved the original application, provided an application that was approved by City Council may be referred to the Planning Commission first for a recommendation. A major deviation is one that exceeds one or more of the following thresholds:
 - 1. Increase in the number of residential lots or dwelling units;
 - 2. Reduction in the area of open space by more than ten (10) percent, or a reduction in the quality of open space, as determined by the Community Development Director;
 - 3. Increase in permitted floor area by more than ten (10) percent for any single nonresidential building;
 - 4. Modification to any site design or lot development standard in this Title;
 - 5. Any change to a requirement imposed through conditions of approval;
 - 6. Modifications to street standards or other public improvement requirements shall be subject to approval by the City Engineer, pursuant to the City of Fruita Engineering Design Criteria and Construction Specifications. Where a modification potentially affects a project's compliance with this Title, or any condition of approval related to this Title imposed through the original approval, the request shall be subject to review and approval by the Community Development Director. The Community Development Director may refer the request to the Planning Commission and City Council.

17.07.070 EXPIRATION AND EXTENTIONS OF APPROVAL

- A. An approval may expire if timelines, as outlined in this Title or in a Site Specific Development Plan Approval are not met. Unless otherwise outlined in this Title, those timeframes may be extended only when the following conditions are met:
 - 1. A request for an extension shall be filed prior to the applicable deadline;
 - 2. The request for an extension shall be made in writing and include justification; and
 - 3. Any applicable requirements of the approval must have been met.
 - 4. If the expiration of approval is not noted in a specific process, the expiration period shall be three (3) years from the date of approval. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.

17.07.080 TEMPORARY POSTPONEMENT OF IMPROVEMENTS

It shall be within the administrative discretion of the Community Development Director to approve a temporary postponement of certain required improvements so long as the public health, safety, and welfare are preserved and the recipient provides a performance bond or other security satisfactory to the city to ensure that all to of the requirements of this Title will be fulfilled within a reasonable period. At a minimum, a request for postponing improvements must be submitted in writing explaining what improvements are requested to be postponed, why the postponement is necessary and when the improvements will be completed. At the Community Development Director's discretion, a request to postpone improvements may be sent to the City Council for a decision.

17.07.090 CERTIFICATE OF OCCUPANCY REQUIRED.

- A. No building or structure shall be occupied, and no change in existing occupancy classification of a building or structure or portion thereof shall be made until the city has authorized the issuance of a Certificate of Occupancy. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of provisions of this Title or other titles of the Municipal Code.
- B. The city may suspend or revoke a Certificate of Occupancy or completion issued under the provision of this Title where ever the Certificate was issued in error, or on the basis or incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Title.

Chapter 17.09
SPECIFIC REVIEW PROCEDURES

Sections:

17.09.010	Purpose
17.09.020	Site Design Review
17.09.030	Conditional Uses
17.09.040	Change in Use
17.09.050	Density Bonus
17.09.060	Short Term Rentals
17.09.070	Amendment to Official Zoning Map (Rezoning)
17.09.080	Amendment to the Land Use Code
17.09.090	Vacation of Public Right-of-Way
17.09.100	Vacation of Public Easement

17.09.010 PURPOSE

The purpose of this Chapter is to outline specific review procedures applicable to development in the City of Fruita.

17.09.020 SITE DESIGN REVIEW

- A. Applicability. Site Design Review is required for the following developments with the exception of subdivisions, detached single family residential, and duplex residential land uses:
1. Changes in land use or remodels that result in an increase in floor area, lot coverage, or parking spaces by more than 40%; or
 2. Any change in land use or remodel that requires an Adjustment; or
 3. Any development that requires construction of public improvements.
- B. Procedure. Two types of Site Design Review are authorized, Administrative Site Design Review and Site Design Review with adjustment, as follows:
1. Administrative Site Design Review. Developments subject to Site Design Review that do not require an Adjustment to any regulation under this Title by more than ten (10) percent (dimensional standards only) are reviewed and acted upon by the Community Development Director.
 2. Site Design Review With Adjustment. Developments subject to Site Design Review that require an Adjustment to one or more regulations under this Title by more than ten (10) percent are reviewed through the public hearing process in accordance with Section 17.07.040.

- C. Approval Criteria. The city decision-making body may approve a Site Design Review application only upon finding that it meets the applicable requirements of this Title and other applicable regulations.

17.09.030 CONDITIONAL USES.

- A. Applicability. A Conditional Use Permit is required for any use identified as a conditional use on the Land Use Table in Section 17.05.090 of this Title.
- B. Procedure. Conditional Use Permit applications shall be processed and reviewed through the public hearing process in accordance with Section 17.07.040.
- C. Approval Criteria for Conditional Use Permits. A Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:
1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Comprehensive Plan;
 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.05.080.C;
 3. The proposed use will not materially endanger the public health or safety; and
 4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.
- D. Expiration. A use requiring a Conditional Use Permit must commence within three (3) years of approval or the Conditional Use Permit approval will expire. Conditional uses that have ceased for more than one (1) year cannot be re-established without re-approval of the Conditional Use Permit.

17.09.040 CHANGE IN USE.

- A. Applicability. A change in use occurs when there is any change in the occupancy of a building that would change the code requirements that apply to the site, or the Land Use Category as outlined in Chapter 17.05. These changes must be reviewed to ensure that the site can accommodate the type of use that is proposed and that the building meets all requirements for public safety.
1. If there is a change from one principal use of a building or land to another principal use of a building or land, but there is no increase in the size of the existing building or extent of the use of the land and none of the above factors outlined below apply, a

change of use shall not have occurred

- B. Procedure. Change in Use applications shall be processed and reviewed administratively in accordance with Section 17.07.040. The Community Development Director may choose to refer the application to City Council for decision.
- C. Approval Criteria for Change in Use Applications. A Change in Use Application may be granted for a use in a particular zone provided the following factors are present and confirmed for the new use:
 - 1. The new use has an off-street parking requirement under this Title which is greater than parking available and necessary for the previous use; or
 - 2. The number of vehicle trips generated by the new use is or will be greater than the number of vehicle trips generated by the previous use as determined by the Institute of Transportation Engineers Trip Generation, latest edition; or
 - 3. The amount of stormwater runoff or impervious (to drainage) surface area will be increased with the new use.
 - 4. The amount of wastewater generated by the use will be greater than the previous use.

17.09.050 DENSITY BONUSES.

- A. Generally. The purpose of this Section is to help implement portions of the Fruita Community Plan by providing for residential density bonuses in designated zones tied to the provision of community benefits. This Chapter is intended to promote compatibility between land uses, as well as predictability and fairness in the approvals process, consistent with the Fruita Comprehensive Plan. This Section provides opportunities for development incentives in response to applicants providing community benefits beyond those described herein as baseline standards, encouraging applicants to deliver those amenities without incurring unreasonable economic costs, or driving up housing or consumer costs.
- B. Applicability. The provisions of this section apply to development in the CR, and SFR zone districts, as well as to any PUD. Projects utilizing the provisions of this Chapter are not necessarily required to be processed as a Planned Unit Development. All densities are based on dwelling units per gross acre, as defined in Chapter 17.03.
- C. Process. Density bonus applications shall be processed at the same time and using the same procedure as required for a Major Subdivision, Planned Unit Development, or Site Design Review, as applicable. City Council may preliminarily approve a density bonus, with final approval contingent upon the owner and city executing an Annexation Agreement, Development Agreement, PUD Guide and/or other binding agreement as necessary to ensure compliance with this Title and other city requirements. City Council may approve, deny, or approve with conditions, density bonus applications filed in accordance with this Title.

- D. Criteria. City Council is authorized to grant density bonuses up to a maximum of eight (8) dwelling units per acre in accordance with the following:

Density Bonus Criteria			
		CR	SFR
Base Density		6.0 DU/acre	4.0 DU/acre
Maximum Density		8.0 DU/acre	5.0 DU/acre
20% Open Space		1 additional DU/acre	1 additional
Bike and Trail Connections		1 additional DU/acre	1 additional
Alley/shared drive access		1 additional DU/acre	Not applicable
Mix of housing types		1 additional DU/acre	Not applicable

1. A minimum of twenty (20) percent of the project designated as parks, trails, open space or common area. The open space or common area must be easily accessible to a minimum of fifty (50) percent of the lots, by being located within a ¼ mile walking shed, and providing a safe sidewalk or trail connection to the space. A conservation easement, or other form acceptable to the City Attorney, shall be required with the first phase or first filling of the subdivision to ensure the space is permanently designated as an open area.
 - a. Open space and common areas shall be a functional part of the project design rather than residual land that is “left over” with no recreational, aesthetic or design importance.
 - b. Narrow (less than thirty-five (35) feet in width) linear strips of land should not be counted toward the open space or common area requirement.
 - c. Open space or common areas may be developed or undeveloped, active or passive. Areas may include stormwater detention and retention basins if the design of the basin is integral to the open space or common area, is separately managed by the association, and is at a grade of 15% or less. In addition, washes, streams or other natural features should be included and incorporated into open space or common area.
 - d. Open space or common areas shall be visible from the street and add to the quality of the neighborhood and shall be accessible to all dwelling units within the development. Open space and common area surrounded by dwelling units with no access to an adjacent street is prohibited.
 - e. Open space or common areas may contain private recreation amenities including but not limited to: plazas, courtyards, community garden, basketball/tennis/pickleball courts, clubhouses or community greenhouses.
 - f. Open space or common areas shall be grouped contiguously with open space or common areas from adjacent developments, where possible.

2. The project includes an internal trail network, a continuation of an existing trail network, or the continuation of a bike lane system internal to the project and along adjoining rights-of-way. The bike and trail amenities must be at least 500 feet of linear length to qualify for this bonus. On-site trails and/or sidewalks shall be extended to existing off-site trails, sidewalks or parks if the extension is less than two hundred (200) feet in length. An easement, or other form acceptable to the City Attorney, shall be required with the first phase or first filling of the subdivision to ensure the space is permanently designated as a trail.
 - a. Walkways, trails and other forms of pedestrian access shall form an interconnected system serving as access to open space, common area and other pedestrian destinations.
3. Access to required parking and/or garages of a minimum of eighty (80%) percent of the proposed dwelling units is by alley or shared drive. For purposes of this Section, a shared drive must serve a minimum of four (4) dwelling units.
4. A mix of housing types are proposed with a minimum of twenty (20%) percent of the dwelling units being single- family attached, duplexes and/or multi- family units. The unit types shall be dispersed within the development, and a site plan shall be recorded to ensure that the final buildout reflects representations in the density bonus review.

17.09.060 SHORT TERM RENTALS

- A. Purpose. The purpose of this section is to establish procedures and standards to allow Short-Term Rentals in certain zone districts in the City pursuant to a permit and to provide regulations to assist in protecting the health, safety, and welfare of property owners, neighbors, and occupants. It is the City's intent to establish Short-Term Rental regulations that promote opportunities to support the local economy and protect the long term residential character of Fruita's neighborhoods.
- B. Applicability and Prohibitions.
 1. A Short-Term Rental application is required for any Short-Term Rental located in the City of Fruita, as permitted based on the Land Use/Zoning Table in Section 17.05.090 of this Title. A Short Term Rental Permit is required for each individual dwelling unit.
 2. Private covenants running with the land may restrict or prohibit Short-Term Rentals or similar types of uses. It is the responsibility of the property owner, not the City, to ensure compliance with restrictive covenants.
 3. It shall be unlawful for any person, whether a principal or agent, clerk or employee, either for him or herself, or for any other person for anybody, corporation or otherwise, to lease or operate a Short-Term Rental without first obtaining a Short Term Rental Permit in accordance with the provisions and procedures of this Section.

4. Short-Term Rentals are not allowed in bed and breakfasts, hotels or lodges or motels as defined in the Fruita Municipal Code, as amended.

C. Short-Term Rental Permit Required.

1. The Community Development Department shall issue permits in accordance with the provisions of this chapter.
2. No person or entity shall sell lodging to temporary occupant(s) of a dwelling unit for fewer than 30 consecutive days without first having obtained a Short-Term Rental permit issued by the City and complying with any conditions or restrictions thereof. A separate Short-Term Rental permit is required for each Short-Term Rental unit. A Short-Term Rental permit may be issued only to the owner of the property used for Short-Term Rental.
3. A Short-Term Rental Permit attaches only to the property for which it is issued and the property owner to which it is issued. The permit is nontransferable upon sale or other transfer of ownership of the property. Upon such transfer of ownership, the new owner of the property shall apply for a new Short-Term Rental Permit if it wishes to continue the use of the property as a vacation rental.

D. Local Point of Contact.

1. The property owner shall designate one or more person(s) who will be the Local Point of Contact and will be available and responsible for immediately responding to complaints within a reasonable amount of time about or violations of any permit terms or any public nuisance regulations.
2. The term local as used herein means having a permanent address within a 25-mile radius from the Short-Term Rental. The local point of contact may be the property owner only if the local criteria is met.
3. The Local Point of Contact must be authorized by the property owner to permit inspection of the premises by the City and/or its agent or employee to ensure compliance with applicable fire and building codes and with the requirements for and/or of the short-term rental permit. Additionally the local contact must have physical access to the property and shall be authorized to make decisions regarding the vacation rental property on behalf of the owner.

E. General Requirements. Prior to a Short-Term Rental Permit being issued pursuant to Section C herein, the property owner of the proposed Short-Term Rental shall:

1. Obtain a sales and lodgers tax license as well as a business license and comply with all applicable local, State and federal taxes;
2. Demonstrate and certify that the unit contains the following on the premises at all times:

- a. A smoke detector in good working order.
 - b. A carbon monoxide detector in good working order.
 - c. Adequate and functional building egress from each sleeping room in the dwelling unit.
 - d. Posted notice in the Short-Term Rental for guests providing, in detail, the following information in a highly visible location and readily accessible form:
 - i. Location of building exits and fire extinguishers;
 - ii. Contact information for the Local Point of Contact;
 - iii. Short-Term Rental application number;
 - iv. Noise restrictions and quiet hours;
 - v. Parking Restrictions;
 - vi. Trash disposal, storage and collection schedule;
 - vii. Relevant water restrictions.
3. Provide with the application a sketch or drawing of the unit that depicts all rooms, doors and windows, including dimensions, and shows on-site areas available for guest parking;
4. If the Short-Term Rental unit is accessed by a shared driveway, provide the City with a copy of a written instrument authorizing use of the driveway for short-term rental purposes;
5. Permit inspection of the premises by the City or its agent or employee during the pendency of the permit application, and thereafter upon reasonable notice;
6. Provide the name, address and phone number of the Local Point of Contact to the City, and update such information within ten (10) days with the City whenever it changes;
7. Register annually with the City, certifying that the permit terms and requirements are still being met and updating any material changes to the unit or property;
8. Kitchen facilities may only serve the property owner and the guests;
9. Short-Term Rentals are required to be rented for a minimum of 45 days in a calendar year. Failure to rent the property will cause the property to be ineligible for renewal in the subsequent year.
10. Signs advertising Short-Term Rentals, whether on or off premise are prohibited.
11. Digital advertisement shall include the Short-Term Rental application number assigned by the Planning Clearance. The failure to prominently display the Planning Clearance number in any advertisement of accommodation shall be a violation of this Chapter. Advertising shall include any written, oral or video communication or publication disseminated by signage, mailing, print, internet listing, e-mail publication, social media, other electronic means, telephone or other means which is intended to directly or indirectly induce a person to use or

possess the accommodation for consideration.

F. Revocation, Suspension, Expiration and Appeal.

1. A Short-Term Rental Permit may be suspended or revoked for any of the following reasons:
 - a. The owner or designated responsible party has failed to comply with any requirement of Section 17.13.100 of this Title.
 - b. The owner or designated responsible party has failed to comply with a condition of or restriction set forth in the Short-Term Rental Permit.
 - c. The owner has failed to collect or remit lodging or sales taxes or otherwise comply with local, State and/or federal tax requirements.
 - d. Materially false or misleading information has been provided to the City by the applicant, owner or designated responsible party on an application.
 - e. The City has received excessive and substantial complaints by neighbors or affected persons, which complaints were not adequately and timely addressed by the owner or Local Point of Contact as determined solely by the City.
2. Notice of revocation shall be provided to the owner, who shall then be given an opportunity to respond within ten (10) days. The Community Development Director shall issue any decision to revoke or suspend a permit within ten (10) days of the response date.
3. Any aggrieved person may appeal the issuance, denial, suspension, or revocation of a Short-Term Rental Permit to the Fruita City Council within 10 days of the issuance of the decision.

G. Violations.

1. Violations of this Chapter shall be enforced pursuant to Chapter 1.28 of the Fruita Municipal Code.
2. A violation of this Chapter may also be punishable by denial of a license for a Short-Term Rental Permit for the property or property owner that has offended such limitation for a period of two (2) years from the City's date of revocation.
3. All amounts due and owing to the City in connection with any violation of this Chapter shall constitute a first priority lien on the Short-Term Rental property and may be collected by any means provided under the Code.

H. Issuance; Renewal.

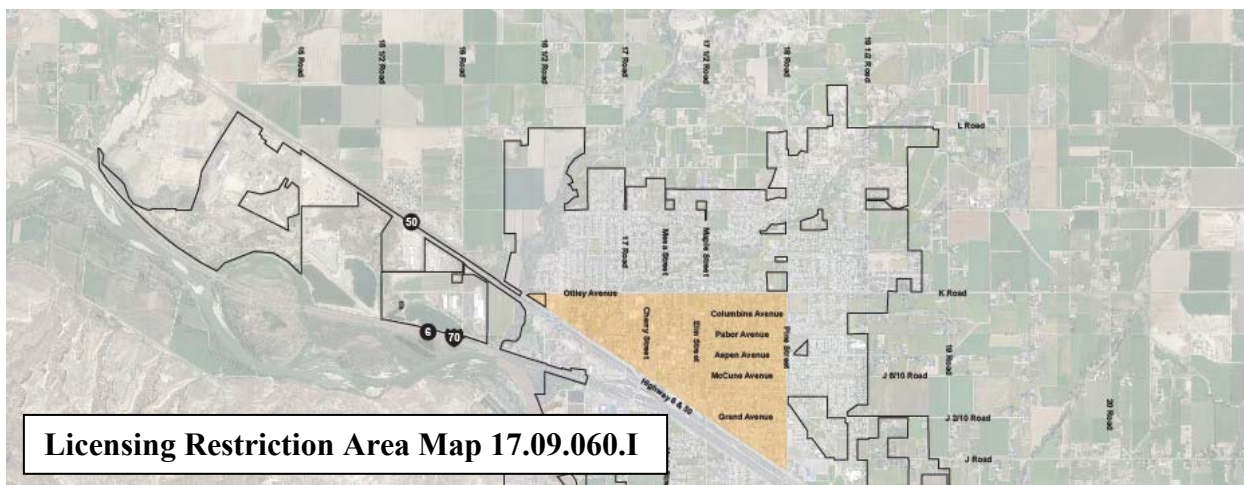
1. After considering the criteria set forth in this Chapter, and within sixty (60) days of receiving a complete application and application fee, the Community Development Director may issue a Short-Term Rental Permit to the property owner. Such permit may contain conditions and restrictions.
2. A permit shall not be issued or renewed until the Short-Term Rental Permit fee

has been paid by the property owner. Such fee shall be set by the Fruita Council annually.

3. Permits shall be valid for a single calendar year, and shall expire on December 31st of each year, unless a request for renewal is made. Each permit is only good for a single calendar year, regardless of when it was originally approved. For instance, a permit that is issued in July shall expire on December 31st of that calendar year. Subject to the requirements of this Chapter, a permit shall be renewed annually, extending the term for one additional calendar year. All permits in compliance with this Title may apply for renewal and are not subject to the random drawing provisions contained herein.
4. A renewal application shall be submitted by December 1st of each year.
5. After considering the criteria set forth in this Chapter, and prior to the expiration of the then-existing Short-Term Rental Permit, the Community Development Director may issue renewal Short-Term Rental Permit to the property owner. Such renewed permit may contain new or modified conditions and restrictions.

I. Temporary Limitation on Issuances of Short-Term Rental Permit

1. Notwithstanding anything in this Chapter, commencing on April 15, 2021 through April 1, 2022, there shall not be more than fifty (50) Short Term Rental Permits active within the Licensing Restriction Area Map 17.09.060.I shown below (the “Licensing Restriction”). On or before April 1, 2022, City Council shall take action to determine an increase or elimination of the Licensing Restriction. Once the Licensing Restriction has been reached, the City shall continue to accept applications for Short Term Rentals which shall be approved or denied in the order received by the City if the Licensing Restriction has been increased or eliminated. In calculating the Licensing Restriction, the City shall include Conditional Use Permits for Bed and Breakfasts issued thus far; provided, however, the Licensing Restriction shall not include Accessory Dwelling Units or units currently occupied by the property owner.



17.09.070 AMENDMENT TO OFFICIAL ZONING MAP (REZONING).

- A. Applicability and Procedures. The City Council may amend the number, shape, or boundaries of any zone, removing any property from one zone and adding it to another zone, only after recommendation of the Planning Commission. An amendment to the Official Zoning Map may be initiated by the owner of any property for which a rezoning is sought, or upon application of City Council.
- B. Approval Criteria. The Official Zoning Map may be amended when the following findings are made:
1. The proposed rezone is compatible with surrounding land uses, pursuant to Section 17.05.080.C, and is consistent with the city's goals, policies and Comprehensive Plan; and
 2. The land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Comprehensive Plan; or
 3. The area for which the rezone is requested has changed substantially such that the proposed zoning better meets the needs of the community; or
 4. The rezone is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions; or
 5. The rezone is incidental to the annexation of the subject property.
- C. Additional Requirements. In addition to the procedures for public hearings under Section 17.07.040, if the zoning amendment is approved by the City Council, it shall enact an ordinance to such effect and the amendment to the Official Zoning Map shall become effective thirty (30) days after publication of said ordinance.

17.09.080 AMENDMENT TO THE LAND USE CODE.

- A. Applicability and Procedures. City Council may, after the recommendation of the Planning Commission, amend language in this Title, which amendment may be initiated by any citizen or group of citizens, firm or corporation residing or owning property within the city, or by the Community Development Director, or by the Planning Commission, or by the City Council.
- B. Approval Criteria. Amendment to this Title may be made upon a finding that the amendment is consistent with the city's goals, policies and Comprehensive Plan.

17.09.090 VACATION OF PUBLIC RIGHT-OF-WAY.

- A. The Community Development Director may approve the vacation of a public right-of-

way, upon finding that the vacation will not:

1. Create any landlocked parcels;
 2. Negatively impact adjacent properties;
 3. Reduce the quality of public services to any parcel of land; and
 4. Be inconsistent with the City's Comprehensive Plan.
- B. A right-of-way vacation may be approved through the Major Subdivision platting process as long as the above criteria are met in addition to the following:
1. The right-of-way to be vacated was previously dedicated to the public;
 2. The right-of-way to be vacated is entirely within the plat being created; and
 3. Existing and proposed utilities are accommodated with sufficient easements.

17.09.100 VACATION OF PUBLIC EASEMENT. The City Council may approve the vacation of a public easement, after recommendation from the Planning Commission, upon finding that there is no longer a public interest in retaining said easement and no utility provider objects to the easement vacation.

CHAPTER 17.11
GENERAL DEVELOPMENT STANDARDS

17.11.010	Design Standards and Specifications
17.11.020	Exceptions to Lot Area and Dimensional Standards
17.11.030	Height Exceptions and Permitted Setback Encroachments
17.11.040	Fences
17.11.050	Landscaping
17.11.060	Storage of Vehicles and Similar Equipment on Residential or Agricultural Property
17.11.070	Wood Burning Stoves, Fireplaces, Gas Log Fireplaces and Pellet Stoves.
17.11.080	Outdoor Storage, HVAC Equipment and Other Service Functions.
17.11.090	Waste Storage
17.11.100	Repair, Painting and Similar Uses
17.11.110	Dust, Noise, Odor
17.11.120	Outdoor Lighting
17.11.130	Animal Regulations

17.11.010 Design Standards and Specifications

The following standards and regulations are applicable to all projects requiring approval under the provisions of this Title:

- A. Street, Road and Bridge Standards. The publication entitled “City of Fruita Design Criteria and Construction Specifications” (latest edition) shall apply to developments in all zones, except that standards and specifications published by the Colorado Department of Transportation shall apply to all State highways in all zones.
- B. Drainage and Storm Water Management. The publications entitled, “Mesa County Storm Water Management Manual” (latest edition), “City of Fruita Design Criteria and Construction Specifications” (latest edition), and all building codes adopted pursuant to Title 15 of the Fruita Municipal Code shall apply to developments in all zones.

Each business, commercial, or industrial development is required to meet or exceed the standards of the City of Fruita, Colorado Department of Public Health and Environment and the U.S. Department of Environmental Protection Agency with regard to water pollution control, stormwater control, and storm water management. It is the property owner’s or applicant’s responsibility, as applicable, to ensure compliance with state and federal regulations.

- C. Wastewater. Industrial pretreatment may be required for industries with certain liquid wastes as defined by the City of Fruita, Colorado Department of Public Health and Environment, and the US Environmental Protection Agency. All businesses and industries shall meet or exceed the requirements of the Fruita Municipal Code.
- D. Buildings and Structures. All buildings and structures in all zones shall comply with all

building codes adopted pursuant to Title 15 of the Fruita Municipal Code.

- E. Other Design Standards and Construction Specifications. All other development in all zones shall comply with the publication entitled “City of Fruita Design Criteria and Construction Specifications” (latest edition), and all building codes adopted by the city.
- F. Conflicting Provisions. When conflicts exist between adopted codes and standards, or between adopted codes and standards and project-specific “approved for construction” drawings and specifications, the most restrictive provision shall apply. Where the City of Fruita has approved construction drawings for a project, unless superseded by state or federal law, the project-specific “approved for construction” drawings and specifications shall control, followed by written criteria, or specifications published by other entities. Where local City of Fruita documents are silent, the most stringent external standard or specification shall apply.

17.11.020 Exceptions to Lot Area and Dimensional Standards

Lot area and dimensions shall conform to the Schedule of Density and Dimensional Standards Tables per zone district, except as amended by the design standards of Chapter 13 of this Title, PUD zoning as per Chapter 19 of this Title, and as follows:

- A. Minimum frontage. All residential lots, including cul-de-sac lots where vehicle access is provided from the abutting street, shall have a minimum street frontage width of twenty-eight (28) feet excluding areas set aside for utility pedestal installations. Flag lots and or lots with shared driveways are permitted to have less than twenty-eight (28) feet of street frontage as determined through the subdivision review process and as per Section 17.20 of this Title.
- B. Utility Facilities. Electric substations, telephone switching facilities, irrigation structures, and similar limited impact facilities shall be permitted to occupy a lot area smaller than that provided for in these regulations provided such facilities are properly screened and buffered from surrounding properties and the street.

17.11.030 Height Exceptions and Permitted Setback Encroachments.

- A. Height limits do not apply to any: chimney; spire; bulkhead; elevator; water collection, recirculation, or storage system; geothermal heating system; solar photovoltaic equipment; wind turbine; belfry; cupola; windmill; antenna; or any similar structure or necessary mechanical appurtenance not designed for occupancy extending above the roof line, provided such structure does not extend more than ten (10) feet above the highest roof line and does not exceed more than ten (10) percent of the area of the roof where it projects more than four (4) feet above the highest roof plane. Light poles, flag poles, and similar structures not attached to a building are permitted to be no taller than the maximum height in the zone in which it is located.

- B. Building setback encroachment of up to three (3) feet is permitted for chimneys, roof eaves, bay windows and similar features that do not contain inhabitable floor space, stairways not to exceed six (6) feet in height or raised decks not to exceed three (3) feet in height, provided that minimum clearance of three (3) feet is maintained between the structure encroachment and all property lines and provided adequate space is reserved to comply with storm water drainage requirements.

17.11.040 Fences.

The purpose of this Section is to ensure fences erected within the city do not impede traffic safety, do not conflict with applicable codes, and impose no deleterious effect on any neighborhood. A Planning Clearance shall be required before erecting, moving or altering a fence in the city. Fences shall conform to the following requirements:

- A. No fence shall be erected in such location upon any lot or property in a manner constituting a traffic hazard because of obstruction of view. The City of Fruita Design Criteria and Construction Specifications Manual and the City of Fruita Land Use Code shall be used as the criteria for determining compliance. No fence shall be constructed to within four (4) feet of or prevent access to any fire hydrant, utility pedestal, vault, cabinet, or similar feature.
- B. Fences shall be constructed of durable materials, which may include but are not limited to, wire (e.g., chain link), vinyl-coated wire, wrought iron, wood, extruded plastic (e.g., from fence manufacturer), and other materials similar in appearance and durability. Unacceptable materials that are visible to the public include: glass, tires, razor wire, barbed wire and/or concertina wire, junk, and any material that presents a public health or safety hazard. The prohibition on razor wire, barbed wire, concertina wire and similar wire fences does not apply to the Industrial zone provided that not more than three (3) strands of barbed wire atop a fence is allowed and are not counted in the height calculation. Electric and barbed wire fencing is allowed in zones which allow large animals (such as horses, cows and sheep) only when properly installed and necessary to contain large animals.
- C. There shall be no fence or wall erected which exceeds six (6) feet in height (except as permitted in subsection 7 below), as measured from the natural grade, except where the city has approved construction of a retaining wall; the height of the retaining wall shall not be included in the height of the fence. An increase of up to two (2) inches is allowed when spacing for drainage under a fence is needed. The Community Development Director may approve an increase in fence or wall height where a unique feature of the property or a permitted use warrants such an increase and the increase is not detrimental to surrounding public or private properties.
- D. Except as allowed for corner lots, fences in the required front yard setback shall not

exceed thirty-six (36) inches in height; such fences may be increased to forty-eight (48) inches maximum height if the fence material is at a ratio of not less than half open space to half closed space for every square foot for that part of the fence extending above thirty-six (36) inches in height. Examples of fence types that would typically comply include: chain link, picket, split rail, and similar fences.

- E. On corner lots, solid fences up to six (6) feet in height within a street side setback may be permitted only on the frontage that does not contain a driveway, and provided the fence conforms to the required clear sight triangle.
- F. Fences in excess of six (6) feet shall comply with applicable building codes and all required setbacks for primary buildings, as applicable. Fences in Industrial zones may exceed six (6) feet as provided for in subsection 3 above.
- G. Fences in zones which permit a zero building setback must meet design standard requirements of Chapter 11 of this Title.
- H. Where a fence is proposed in conjunction with a development or change in use, the location, height, materials, and detailing of the fence may be subject to other requirements or limitations to ensure consistency with the purposes of this Title.
- I. All fences shall be properly maintained by the owner so as to not become a public nuisance or hazard.

17.11.050 Landscaping Requirements and Irrigation.

- A. For single-family and duplex dwelling units with a front yard, at least one (1) tree in the front yard is required to be planted and maintained within six (6) months of issuance of a Certificate of Occupancy.
- B. Except for development subject to Urban Center Design Standards of Chapter 13 of this Title, no less than ten (10) percent of a lot or parcel developed for multi-family or non-residential land uses must be landscaped. At least half of this landscape must be provided on the front half (street sides) of the development unless the front setback is permitted to be, and will be, fifteen (15) feet or less, in which case the required landscaping may be located anywhere on the property provided all other requirements are met. Landscaping must include at least one (1) small tree for every five hundred (500) square feet, one (1) medium tree for every one thousand (1,000) square feet, or one (1) large tree for every 1,500 square feet of landscaped area along with two (2) shrubs for every tree and appropriate groundcover. Landscaping, in addition to the minimum ten (10) percent may be required for parking lots containing more than fifteen (15) car parking spaces and/or for buffering and screening purposes as deemed necessary to comply with compatibility requirements of Section 17.05.080.C and/or parking lot landscape requirements of Chapter 17.37 of this Title.

- C. For large industrial land uses with significant amounts of outdoor storage and/or operations, the outdoor storage/operation area(s) are not required to be used in the calculation of the minimum 10% landscaping required.
- D. Landscape improvements must follow the landscaping requirements of the Appendix of the Fruita Land Use Code including quality, size, type, planting, and location considerations. Landscaping required to be installed to meet the minimum requirements of this Title (including conditions of approval on a land development application) must be maintained to continue to meet the minimum requirements of this Title.
- E. The types of trees and other vegetation to be planted within public right-of-ways will be determined by the decision-making body (Community Development Director or City Council) based on the requirements of the Appendix of the Land Use Code.
- F. Irrigation water. Irrigation water must be provided to new developments when landscaping is required and must be used for required landscape areas where irrigation water is legally and physically available. A minimum of one and one half (1 ½) to two (2) shares of irrigation water per irrigated acre is required to be provided. See the City of Fruita Design Criteria and Construction Specifications Manual for more information.

17.11.060 Storage of Vehicles and Similar Equipment on Residential or Agricultural Property.

- A. For the purposes of this section, "vehicle" is defined as any automobile, truck, tractor, or other machinery of any kind, including every device in, on, or by which any person or property is or may be transported or drawn upon a public highway, road or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- B. Trailers, airplanes, boats, recreational vehicles, travel trailers, campers and similar items may be stored on property used mainly for residential purposes as long as the storage is at least ten (10) feet from public right-of-way, excluding alleys. Storage, as used in this subsection, means the location of the above-mentioned items for more than forty-eight (48) hours during any seven (7) day period.
- C. It shall be unlawful to store or otherwise have, maintain or allow on a single parcel of land in the City of Fruita more than one (1) non-farm vehicle not having current Colorado license plates or registration unless the vehicle is in an approved junkyard or other similar use where such vehicle storage is permitted. Such vehicle must be stored within an enclosed building or stored behind the front plane of the house or other primary building on the property.
- D. There shall be no limit on the number of active or serviceable agricultural vehicles on a parcel of land, regardless of whether such vehicles have current registration or license plates; however, the restrictions of one (1) vehicle per parcel of land shall apply to agricultural vehicles which are clearly abandoned or which are not in their present condition suitable for active agricultural use.

- E. Work vehicles exceeding one-ton capacity, other heavy-duty vehicles or heavy equipment not typically associated with a residential use shall not be stored on property under two acres in size and used or zoned primarily for residential purposes except for deliveries or for construction or maintenance work to be done at the site. The number of such oversized vehicles stored on the property is limited to two per lot and must be stored behind the front plane of the house and meet primary building setbacks. Storage, as used in this subsection, means the location of the above-mentioned items for more than forty-eight (48) hours during any seven (7) day period.

17.11.070 Wood Burning Stoves, Fireplaces, Gas Log Fireplaces and Pellet Stoves

- A. Purpose: Air pollution in the Fruita area has become an issue of concern and has been documented by the Mesa County Health Department and the Mesa County Air Quality Planning Committee. It has been found that a major contributor to the air pollution problem in the Grand Valley is the widespread use of wood stoves and fireplaces that do not have air pollution control devices.
- B. Devices Prohibited: New dwellings and remodeled portions of existing structures shall not contain wood burning stoves, fireplaces, coal burning or similar heating devices not approved by the U.S. Environmental Protection Agency (EPA).
- C. Devices Allowed: Only EPA approved natural gas fireplaces, EPA approved pellet stoves, and EPA approved wood burning stoves and fireplaces shall be allowed in new or remodeled structures.

17.11.080 Outdoor Storage, HVAC Equipment and Other Service Functions

Outdoor storage, HVAC equipment and other service functions must be incorporated into the overall design of the building and landscaping plan. Views of these areas shall be screened from visibility from abutting public rights-of-way and the ground floor of abutting residential land uses. These requirements do not apply to single family or duplex dwelling developments.

17.11.090 Waste Storage

Every use shall provide for enclosed solid waste storage, sorting, and recycling facilities, as applicable. Such facilities shall be oriented away from building entrances, setback at least ten (10) feet from any public right-of-way and screened from view of all public rights-of-way (with the exception of alleys) and abutting land uses by locating them inside buildings (as practical), or by placing them behind a sight obscuring fence, wall, landscaping, or combination thereof. The storage of oils, chemicals, wastewater and other liquid contaminants must be stored and contained in structures approved by the U.S. Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment to prevent them from leaking.

17.11.100 Repair, Painting and Similar Uses

For non-residential land uses, all repair, painting, bodywork, and similar activities, including the storage of refuse and vehicle parts, must take place within an enclosed structure (surrounded by walls and a roof). Residential land uses must meet all other city requirements regarding such uses.

17.11.110 Dust, Noise, Odor

Each business, commercial, or industrial development is required to meet or exceed the standards for dust, noise and odor, as adopted by the City of Fruita, Mesa County Health Department, state law, the Colorado Department of Public Health and Environment and the U.S. Environmental Protection Agency.

17.11.120 Outdoor Lighting

- A. Street lighting shall be required for all new developments. All intersections shall be illuminated. If there is more than six hundred (600) feet between intersections, additional lighting shall be installed between intersections. Where a new street intersects with an existing street that is not illuminated, the developer will be responsible for the cost of illuminating such intersection. The local electric service provider and the City of Fruita must approve street lighting plans.
- B. The following regulations shall apply to all new outdoor lighting on privateland:
 - 1. All fixtures shall be fully shielded. For purposes of this subsection, fully shielded shall mean fixtures constructed so that light rays emitted are projected below, and not above, the horizontal plane of the fixture.
 - 2. Lighting shall be downcast and so placed as to prevent the light rays or illumination from being cast beyond property lines.
 - 3. The maximum height of pole lights shall not exceed thirty-five (35) feet in height. The maximum height of lights attached to a building shall not exceed twenty (20) feet in height. Lights required by other government agencies for safety purposes, such as Federal Aviation Administration requirements for lights on certain tall structures, are exempt from these standards.
 - 4. Total outdoor light output shall not exceed the limits set in the table below. Lighting District 1 refers to urban and downtown areas, and commercial and industrial activity centers. Lighting District 2 refers to residential areas, and commercial and industrial activity primarily surrounded by residential land uses. Lighting District 3 refers to rural and agricultural areas, and small commercial or industrial activities primarily surrounded by rural or agricultural areas.

Maximum Total Lumen Output Standards			
	LD1	LD2	LD3
Commercial and Industrial Zoning (per acre)	300,000	200,000	100,000
Residential Zoning (per lot)	30,000	20,000	10,000

5. Gas fired fixtures and lights used for holiday decorations are exempt from the requirements of this subsection.

Chapter 17.11.130 ANIMAL REGULATIONS

A. ANIMALS. Notwithstanding any other provision of the Fruita Municipal Code to the contrary, and with the exception of duly permitted zoos or circuses, no person shall own, possess, harbor, maintain or keep household animals, agricultural animals, exotic animals, or other animals that become a neighborhood nuisance because of noise, odor, or a threat to the health and safety of surrounding residences, and commercial and industrial establishments. A nuisance, for the purpose of this Section, shall be defined as a property for which the City receives three (3) or more animal complaints supported by competent evidence in a one (1) month period of time and which establishes a continuous neighborhood problem of noise, odor or a threat to safety.

B. NUMBER OF DOGS AND CATS PERMITTED. The total number of dogs and cats on a single parcel shall not exceed four (4). Puppies and kittens of up to three (3) months in age shall be allowed to exceed this number.

C. FRUITA ANIMAL RESTRICTIONS BY ZONE DISTRICT. The following restrictions by zone apply to all animals which are kept as an accessory use to the main use of the property. See Chapter 17.05 for allowed uses, such as kennels, veterinary clinics, agricultural land uses, and others where the keeping of animals is part of the primary use of the property.

Animal densities refer to any combination of a particular category which add up to the total number allowed in each zone; e.g. two (2) dogs and two (2) cats, or one (1) dog and three (3) cats, or four (4) dogs, etc. are allowed for a dwelling unit in the Community Residential zone. (See also Fruita Municipal Code Section 6.04.010, et seq.)

Animal densities calculated by animals per dwelling unit are permitted cumulatively; e.g. four (4) dogs, two (2) rabbits, and one (1) snake are allowed per dwelling unit in the Community Residential zone.

Animal densities calculated by animals per acre are not permitted cumulatively; e.g. two (2) horses and sixteen (16) goats would not be permitted on a two (2) acre lot in a Rural Estate zone but one (1) horse and eight (8) goats or two (2) horses and no goats would be permitted.

<u>ZONE</u>	<u>Rural Estate, Monument Preservation, & Community Services and Recreational</u> (RE, MP & CSR)	<u>Community Residential, Large Lot Residential, Downtown Mixed Use & South Fruita Residential</u> (CR, LLR, , DMU & SFR)	<u>Commercial-1, Commercial-2, & Industrial</u> (C-1, C-2& I)
<u>ANIMAL CATEGORY</u>			
Cats, dogs	4 per dwelling unit no limit on kittens & puppies up to 3 months old	4 per dwelling unit no limit on kittens & puppies up to 3 months old	4 per dwelling unit no limit on kittens & puppies up to 3 months old
Horses, cows, llamas, mules, buffalo, ostrich, emus	No limit except on parcels of land less than 10 acres, then 1 per acre	Conditional Use Permit required, then 1 per acre	Conditional Use Permit required except on parcels of 35 acres or more in which case no limit
Goats, sheep, pigs, potbellied (miniature) pigs, miniature horses	No limit except on parcels of land less than 10 acres, then 8 per acre	Conditional Use Permit required except on parcels of 35 acres or more in which case no limit	Conditional Use Permit required except on parcels of 35 acres or more in which case no limit
Chickens (excluding roosters)	No Limit	6 chickens per dwelling unit with a maximum of 12 chickens per lot. More than these numbers require a Conditional Use Permit for parcels of land less than 35 acres in size.	6 chickens per dwelling unit with a maximum of 12 chickens per lot. More than these numbers require a Conditional Use Permit for parcels of land less than 35 acres in size.
Ducks, turkeys, pigeons, small birds (except chickens and roosters)	No limit	Conditional Use Permit required except on parcels of 35 acres or more in which case no limit	Conditional Use Permit required except on parcels of 35 acres or more in which case no limit
Rabbits, chinchillas, small animals	No limit	4 per dwelling unit except on parcels of 35 acres or more in which case no limit	4 per dwelling unit except on parcels of 35 acres or more in which case no limit
Non-domestic exotic animals, birds, reptiles ¹	4 per dwelling unit: must be kept indoors	4 per dwelling unit: must be kept indoors	4 per dwelling unit: must be kept indoors
¹ Notwithstanding this section, it shall be unlawful for any person to own, possess, or harbor any of the animals described in Section 6.18.010 of the Municipal Code.			

CHAPTER 17.13 **DESIGN STANDARDS**

SECTIONS:

17.13.010	Purpose
17.13.020	Applicability and Adjustments
17.13.030	Standards and Guidelines Definitions
17.13.040	Design Principles
17.13.050	Urban Center Design Standards
17.13.060	Business Area Design Standards
17.13.070	Residential and Subdivision Design Standards

17.13.010 PURPOSE

The standards of this section are intended to promote high-quality development that is compatible with Fruita's unique character, protects and promotes property values, and support's Fruita as a stand-alone community.

The 2020 Community Plan strives to promote high quality growth that preserves Fruita's character and increases economic sustainability. The Plan goes on to call for the creation of vibrant neighborhoods with a diversity of housing options that allow Fruita residents to live, work, and play in their community. As such, the design standards in this chapter are proposed to meet these goal statements combining the needs for strong livable neighborhoods and long-term economic development. These standards are intended to set the course to meet the desired character of the community.

Because not all development opportunities can be predicted, Section 17.13.020(B) is included with this chapter in order to provide developers flexibility when applying the regulations and requirements in this chapter. This chapter is intended to help guide and provide direction for an applicant, and will encourage any high quality project that meets community goals and objectives. All interpretations of the requirements of this chapter shall meet this purpose.

17.13.020 APPLICABILITY AND ADJUSTMENTS

A. Applicability

This Chapter applies to all developments, except individual single family and duplex developments on lots larger than 7,000 square feet in size, that are located in the following zones: Downtown Mixed Use Core (DM-C); Downtown Mixed Use Outer (DM-O); Commercial 1 (C1); and Commercial 2 (C2).

These design standards also are applicable to new lots in new subdivisions (subdivisions approved after 4/3/2009) that include attached single family residential units; single family detached residential lots measuring less than 7,000 square feet in size, residential lots measuring less than sixty (60) feet in width and only those parts of new subdivisions containing these types of residential units regardless of the zone in which it is located.

The design standards of this Chapter are applicable to:

- properties undergoing changes in land use;
- new buildings;
- building additions where additional building square footage or development ground cover exceeds 30% of the total existing square footage (or ground cover) of the existing structure; and
- substantial exterior remodels where more than 50% of the exterior facades are undergoing reconstruction.

Design standard applicability for various development types within each of Fruita's zone district is identified in the table below.

	DMU	C-1	C-2	NCO	Other
Mixed-use development	UC	UC	CA	UC	---
Commercial development	UC	UC	CA	UC	---
Industrial/manufacturing development	UC	UC	CA	UC	---
Multifamily residential development	UC	UC	CA	UC	RS
Other Residential development	RS	---	---	RS	RS

UC - Urban Center Design Standards

CA - Commercial Area Design Standards

RS - Residential and Subdivision Design Standards

B. Adjustments

The provisions of this Chapter may be adjusted at the discretion of the city decision-making body, as applicable, without the need for a variance, where the city decision-making body finds that an applicant's proposed alternative design meets the intent of the regulations which are to be adjusted, and the proposed design provides compatibility between the proposed development and uses adjacent to the subject site. Where this Chapter provides "Guiding Principles," those principles are to be used in evaluating adjustment requests.

17.13.030 STANDARDS AND GUIDELINES DEFINITIONS

This Chapter contains both standards and guidelines

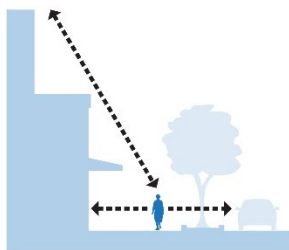
- **Standards:** Standards are rules, principles, or measures and are mandatory for all developments, unless expressly adjusted through Section B, above. The terms “shall” and “must” indicate a code standard.
- **Guidelines:** Guidelines are policy preferences that further the city’s land use policies and goals. Statements of “intent” and code provisions using the word “should” or “encourage” are guidelines. “Guiding Principles” are guidelines. Guidelines are represented in this chapter in [*brackets*] that are italicized and in **blue text**. While guidelines are discretionary in nature, they must be addressed by the applicant, and the city decision- making body may apply them as mandatory requirements in situations where the applicant has requested code adjustments.

17.13.040 DESIGN PRINCIPLES

The following Guiding Principles apply to all new development and redevelopment in Fruita.

<i>Urban Center Design Principles</i>	<i>Commercial Area Design Principles</i>	<i>Residential and Subdivision Design Principles</i>
<ol style="list-style-type: none"> 1. New development and redevelopment should support a walkable and attractive area with shopping, restaurants, residences, parks, and civic, office and other employment centers. 2. Building height and articulated facades should create a sense of street enclosure at a human scale. 3. Building heights should help to transition (step down) between the Mixed Use zones and the adjacent residential neighborhoods. 4. The use of contextually appropriate materials, textures and colors is encouraged. 5. Storefront character (windows, pedestrian shelter, furnishings, etc.) within planned 	<ol style="list-style-type: none"> 1. Create distinct commercial centers. 2. Define the edges of commercial areas with attractive landscape buffers and transitions between commercial uses and the roadway and/or non-commercial areas. 3. Orient buildings to streets and create a storefront character where possible to create a sense of enclosure and human scale (or, where buildings are to be setback from Highway 6 & 50 or Highway 340, require entrances to be oriented to pedestrian ways and require appropriate landscaping between parking lots and the highway). 4. Improve on-street parking opportunities where practical. 	<ol style="list-style-type: none"> 1. New buildings and exterior remodels should honor traditional neighborhood development principles, consistent with the desired character and form of Fruita, as expressed by the Community Plan. 2. Promote neighborhood circulation with convenient connections via streets and pedestrian and bicycle ways to parks, schools, churches, neighborhood commercial uses (where applicable) and other neighborhood-oriented services and amenities. 3. Enhance the safety, appearance, and overall quality of Fruita’s neighborhood streets by providing options and incentives for alleys and/or shared driveways serving small lot

<p><i>commercial centers is encouraged.</i></p> <p>6. <i>A diversity of building facades and rooflines that fall into a consistent rhythm are encouraged.</i></p> <p>7. <i>Corner lots should be appointed as focal points with furnishings and public art.</i></p> <p>8. <i>New buildings, and exterior remodels in the downtown area are expected to honor the historical development pattern and character of downtown Fruita.</i></p>	<p>5. <i>Articulate building facades to break up large volumes and promote human scale</i></p> <p>6. <i>Use materials and colors that blend with the desert landscape.</i></p> <p>7. <i>Use desert landscaping or drought tolerant landscaping for context-appropriate design and to conserve water.</i></p> <p>8. <i>Maintain views of Colorado National Monument, Book Cliffs, Big Salt Wash, and other natural features, where practical.</i></p> <p>9. <i>Facilitate the development of a continuous pedestrian network and bicycle ways connecting with adjacent neighborhoods.</i></p> <p>10. <i>Reduce reliance on the highway for local vehicle trips (e.g., from one store to another store in the same vicinity).</i></p> <p>11. <i>Develop an interconnected system of driveways or alleys with shared access to minimize traffic conflicts.</i></p>	<p><i>developments and multifamily projects where garages and other parking areas are setback and oriented away from neighborhood streets.</i></p> <p>4. <i>Promote the creative design and use of a wide variety of parks and open spaces.</i></p> <p>5. <i>development that is compatible with the natural features of Fruita landscape and promotes Fruita's traditional neighborhood development patterns.</i></p>
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Urban Center Design Principle #2



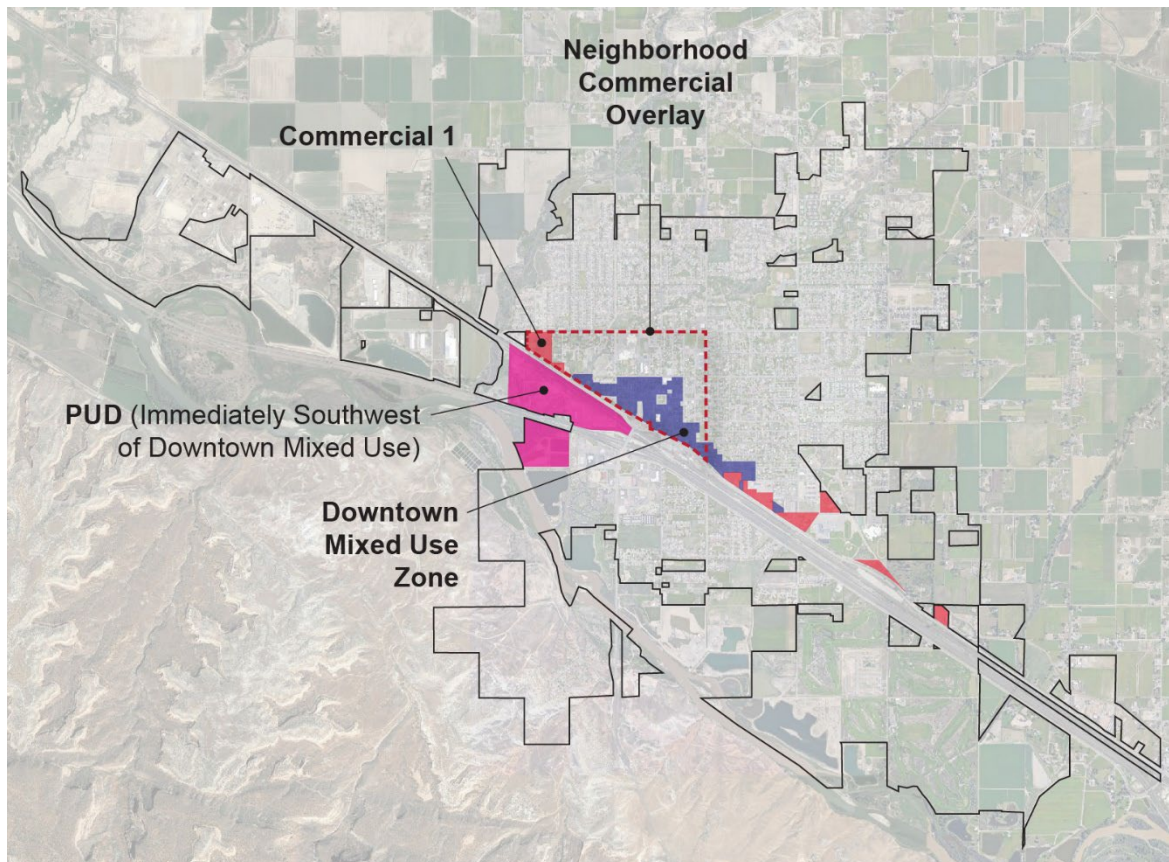
Urban Center Design Principle #3

17.13.050 URBAN CENTER DESIGN STANDARDS

The following architectural and site design standards are applicable to all commercial, mixed-use, and multifamily development in the Downtown Mixed Use (DMU) and Commercial-1 (C-1) zone districts, and within the Neighborhood Commercial Overlay, with the following exceptions:

- all properties touching Grand Avenue between Highway 6 & 50 and Sycamore Street,
- all properties touching Highway 6 & 50 between Pine Street and Plum Street,
- all properties west of Apple Street, south of Cleveland Street, and north of Highway 6 & 50,
- all property between the west end of Pabor Way and Little Salt Wash.

The zone districts subject to the Urban Center Design Standards are also illustrated in the map below.



A. Site Design Standards

1. Open Space & Civic Space.

At least three (3) percent of every development site shall be designated and improved as civic space (plaza, landscaped courtyard, or similar space), with the highest priority locations being those areas with the highest pedestrian activity (e.g., street corners and pedestrian access ways), as generally designated in the examples accompanying this subsection. Improvements shall conform to the subsection below.

- a. **Dimensions.** All civic spaces shall have dimensions of not less than eight (8) feet wide and deep, and have a surface area of not less than forty-eight (48) square feet.
- b. **Public Access.** Such areas shall abut a public right-of-way or otherwise be connected to and visible from a public right-of-way by a sidewalk or pedestrian access way; access ways shall be identifiable with a change in paving materials (e.g., pavers inlaid in concrete or a change in pavement scoring patterns and/or texture). Where a right-of-way connection is not possible, the owner shall be required to provide a public access way easement to the civic space.

- c. **Pedestrian Amenities Required.** Where civic space is required, it shall contain pedestrian amenities such as plaza space, extra-wide sidewalks (i.e., outdoor café space), benches, public art, pedestrian-scale lighting, shade structures, way finding signs, as approved by the city decision-making body, or similar pedestrian areas. *[Where a civic space adjoins a building entrance it should incorporate a weather protection canopy, awning, pergola, or similar feature.]*
 - i. **Exception:** Building additions and remodels that are exempt under subsection A-1 above, are not required to provide pedestrian amenities, though they are encouraged to do so. In such cases, the city may consider the voluntary provision of pedestrian amenities in approving adjustments to other applicable standards required under this Chapter.
- d. **Exceptions.** Certain exemptions from the Open Space and Civic Space requirements exist, as outlined below.
 - i. **Exceptions for Minor Projects:** Building additions and remodels are not required to provide civic space when proposed building material costs are estimated to be less than fifty (50) percent of the existing Assessor's actual value of improvements on the subject site. Assessor's actual value shall be the value of record at the Mesa County Assessor's Office.
 - ii. **Exceptions for In Lieu Fee:** The city may find that the creation of civic space is not practical based on the project location or other relevant factors. In such cases, the city may accept an in lieu fee which shall be calculated in accordance with Chapter 17.19.

2. Access and Circulation

Access in the Downtown Mixed-Use and Commercial zones and within the Neighborhood Commercial Overlay is to be provided as follows:

- a. **Pedestrian Access.** Walkways linking the pedestrian system of the block to every building entrance and civic space on a proposed development site are required. Walkways shall be constructed of scored concrete or pavers and have a width of not less than four (4) feet; additional width may be required where necessary due to projected use of the walkway.
- b. **Vehicle Access and Driveways.** New vehicle access onto Aspen Avenue is not allowed; when new vehicle access is required, it shall be taken from streets other than Aspen Avenue. Where an existing driveway or alley provides adequate access to a site, such access must be utilized before any new street access is created.

- c. **Drive-up and Drive-Through Uses.** New drive-up/drive-through facilities (e.g., windows, ATMs, etc.) are not permitted in the Downtown Core within forty (40) feet of Aspen Avenue.
- d. **Off-Street Parking and Loading.** Except as approved for parking structures (e.g., garages or under-ground parking), parking is to be provided primarily in on-street parking spaces and in shared parking areas internal to each block, either beside or behind buildings. Parking shall conform to the minimum parking standards of Chapter 17.39. (Note reduced parking standards within the Downtown Core.) Parking and vehicle circulation areas abutting a sidewalk, public right-of-way, or pedestrian access way shall provide a landscape screen of not less than four (4) feet in width and three (3) feet in height, or a decorative wall, landscape wall, or other buffer. Loading docks and trash storage areas in parking lots shall be located to the side or rear of buildings and screened from public view.

3. Landscaping

- a. **Plant Material.** Landscaping must consist of plant material covering not less than fifty (50) percent of the non-developed areas within three (3) years of planting. Use of desert landscaping or low water usage plant species as identified by the Colorado State University Tri-River Extension Service is required.
 - i. **Exception:** The required plant material coverage may be reduced to twenty (20) percent of all non-developed surfaces where a proposed building incorporates a green (landscaped) roof.
- b. **Parking Areas.** Parking area(s) shall be landscaped, as required by Section 17.37.070.G. Landscaping must consist of desert landscaping or drought tolerant plant species as identified by the Colorado State University Tri-River Extension Service.

B. Building Design Standards

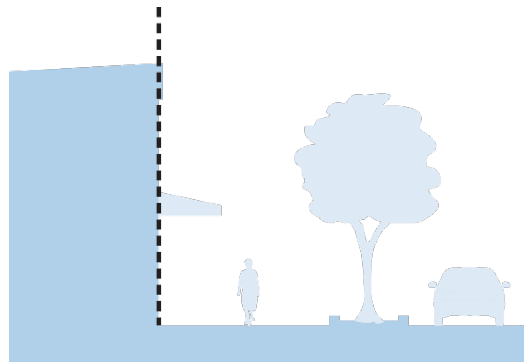
1. Heights

- a. **Maximum Height.** Buildings shall comply with the height requirements of the underlying zone district, unless otherwise amended through a PUD. The maximum height of all portions of a building that are within one hundred (100) feet of a single family dwelling shall step-down in roof elevation to provide a more sympathetic scale with adjacent single family dwellings.

- b. Minimum Height.** New buildings constructed within the Downtown Core and abutting Aspen Avenue shall be built to a height of not less than twenty-two (22) feet to maintain an intimate, pedestrian scale relative to the street, and a sense of street enclosure. Single story buildings in the Downtown and Commercial zones shall incorporate parapets that reach the minimum required height.

2. Setbacks

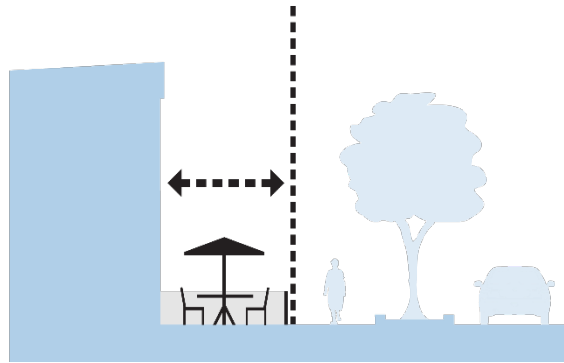
- a. Zero Front Setback.** All non-residential buildings, including mixed use buildings containing residential and non-residential uses, shall maintain a zero setback from a street property line. This standard is met when at least fifty (50) percent of the abutting street frontage has a building placed at the street property line.



Zero Front Setback

- i. Exceptions:** An exception to the zero-setback regulation may be approved or required in the following situations:
- Where a proposed building is adjacent to a single family dwelling.
 - Where the sidewalk width is extended for public use, or a public plaza is proposed to be placed between the building and public right-of-way. Exceptions may also be made for planter boxes incorporated into the building wall, provided the planter box does not exceed a height of thirty (30) inches above sidewalk grade.
 - Where a public utility easement or similar restricting legal condition makes conformance with the zero setback impractical, the building shall instead be placed as close to the street as possible given the legal constraint, and pedestrian amenities (e.g., plaza, courtyard, landscaping,

outdoor seating area, etc.) shall be provided within the street setback in said location.

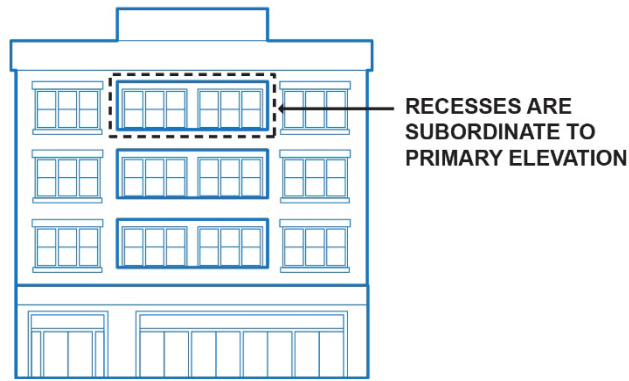


Zero Front Setback Exception for Seating, Plaza, or Planters

- b. Side and Rear Yards.** Side or rear yard setbacks shall conform to applicable building codes. The city decision-making body may require additional setbacks where necessary for storm water drainage, vision clearance at intersections, access to utilities, or similar purposes.
- c. Right-of-Way.** The city may allow the placement of pedestrian amenities; such as, street furnishings, canopies, awnings, signs and similar features in the sidewalk right-of-way, subject to Site Design Review or a Temporary Encroachment Agreement.

3. Building Form

- a. Overall Form.** Architectural designs shall address all facades of a building visible from the frontage street in the Downtown Mixed-Use and Commercial zones and in the Neighborhood Commercial Overlay. The predominant form in the Downtown Core is a generally “flat” elevation with any recesses, projections, or rounded corners (“articulations”) appearing subordinate to the dominant rectangular form.
- b.** *[The predominant form in the Downtown Mixed-Use zone parcels outside the Downtown Core may be similar to the Core, or it may be more residential in character and contain pitched roofs, porches, bay windows and similar features. New buildings should reflect the predominant form, while expressing individuality.]*



Overall Downtown Architectural Form & Openings

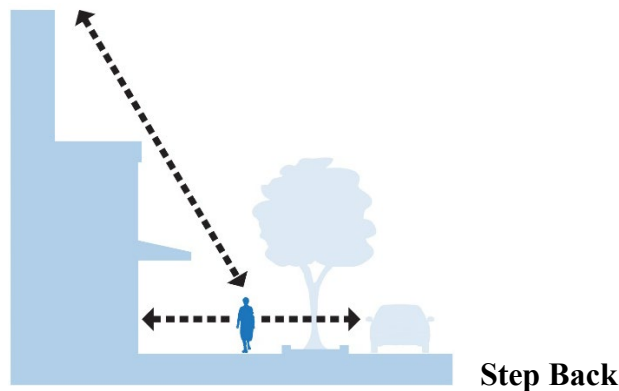
4. Storefront Character

- a. **Door and Window Openings.** Except as approved for parking structures or accessory structures, buildings shall provide display windows and windowed doors to express a store front character. The ground floor, street-facing elevation(s) of all buildings shall comprise at least sixty (60) percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base (or thirty (30) inches above the sidewalk grade, whichever is less) and a plane seventy-two (72) inches above the sidewalk grade.
- b. *[Upper floors may have less window area, but should follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices.]*
- c. Buildings without a street-facing elevation, such as those that are setback behind another building and those that are oriented to a civic space (e.g., internal plaza or court), shall meet the sixty (60) percent transparency standard on all elevations abutting publicly-accessible spaces(s) and elevations containing a primary entrance.
- d. All side and rear elevations, except for zero lot line/common wall elevations (where windows are not required), shall provide no less than thirty (30) percent transparency.
- e. Where an exception to the window transparency requirement is made for parking garages or similar structures, the building design must incorporate openings or other detailing that evokes window patterns in rhythm and scale.

- f. Storefronts that resemble suburban strip malls (e.g., picture windows extending to near grade level) and those that use reflective glass, clerestory windows and/or similar non-traditional features are not permitted.
- g. **Street Level Entrance.** All primary building entrances shall open to the sidewalk and be ADA accessible. Primary entrances above or below grade may be allowed where ADA accessibility is provided.
- h. **Street Level/Upper Floor.** Building elevations shall contain detailing that visually defines street level building spaces (storefronts). The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials and/or fenestration.

5. Building Mass

- a. The third story, and/or any portion of a building exceeding twenty-eight (28) feet in height, shall step-back at least six (6) feet from the outer plane of the building. The purpose of the height step back is to maintain a small-town appearance and scale as viewed from the street and to provide for solar gain and light filtering down to the street. (See also, subsection B.1 Height, above.)



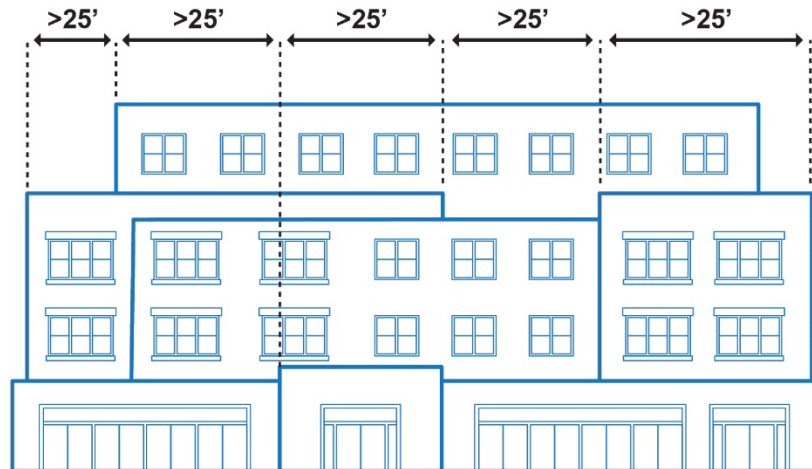
6. Openings

- a. **Ground Floor Windows.** Ground floor elevations shall conform to subsection B.4.a, above, and must contain windows that are framed, for example, by piers or pilasters (sides); awnings, canopies or trim/hoods (tops); and kick plates or bulkheads (base). *[Decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features) is encouraged.]*

- b. Upper Floor Windows.** Upper floor window orientation shall primarily be vertical, or have a width that is no greater than height, consistent with the Western vernacular. Paired or grouped windows that, together, are wider than they are tall, shall be visually divided to express the vertical orientation of individual windows.
- c. Pedestrian Entrances.** Ground level entrances shall be at least partly transparent to encourage an inviting and successful business environment. This standard may be met by providing a door with a window(s), a transom window above the door, or sidelights beside the door. Where ATMs or other kiosks are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter.
- d. Corner Entrances.** Buildings on corner lots shall have corner entrances or the building plan shall provide for a corner plaza consistent with Section 17.13.030(C), below, or the building shall provide architectural features (e.g., alcove with seating or artwork) at the corner that emphasizes the corner as a civic space.

7. Horizontal Rhythms

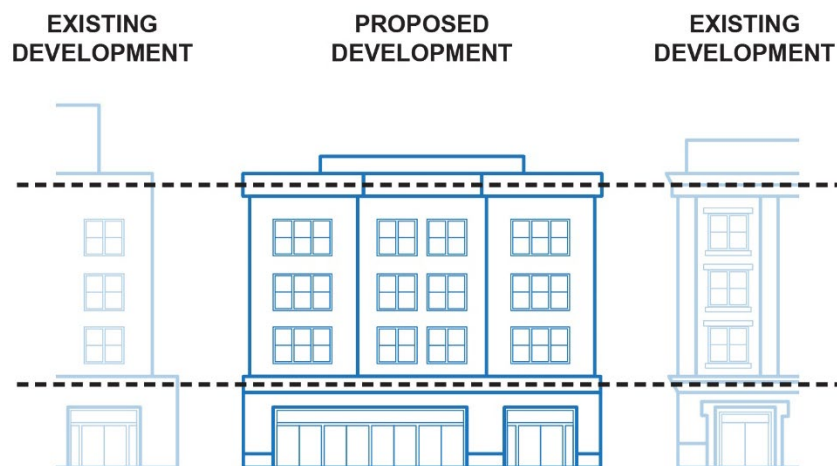
- a. Traditional Lot and Building Pattern.** Buildings must respect the traditional lot pattern and building rhythm of the downtown and/or adjacent residential neighborhood, as applicable, by incorporating rhythmic divisions in all elevations. *[As a general guideline, front elevations should be articulated not less than once every twenty-five (25) feet. Articulation should be subtle. For example, slight offsets in a building elevation, roofline and/or the rhythmic placement of windows, pilasters, awnings, trim, art/medallions, or other detailing and ornamentation are preferred. Abrupt divisions, such as clashing paint colors, should be avoided. Side and rear elevations may be articulated less frequently but should complement the overall building design.]* The city may require detailing on a zero-lot line elevation to reduce the apparent scale and avoid blank walls (i.e., until an abutting property develops).



Architectural Articulation

- b. Horizontal Lines.** New buildings and exterior remodels shall follow prominent horizontal lines existing on adjacent buildings at similar levels along the street frontage. Examples of such horizontal lines include: the base below a series of storefront windows; an existing awning or canopy line, or belt course between building stories; and/or an existing cornice or parapet line.

Exceptions: Where existing buildings do not meet the city's current architectural standards, a new building may establish new horizontal lines.



- c. Ground Floor/Upper Floor Division.** A clear visual division shall be maintained between the ground level floor and upper floors, for example, through the use of a belt course, transom, awnings or canopies.

8. Vertical Rhythms

New construction or front elevation remodels shall reflect a vertical orientation, either through breaks in volume or the use of surface details, to divide large walls, so as to reflect the underlying historic property lines, as applicable.



9. Materials and Color

- a. **Primary Building Materials.** Exterior building materials shall predominately consist of those materials traditionally found in Fruita's downtown or others indigenous to the intermountain West, including brick, stone (e.g., limestone, rhyolite, granite, etc.), adobe, adobe brick, slump block, stucco, split block, and painted or natural wood. Pitched roof materials shall be wood or asphalt shingles, or standing rib seam sheet metal-matte finish.
- b. **Window and Door Materials.** All windows and doors must have trim that is at least four (4) inches deep. Rough-hewn wood, timbers and metals may be used as accents but not as the primary exterior cladding. Substitute materials that are equal in appearance and durability may be approved.
- c. **Change in Materials.** Elevations shall incorporate changes in material that define a building's base, middle and top and create visual interest and relief. Side and rear elevations that do not face a street, pedestrian access way or plaza may utilize changes in texture and/or color of materials in the interest of affordability, provided that the design is consistent with the overall composition of the building.

- d. **Secondary Materials.** Any of the materials listed above may also be used as secondary materials or accents. Metals; such as, copper, steel, iron, bronze and similar appearance metals may be used as trims or accents (e.g., flashing, weather protection features, ornamentation, etc.) when non-reflective and compatible with the overall building design.
- e. **Color.**
 - i. Roof colors must be warm earth-tones such as ash, light charcoal, light red (sandstone) or olive green, except flat roofs may be any non-reflective color and finish.
 - ii. *[Building color schemes should be simple and coordinated over the entire building to establish a sense of overall composition. Color schemes should tie together signs, ornamentation, awnings, canopies and entrances.]*
 - iii. There shall be no more than one base color for each twenty-five (25) feet of the front elevation; one base color for the entire front elevation is preferred.
 - iv. *[Using only one or two accent colors is also preferred, except where precedent exists for using more than two colors with some architectural styles. Natural wood finishes are appropriate for doors, window sashes and trim, signs, canopies and other architectural accents.]*
 - v. Reflective, luminescent, sparkling, and “day- glow” colors and finishes are not permitted. Metals shall be finished in mute, earth-tones or otherwise burnished to minimize glare.
- f. *[Restoration and Rehabilitation. Restoration and rehabilitation of historically significant structures should incorporate original materials and design elements (e.g., previously covered over), to the extent practical, and in compliance with Chapter 17.37.]*

10. Pedestrian Shelters

- a. Awnings, canopies, recesses or similar pedestrian shelters shall be provided along at least thirty (30) percent of a building’s ground floor elevation(s) where the building abuts a sidewalk, civic space (e.g., plaza), pedestrian access way, or outdoor seating area. Pedestrian shelters used to meet the above standard shall extend at least five (5) feet over the pedestrian area, be proportionate to the building in its dimensions, and not obscure the building’s architectural details. Pedestrian shelters shall align with one another to the extent practical. *[Use of colored canvas (not*

plastic) awnings and wood canopies, consistent with historical styles, is encouraged, though metal and plexi-glass canopies may be considered.]

- i. **Exception:** The city may reduce the minimum shelter depth upon finding that existing right-of-way dimensions or building code requirements preclude a larger shelter.



**PEDESTRIAN SHELTERS =
>30% OF FRONTAGE**

11. Mechanical Equipment

- a. **Building Walls.** When mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, must be installed on a building wall, it shall be oriented away from all streets. Where such equipment is installed on a side or rear building elevation and is adjacent to an alley, access way, or civic space, its appearance shall be minimized using materials and/or colors that are similar to those used on the subject building. Standpipes, meters, vaults and similar equipment shall not be placed on a front elevation when other practical alternatives exist; such equipment shall be placed low on a side or rear elevation to the extent practical.
- b. **Rooftops.** Rooftop mechanical units shall not be visible from the street, pedestrian access way or civic space. Such units should be screened behind a parapet wall.

- c. **Ground-Mounted Mechanical Equipment.** Ground-mounted equipment (e.g., generators and air compressors) shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. These pieces of equipment are discouraged in all street-facing yards. *[Hedges may also be used as screens where there is adequate sunlight and irrigation to ensure their successful growth.]* The city may require additional setbacks and/or noise attenuating equipment to promote compatibility with adjacent residential uses.
- d. **Civic Spaces.** Mechanical equipment and garbage storage areas are not permitted within the civic space(s) required under subsection C.1. The city may require that such facilities be screened completely from view and set back from a civic space for aesthetic reasons and to minimize odors or noise.

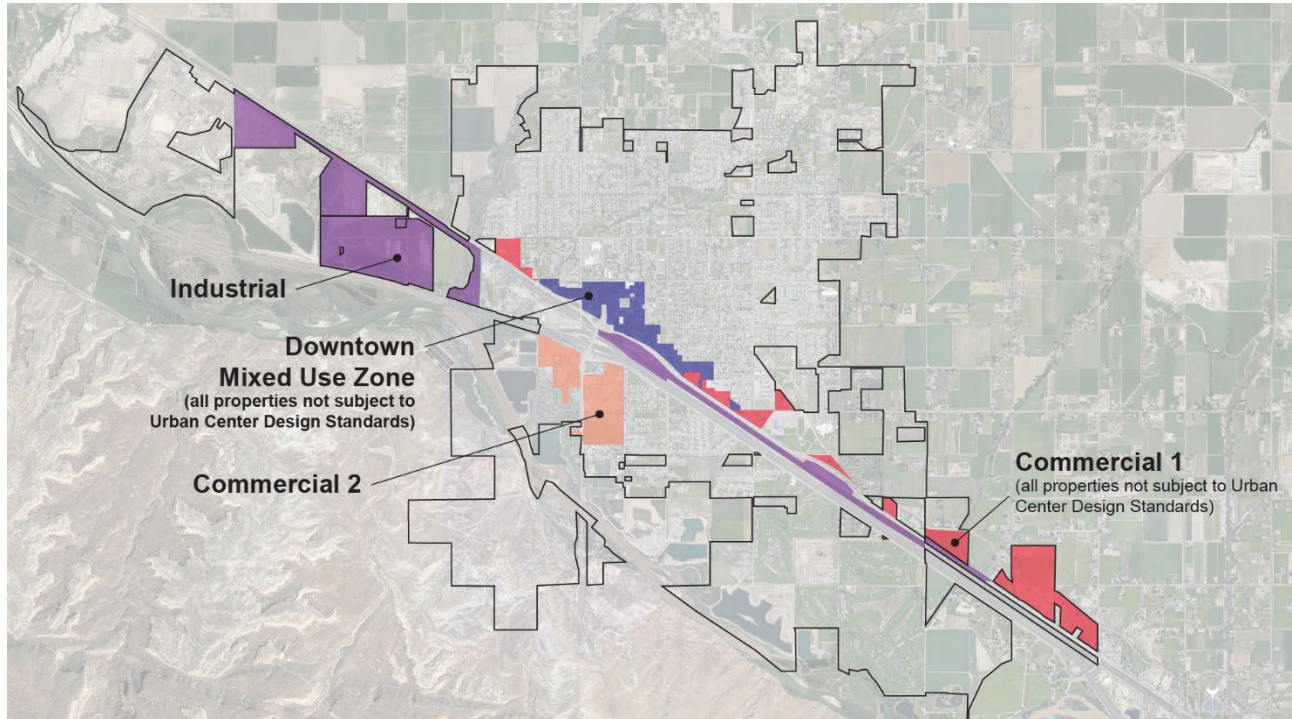
12. Historic Preservation

- a. ***[Additions and Rehabilitation.** Additions and rehabilitations should match the original materials, windows, doors, trim, and colors. If the addition is a wing, it should be subordinated to the original building in design, i.e. the roof should be lower and the mass and bulk of the new addition should be less. If the addition is an extension or lengthening of the original building, introduce a setback to preserve the corner of the original and hence the design arrangement and balance of the original facade should be provided.]*
- b. **Cornices and Decorative Elements.** *[Original members, brackets, molding, etc. should be preserved if at all possible. Replacement of missing parts should be exact copies of the original. Avoid mixing new and old original members on one facade unless the match is perfect.]* Aluminum and plastic awnings and door hoods are not allowed. Canvas awnings in appropriate colors are allowed.
- c. ***[False Fronts and Applied Facades.** Avoid fake modernization or concealment of the original façade. When an existing building has a well-developed facade and is the product of good workmanship, efforts should be made to retain as much of the original materials and detailing as possible or restore them to maintain the building's integrity.]*

17.13.060 BUSINESS DESIGN STANDARDS

The following architectural and design standards apply to all commercial, mixed-use, and multifamily residential development in the Commercial-2 (C-2) zone and all properties zoned DMU and C-1 which are not subject to Urban Center Design Standards (Section 17.13.040).

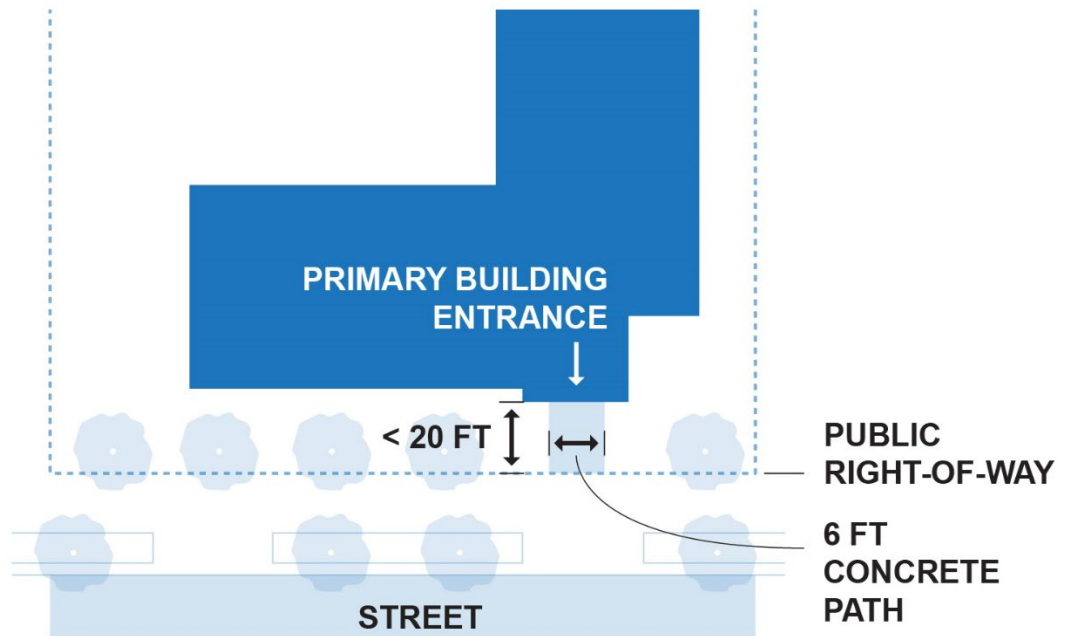
The zone districts subject to the Business Design Standards are also illustrated in the map below.



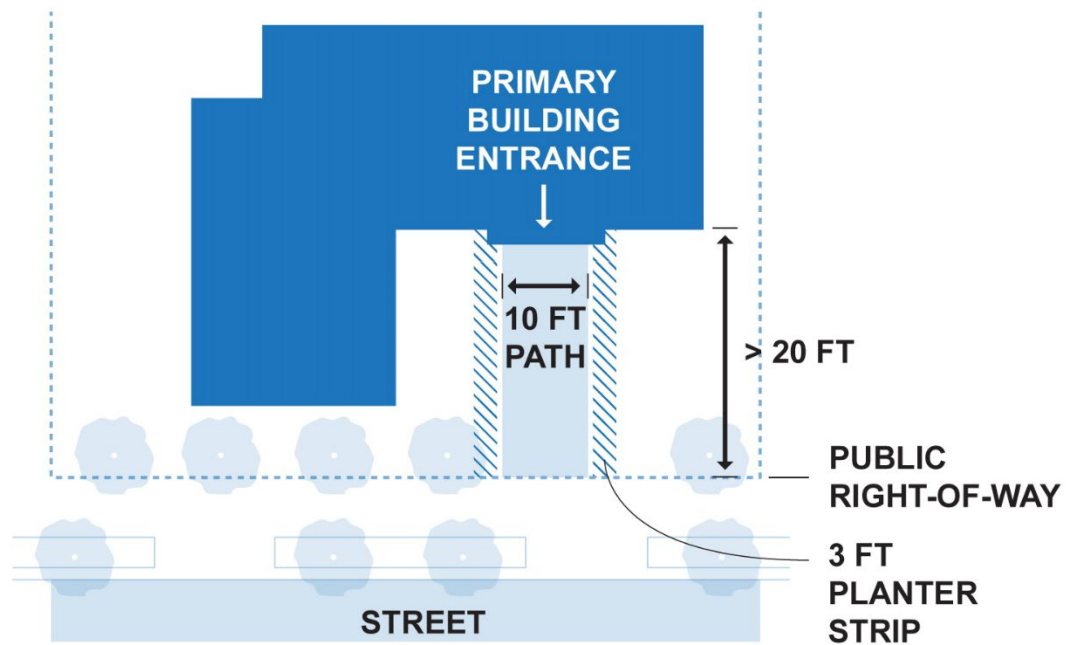
A. Site Design

1. Primary Entrances.

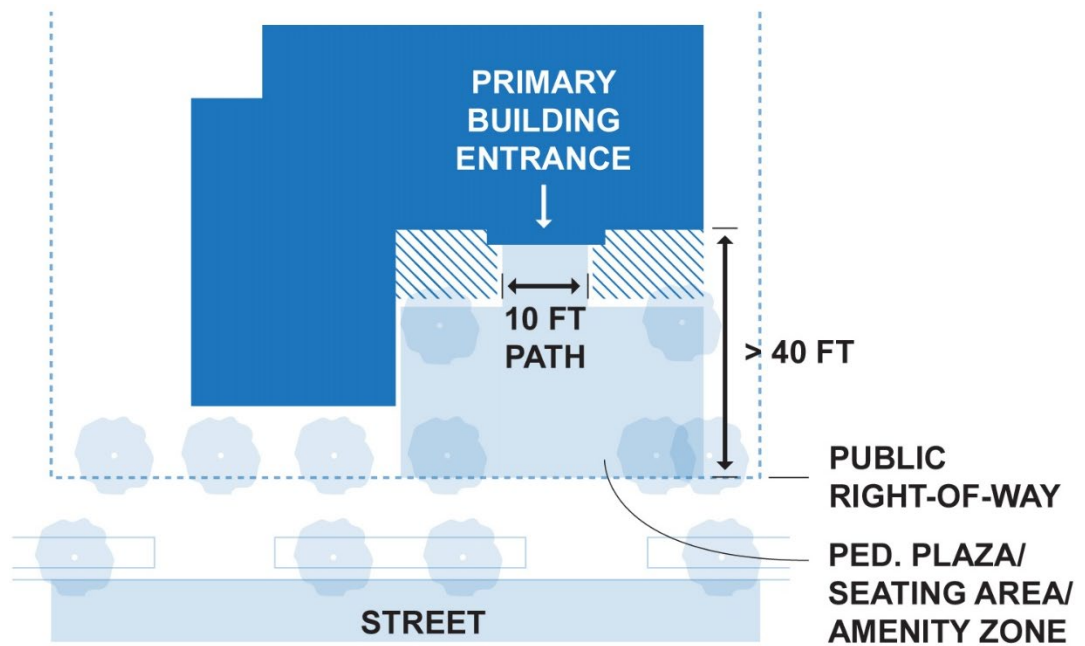
- a. Primary building entrances shall be oriented to the public street right-of-way and/or public sidewalk and shall be connected to the public street right-of-way and/or public sidewalk by a concrete walkway not less than six (6) feet in width. Primary building entrances shall be within twenty (20) feet of the public street right-of-way and/or public sidewalk.



- b.** Where it is not practical to locate primary building entrances within twenty (20) feet of the public street right-of-way or public sidewalk, the concrete walkway connecting primary building entrances to the public sidewalk or public street right-of-way shall be no less than ten (10) feet in width. This concrete walkway must have three-foot wide planter strips on each side and raised or textured paving at all driveway crossings.



- c. Primary building entrances located more than forty (40) feet from the public street right-of-way or public sidewalk will require a pedestrian plaza outdoor seating area, courtyard, or other civic amenity is provided between the building and street.



- d. Where a primary building entrance is located more than twenty (20) feet from a public street right-of-way and/or public sidewalk, or where parking and/or driving aisles are provided between the primary building entrance and public street right-of-way and/or public sidewalk, a fifteen (15) foot wide minimum landscape screen shall separate all off-street parking areas from adjacent public street rights-of-way or public sidewalks.

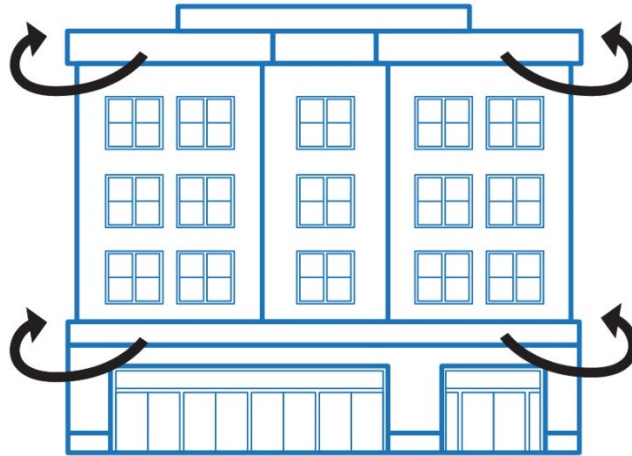
2. Blank Wall Prevention.

- a. Buildings shall meet transparency and weather protection standards (Subsection B, Building Design below) along all street-facing elevations and any elevations containing a primary building entrance. A landscape screen at least five (5) feet wide shall cover any blank building walls (i.e., lacking windows and weather protection) and contain materials of sufficient size/species to screen the blank wall.
- b. *[Public art and murals may be used to minimize the visual impacts of a blank façade.]*

B. Building Design

1. Overall Design.

- a. Architectural designs shall address all facades of a building visible from the street with materials, detailing, and color. Architectural elements should wrap around building corners. Where a proposed design is based on the applicant's corporate style guide, as in formula retail stores, restaurants, discount outlets, or similar proposals where a similar building design has been used previously, the applicant must demonstrate that the design has been adapted to fit Fruita's unique location/historical context (Colorado National Monument/Grand Valley) and desert environment.



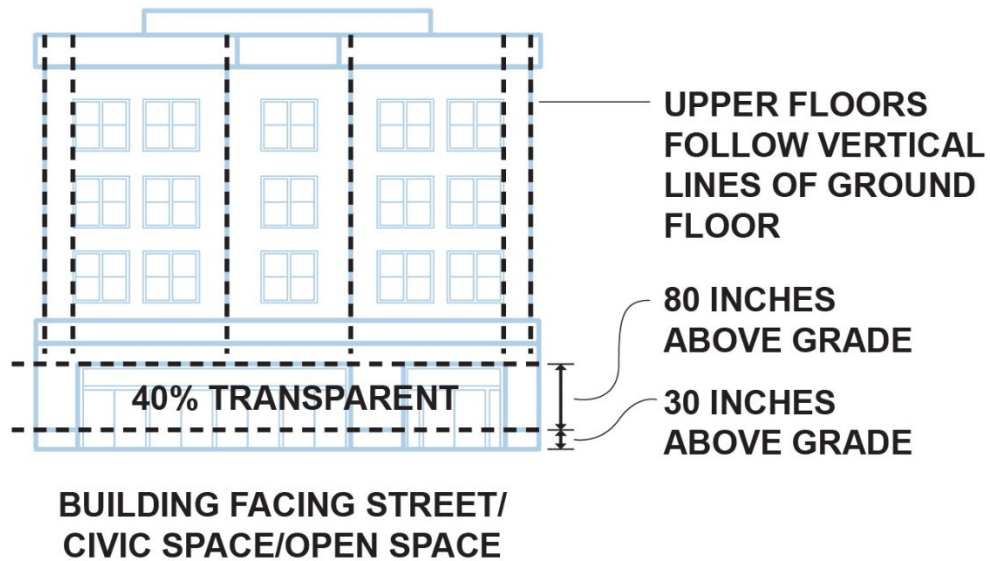
**MAJOR DESIGN ELEMENTS WRAP
AROUND TO SIDES OF BUILDING**

2. *[Stepped Rooflines.]*

- a.***[Height should vary from building to building to avoid a homogenous appearance. This standard is met by using stepped parapets, gables, or slightly dissimilar height from building-to-building.]*

3. Window Transparency.

- a.**Building elevations that face a street, parking area, civic space, or open space shall comprise at least forty (40) percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base (or thirty (30) inches above the sidewalk grade, whichever is less) and a plane eighty (80) inches above the sidewalk grade. Upper floors may have less window area, but should follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices.



- b. Where the Community Development Director determines, based on physical site constraints or the functional requirements of a non-residential building, that providing window transparency is not practical or does not further intent of these standards as stated above, other alternative means of breaking up large elevations (e.g., columns, belt course, and upper story panels/transom, with landscaping) shall be employed.

4. Primary Entrances.

Buildings shall have clearly defined primary entrances that provide a weather-protection shelter for a depth of not less than five (5) feet (e.g., either by recess, overhang, canopy, portico and/or awning) extending from the building entry.

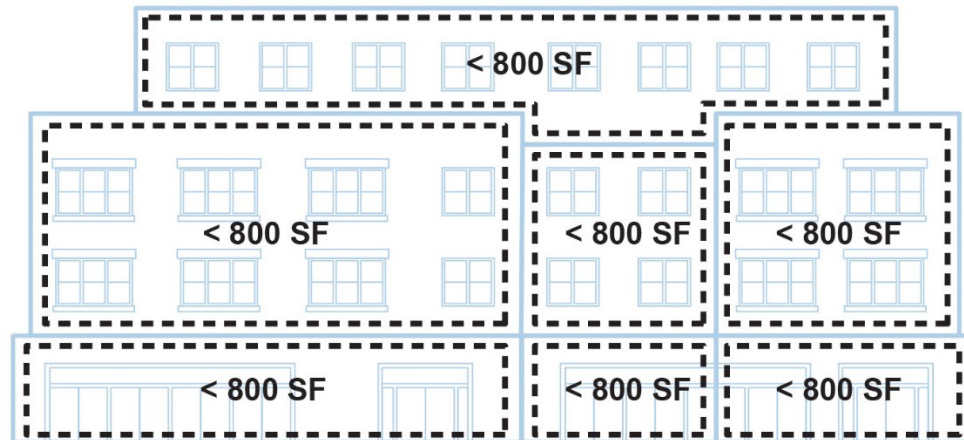
5. Building Mass.

- a. Building elevations shall incorporate offsets or divisions to reduce the apparent building scale and to improve aesthetics. Elevations of a structure shall be divided into smaller areas or planes to minimize the appearance of bulk as viewed from any street, civic space or adjacent property.
- b. When an elevation of a primary structure is more than eight hundred (800) square feet in area, the elevation must be divided into distinct planes of not more than eight hundred (800) square feet. For the purpose of this standard, areas of wall planes that are entirely separated from other wall planes are those that result in a change in plane such as a recessed or projecting section of the structure that projects or recedes at

least one (1) foot from the adjacent plane, for a length of at least six (6) feet.

c. *[Changes in plane may include but are not limited to recessed entries, bays, stepped parapets, secondary roof forms (e.g., gables, lower roof sheds, dormers and towers), building bases, canopies, awnings, projections, recesses, alcoves, pergolas, porticos, roof overhangs, columns, or other features that are consistent with the overall composition of the building.]*

d. The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials and/or fenestration.



**PRIMARY ELEVATION DIVIDED
INTO DISTINCT PLANES < 800 SF**

6. Materials and Colors.

a. Exterior materials shall consist of brick, stone, adobe, wood shingle or imitation wood shingle walls, slump block, adobe brick or suitable split block or brick.

b. *[Wood timbers and metal (brushed steel, iron, copper, or similar architectural-grade metals) may be used on canopies, arbors, trellises, pergolas, porticos, brackets, fasteners, lighting, signage, and other detailing, as appropriate, to provide visual interest and contrast. In general, color selection should complement, not compete with, the surrounding desert landscape. Warm earth tone colors (e.g., sandstone*

reds, desert greens and browns) are generally preferred over cool colors, such as blue and white/off-white. Substitute materials that are equal in appearance and durability may be approved.]

7. ATMs and Service Windows.

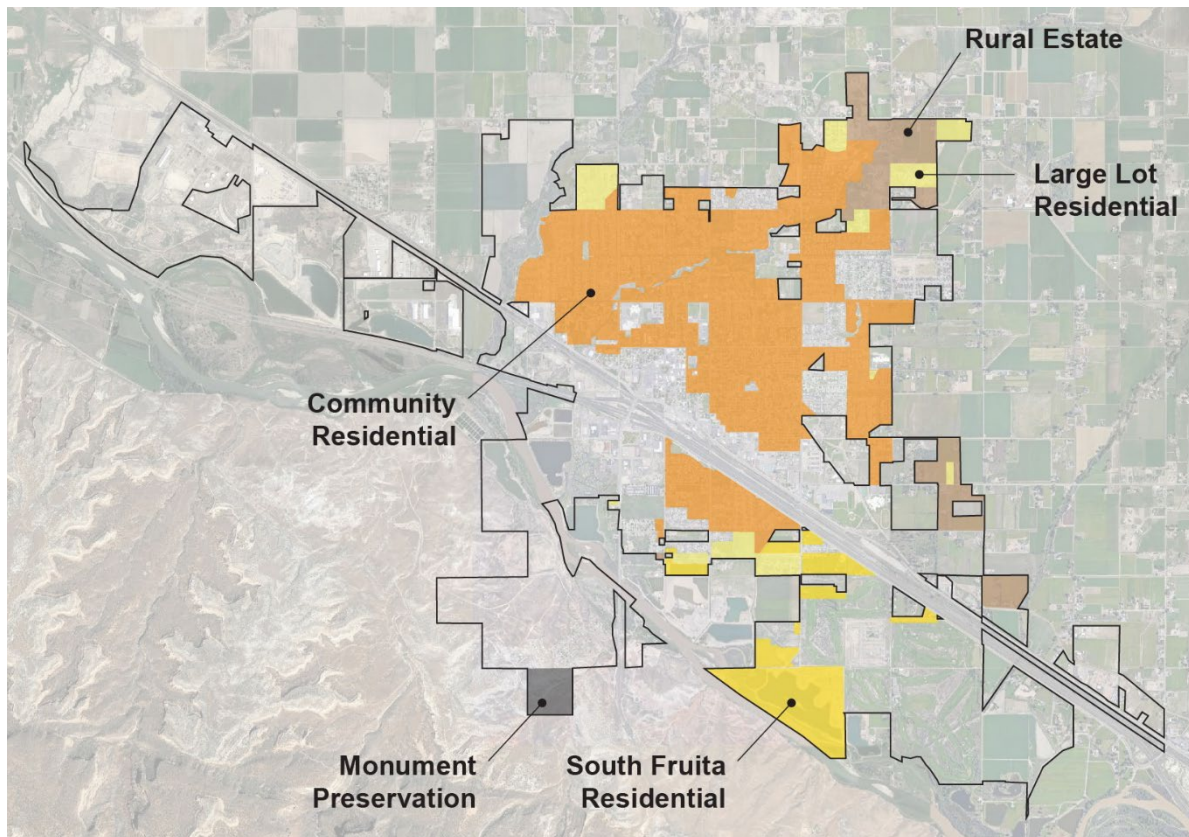
- a.** Where walkup ATMs or service windows are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter. Where drive-up windows or similar facilities are provided the drive-up window and associated vehicle queuing area shall be setback at least twenty (20) feet from all adjacent rights-of-way. The applicant may be required to install textured pavement (e.g., pavers or stamped concrete) for pedestrian crossings of any drive aisle.

17.13.070 RESIDENTIAL AND SUBDIVISION DESIGN STANDARDS

The architectural and site design standards in this section are applicable where chapters 17.13.050 and 17.13.060 do not apply

While many communities attempt to “create” traditional neighborhoods, Fruita already has traditional neighborhoods. The original town plat contains a variety of housing types in both historic and contemporary structures, many with front porches. Fruita’s historic neighborhoods contain both small and large lots, some with alley access and street tree planter strips, and most within walking distance of centrally located open spaces, schools, churches and other community services. However, some areas outside the historic town plat have developed in a manner that is inconsistent with the above traditional neighborhood design principles. The design standards in this section are intended to guide compatible infill development and promote the creation of new, traditional neighborhoods where new subdivisions are proposed. It is not the intent of the City of Fruita Code to create an architectural theme or to freeze time, but rather to ensure that new buildings and remodels fit within the context of their historic surroundings, as applicable, and support the development of new compact, walkable neighborhoods with a variety of housing.

The zone districts subject to the Residential and Subdivision Design Standards are also illustrated in the map below.

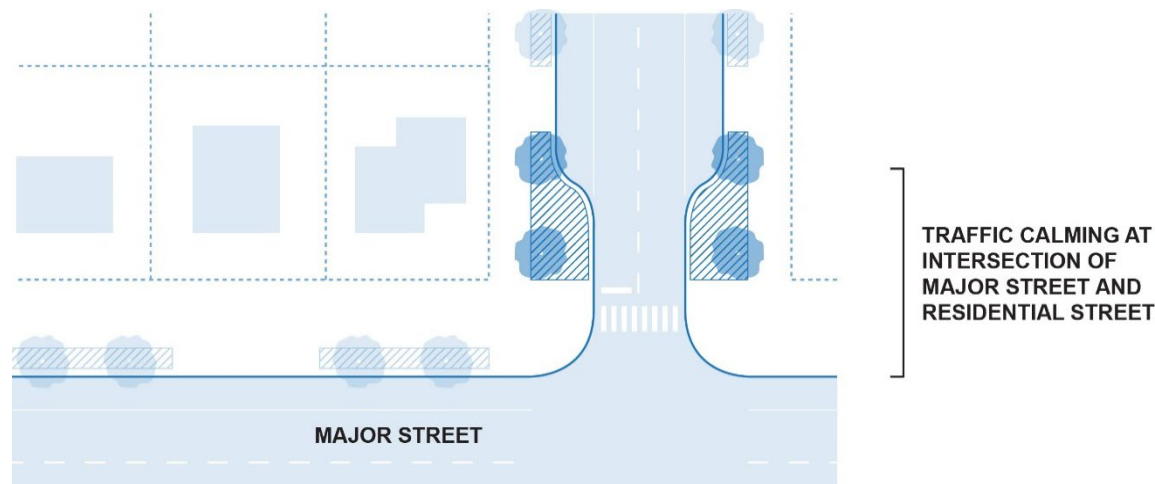


A. Site Design

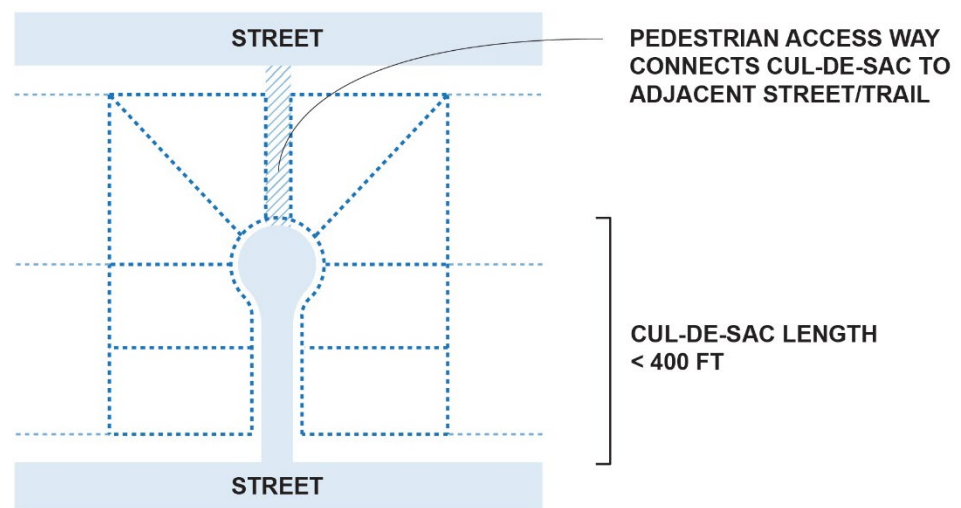
1. Site Circulation.

Streets, bicycle ways and walkways or trails, as applicable, shall, to the maximum extent practical, create a unifying circulation network that provides convenient routes to destinations without needlessly forcing trips onto the surrounding collector or arterial streets.

- a. **Street Design.** Street and alley networks, as applicable, shall, to the maximum extent practical, be configured to minimize cut-through traffic on local residential streets without relying upon the use of cul-de-sacs; where cut-through traffic is unavoidable, street design shall incorporate neighborhood traffic calming features, such as curb extensions (reduced width at intersections), roundabouts at major intersections, traffic circles, or other features, consistent with the City of Fruita Street System Design Criteria and the City of Fruita Traffic Calming, Pedestrian and Bicycle Plan.



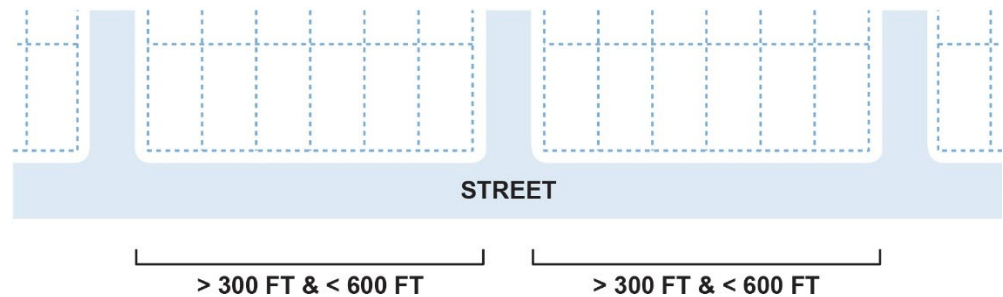
Cul-de-sacs, where allowed, are limited to a maximum length of four hundred (400) feet. A pedestrian access way or trail will be required to connect the end of any cul-de-sac to an adjacent street or trail right-of-way to minimize out-of- direction travel by pedestrians and bicyclists. The city decision-making body may also require the use of pervious paving (e.g., pavers) or stamped concrete on cul-de-sacs to minimize stormwater runoff (impervious surfaces) or to identify cul-de- sacs as community spaces where children play (e.g., basketball hoops, street hockey, etc.).



- b. *[Street Orientation. Streets, pedestrian ways and trails should focus on important vistas; for example, by aligning street axis to provide for views of community buildings, mountains, trees or open spaces. Streets, blocks, open space areas and trails should be oriented and designed in response to Fruita's location in the Grand Valley.]* View corridors to the

mountains, washes, open space areas, and canals shall be incorporated into project designs, and lot orientation should allow solar access to individual home sites, to the greatest extent practical.

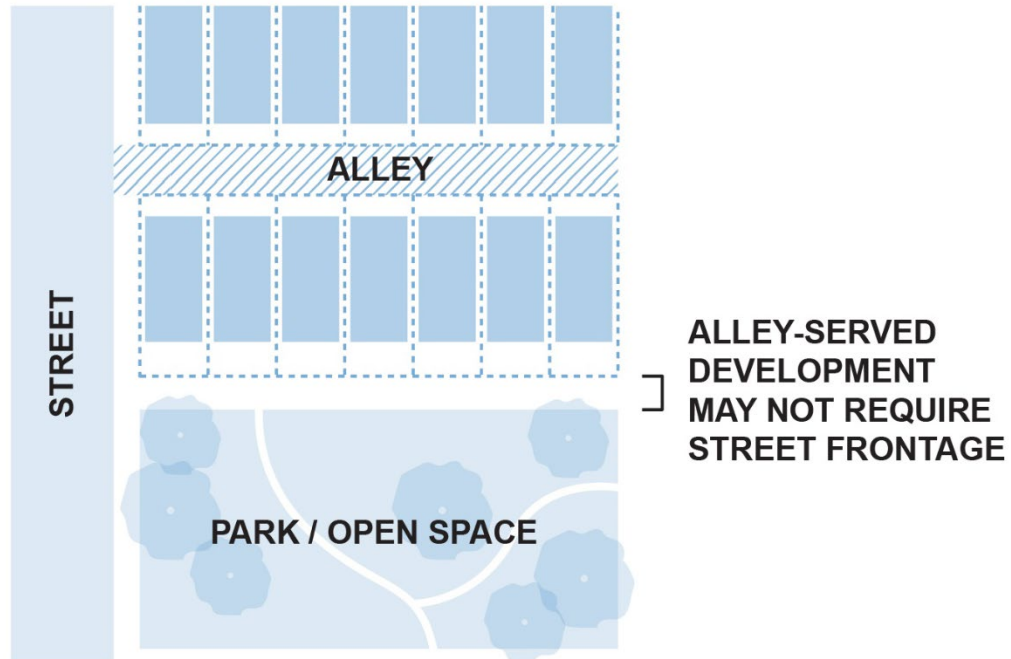
- c. **Block Lengths.** Block lengths shall provide for at least one street connection for every three to six hundred (300 to 600) feet maximum in block length, except where topographic or access restrictions (e.g., arterial intersection spacing) preclude such connections. Where street connections are not feasible, pedestrian and bicycle pathway/trail connections shall be used to make walking and bicycling within and between developments convenient.



2. Alleys and Shared Driveways.

[Alleys or shared driveways are encouraged in new subdivisions and in redevelopment projects where the subject block has, or historically had, an alley.]

Alleys and shared driveways allow homes to front onto parks and open space areas without a road separating the homes from such features. Alleys can also provide additional off-street parking where needed. Finally, alleys can provide effective land use and density transitions in the middle of a block instead of along street frontages, where it is more desirable to have similar building types face one another.



The following provisions are intended to reduce or eliminate traffic conflicts and aesthetic problems associated with frequent garage openings and driveway approaches abutting neighborhood streets.

- a. Alleys or shared driveways may be allowed where developments face major streets to which individual driveway access is not allowed but houses are oriented to the street (e.g., with deep front yard setbacks) is desired.
- b. The city decision-making body may require alleys or shared driveways to be incorporated into a subdivision design where lot sizes are less than seven thousand (7,000) square feet.
- c. *[Alleys and shared driveways should align so that drivers entering an alley or shared driveway can see any on-coming vehicles.]*
- d. Dead-end alleys and shared driveways shall be less than one hundred fifty (150) feet long, except as allowed with an approved emergency vehicle turnaround.
- e. Where an alley or shared driveway also serves as a required emergency apparatus (fire) lane, it shall conform to the applicable design criteria and standards for such lanes.

3. Topography.

Development shall conform to the natural topography of the site by minimizing cuts and fills. Except as necessary for underground utilities, individual cuts and

fills (i.e., for streets and foundations) are limited to no more than eight (8) feet each and no retaining wall shall exceed a height of eight (8) feet without a variance. Terracing may be allowed by the city decision-making body, as necessary, due to existing topography.

4. Adjacency to Unique Natural Features and Historic Landmarks.

- a. Little Salt Wash, Big Salt Wash, and the Colorado National Monument.** Developments adjacent to the Little Salt Wash or Big Salt Wash, and those in the foothills of the Colorado National Monument, McInnis Canyon National Conservation Area or near the Colorado River, shall be designed to respond to the topographic and natural resource values of those areas by limiting grading, incorporating required setbacks and buffering, providing trail connections, and clustering development densities in less environmentally sensitive areas. Development in areas prone to flooding is subject applicable building codes and may be prohibited where an applicant has requested a density bonus under Chapter 17.09.050 or planned unit development approval under Chapter 17.19 (i.e., development density shall be transferred from the floodplain to more suitable upland areas).
- b. Historic Landmarks.** Developments subject to the requirements of this Section and proposed within one hundred (100) feet of a designated historic landmark are required to demonstrate compatibility with the adjacent landmark in terms of building height, setbacks, building form, architectural detailing, materials, and site design (parking, circulation and landscaping). The city decision-making body shall approve, approve with conditions, or deny a proposed development under this subsection based on its finding of compatibility as described above and also as described in Section 17.13.080, Land Use Compatibility Criteria.

5. *[Parks and Open Space.]*

- a. [Parks and open spaces should be used to form neighborhood edges and transitions where higher density development is proposed adjacent to lower density development, and where development abuts watercourses, washes, and other natural features.]*
- b. [Parks and open spaces should be collocated with existing or planned school sites, as applicable.]*
- c. [Where a new park of two (2) acres or more in size is proposed, it should be located, configured and designed to maximize pedestrian access from the greatest number of residents in the adjacent neighborhood(s).]*

- d. [Where mixed-use projects are planned, with residential and commercial uses proposed, the city decision-making body may require open space areas or parks that serve as central gathering places for residents and employees.]*
- e. [Where a proposed subdivision is adjacent to an existing park, open space or natural area (e.g., wash), the city decision-making body may require the applicant to connect to and/or augment the existing park, open space or natural area with required land dedication, trails, and/or other related improvements, consistent with the provisions of Chapter 17.21 and Chapter 17.23.]*

Chapter 17.15
SIGN CODE

Sections:

17.15.010	Purposes
17.15.020	Sign Permits and Administration
17.15.030	Enforcement and Penalties
17.15.040	Exempt Signs
17.15.050	Prohibited Signs
17.15.060	Measurement of Sign Area, Height and Construction
17.15.070	Sign Illumination
17.15.080	Sign Installation and Maintenance
17.15.090	Standards for Specific Types of Signs
17.15.100	Sign Standards by Zone
17.15.110	Creative Signs
17.15.120	Bus Shelter and Bench Advertising

17.15.010 PURPOSES. The standards and requirements contained in this Chapter are intended to coordinate the use, placement, physical dimensions, and design of all signs within the City of Fruita. The purposes of these standards are to:

- A. Recognize that signs are a necessary means of visual communication for the convenience of the public and for the benefit of businesses, and
- B. Provide a reasonable balance between the right of an individual to identify his or her business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices, and
- C. Protect the public from damage or injury caused by signs that are structurally unsafe or obscure vision of motorists, bicyclists or pedestrians or conflict with traffic signals or signs, and
- D. Provide flexibility within the sign review/approval process to allow for unique circumstances and creativity.

17.15.020 SIGN PERMITS AND ADMINISTRATION. Any sign authorized by this Chapter may contain non-commercial copy in lieu of any other copy.

- A. Sign Permit Required. To ensure compliance with the regulations of this Chapter, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with Section 17.15.040 (Exempt Signs). Changing or replacing the copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign or render the sign in violation of this Chapter.
- B. Application for a Sign Permit.
1. Sign Permit Application Requirements. Applications for sign permits shall be made in writing on forms furnished by the Community Development Department
 2. Staff Review and Approval. When the Community Development Department staff has determined the application to be complete, the Community Development Department shall review the sign permit in accordance with requirements of this Code and approve, approve with conditions or deny the sign permit.
- C. Appeal of Sign Permit Decision. Any appeal of the Community Development Department's decision on a sign permit shall be made to the City Council as provided in Chapter 17.25 of this Title.
- D. Sign Variances.
1. Applicability. A sign variance is an exception from the numerical requirements of this Chapter.
 2. Procedure. Sign variances are reviewed and acted upon at a public hearing before the City Council.
 3. Approval Criteria. The City Council may approve a sign variance request upon finding that the sign variance application meets or can meet the following approval criteria:
 - a. That the sign variance granted is without substantial detriment to the public good and does not impair the intent and purposes of this Title and the Comprehensive Plan, including the specific regulation in question;
 - b. By reason of exceptional narrowness, shallowness, depth, or shape of a legal lot of record at the time of enactment of this Title, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such property, the strict application of the subject regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property;

- c. A sign variance from such strict application is reasonable and necessary so as to relieve such difficulties or hardships, and the sign variance will not injure the land value or use of, or prevent the access of light and air to, the adjacent properties or to the area in general or will not be detrimental to the health, safety and welfare of the public;
 - d. That the circumstances found to constitute a hardship are not due to the result or general conditions throughout the zone, was not induced by any action of the applicant, and cannot be practically corrected, and;
 - e. That the sign variance granted is the minimum necessary to alleviate the exceptional difficulty or hardship.
4. Final Decision. Any decision of the City Council shall be final, from which an appeal may be taken to a court of competent jurisdiction, as provided in accordance with Section 31-23-307, C.R.S.

17.15.030 ENFORCEMENT AND PENALTIES.

- A. Penalties. Violations of this Chapter shall be subject to the administrative and civil remedies and criminal penalties set forth in the Fruita Municipal Code, including Section 17.01.100.
- B. Removal of illegal signs in the public right-of-way. The City of Fruita may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this Chapter.
- C. Storage of removed signs. Signs removed in compliance with this Section shall be stored by the City of Fruita for thirty (30) days, during which they may be recovered by the owner only upon payment to the City of Fruita for costs of removal and storage. If not recovered within the thirty (30) day period, the sign and supporting structure shall be declared abandoned and title shall vest with the City of Fruita. The costs of removal and storage, up to thirty (30) days, may be billed to the owner. If not paid, the applicable costs shall constitute a lien against the property, and may be certified to the County Treasurer for collection in the same manner as delinquent ad valorem taxes, as authorized by law.

17.15.040 EXEMPT SIGNS. The following types of signs are exempt from the permit requirements of this Chapter and may be placed in any zone subject to the provisions of this Chapter. Such signs shall otherwise be in conformance with all applicable requirements contained in this Title. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of the property owner's permission to install a sign may be required. All other signs shall be allowed only with a permit and upon proof of compliance with this Chapter. These exempt signs are permitted in addition to other signs permitted by this Chapter.

- A. Signs in the public right-of-way unless permitted by this Title and specifically permitted by the governmental entity controlling the right-of-way (City of Fruita, Colorado Department of Transportation, etc.)
- B. Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way shall be exempt from the provisions of this Chapter, except that such signs shall be subject to the safety regulations of the City's building codes adopted pursuant to Title 15 of the Fruita Municipal Code.
- C. Architectural features. Integral decorative or architectural features of buildings so long as such features do not contain letters, trademarks, moving parts or lights.
- D. Art. Integral decorative or architectural features of buildings and works of art so long as such features or works do not contain letters, trademarks, moving parts or lights.
- E. Building Identification, Historical Markers. Non-illuminated signs which are permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information.
- F. Construction. Temporary construction signs advertising the development or improvement of a property by a builder, contractor or other person furnishing service, materials, or labor to the premise during the period of construction, development or lot sales shall be allowed provided that:
 - 1. Signs in conjunction with any single family residential use shall not exceed eight (8) square feet each;
 - 2. Signs in conjunction with all other uses shall have a maximum area of thirty-two (32) square feet each;
 - 3. Only one (1) such sign oriented per street front per premises shall be erected. Any two (2) such signs located on the same premises shall be located at least one hundred (100) feet apart as measured by using a straight line;
 - 4. Such signs shall not be illuminated;
 - 5. Such signs shall only appear at the construction site; and
 - 6. Such signs shall be removed within seven (7) days after completion of the project;
 - 7. Such signs shall be erected only after submittal of a land development application for the subject property.

- G. Courtesy. Signs which identify, as a courtesy to customers, items such as credit cards accepted, redemption stamps offered, menus or hours of operation; limited to one (1) such sign for each business or use, not to exceed four (4) square feet per face or eight (8) square feet in total area. One flashing or blinking sign of this type may be permitted to be displayed in a window on the ground floor provided the sign is no larger than four square feet in area.
- H. Decorations (Holiday). Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, State, local or religious holiday or celebration; provided that such signs shall be displayed for not more than sixty (60) days in any one (1) year.
- I. Directional. On-premises directional and instructional signs not exceeding six (6) square feet in area each.
- J. Doors. Signs affixed to door which identify the name and/or address of an establishment limited to four (4) square feet.
- K. Flags. Flags, crests or banners of nations, or organizations of nations, or states and cities, or professional fraternal, religious, civic organizations, or generally accepted military service related flags (i.e. POWs) except when displayed in connection with commercial promotion.
- L. Hazards Signs. Temporary or permanent signs erected by the City of Fruita, public utility companies, oil and gas companies, or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.
- M. Identification/Address. Non-illuminated signs not to exceed two (2) square feet in area which identify the address and/or occupants of a dwelling unit or of an establishment. An Identification/Address sign that contains only the address number(s) of the property may be larger than two square feet only if necessary for the numbers to be visible from the public right-of-way.
- N. Memorial. Memorial signs, plaques or grave markers which are non-commercial in nature.
- O. Merchandise. Merchandise, pictures or models of products or services which are incorporated as an integral part of a window display. This is different from a Window Sign which requires a sign permit.
- P. Political Signs. Political signs displayed on private property in accordance with an official election or signs erected on behalf of candidates for public office and ballot issues provided:

1. The total area of all such signs on a lot does not exceed thirty-two (32) square feet;
 2. All such signs may be erected no sooner than sixty (60) days in advance of the election for which they were made;
 3. The signs are removed within seven (7) days after the election for which they were made; and
 4. The property owner upon whose land the sign is placed shall give written permission for the placement of said signs and will be responsible for violations.
- Q. Public Information Signs. Signs which identify restrooms, public telephones, or provide instructions as required by law or necessity, provided the sign does not exceed two (2) square feet in area and is non-illuminated. (This category shall be interpreted to include such signs as "restrooms," "self-service," and similar informational signs.)
- R. Religious Symbols. Religious symbols located on a building or lot used for organized religious purposes.
- S. Regulatory Signs. Regulatory signs erected on private property identifying regulations specific to that property, such as "no trespassing" or "no smoking" signs, which do not exceed two (2) square feet per face or four (4) square feet in total surface area, limited to four (4) such signs per use or per building, whichever is the greater number.
- T. Real Estate Sale, Lease, Rent Signs. Temporary signs used to offer for sale, lease or rent land or buildings provided that such signs shall be no taller than six (6) feet, shall not be illuminated and shall be removed within seven (7) days after the real estate closing or lease transaction and:
1. One (1) on-premise sign per street frontage advertising real estate ("For Sale," "For Rent," "For Lease" or "For Development") not greater than eight (8) square feet in area in a residential zone and thirty-two (32) square feet in area in non-residential zones may be located on the property being advertised. If the property so advertised lies on a corner lot or double frontage lot, then a second sign may be oriented along the second street so long as the two signs are at least one hundred (100) feet apart as measured by the shortest straight line;
 2. In addition to the on-premise real estate sign(s), a maximum of three (3) directional signs, each not exceeding four (4) square feet in area, shall be permitted off the subject premises. The message of said signs shall be limited to the name of the property or development being advertised, an address, a telephone number, a directional arrow, mileage to the subject property, and the terms "Lot/Home For Sale," "For Rent," "For Lease," "For Development," etc;

3. In addition to the signs identified in subsections a & b above, land containing not less than five (5) lots or one acre shall be allowed one sign per street entrance advertising the subdivision. Such signs may have a maximum sign area of thirty-two (32) square feet.
- U. Scoreboards. Scoreboards for athletic fields.
- V. Strings of Light Bulbs. Displays of string lights, provided:
1. They are decorative displays which only outline or highlight landscaping or architectural features of a building;
 2. They are steady burning lights. No blinking, flashing, intermittent changes in intensity or rotating shall be permitted;
 3. They are no greater in intensity than five (5) watts;
 4. They shall not be placed on or used to outline signs, sign supports;
 5. They shall not be assembled or arranged to convey messages, words, commercial advertisements, slogans and/or logos;
 6. They shall not create a safety hazard with respect to placement, location of electrical cords or connection to power supply;
- W. Temporary, On-Premise. Two temporary signs (either attached or freestanding) are permitted per business (including institutional businesses and temporary uses such as garage sales and fruit stands) as long as the signs are brought indoors at the end of each business day. There are no size or height limits associated with these types of temporary signs.
- X. Temporary, Off-Premise. In lieu of one on-premise temporary signs, one temporary off-premise portable freestanding sign is permitted in the public right-of-way directly abutting the subject property per each businesses or institutional use as long as the signs meet the following requirements:
1. The sign can be located only on the public right-of-way directly in front of the subject property.
 2. The sign height shall not exceed four (4) feet as measured from the ground;
 3. The sign size shall not exceed six (6) square feet;
 4. The sign cannot be placed on public art including pedestals, benches, seating walls, trash cans, landscaping (other than grass or gravel ground cover), utility

structures, and similar items;

5. Signs affixed to a fence or other structure, or are within the area used as part of a permitted sidewalk restaurant (as per Chapter 12.14 of the Municipal Code) are considered on-premise signs;
 6. The sign shall be brought indoors at the end of each business day;
 7. The sign shall not obstruct the clear sight for traffic at intersections and driveways;
 8. No sign shall be placed in a traffic lane for vehicles, including bicycle lanes;
 9. No sign shall be placed in a public parking space including bicycle parking spaces;
 10. A sign placed on public sidewalks must leave five (5) feet of minimum width clear for traffic circulation and if the sidewalk is less than five (5) feet in width, a sign cannot be placed on the sidewalk.
- Y. Time and Temperature. Signs displaying time and temperature devices provided they are not related to a product and do not exceed sixteen (16) square feet in sign area and do not exceed eight (8) feet in height when freestanding.
- Z. Traffic Control. Signs for the control of traffic or other regulatory purposes including signs for the control of parking on private property, and official messages erected by, or on the authority of, a public officer in the performance of his/her duty.
- AA. Vacancy and No Vacancy. The sign area of "vacancy" and "no vacancy" signs, cannot exceed three (3) square feet per face. Also, signs designed to indicate vacancy such as "yes," "no" or "sorry" shall also be exempt under the provisions of this subsection if they meet the area requirement.
- BB. Vehicular For Sale Signs. Motor vehicle for sale signs provided there is only one (1) sign per vehicle, the sign does not exceed two (2) square feet.
- CC. Vehicular Signs. Signs displayed on trucks, buses, trailers or other vehicles which are being operated or stored in the normal course of a business, such as signs indicating the name of the owner or business which are located on moving vans, delivery trucks, rental trucks and trailers and the like, shall be exempt from the provisions of this Chapter, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles.
- DD. Vending Machine Signs. Vending machine signs provided that the advertisement upon the vending machine sign is limited to the product vended.

17.15.050 PROHIBITED SIGNS. The following signs are inconsistent with the purposes and standards in this Chapter and are prohibited in all zones:

- A. Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement;
- B. Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, or traffic-control devices including any sign that obstructs clear vision in any direction from any street intersection or driveway;
- C. Mechanical or electrical appurtenances, such as "revolving beacons", that are designed to compel attention;
- D. Off-premises advertising signs except as specifically permitted by this Chapter;
- E. Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air;
- F. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign;
- G. Vehicle-mounted signs, including but not limited to, signs painted on or attached to semi-trailers or cargo containers when exhibited on private property adjacent to public right-of-way for the purpose of advertising the business or services offered on the property.
- H. No single sign may measure more than three hundred (300) square feet regardless of size calculations otherwise contained in this Chapter.
- I. Searchlights;
- J. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy;
- K. Wind signs;
- L. Any sign (together with its supporting structure) now or hereafter existing which, ninety (90) days or more after the premises have been vacated, advertises an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located. If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the Community Development Department Director upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business);

M. Any sign or sign structure which:

1. Is structurally unsafe;
2. Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
3. Is not kept in good repair; or
4. Is capable of causing electrical shocks to persons likely to come in contact with it; and

N. Any sign or sign structure which:

1. In any other way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign;
2. Uses any words, phrases, symbols or characters implying the existence of danger or the need for stopping or maneuvering a motor vehicle;
3. Creates in any other way an unsafe distraction for motor vehicle operators; or
4. Obstructs the view of motor vehicle operators entering a public street from any parking area, service drive, private driveway, alley or other thoroughfare.

17.15.060 MEASUREMENT OF SIGN AREA, HEIGHT AND CONSTRUCTION.

- A. Sign Surface Area. The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas.
- B. Sign Support. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.
- C. Back-to-Back (Double-Faced) Signs. Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two (2) feet at any point.
- D. Three-Dimensional Signs. Where a sign consists of one or more three-dimensional objects (i.e. balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane. Signs with three-dimensional objects that exceed a projection of six (6) inches from the sign face may be approved in compliance with Section 17.15.110, Creative Signs.
- E. Sign Height. The height of a sign shall be measured from the highest point of a sign to the natural ground surface beneath it.

- F. Wind Load. All exterior signs shall be engineered to withstand a minimum wind load of thirty (30) pounds per square foot.

17.15.070 SIGN ILLUMINATION.

- A. Signs within five hundred (500) feet and in the direct line of sight of an existing residential structure or signs over ten (10) feet tall which are within five hundred (500) feet of and in the direct line of sight of the Fruita State Park are required to minimize light pollution impacts to the Fruita State Park and/or existing residential structures. A residence shall be deemed "existing" for purposes of this subsection if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of this Chapter.
- B. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. When external light sources are directed at the sign surface, the light source must be concealed from pedestrians' and motorists' "lines of sight."
- C. Signs must be illuminated in a way that does not cause glare onto the street and adjacent properties. Signs shall be lighted only to the minimum level for nighttime readability.
- D. All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Additionally, electrical permits shall be obtained for electric signs. When electrical service is provided to freestanding signs, all such electrical service shall be underground.
- E. Flashing, moving, blinking, chasing or other animation effects are prohibited on all signs except time and temperature signs and courtesy signs four (4) square feet or less in area when displayed in a window.
- F. Neon tubing is an acceptable method of sign illumination.
- G. Electronic message boards are permitted but the message can change only once every five (5) minutes and only one color light may be used at a time. Time and temperature signs and courtesy signs four (4) square feet or less in area when displayed in a window are exempt from this regulation. Electronic message boards using plasma technology are prohibited.

17.15.080 SIGN INSTALLATION AND MAINTENANCE.

- A. Owners of projecting signs extending over public right-of-way shall be required to maintain public liability insurance in an amount to be determined appropriate by the City of Fruita, in which the City of Fruita is named as an "additional insured."

- B. The owner of a sign and the owner of the premises on which a sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in a neat and orderly condition, and in good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also be in compliance with all building and electrical codes adopted by the city and the State.
- C. The City of Fruita may inspect any sign governed by this Chapter and shall have the authority to order the repair, or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

17.15.090 STANDARDS FOR SPECIFIC TYPES OF SIGNS. Any sign authorized by this Chapter may contain non-commercial copy in lieu of any other copy.

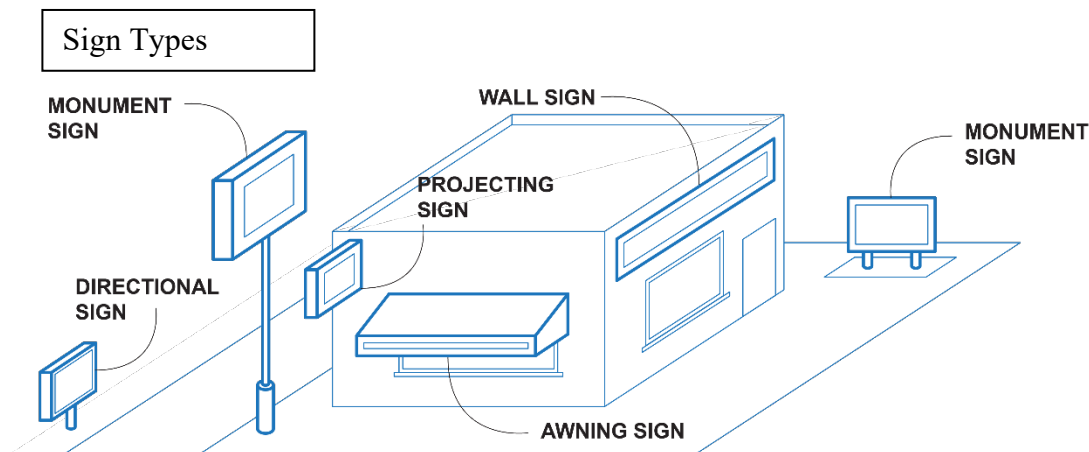
- A. Attached sign types. The sum of all attached signs cannot exceed ten (10) percent of wall area to which the sign(s) is attached. Each building facade shall have its own separate and distinct sign allowance. The sign allowance per facade can only be used on that facade and shall not be transferred to any other facade.
 - 1. Wall Signs. The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail. Wall signs shall not extend more than four (4) feet above the roof line of the portion of the building to which it is attached but in no case is the wall sign permitted to be above thirty-five (35) feet in height regardless of building height.
 - 2. Awning or Canopy Signs.
 - a. Location. Signs may be placed only on awnings or canopies that are located on first or second story of a building. No awning or canopy sign shall project beyond, above or below the face of an awning or canopy.
 - b. Maximum area and height. Sign area shall comply with the requirements established by Section 17.15.100, Sign Standards by Zone District. No structural element of an awning or canopy shall be located less than eight (8) feet above finished grade.
 - 3. Window Signs. When a sign is painted on, applied or attached to or displayed in a window and is visible beyond the boundaries of the lot upon which the sign is displayed, the total area of such sign shall not exceed:
 - a. Fifty (50) percent of the window or door area at the ground floor level; and
 - b. Fifty (50) percent of the total allowable sign area for the premises.

4. Projecting Signs.

- a. Maximum area and height. Projecting signs shall not be higher than the wall from which the sign projects. Projecting signs must have eight (8) feet clearance from the ground below and may not extend more than six (6) feet from the building wall. The size of projecting signs is limited to sixteen (16) square feet.
- b. Sign structure. Sign supports and brackets shall be compatible with the design and scale of the sign.
- c. Quantity. The number of projecting signs is limited to one per business.

B. Freestanding Signs.

1. Location. No freestanding sign in any zone can be erected closer than eight (8) feet to any curblin in the public right-of-way, nor closer than four (4) feet to any building. With the exception of the DMU zone, no freestanding signs for non-residential land uses must not be located less than twenty-five (25) feet from any property line abutting a residential land use.
2. Maximum area and height. The sign shall comply with the height and area requirements established in Section 17.15.100, Sign Standards by Zone.



- C. Off-Premises Signs. Other than the off-premise signs permitted as identified in Section 17.15.040 regarding Exempt Signs, the only other off-premise signs permitted are Business District Identification signs. One Business District Identification sign (whether freestanding or attached) is permitted at each major entry point to a Business District for

those businesses that do not have frontage on a State Highway. For the purposes of Business District Identification Signs, Business Districts and major entrance points to Business Districts are identified by Resolution of the City Council. This type of sign is permitted in addition to all other signs permitted on the property on which the sign is located.

1. Freestanding: Limited to thirty-five (35) feet in height and three hundred (300) square feet in size.
2. Attached: Limited to three hundred (300) square feet in size.

17.15.100 SIGN STANDARDS BY ZONE

- A. Signs in the Monument Preservation (MP), Community Residential (CR), Large Lot Residential (LLR), South Fruita Residential (SFR), Community Services and Recreation (CSR) zones and residential land use portions of the Downtown Mixed Use (DMU) zones shall be limited to:

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs
Identification Sign (Freestanding or Attached Sign)	1 per single family or duplex unit	2 sq. ft.	4 feet
	1 per multi-family building	16 sq. ft.	6 feet
	1 per public or quasi-public use	32 sq. ft.	8 feet
	1 per subdivision entrance	32 sq. ft.	6 feet
Commercial Uses (legal nonconforming only)	1 per tenant space for attached signs 1 per lot or parcel for freestanding signs	1 sq. ft. for each lineal foot of building wall or frontage; 25 sq. ft.	6 feet

- B. Signs in the Commercial-1 (C-1) zone, Commercial-2 (C-2) zone, Industrial (I) zone, and non-residential land use portions of the Downtown Mixed Use (DMU) zone shall be limited to all signs permitted in subsection A above and also the following:

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs
Freestanding *	1 per parcel per street frontage	0.75 sq. ft. per linear foot of street frontage per 2 traffic lanes; 1.5 sq. ft. per linear foot of street frontage when more than 2 traffic lanes	8 feet or up to 35 feet**
Attached (Wall, Window, Awning or Canopy, Projecting)	unlimited but total area of all attached signs cannot exceed the maximum square	1.5 sq. ft. per linear foot of building façade	n/a

* For parcels or lots with buildings that abut the entire street side property line, freestanding signs shall not be permitted along that street side. This currently includes most of the lots fronting Circle Park and Aspen Avenue from Circle Park to Peach Street.

** One Freestanding sign per lot or parcel up to thirty-five (35) feet in height is permitted for properties touching the right-of-way for Highway 6 & 50 or Highway 340 which are zoned C-2, or DMU, or; properties zoned DMU and touching the right-of-way for Plum Street between Highway 6 & 50 and Aspen Avenue. Maximum size for freestanding signs taller than ten (10) feet is limited to two hundred (200) square feet.

C. Signs in the Rural Estate (RE) Zone Districts shall be limited to:

1. All signs permitted in subsection A above, and;
2. One Identification Sign for agricultural land uses limited to:
 - a. Forty-eight (48) square feet in size whether attached or freestanding;
 - b. Freestanding sign limited to eight (8) feet in height with the setback from property lines equal to the height of the sign.

D. Planned Unit Development and Conditional Use Signs. Planned Unit Developments and Conditional Use Permits shall have proposed signs reviewed and approved as part of the

Planned Unit Development or Conditional Use Permit review process.

17.15.110 CREATIVE SIGNS.

- A. Purpose. This Section establishes standards and procedures for the design, review and approval of creative signs. The purposes of this creative sign program are to:
1. Encourage signs of unique design, and that exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
 2. Provide a process for the application of sign regulations in ways that will allow creatively designed signs that make a positive visual contribution to the overall image of the City of Fruita, while mitigating the impacts of large or unusually designed signs.
- B. Applicability. An applicant may request approval of a sign permit under the creative sign program to authorize on-site signs that employ standards that differ from the other provisions of this Chapter, but comply with the provisions of this Section.
- C. Approval Authority. A sign permit application for a creative sign shall be subject to approval by the City Council after a recommendation from the Planning Commission.
- D. Application Requirements. A sign permit application for a creative sign shall include all information and materials required by the City of Fruita, and the permit fee as determined by resolution of the City Council.
- E. Design Criteria. In approving an application for a creative sign, the Planning Commission shall ensure that a proposed sign meets the following design criteria:
1. Design quality. The sign shall:
 - a. Constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area;
 - b. Be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
 - c. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion.
 2. Contextual criteria. The sign shall contain at least one (1) of the following elements:
 - a. Classic historic design style;
 - b. Creative image reflecting current or historic character of the City of

Fruita;

- c. Symbols or imagery relating to the entertainment or design industry; or
 - d. Inventive representation of the use, name or logo of the structure or business.
3. Architectural criteria. The sign shall:
- a. Utilize and/or enhance the architectural elements of the building; and
 - b. Be placed in a logical location in relation to the overall composition of the building's facade and not cover any key architectural features/details of the facade.

17.15.120 BUS SHELTER AND BENCH ADVERTISING.

- A. Advertising - Bus Shelters. Advertising on or incorporated within County or City approved transit shelters is permitted as long as the following requirements are met:
- 1. There is a written agreement between the bus shelter provider and all of the required permits have been obtained from the City of Fruita and Mesa County.
 - 2. The bus shelters are located only at designated bus stops on designated bus routes. As routes or stops change, bus shelters that are no longer on a designated route or bus stop must be removed within thirty (30) days following notice by the County and/or the City of Fruita requesting removal.
 - 3. Bus shelters are also subject to the following requirements:
 - a. Advertising shall be limited to two side panels on the bus shelter, each not more than forty-eight (48) inches wide and seventy-two (72) inches high; the advertising panels may be illuminated by "backlighting";
 - b. A third advertising panel may be provided along the rear of the bus shelter for public service messages or other public purposes, as specified in the written agreement with the County and the City;
 - c. A proposed maintenance schedule shall be included in the written agreement between the bus shelter provider and the County and the City. The permittee shall be responsible for all maintenance of the shelter including general repair, painting, removal of graffiti, and maintenance of lawn or landscaping around the shelter area. Failure to properly maintain the shelter or shelter area is cause for removal;

- d. All bus shelters shall be located on and anchored to a concrete pad or equivalent;
- e. Shelters should be located in the public right-of-way; in situations where the shelter is required to be located outside the public right-of-way, the Community Development Department may allow such location, provided written authorization of the owner of the private land has been obtained and any costs associated with obtaining the authorization has been paid;
- f. A planning clearance for a building permit shall be obtained for each bus shelter; all requirements of the Americans with Disabilities Act must be met;
- g. Where curb and gutter are present and the posted speed limit is thirty-five (35) miles per hour or less, the front of the shelter shall be set back a minimum of five (5) feet from the curb, unless otherwise authorized by the County and City's Community Development Department; in no case shall the setback be less than three and one-half (3 ½) feet from the curb;
- h. Where there is no curb and gutter or the posted speed limit is greater than thirty-five (35) miles per hour the front of the shelter shall be set back a minimum of ten (10) feet from the edge of pavement, unless otherwise authorized by the City's Community Development Department; in no case shall the setback be less than five (5) feet from the edge of pavement;
- i. The shelter shall not be located in a way which impedes pedestrian, bicycle, wheelchair, or motor vehicle travel, including the limitation of vehicular sight distance; vertical supports for the shelter shall be located no closer than one (1) foot from any sidewalk;
- j. Bus shelters with advertising are limited to the Commercial-1 (C-1), Commercial-2 (C-2), Downtown Mixed Use (DMU) and Industrial (I) zones and are allowed only on major collector, minor arterial, and major arterial streets and roads, as designated in City of Fruita Street Classification and Traffic Control Plan, with the exception that such advertising bus shelters and benches shall not be allowed on the lots fronting on Circle Park and East Aspen Ave. from Circle Park on the west to Elm Street on the east, Mesa County School District No. 51 property, and on property operated by the Museum of Western Colorado; and
- k. Shelters located in the Downtown Mixed Use (DMU) and Commercial-1 (C-1), Commercial-2 (C-2) zones are subject to the design standards of such zone. (See Chapter 17.13.)

B. Advertising - Bus Benches. Advertising on bus benches is permitted as long as the

following requirements are met:

1. There is a written agreement between the bus bench provider and the County and the City and all of the required permits have been obtained from the County and City.
2. A single bench may be located only at designated bus stops along a designated bus route, subsequent to issuance of a permit by the County and the City's Community Development Department. A second bench may be allowed based on ridership data which demonstrates such a need. As routes or stops change, bus benches that are no longer along a designated route or bus stop must be removed within thirty (30) days following notice by the County and City.
3. Benches are also subject to the following conditions:
 - a. A site plan of the bench location, meeting the requirements of this Section, shall be submitted to the County and the City's Community Development Department for review and approval of planning clearance prior to placement of any bench. Additionally, all requests to locate a bench on State highways shall also be submitted to the Colorado Department of Transportation (C.D.O.T.) for review and approval;
 - b. Benches should be located within the public right-of-way; in situations where the bench is required to be located outside the public right-of-way the County and City's Community Development Department may allow such encroachment if it is the minimum amount necessary to site the bench, written authorization from the owner of the private land has been provided, and any costs associated with obtaining the authorization has been paid;
 - c. The bench may be oriented towards approaching traffic at an angle not to exceed thirty (30) degrees from parallel to the street frontage;
 - d. Where curb and gutter are present and the posted speed limit is thirty-five (35) miles per hour or less, the front of the bench shall be set back a minimum distance of five (5) feet from the curb. The five (5) feet minimum distance may not be reduced;
 - e. Where no curb and gutter is present or the posted speed limit exceeds thirty-five (35) miles per hour, the bench may be located at a distance no closer than ten (10) feet from the edge of pavement, unless otherwise authorized by the County and the City's Community Development Department; in no case shall the distance be reduced to less than five (5) feet from the street pavement. Bus benches must be located within twenty (20) feet of a bus stop. To the greatest extent possible, benches should not

be located within the parkway between the road pavement/curb and sidewalk;

- f. The advertising panel shall be limited to a single face that must be oriented to the street. The sign face shall not exceed twelve (12) square feet in size with a maximum sign height of two (2) feet; the sign shall be non-illuminated and non-reflective;
- g. The bench may not be located in a manner which impedes pedestrian, bicycle, wheelchair, or vehicle travel including the limitation of vehicular sight distance. The bench shall be set back a minimum distance of one (1) foot from an adjacent sidewalk at its nearest point;
- h. The permittee shall be responsible for all maintenance of the bench including general repair, painting, removal of graffiti, and maintenance of lawn or landscaping around the bench area. Failure to properly maintain the bench or bench area is cause for removal;
- i. Benches containing advertising are limited to major collector, minor arterials, and major arterials, as designated in the City's Street Classification and Traffic Control Plan;
- j. The design of benches obtained by the provider subsequent to the adoption of this Chapter shall be approved by the City;
- k. Bus benches with advertising are limited to Commercial-1 (C-1), Commercial-2 (C-2), Downtown Mixed Use (DMU) and Industrial (I) zones and are allowed only on major collector, minor arterial, and major arterial streets and roads, as designated on the City's Street Classification and Traffic Control Plan, with the exception that such advertising benches shall not be allowed in the lots fronting on Circle Park and East Aspen Ave. from Circle Park on the west to Elm Street on the east, Mesa County School District No. 51 property, and on property operated by the Museum of Western Colorado; and
- l. The City's Community Development Department may add additional requirements for design and placement of benches as necessary based on the site location including, but not limited to the following:
 - i. Construction of a concrete pad sufficient in size to accommodate the bench supports and two (2) feet of foot space along the front of the bench; and
 - ii. Securing the bench to concrete pads utilizing a "break-away" anchor design.

Chapter 17.17
ANNEXATIONS

Sections:

17.17.010	Purpose
17.17.020	Applicability
17.17.030	Application
17.17.040	Annexation Impact Report
17.17.050	Criteria and Decision for Annexations not requiring an Election
17.17.090	Review Process for Annexations not requiring an Election
17.17.070	Disconnection of Territory
17.17.080	Zoning of Annexed Properties

17.17.010 PURPOSE.

The purpose of this section is to outline the process of annexing land into the City of Fruita as well as disconnecting land from the City of Fruita. The Chapter is intended to ensure annexations and disconnections are in support of the goals in the City of Fruita Comprehensive Plan, including:

1. The City of Fruita will maintain a distinctive edge to define the community.
2. Development will be directed inward to preserve agricultural land and open space and better utilize existing infrastructure and resources.
3. Annexations should ensure new development is consistent with the desired densities and land uses outlined in the Future Land Use Map (FLUM), does not promote sprawling growth patterns, and is considerate of adjacent uses.
4. Annexations should not require the extension of services, utilities and infrastructure outside the UGB.
5. Consider a disconnection process for ‘floating parcels’ and/or land outside the Urban Growth Boundary (UGB).

17.17.020 APPLICABILITY.

Land may be annexed to the City as deemed appropriate by the City Council in accordance with this Chapter and the Municipal Annexation Act of 1965, as amended, Sections 31.12-101 *et. seq.* C.R.S. Land may be disconnected from the City if the City Council is of the opinion that the best interests of the City of Fruita will not be prejudiced by the disconnection of such land in accordance with Part 5 of Article 12 of Title 31, C.R.S. Because Fruita is a home rule municipality, Part 6 of Article 12 of Title 31, C.R.S., permitting disconnection by court decree, shall not be applicable to the City of Fruita.

17.17.030 APPLICATION.

Application requirements and processing procedures for annexations or disconnection shall comply with those described in the Municipal Annexation Act of 1965, as amended, Sections 31-12-101 et. seq., C.R.S. Applications shall be made in such form and in such numbers as required by the Community Development Director. If, in the opinion of the Community Development Director, existing right-of-way adjacent to the land requested to be annexed should be annexed at the same time, the applicant shall submit a legal description, prepared by a registered land surveyor, of the subject right-of-way with the application for annexation. Subject to Section 31-12-115 et. Seq., CRS, following a determination by City Council that the petition for annexation is valid, the annexation application for the subject property shall be accompanied by a land use application for any other applicable land use process, such as a Subdivision, Site Design Review or Conditional Use Permit or an annexation agreement.

17.17.040 ANNEXATION IMPACT REPORT.

Any petition for annexation not requiring an election shall be accompanied by an annexation impact report, which contains the following elements:

- A. Plans of the municipality for extending to or otherwise providing for municipal services;
- B. The City of Fruita's anticipated financing of the extension of services;
- C. The special districts included in the territory to be annexed;
- D. The effect of annexation on the public school district system including the estimated number of students generated and capital construction required to educate each student;
- E. A traffic impact analysis prepared by a qualified firm or party for annexations with a projected trip generation at any peak hour of one-hundred vehicles or greater.
- F. A continuation plan for pedestrian/bicycle/curb infrastructure to the site;
- G. A parking demand and supply analysis prepared by a qualified firm or party
- H. Wastewater, water, drainage, and irrigation impacts, and;
- I. Other relevant information as required by the Community Development Department.

17.17.050 CRITERIA FOR ANNEXATIONS NOT REQUIRING AN ELECTION.

- A. If the subject property is located within the city's Urban Growth Boundary (UGB) as

defined by the Fruita Community Plan, annexation may be approved only after considering the following criteria:

1. The annexation meets the requirements of the applicable State Statutes;
2. The area is or can be efficiently served by city utilities and capital investments, including water, sewer, parks, drainage systems and streets;
3. The area is contiguous with existing urban development;
4. The area is or can be efficiently served by police and other municipal services;
5. The development is consistent with community goals, principles, and policies as expressed in the Fruita Comprehensive Plan;
6. The annexation is supported by local residents and landowners;
7. Water and ditch rights can be provided, as applicable, in accordance with city policies;
8. The area will have a logical social and economic association with the city, and;
9. The area meets or can meet the existing infrastructure standards set forth by the city.

B. If the subject property is located in the Planning Influence Area (PIA) defined by the City of Fruita Comprehensive Plan, annexation may be approved only after considering the following criteria in addition to the criteria required to be considered for property in the Urban Growth Area:

1. The annexation meets the requirements of the applicable State Statutes;
2. The area would have a positive net fiscal benefit to the community;
3. The area is necessary to accommodate an activity that cannot be reasonably accommodated on lands within the existing UGB;
4. The area would allow for the logical and concurrent extension of urban services (water, streets, sewer, etc.);
5. The area would offer a desirable new “edge” to the community, and;
6. The area discourages a sprawling development pattern and contributes to the

Community Vision as described in the City of Fruita Comprehensive Plan.

- C. Annexation of property outside both the UGB and PIA should only be considered for extraordinary circumstances, and must meet the following criteria:
1. The annexation meets the requirements of the applicable State Statutes;
 2. The area is necessary to accommodate an activity that cannot be reasonably accommodated on lands within the existing UGB boundary; and
 3. The area discourages a sprawling development pattern and contributes to the Community Vision as described in the City of Fruita Comprehensive Plan.

17.17.090 REVIEW PROCESS FOR ANNEXATIONS NOT REQUIRING AN ELECTION.

- A. All annexations shall require approval by City Council shall be processed in accordance with the Procedures outlined in Section 17.07.040, Common Development Review Procedures, and the following requirements.
1. The Community Development Director shall make recommendations to the Planning Commission and the City Council on any petition for annexation not requiring an election based on the criteria in Section 17.17.050.
 2. The Planning Commission shall review the proposed annexation in a public hearing and make a recommendation to the City Council on any petition for annexation not requiring an election based on the criteria in Section 17.17.050.
 3. Following public hearings as required by law, the City Council shall approve, conditionally approve or disapprove all petitions for annexation not requiring an election. The city retains complete discretion and authority to approve or deny an annexation petition for any reason or to require an annexation agreement as a condition of approval of any annexation.
- B. An applicant may withdraw a request for annexation at any time.

17.17.070 DISCONNECTION OF TERRITORY.

- A. In accordance with Section 31-12- 501, C.R.S., when the owner of a tract of land within and adjacent to the boundary of the City of Fruita desires to have such land disconnected from the City of Fruita, such owner may file an application for disconnection with the Community Development Director requesting disconnection, which shall be subject to the following review process.
1. The Community Development Director shall make recommendations to the Planning Commission and the City Council on any application for the disconnection of territory.

2. The Planning Commission shall make a recommendation concerning the requested disconnection to the City Council.
3. If the City Council, in its sole discretion, is of the opinion that the best interests of the City of Fruita will not be prejudiced by the disconnection of such land, the City Council may enact an ordinance effecting such disconnection. If the ordinance is enacted, it shall be immediately effective upon the required publication and the required filing with the Mesa County Clerk and Recorder. Two (2) certified copies thereof shall be filed by the City Clerk with the office the Mesa County Clerk and Recorder. The County Clerk and Recorder shall retain one copy and shall file the second certified copy with the division of local government in the Colorado Department of Local Affairs, as provided by Section 24-32-109, C.R.S.

17.17.080 ZONING OF ANNEXED PROPERTIES.

Land annexed to the city shall be zoned in accordance with the City of Fruita's zoning regulations within ninety (90) days following annexation of the land. The city's acceptance of a land use application or issuance of building permit may be contingent upon approval of city zoning.

Chapter 17.19
PLANNED UNIT DEVELOPMENTS

Sections:

- 17.19.010 General Purposes**
- 17.19.020 Planned Unit Developments – General Procedures**
- 17.19.030 Criteria For Review and Decisions**
- 17.19.040 Planned Unit Development Applications; Submittal, Processing and Review**
- 17.19.050 Planned Unit Development Improvements**
- 17.19.060 Amendments to Final Planned Unit Development Plan or Planned Unit Development Guide**
- 17.19.070 Time Extensions**

17.19.010 PURPOSE.

The purpose of this Chapter is to encourage flexibility and innovation in developments in exchange for a community benefit that could not otherwise be realized through the strict adherence to the code. This Chapter allows for modification of the normal use, density, size or other zoning restrictions.

17.19.020 APPLICABILITY.

This chapter may apply to any development within the City of Fruita. There shall be no prohibition on the size or location of a development requesting review as a Planned Unit Development. As part of the application for PUD, the application is assumed to request a deviation from the existing underlying zone district, unless the applicant requests a new underlying zone district as part of the application. Properties that are unzoned must identify an underlying zone district as part of the PUD request.

- A. Recommendations and decisions concerning a proposed Planned Unit Development shall be based upon the criteria in Section 17.19.030. In no case shall the approval of a Planned Unit Development vary the health and safety requirements contained in Title 8, requirements concerning public peace, morals and welfare contained in Title 9, requirements concerning public improvements contained in Title 12, requirements concerning water and wastewater service contained in Title 13, or the requirements of the city's building codes as set forth in Title 15 of the Municipal Code. To the extent that other regulations in this code conflict with the standard contained in an approved Planned Unit Development as allowed herein, such regulations shall not be applicable and the provisions of this chapter shall control.
- B. City Council may modify any specifications, standards, or requirements of this Code, provided that the PUD Ordinance established different specifications, standards, and requirements for the PUD. No Planned Unit Development shall be approved unless the Council is satisfied that each of these approval criteria has been met, can be met or does not apply to the proposed Planned Unit Development

- C. Unless specifically modified through the PUD process, uses and dimensions within a PUD shall comply with the requirements of this Code, including but not limited to minimum lot area, maximum lot coverage, minimum setbacks, maximum heights, parking standards, landscape requirements, and required permits and processing procedures.
- D. Subdivisions. In the event a proposed Planned Unit Development involves a subdivision, the applications shall be combined and reviewed simultaneously according to the review procedures within this PUD Chapter. Approval criteria for Planned Unit Developments must be considered in addition to the approval criteria required to be considered for subdivisions, pursuant to Chapter 17.21.
- E. Site Design Review. In the event a proposed Planned Unit Development does not require a subdivision, Planned Unit Development will follow the Site Design Review application procedures of Chapter 17.09, except the Site Design Review for the Planned Unit Development shall be reviewed through the public hearing process in accordance with Section 17.07.040 (Common Development Review Procedures). Approval criteria for Planned Unit Developments must be considered in addition to the approval criteria required to be considered for Site Design Review, pursuant to Chapter 17.09.

17.19.030 PUD REVIEW PROCESSES.

All PUDs shall be processed in accordance with the Procedures outlined in Section 17.07.040, Common Development Review Procedures. Additionally, the following process steps are applicable to all PUDs.

- A. Concept Plan. An applicant may choose to complete a Concept Plan review with the City to receive initial feedback on the proposed Subdivision. An application for Concept Plan is optional and approval shall be reviewed for compliance with this Title, other requirements of the city, and requirements of other agencies, as applicable. Applications for Concept Plan approval shall be reviewed in a work session process (not a public hearing) with the Planning Commission and City Council. All comments and feedback in the work session are non-binding and are intended to provide overall direction to an applicant. The Planning Commission is a recommending body to City Council for all Concept Plan applications.
 - 1. The Planning Commission and City Council shall evaluate the Concept Plan application according to the following approval criteria:
 - a. Conformance to the City of Fruita's Comprehensive Plan, Land Use Code, Design Criteria and Construction Specifications Manual and other city policies and regulations;
 - b. Consistency with one or more of the following general goals for a PUD justifying a deviation from the requirements of the Code, including but not limited to:

- i. More convenient location of residences, places of employment, and services in order to minimize the strain on transportation systems, to ease burdens of traffic on streets and highways, and to promote more efficient placement and utilization of utilities and public services; or
 - ii. To promote greater variety and innovation in residential design, resulting in adequate housing opportunities for individuals of varying income levels and greater variety and innovation in commercial and industrial design; or
 - iii. To relate development of particular sites to the physiographic features of that site in order to encourage the preservation of its natural wildlife, vegetation, drainage, and scenic characteristics; or
 - iv. To conserve and make available open space; or
 - v. To provide greater flexibility for the achievement of these purposes than would otherwise be available under conventional zoning restrictions; or
 - vi. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may inure to the benefit of those who need homes; or
 - vii. To conserve the value of land and to provide a procedure which relates the type, design, and layout of residential, commercial and industrial development to the particular site proposed to be developed, thereby encouraging the preservation of the site's natural characteristics.
 - c. Conformance to the approval criteria for Subdivisions (Chapter 17.21) and/or Site Design Review (Chapter 17.09), as applicable; except where Adjustments to the standards of this Title are allowed, and;
 - d. Conformance with applicable Design Standards and Guidelines as outlined in Chapter 17.13, unless approved as an Adjustment pursuant to the Adjustment criteria set forth in Section 17.13.020(B).
2. The applicant shall provide the following information as part of the Concept Plan application:
- a. Identification of uses, dimensions, or other standards that are requested to be adjusted through the PUD process.
 - b. Identification of proposed uses, dimensions, or other standards that will supersede the requirements outlined in this Title or other regulations adopted

by the City of Fruita.

3. The Concept Plan application may be continued or withdrawn by the applicant at any time in writing to the Community Development Department.
4. Preliminary Planned Unit Development Plan applications must be submitted within one hundred eighty (180) days of the approval of the Planned Unit Development Concept Plan unless a time extension has been granted pursuant to Section 17.19.070. If more than 180 days have elapsed from the date of the City Council's approval of the Concept Plan application, and if no extension is granted, the Concept Plan approval shall expire.

B. Preliminary Planned Unit Development Plan. An application for Preliminary Planned Unit Development approval is subject to all requirements of this Title, and other applicable regulations. A Preliminary PUD is reviewed by the Planning Commission, who shall make a recommendation to City Council. City Council is the final review authority for all Preliminary PUDs.

1. At a public hearing in accordance with Section 17.07.040, the Planning Commission and City Council shall evaluate the Preliminary Plan application according to the Concept Plan criteria in Section 17.19.030(A)(1) and:
 - a. Adequate resolution of all review comments; and
 - b. Proposed zoning and adjustments are generally consistent with the character in the immediate area, or are necessary to address an important community purpose, as determined by City Council.
 - c. Conformance to the approval criteria for Subdivisions (Chapter 17.21) and/or Site Design Review (Chapter 17.09), as applicable; except where Adjustments to the standards of this Title are allowed, and;
 - d. Conformance with applicable Design Standards and Guidelines as outlined in Chapter 17.13, unless approved as an Adjustment pursuant to the Adjustment criteria set forth in Section 17.13.020(B).
 - e. Compliance with conditions of approval on the Concept Plan, if any.
2. As part of the Preliminary Planned Unit Development Plan/Plat, the City Council shall enact an ordinance zoning the subject property as a Planned Unit Development.
3. The Preliminary PUD application may be continued or withdrawn by the applicant at any time in writing to the Community Development Department. The applicant may be responsible for paying for the cost of an additional public notice if public notice for the public hearing has already been sent out.
4. Final PUD applications must be submitted within 180 days of City Council

approval of the Preliminary PUD unless a time extension has been granted pursuant to Section 17.19.070. If more than 180 days have elapsed from the date of the City Council's approval of the Preliminary PUD application, and if no extension is granted, the Preliminary Plan approval shall expire.

C. Final Planned Unit Development Plan. An application for Final Planned Unit Development shall conform to the previously approved Preliminary Planned Unit Development Plan, including all conditions of approval, the requirements of this Title, and any other applicable regulations. Final PUD applications are administratively reviewed and approved by the Community Development Director, and may be combined with the related Development Agreement. Final PUD applications shall be submitted to the Community Development Department within one hundred eighty (180) days following approval or conditional approval of the Preliminary Planned Unit Development Plan by the City Council, unless such time is extended by the City Council.

1. The applicant may withdraw the Final PUD application at any time in writing to the Community Development Department.

2. Final Approval and Recording of Planned Unit Development. The Final Planned Unit Development Plan/Plat shall be recorded by the Community Development Department in the manner and by the deadline provided for approved subdivision Final Plats and related documents in Section 17.21. No Final Planned Unit Development Plan, development or subdivision improvements agreement shall be recorded until the developer has paid to the city all review, filing and recording fees, as well as any applicable impact fees. The applicant shall sign the Planned Unit Development Guide before it is recorded.

17.19.050 PLANNED UNIT DEVELOPMENT IMPROVEMENTS.

All required improvements for an approved Planned Unit Development shall be designed, constructed and installed in accordance with the requirements for subdivision improvements set forth in Chapter 17.21 and in accordance with a development or subdivision improvements agreement entered into by the City Council and the developer pursuant to Chapter 17.49 for Planned Unit Development involving a subdivision or in accordance with requirements for Site Design Review approval if no subdivision is required. Improvements shall be constructed pursuant to the city approved Planned Unit Development construction plans and Planned Unit Development Guide.

17.19.060 AMENDMENTS TO PLANNED UNIT DEVELOPMENT FINAL DEVELOPMENT PLAN OR PLANNED UNIT DEVELOPMENT GUIDE.

A. Conditions for Amendment. An approved Final Planned Unit Development Plan or Planned Unit Development Guide may be amended, if the applicant demonstrates that the proposed modification:

1. Is consistent with the efficient development and preservation of the entire Planned Unit Development;
 2. Does not affect, in a substantially adverse manner, either the enjoyment of the land abutting within or adjoining the Planned Unit Development, or the public interest;
 3. Is not granted solely to confer a special benefit upon any person;
 4. Does not contain proposed uses that adversely affect other uses approved for the Planned Unit Development;
 5. Does not contain a public site, park or open space plan that differs substantially in quantity or quality from that originally approved;
 6. Contains street and utility plans that are coordinated with planned and/or existing streets and utilities for the remainder of the Planned Unit Development; and
 7. Is consistent with all applicable regulations of this Title, except as specifically allowed through the subject Planned Unit Development approval or where an amendment is allowed pursuant to this Section.
- B. Classification of Amendments. For the purposes of considering a proposed amendment to a Final Planned Unit Development Plan or Planned Unit Development Guide, amendments shall be classified as minor amendments or major amendments. A minor amendment shall include minor changes in location, siting, and bulk of structures, or height or character of structures required by engineering or other circumstances not foreseen at the time the Planned Unit Development or Planned Unit Development Guide was approved. A minor amendment shall not alter the dimensions of any building or structure by more than ten (10) percent. A major amendment shall include all other modifications; such as; changes in use, arrangement of lots or structures, and all changes in the provisions concerning public sites, parks, open space or density.
- C. Pre-application Conference. When proposing any amendment to a Final Planned Unit Development Plan and/or Plat, the applicant shall first request a pre-application conference with the Community Development Department to discuss city procedures, and requirements. The applicant shall provide information that is sufficient for the Community Development Director to determine whether the request meets the criteria for a minor or major amendment.
- D. Review of Planned Unit Development Amendments. Minor Planned Unit Development amendments shall be reviewed and may be approved by the Community Development Director. Major Planned Unit Development amendments shall be reviewed and may be approved in the manner set forth for original Planned Unit Development applications as contained in this Chapter.

17.19.070 TIME EXTENSIONS.

- A. The Community Development Director may grant an extension of the deadline to submit Preliminary Plan or Final Plat applications, record the final plat or commence development of the subdivision for a period of up to 365 days. All time extension requests are evaluated on the following criteria:
1. There have been no changes to the area in which the PUD is located that would affect the proposed PUD,
 2. There have been no changes to the city's rules, regulations and policies including changes to the city's Comprehensive Plan and this Land Use Code that would affect the proposed PUD, and
 3. There has been no significant increase in impact fees required to be paid for the proposed subdivision.

Chapter 17.21 **SUBDIVISIONS**

Sections:

17.21.010	Purpose and Authority; Jurisdiction; Enforcement
17.21.020	Applicability
17.21.030	Review Process – Minor Subdivisions
17.21.040	Review Process – Major Subdivisions
17.21.050	Consequences for No Action
17.21.060	Phased Subdivisions and Subdivision Filings
17.21.070	Approval to Begin Site Development
17.21.080	Withdrawal of Approval
17.21.090	Corrections to Recorded Plats
17.21.100	Required Subdivision Improvements
17.21.110	Related Costs – Public and Other Required Subdivision Improvements
17.21.120	Public Improvements to be the Property of the City
17.21.130	Guarantee of Improvements
17.21.140	Subdivision Improvements Required prior to Issuance of Planning
Clearances	
17.21.110	Recapture Agreements
17.21.160	Time Extensions

17.21.010 PURPOSE AND AUTHORITY; JURISDICTION; ENFORCEMENT.

- A. The purpose of this Chapter is to assist in the orderly development of the City. It sets forth the minimum standards for the design and improvement of land subdivision projects to ensure that each building site is able to accommodate the proposed structure and uses, ensure the proper distribution of development with access to necessary infrastructure, utilities, and services, provide procedures that encourage the preservation of important or unique natural features, and provide procedures that support the overall health and welfare of the residents of the City of Fruita. It is intended to assist in the orderly, efficient and integrated development of the city, consistent with the Fruita Comprehensive Plan.
- B. These regulations have been adopted in accordance with Title 31 of the Colorado Revised Statutes, as amended, which enables the city to control the subdivision of all property within all zones within the boundaries of the municipality. It shall be unlawful for any person, partnership or corporation to subdivide land within the legal boundaries of the City of Fruita without having first complied with the provisions of these regulations.
- C. Any subdivider or agent of a subdivider who transfers or sells subdivided land before a final plat for such land has been approved by the City Council and recorded in the office

of the Mesa County Clerk and Recorder is subject to penalties and remedies as provided by 31-23-216, C.R.S., as amended and by Chapter 17.55.

17.21.020 Applicability.

This chapter applies to all divisions of land into two or more parcels, building sites, tracts, or lots. No plat of a subdivision creating a new parcel shall be approved unless it conforms to the provisions of this Title. The transfer, conveyance, or sale of any land located within the City by reference to a plat which has not been approved by the City and recorded by Mesa County shall be prohibited and considered a violation of this Code.

A. Subdivision Approval Required

1. No building permit or certificate of occupancy may be issued for improvements within a subdivision prior to recordation of the Final Plat and any required Development Agreement.

B. Effect on Existing Subdivisions

1. Subdivisions with a recorded Final Plat prior to the effective date of this Title shall not be regulated by this Chapter unless proposed for any resubdivision or further development not originally contemplated in the recorded Plat.
2. For Final Plats not yet recorded on the effective date of this Title, the applicants have two years from the effective date of this Title to finalize requirements and record the Final Plat.
3. This Chapter is not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of private agreements or restrictive covenants running with the land. Where this chapter imposes a greater restriction than the imposed existing provisions of law, contract, or deed, the provisions of this Chapter shall control.

17.21.030 REVIEW PROCESS - MINOR SUBDIVISIONS.

A. Minor Subdivisions.

The following subdivisions are classified as Minor subdivisions:

- a. Subdivisions that create ten (10) or fewer additional building lots, or divide existing multi-family buildings into no more than ten (10) townhouse or condominium lots.
- b. Conveyances of real property to the city for public dedication purposes.
- c. Consolidation plats combining no more than three (3) lots.

- d. Correction plats. (Section 17.21.090)
 - e. Lot line or boundary line adjustments which do not create additional lots.
 - f. Vacation of Right of Way
 - g. Condominiumization
2. Minor Subdivisions are reviewed Administratively by the Community Development Director based on the following criteria:
- a. The subdivision shall be completed in one (1) phase.
 - b. All subdivided lots have perpetual, unobstructed legal vehicular and pedestrian access to a public way. A proposed subdivision shall not eliminate or obstruct legal access from a public way to an adjacent property.
 - c. All new lots shall conform with the requirements of the zone district, as well as the Land Use Compatibility Criteria in Section 17.05.080.C.
 - d. The subdivision shall not create or increase a non-conforming use or structure.
 - e. For Minor Subdivisions requiring off-site improvements, the subdivision will be required to follow Chapter 17.49 of the Fruita Land Use Code.
3. Minor Subdivisions shall be processed in accordance with the Procedures outlined in Section 17.07.040, Common Development Review Procedures
- a. Any person aggrieved by a decision of the Community Development Director, or his or her designee, under the procedures set forth above, may appeal such decision to the City Council pursuant to Chapter 17.25;
 - b. Upon expiration of the appeal period in Section 17.25, the Minor Subdivision approval becomes final and the owner has one hundred eighty (180) days from the date of approval to comply with any required conditions of approval and record the plat. Time extensions may be granted pursuant to section 17.21.130.

17.21.040 REVIEW PROCESS - MAJOR SUBDIVISIONS

Major Subdivisions are those not otherwise conforming to the criteria for Minor Subdivisions under subsection 17.21.030(A), above.

- A. Major Subdivisions are reviewed Administratively by the Community Development Director based on the following criteria:

1. Conformance to the City of Fruita's Comprehensive Plan, Land Use Code, Design Criteria and Construction Specifications Manual and other city policies and regulations;
 2. Compatibility with the area around the subject property in accordance with Section 17.05.080.C;
 3. Adequate provision of all required services and facilities (roads, bicycle and pedestrian facilities, parks, police protection, fire protection, domestic water, wastewater services, irrigation water, storm drainage facilities, etc);
 4. Preservation of natural features and adequate environmental protection; and
 5. Ability to resolve all comments and recommendations from reviewers without a significant redesign of the proposed development.
- B. Major Subdivisions shall be processed in accordance with the Procedures outlined in Section 17.07.040, Common Development Review Procedures, including all public notice procedures for Concept and Preliminary Plan. Additionally, the following process steps are applicable to all Major Subdivisions.
1. Preliminary Plan. An application for Preliminary Plan approval is subject to all requirements of this Title, and other applicable regulations.
 - a. The Preliminary Plan application may be continued or withdrawn by the applicant at any time in writing to the Community Development Department. The applicant may be responsible for paying for the cost of an additional public notice if public notice for the public hearing has already been sent out.
 - b. Final Plat applications must be submitted within 180 days of approval of the Preliminary Plan unless a time extension has been granted pursuant to Section 17.21.160. If more than 180 days have elapsed from the date of the approval of the Preliminary Plan application, and if no extension is granted, the Preliminary Plan approval shall expire.
 2. Final Plat. An application for Final Plat approval shall conform to the approved Preliminary Plan, including any conditions of approval, the requirements of this Title, and any other applicable regulations. Final Plat applications are administratively reviewed and approved by the Community Development Director, and may be combined with the related Development Agreement. The Community Development Department shall evaluate the Final Plat application for compliance with the approval of the Preliminary Plan including any conditions of approval and all requirements of this Title.

- a. The applicant may withdraw the Final Plat application at any time in writing to the Community Development Department.
- b. Final Plats for Major Subdivisions must be recorded within two years of Preliminary Plan approval by the City Council unless a time extension is granted pursuant to Section 17.21.160
- c. The Final Plat and related documents must be recorded within ninety (90) days of the approval of the Development Agreement unless a time extension has been granted pursuant to Section 17.21.160. If more than ninety (90) days have elapsed from the date of the approval of the Development Agreement, and if no extension is granted, the approval of the Final Plat, Development Agreement and related documents shall expire.
- d. Additional requirements for Final Plat approval.

- 1. As part of the Final Plat submittal requirements, a licensed professional land surveyor shall prepare a letter to the Fruita Community Development Director and the subdivider documenting any deficiencies in the Final Plat to be corrected. After all corrections to the Final Plat are made to the satisfaction of the peer reviewer, the subdivider shall obtain from the reviewer a signed and sealed certification to the Community Development Department that the Final Plat has been reviewed, and to the best of his or her knowledge, the plat satisfies the requirements pursuant to Section 38-51-106, C.R.S., as amended, for the recording of subdivision plats in the office of the Mesa County Clerk and Recorder. The subdivider shall pay all review fees charged by the peer reviewer, which shall be billed directly to the subdivider by the peer reviewer.

This certification makes no warranties to any person for any purpose. It is prepared to establish for the City of Fruita Community Development Director and the County Clerk and Recorder that a professional peer review has been obtained. The certification does not warrant:

- i. Title or legal ownership of the land platted nor the title of legal ownership of adjoiners;
 - ii. Errors and/or omissions, including but not limited to, the omission(s) of rights-of- way and/or easements, whether or not of record;
 - iii. Liens and encumbrances, whether or not of record; and
 - iv. The qualifications, licensing status and/or any statement(s) or representation(s) made by the surveyor who prepared the above named subdivision plat.
- 2. The Final Plat shall be approved by certain reviewers as determined by the city with signatures indicating all requirements or changes have been

fulfilled.

3. The Community Development Department staff shall ensure the Final Plat and related documents are recorded with the Mesa County Clerk and Recorder's office including, but not limited to, the following: the executed Development Agreement; delivery of the performance guarantee required by Section 17.21.130; powers of attorney; deeds conveying easements; land or rights-of-way not dedicated on the Final Plat; the declaration of covenants; evidence of incorporation of the homeowners association, if applicable; and, homeowner's association bylaws, if applicable.

17.21.050 CONSEQUENCES FOR NO ACTION

- A. This section applies if development within the subdivision has not commenced within three (3) years of the recording date of the Final Plat, or any additional time period approved by the City Council.
 1. The City Council may, following a public hearing, vacate its approval of the subdivision after a public hearing.
 2. A vacation renders the Plat null and void.
 3. For purposes of this subsection, "commence" means either:
 - a. Starting construction of the public and other required improvements within the subdivision, or
 - b. The sale of an individual lot or unit within the development, or
 - c. Issuance of the first building permit for construction within the subdivision.

17.21.060 PHASED SUBDIVISIONS AND SUBDIVISION FILINGS.

Preliminary Plan and Final Plat applications shall include a phasing or filing schedule. No phasing or filing schedule may exceed five years without re-approval by the City Council after the five-year period.

Lots in future phases cannot be sold until all required public and other subdivision improvements are completed and accepted by the City or a Development Agreement is in place for each phase of the development. For subdivisions to be completed by phasings or filings, a Final Plat application is required for each future filing and a Final Plan application is required for each future phase.

17.21.070 APPROVAL TO BEGIN SITE DEVELOPMENT.

- A. No excavation, trenching, or other site development work shall begin until the following minimum requirements are met:
 1. The Development Agreement has been recorded along with the required performance guarantee;

2. The City Engineer signs approved for construction drawings;
 3. All fees, including review fees, permit fees and impact fees are paid;
 4. A pre-construction meeting is held with the City Engineer and/or Public Works Director, and the subdivider receives a signed copy of the inspection/approval form for the development;
 5. Copies of permits issued by other governmental entities (such as a Construction Site Storm Water Discharge Permit issued by the Colorado Department of Public Health and Environment, and a complete and accurate copy of the final Construction Storm Water Management Plan); and
 6. All other documents required by this Chapter.
- B. Exceptions. Specific work tasks may be undertaken prior to compliance with subsection A above, only with the written approval of the city. Work tasks are limited to:
1. Surveying;
 2. Installation of erosion control measures;
 3. Placement of equipment or construction trailers, including utility hook-ups with a valid Planning Clearance and Building Permit if required;
 4. Demolition, under a valid demolition permit;
 5. Tree removal, clearing and grubbing;
 6. Removal/relocation of irrigation facilities necessary to maintain irrigation service to adjoining properties;
 7. Undergrounding of overhead electric or telecommunication lines;
 8. Work within a Grand Valley Drainage District easement, with its written permission, and;
 9. Other required infrastructure, which in the opinion of the city, is desirable to expedite due to weather or environmental conditions or which require close coordination with critical city-managed infrastructure or utility projects.

17.21.080 WITHDRAWAL OF APPROVAL.

The city decision-making body may withdraw its approval of a plan or plat if it is determined that information provided by the subdivider, upon which that decision was based, was false or inaccurate.

17.21.090 CORRECTIONS TO RECORDED PLATS.

If it is discovered that there is a minor survey or drafting error in a recorded plat, the applicant shall file the plat with an affidavit executed by a registered land surveyor and approved by the County Surveyor. If however, the correction of the error results in major alterations, as determined by the Community Development Director, then the corrected plat is subject to the full approval procedures for subdivisions contained in this Chapter and the recording of the corrected plat.

17.21.100 REQUIRED SUBDIVISION IMPROVEMENTS.

The following subdivision improvements shall be constructed at the sole expense of the subdivider in accordance with the City of Fruita Design Criteria and Construction Specifications Manual, this Title, and sound construction and local practices. Standards and specifications published by the Colorado Department of Transportation shall apply to all State Highways. Where specific requirements are set out in other sections of this Title, the most restrictive shall apply.

A. Street Improvements.

1. Street grading and surfacing and all related improvements of all internal streets within the subdivision.
2. Adjacent streets and related improvements. All adjacent streets and related improvements providing primary or secondary access to the proposed subdivision shall be capable of adequately handling the vehicular traffic generated by the subdivision, at full occupancy, as determined by the city based on generally accepted traffic engineering standards and any applicable city standards. In applying this standard, the minimum acceptable level of service for all streets within the City of Fruita is Level of Service "C", as defined by the Institute of Transportation Engineers (ITE) Trip Generation Manual, latest edition. (See also the Transportation Impact Fee Study prepared by Mesa County, Colorado by Duncan Associates, 2019.) Consistent with Chapter 17.37, the city may require a site specific traffic impact analysis prepared by a qualified firm or party for subdivisions with a projected trip generation at any peak hour of one-hundred (100) vehicles or greater. The city will require a continuation plan for adjoining and/or needed pedestrian/bicycle/curb infrastructure based on projected demand and a parking demand and supply analysis prepared by a qualified firm or party.

In the event a project is called up and the City Council determines that improvements to adjacent streets are necessary as a result of the traffic impacts generated by the proposed subdivision, construction of such off-site improvements shall be the responsibility of the developer. Such improvements should follow in accordance with the Procedures outlined in Section Review for Major Subdivisions. The City may require, as a condition of approval of the subdivision:

- a. the subdivider to construct all such improvements including the full width of any expanded roadway surface;
- b. the subdivider to pay to the city the cost of constructing such improvements in which case the city shall be responsible for constructing the applicable

- improvements;
- c. the subdivider to participate in a street improvement district which shall be responsible for constructing such improvements;
- d. payment of a transportation impact fee consistent with Chapter 17.47 of this Title; or
- e. any combination of the above.

If City Council determines that adjacent streets providing access to the proposed subdivision are presently inadequate to handle existing levels of traffic without the proposed subdivision, the city, or a street improvement district created by the city, shall pay the costs of the improvements necessary to adequately service the subject property without the proposed subdivision. The subdivider shall pay all remaining costs necessitated by development of the subdivision. In the event the City Council determines that the improvements to be constructed and/or paid for by the subdivider will also benefit other properties in the area if further developed or subdivided, and if requested by the subdivider and approved by City Council, the city shall enter into recapture agreements pursuant to Section 17.21.150 with the subdivider requiring the owner or developer of such other properties, as a condition of subdivision or development, to reimburse the subdivider for a portion of the costs incurred by the subdivider for the street improvements constructed pursuant to this subsection. The City shall calculate the contribution or recapture amount, which shall be roughly proportional to the traffic impacts generated by the other developments or subdivisions.

- 3. Roadway infrastructure, including but not limited to, curbs, gutters and sidewalks, bicycle and pedestrian paths and trails.
- 4. Required street signs and other traffic control devices.
- 5. Street lights.

B. Water and Wastewater Improvements.

- 1. Wastewater laterals, and mains.
- 2. Storm drainage system, as required.
- 3. Potable water distribution system.
- 4. Fire hydrants.
- 5. Irrigation System. If the proposed subdivision is located in an area that can be reasonably serviced by an existing irrigation ditch or canal system, the subdivider shall install an irrigation system and shall convey all required irrigation water rights, to the City before conveying any lots in the subdivision. The City shall subsequently lease the water rights back to the property owner's association. The property owner's association shall construct, own, and operate the irrigation system, the real property,

and associated easements necessary for operation and maintenance of the irrigation system.

6. Erosion control and storm water management facilities, both temporary and permanent, including obtaining state required permits.
- C. Utilities, including but not limited to:
1. Natural gas lines and related facilities necessary to service the subdivision.
 2. Cable television lines and related facilities necessary to service the subdivision.
 3. Telephone and other telecommunication lines and related facilities necessary to service the subdivision.
 4. Electrical distribution lines and related facilities. All newly constructed electrical distribution lines shall be placed underground to serve new residential subdivision areas.
- D. Relocation and/or replacement of existing facilities of the types listed above, as required for the installation of other specified improvements.
- E. Public or private park, trail, public site, open space and recreation facilities.
- F. Other facilities as may be specified in this Title or required by the City Council.
- G. Permanent reference monuments and monument boxes.

17.21.110 RELATED COSTS - PUBLIC AND OTHER REQUIRED SUBDIVISION IMPROVEMENTS.

A subdivider shall provide, at its sole cost, all necessary engineering designs, surveys, field surveys, as-built drawings and incidental services, including the cost of updating city mapping related to the construction of the public and other required subdivision improvements.

17.21.120 PUBLIC IMPROVEMENTS TO BE THE PROPERTY OF THE CITY.

Upon completion of construction of the public improvements in conformity with city standards and the plans, and any properly approved changes, a subdivider shall convey to the city, by bill of sale, all physical facilities necessary for the extension, maintenance and repair of municipal services. The city shall accept the conveyance by administrative approval and issue a Release of Improvements Agreement. Approval of a subdivision does not constitute acceptance by the city for maintenance of wastewater system facilities, parks, streets, alleyways or other public improvements required under a Development Agreement. The acceptance of those facilities for maintenance requires specific action of the City Council upon completion in accordance with the Development Agreement and/or adopted standards.

17.21.130 GUARANTEE OF IMPROVEMENTS.

To secure the construction and installation of the public and other required subdivision improvements, the subdivider shall choose one of the following options prior to the recording of the subdivision Final Plat:

- A. Development Agreement. Furnish the city with a performance guarantee satisfactory to the city, as set forth in a Development Agreement along with other required documents before recording the final plat. (See also, Chapter 17.49.)
- B. Final Plat Hold. Complete all required improvements according to the subdivision approval and approved for construction drawings as would be required for a recorded Final Plat with a Development Agreement, pursuant to Chapter 24 of this Title. A Development Agreement is required for any improvement involving existing public right-of-way or other existing public property. Before the Final Plat is recorded, an up-to-date title search is required to ensure that there are no additional liens on the property. Failure to provide clear title to land/improvements may result in vacation of the approved Final Plat. All required improvements must be inspected and accepted by the City before the Final Plat is recorded. Additionally, a warranty is required for the improvements before the Final Plat is recorded. The warranty shall be the same as that required in Development Agreements in Chapter 49 of this Title.
 - 1. If the developer selects a Final Plat Hold as the form of financial guarantee, developer shall furnish the City with a surety bond, irrevocable standby letter of credit or cash escrow in the amount set forth annually in the City's fee schedule to secure necessary and appropriate grading and revegetation in the event of a default by the developer under the Development Agreement prior to the recording of the final plat. If the Community Development Director determines that the Development Agreement is in default, the City of Fruita may access those funds for grading and revegetation purposes.

17.21.140 SUBDIVISION IMPROVEMENTS REQUIRED PRIOR TO ISSUANCE OF PLANNING CLEARANCES.

All required improvements shall be installed, inspected and approved by city staff prior to issuance of a Planning Clearance for a building permit for the construction of any buildings within a subdivision with the exception of trails, bikeways and landscaping of common open spaces, parks and recreation areas whether dedicated to the city or to a property owners association. Up to twenty percent (20%) of the Planning Clearances in a subdivision may be released when all improvements are completed excluding trails, bikeways, fencing and landscaping of common open spaces, parks and recreation areas. Once all improvements are completed, approved and accepted by the city, all other Planning Clearances can be released. Once a Planning Clearance is released, a Certificate of Occupancy for the building can be issued if all other requirements are met.

The city may approve an exception to this provision for a model house to be constructed if the house is not occupied as a residence until Planning Clearances are released for the subdivision and a Certificate of Occupancy is issued.

Improvements required to be completed before release of a Planning Clearance may include but are not limited to the following:

- A. Permanent survey monuments referenced to the North American Vertical Datum of 1988 (NAVD) 88 per the Mesa County Survey Monument (MCSM) standards;
- B. Wastewater lines and laterals to each lot;
- C. Water mains and laterals to each lot;
- D. Fire hydrants;
- E. Storm drainage structures and conveyances, including associated erosion control measures as needed to prevent siltation of new or existing storm drainage facilities;
- F. Grading and base construction of streets and alleys;
- G. Soil stabilizing structures;
- H. Dry utilities, including telecommunications, cable television, electrical service, and natural gas service shall be installed and operational;
- I. Concrete curb, gutter, sidewalks, cross pans and handicap ramps;
- J. Asphalt and/or concrete street paving as required;
- K. Street signage, pavement markings and required traffic control devices;
- L. Overlot grading of all areas to facilitate proper drainage, including grading completed on all lots to match finished grade elevations at all property corners;
- M. Street lighting;
- N. Permanent soil stabilization and revegetation measures;
- O. Developer installed fencing as shown on the construction drawings pursuant to the applicable Development Agreement;
- P. Non-potable irrigation system;
- Q. All other required public or private improvements pursuant to the applicable Development Agreement and this Title;
- R. As built drawings accepted by the City Engineer; and

- S. Any other documentation required by the City.

17.21.110 RECAPTURE AGREEMENTS.

As one of the conditions of approval of a subdivision, the city may determine that certain off-site improvements that are of general benefit to the city are required. In this event, the city, by affirmative action of the City Council, may enter into a recapture agreement with a subdivider under which proportionate engineering, surveying and construction costs of off-site water, wastewater, storm drainage and/or street improvements are repaid to the subdivider by other owners or developers who benefit from such improvements over an established period of time. The proportionate share of the cost of the improvements to be repaid by others shall be calculated in accordance with formulas approved by the city.

to the subdivider shall request a recapture agreement prior to final City Council action on the development application. The City Council retains sole authority to approve or deny all recapture agreements, at its discretion. Recapture agreements shall not exceed a period of ten (10) years, and shall be incorporated in the Development Agreement.

17.21.160 TIME EXTENSIONS

- A. The Community Development Director may grant an extension of the deadline to submit Preliminary Plan or Final Plat applications, record the final plat or commence development of the subdivision for up to 365 days. All time extension requests are evaluated on the following criteria:
1. There have been no changes to the area in which the subdivision is located that would affect the proposed subdivision,
 2. There have been no changes to the city's rules, regulations and policies including changes to the city's Comprehensive Plan and this Land Use Code that would affect the proposed subdivision, and
 3. There has been no significant increase in impact fees required to be paid for the proposed subdivision.

Chapter 17.23
VARIANCES AND MODIFICATIONS

Section:

17.23.010 Variances

17.23.020 Administrative Modifications

17.23.010 Variances

A. Purpose. The variance process is intended to provide limited relief from the requirements of the Land Use Code in cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this Code. A hardship may be defined as an instance when the code renders the land difficult or impossible to use due to unique physical site attributes or other unique characteristics. It is not intended that variances be granted to (1) allow a use in a zoning district where it is not permitted by Code; or (2) to remove inconveniences or financial burdens that the requirements of this Code may impose on property owners in general. State and/or federal laws or requirements may not be varied by the City.

B. Applicability. A variance is an exception from the numerical requirements of this Title excluding the numerical standards contained in Chapter 13 (Design Standards) and Chapter 15 (Signs). Variances to allowed or conditional uses are not permitted.

1. **Board of Adjustment Approval Required**

- a. The owner of a property or business seeking relief from the regulations and development standards, or an authorized representative may make such request to the Board of Adjustment.
- b. This may be done when the strict application of this Code will deprive a property of the privileges enjoyed by other property of the same zoning classification in the same zone district because of special circumstances applicable to a property, including its size, shape, topography, location, or surroundings.
- c. Variance applications may be initiated concurrently with other land use applications.

C. Procedure. Variances are reviewed and acted upon at a public hearing before the Board of Adjustment with the exception of variances for signs which are reviewed and acted upon at a public hearing before the City Council as per Chapter 08.

1. Variances shall be processed in accordance with the Procedures outlined in Section 17.07.040, Common Development Review Procedures.
 - a. **Final Decision.** Any decision of the Board of Adjustment shall be final, from which an appeal may be taken to a court of competent jurisdiction, as provided in accordance with Section 31-23-307, C.R.S.
 - b. **Reconsideration of Denial of Variance.** Whenever the Board of Adjustment denies an application for a variance, such action may not be reconsidered by the Board for one (1) year unless the applicant clearly demonstrates that

circumstances affecting the subject property have substantially changed, or new information is available that could not with reasonable diligence have been presented at the previous hearing.

- i. Nothing contained in this Section shall preclude the submission of a substantially new application as determined by the Community Development Director or the City Engineer.

D. Approval Criteria. The Board of Adjustment may approve a variance request upon finding that the variance application meets or can meet the following approval criteria:

1. The variance granted is without substantial detriment to the public good and does not impair the intent and purposes of this Title and the Comprehensive Plan, including the specific regulation in question;
2. By reason of exceptional narrowness, shallowness, depth, or shape of a legal lot of record at the time of enactment of this Title, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such property, the strict application of the subject regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property;
3. A variance from such strict application is reasonable and necessary so as to relieve such difficulties or hardships, and the variance will not injure the land value or use of, or prevent the access of light and air to, the adjacent properties or to the area in general or will not be detrimental to the health, safety and welfare of the public;
4. The circumstances found to constitute a hardship are not due to the result or general conditions throughout the zone, was not induced by any action of the applicant, and cannot be practically corrected, and;
5. The variance granted is the minimum necessary to alleviate the exceptional difficulty or hardship.

17.23.020 Administrative Modifications.

A. Purpose. The administrative adjustment procedure is intended to allow minor modifications or deviations from the dimensional or numeric standards of this Code with approval by the Director. Administrative adjustments are intended to provide greater flexibility when necessary, without requiring a formal zoning amendment or variance. The administrative adjustment procedure is not a waiver of current standards of this Code and shall not be used to circumvent the variance procedure.

B. Applicability

1. *Exceptions for Energy Efficiency.* The Community Development Director may approve exceptions to the dimensional restrictions of the Land Use Code to accommodate the addition of energy production systems or energy efficiency systems or equipment in or on existing buildings when no other practical solution exists, due to unique site circumstances.
2. *Exceptions for Building Code Compliance.* The Community Development Director may approve exceptions to the dimensional restrictions of the Land Use Code to accommodate improvements required to achieve compliance with building, fire, or

accessibility codes in or on existing buildings when no other practical solution exists, due to unique site circumstances.

C. Allowed Administrative Adjustments. The following administrative modifications are permitted, subject to review and approval by the Community Development Director.

Table 17.23.020.C: Allowed Administrative Adjustments	
Code Standard	Allowable Administrative Adjustment (maximum percentage)
Site Standards	
Lot area, minimum	15%
Lot coverage, maximum	15%
Lot Dimensional Standards	
Front setback, minimum	10%
Side setback, minimum	10%
Rear setback, minimum	10%
Encroachment into setback	10%
Building Standards	
Building height, maximum (excludes wireless communication facilities)	10%
Accessory building height, maximum (excludes wireless communication facilities)	10%
Development Standards	
Number of required parking spaces, maximum or minimum	15%
Minimum landscaping requirements	15%

1. Reasonable Accommodations for Energy Efficiency or Building Code Compliance

- a. In response to a written application identifying energy efficiency or building code compliance that require that reasonable accommodations be made, the Director is authorized to take any of the following actions in order to provide reasonable accommodations without the need for a rezoning or variance:
 - i. Modify any facility spacing, building setback, height, lot coverage, or landscaping requirement by no more than ten (10) percent; or
- b. The Director may approve a type of reasonable accommodation different from that requested by the applicant if the Director concludes that a different form of accommodation would satisfy the requirements of the energy efficiency or building code compliance with fewer impacts on adjacent areas. The decision of the Director shall be accompanied by written findings of fact.
- c. Requests for types of accommodation that are not listed above may only be approved through a variance or rezoning process.

D. Limitations on Administrative Adjustments.

1. Except when requested as a reasonable accommodation for energy efficiency and building code compliance purposes, a request for an Administrative Adjustment shall not be used to further modify a development standard that, as applied to the subject

property, already qualifies as an exception to, or modification of, a generally applicable development standard required under this Title.

2. The administrative adjustment procedure shall not apply to any proposed modification or deviation that results in:
 - a. An increase in the overall project density;
 - b. A change in permitted uses or mix of uses;
 - c. A deviation from building or fire codes;
 - d. A deviation from the City's Engineering Standards;
 - e. Requirements for public roadways, utilities, or other public infrastructure or facilities; or
 - f. A change to a development standard where that same standard was already modified through a separate administrative adjustment or variance.

E. Administrative Adjustment Procedure.

1. Application Submittal and Handling.
 - a. An application for an administrative adjustment shall only be submitted to address a project under construction or existing conditions. It is not applicable to applications going through a review.
 - b. Each code standard in Table 17.23.070.C shall be considered a separate administrative adjustment request as it relates to the approval criteria in Subsection F, but multiple adjustments may be considered in one (1) administrative adjustment application.
2. Review and Decision.
 - a. The Community Development Director must first determine that the visual impact of the exemption is minimal and that no other reasonable way to implement energy production or efficiency or code compliance exists. The Director may require notice be provided to adjacent landowners.
 - b. The Director shall review the application and shall approve, approve with conditions, or deny the adjustment based on the criteria in Subsection F. Approval shall be in the form of a recordable administrative decision.
3. Effect of Approval. Approval of an administrative adjustment authorizes only the particular adjustment of standards approved, and only to the subject property of the application.
4. Expiration of Administrative Adjustment. An administrative adjustment shall automatically expire if the associated development is later adjusted, modified, or redeveloped as part of a land use application or building permit that brings the property or building into compliance with the applicable code requirement.

F. Administrative Adjustment Approval Criteria. In reviewing a proposed administrative adjustment, the Director shall consider whether and to what extent the adjustment:

1. Will not result in incompatible development;
2. Will not result in adverse impacts unless adequately mitigated; and
3. Is of a technical nature and is required to:
 - a. Compensate for an unusual site condition; or

- b. Eliminate a minor inadvertent failure to comply with a Code standard; or
- c. Protect a sensitive resource, natural feature, or community asset.

CHAPTER 17.25 **APPEALS**

- 17.25.010 Purpose**
- 17.25.020 Authority**
- 17.25.030 Appeal Procedures**

SEC. 17.25.010 – PURPOSE.

The purpose of this Chapter is to establish the procedures for appealing a decision made by the Community Development Director, Planning Commission, Historic Preservation Board, or Board of Adjustment.

SEC. 17.25.020. - AUTHORITY.

- A. Board of Adjustment. The Board of Adjustment shall have the authority to hear and decide the following appeals:
 - 1. The denial of an Administrative Modification pursuant to Chapter 17.23.
- B. City Council. The City Council shall have the authority to hear and decide all other appeals of decisions made by the Community Development Director, Planning Commission, Historic Preservation Board, or Board of Adjustment.

SEC. 17.25.030. - APPLICABILITY.

- A. Any person aggrieved by a decision by the Community Development Director, Planning Commission, Historic Preservation Board, or Board of Adjustment may appeal such decision as outlined herein.
- B. Any person who has provided a written comment to the Community Development Department regarding a land development application that is permitted to be approved administratively will be provided with a copy of the decision by the Community Development Department including information on how to appeal that decision.

SEC. 17.25.040. - APPEAL PROCEDURES.

- A. Appeal Application Submittal. Appeals are required to be filed in writing with the Community Development Department within thirty (30) days of the decision that is being appealed. The Community Development Director may prescribe a specific form that is required for an application for an Appeal. The appeal shall state the specific grounds upon which the appeal is based and shall have attached to it any documentary evidence.
- B. Burden of Proof on Appellant. The party making the appeal (the appellant) shall have the burden of proving the necessary facts to warrant reversal or amendment of the decision being appealed. Such proof shall include applicable specific section references within this Code

and shall be provided with the application. The application shall be based on the record established in the decision-making process.

- C. Staff Review and Action. The Director shall review the appeal application and prepare a staff report.
 - 1. Staff review of the appeal shall confirm that the application is complete and that the appeal is heard by the appropriate authority.
 - 2. Staff review of the appeal shall confirm that the application is complete based on the record that has been established.
 - 3. The staff report shall summarize the information included in the record and may include a recommendation.
- D. Scheduling and Notice of Public Hearings. The appeal shall be scheduled for a public hearing before the appropriate appellate body within forty-five (45) days of the date of the filing of the appeal. Public notice shall be provided in accordance with Subsection 17.07.040.E.
- E. Review and Decision.
 - 1. The appropriate appellate body shall consider the following in determining whether to affirm, reverse or amend a decision or interpretation made by the decision-making body:
 - i) The facts stated in the application, as presented by the appellant;
 - ii) The requirements and intent of the applicable standards from this Code compared to the decision that is being appealed;
 - iii) Evidence related to how the applicable standards from this Code have been administered or interpreted in the past; and
 - iv) Consistency with the Comprehensive Plan.
 - 2. The appellate body may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.
 - 3. The appellate body may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the City.
- F. Post-Decision Actions and Limitations. Any further appeals from City Council shall be made to the courts in accordance with state law.

Chapter 17.27
NONCONFORMITIES

Sections:

- 17.27.010 Generally**
- 17.27.020 Non-Conforming Uses**
- 17.27.030 Non-Conforming Structures and Site Improvements**
- 17.27.040 Non-Conforming Lots**
- 17.27.050 Consistency with the Comprehensive Plan**

17.27.010 GENERALLY.

The purpose of this chapter is to regulate and restrict uses, structures, lots, and site improvements that were established legally at the time of adoption of this Title or any subsequent amendment hereto, which is not in conformance with the provisions of this Title or amendment. All such situations shall be referred to as “nonconformities.” Any nonconformity that lawfully existed as of the effective date of this Title and subsequent amendments, may continue in existence pursuant to the provisions of this section.

- A. Determination of Nonconforming Status. It shall be the responsibility of the owner, not the City, to establish the existence of a lawful non-conformity.
- B. Applicability of Other Modifications. Where a variance or minor modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this Title, that development standard or feature shall be deemed conforming and this chapter shall not apply.
- C. Maintenance of Nonconformities. Minor repairs or maintenance of nonconformities are permitted, provided they do not increase the extent of the nonconformity, taking all dimensional and use requirements into consideration.
 - 1. Abandonment or Discontinuance. Whenever a legal non-conforming use of land, structure, sign, or a building has been discontinued for a continuous period of one (1) year, future use of the land, structure, sign, or building shall be in conformance with all applicable city regulations.
 - 2. Annexation. Non-conformities should be brought into compliance with all city regulations before annexation and those non-conformities that are to be permitted to continue as legal non-conformities must be identified in the Ordinance annexing the property.

17.27.020 NON-CONFORMING USES.

- A. A legal non-conforming use may be extended throughout the same building, provided no

structural alteration of such building is made for the purpose of such extension. A legal non-conforming use of property not contained within a building shall not be expanded.

- B. A legal non-conforming use shall not be changed to any other use except a conforming use.
- C. A use that was legally established without a Conditional Use Permit shall not be deemed non-conforming solely because a Conditional Use Permit is now required for the use. Any expansion or other significant changes to the land use which requires the Conditional Use Permit will require approval of a new Conditional Use Permit before the expansion or other significant change.

17.27.030 NON-CONFORMING STRUCTRES AND SITE IMPORVEMENTS.

- A. A structure, building or sign which does not meet the setback, height, size, or other site requirements of this Chapter may be repaired, maintained, or extended, provided any such repair, maintenance, or extension is in full compliance with all applicable city regulations.
- B. A non-conforming structure, building or sign which has been damaged to an extent not exceeding fifty (50) percent of its assumed market value on the day before the damage occurred may be restored in conformance with the city's building codes, provided such work is commenced within one (1) year of the date of damage. If the structure, sign, or building is damaged to the extent of more than fifty (50) percent of assumed market value, the non-conforming structure, building, or sign must be discontinued. Assumed market value for a building shall be determined by multiplying the most recent assessed value of the damaged building by four (4). This section shall not apply to single-family dwellings. Legal non-conforming single- family dwellings may be rebuilt in compliance with the current building codes.

17.27.040 NON-CONFORMING LOTS.

- A. An individual lot which was legally created but does not meet the minimum lot area or other dimensional requirement for the zone in which it is located shall be considered a legal non-conforming lot. Such legal non-conforming lot may be used provided all zoning and other applicable city regulations, including but not limited to setbacks, are met.
- B. Mobile and manufactured homes shall be subject to the provisions of this Code on the date they are removed from their pad or foundation; however, if a mobile or manufactured home was legally established as a single-family residential dwelling unit, the mobile or manufactured home can be replaced on the same site even if single-family residential land uses are not permitted, nor does the replacement require a Conditional Use Permit, but all other standards apply.

CHAPTER 17.29
HISTORIC PRESERVATION

SECTIONS:

17.29.010	Purpose
17.29.020	City Registry Established and Applicability
17.29.030	Definitions
17.29.040	Designation of Historic Structures, Sites and Districts
17.29.050	Procedures For Designating Historic Structures, Sites and Districts For Preservation
17.29.060	Criteria For Designation
17.29.070	Alteration, Relocation, or Demolition of Listed Properties and Districts
17.29.080	Revocation of Designation

17.29.010 PURPOSE

- A. The purpose of this Chapter is to enhance the community's local resources and to promote the public health, safety, prosperity, and welfare through:
1. Protection and preservation of the city's architectural, historic and cultural heritage, as embodied in designated historic structures, sites, and districts, by appropriate regulations and incentives;
 2. Establishment of a City Register listing designated structures, sites and districts;
 3. Balancing the goals of supporting Fruita's history and historic character with private property rights, while avoiding imposition of unreasonable economic hardship;
 4. Strengthening the City's economy by protecting and enhancing the City's character-defining buildings and features;
 5. Encouraging the sustainable reuse of historic structures; and
 6. Providing educational opportunities to increase public appreciation of Fruita's unique heritage.
- B. The City does not intend by the historic preservation program to preserve every old building, but instead to draw a reasonable balance between private property rights and the public interest in preserving Fruita's cultural, historic, and architectural heritage. This should be accomplished by ensuring that demolition of buildings and structures important to that heritage are carefully weighed with other alternatives. Alterations to historically significant buildings and new construction in historically significant areas shall respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them as defined in this Chapter.

17.29.020 CITY REGISTRY ESTABLISHED AND APPLICABILITY

- A. The Fruita City Council hereby establishes the City of Fruita Register of Historic Sites, Structures and Districts. Historic sites, structures or districts may be listed on said register only if said site, structure or district has been designated by the City Council following recommendation by the Planning Commission and Board.
- B. All properties listed on the National or State Register are eligible for the City Register but are not designated until approval, pursuant to this Chapter, is obtained.
- C. This Chapter applies to all properties listed on the City of Fruita Register of Historic Sites, Structures and Districts.

17.29.030 HISTORIC PRESERVATION DEFINITIONS

The following definitions are specific to the terms as used in this Chapter and in the field of historic preservation:

Alteration. Any proposed modification to a designated historic site, structure or district, which could have an affect on the character of the historic resource relative to the criteria by which it was designated. Examples of alterations for structures may include additions, any exterior modifications, including signage to be affixed to the facade, and any interior modifications that may affect the characteristics for, which the structure was designated.

Board (HPB). The City of Fruita Historic Preservation Board, as further defined in Chapter

Certificate of appropriateness. An official form issued by the City stating that the proposed work on a designated historic property is compatible with its historic and architectural character and, therefore, the work may be completed as specified in the certificate and the City may issue any permits needed to do the work specified in the certificate.

Certificate of demolition approval. An official form issued by the City authorizing the issuance of a demolition permit for a designated historic property or for a building or structure located in a designated Historic District.

Compatible. Consistent with, harmonious with and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.

Contributing resource. A building, site, structure or object that adds to the historic associations, historic architectural qualities or archaeological values for which a property is considered significant.

Designated property. An individual property listed on the City of Fruita Inventory of Historic Landmark Sites and Structures.

Historic District. A collection, concentration, linkage or continuity of buildings, structures, sites or objects united historically or aesthetically by plan or physical development that is listed on the Fruita Inventory of Historic Landmark Sites and Structures including designated properties, contributing resources, and noncontributing resources located within the boundaries of a Historic District pursuant to the Official Zone District Map.

Integrity. The ability of a property to convey its significance relative to the aspects of location, setting, design, materials, workmanship and association.

Noncontributing resource. A building, structure, site or object that does not add to the historic architectural qualities or historic associations for which a property is significant because it was not present during the period of significance or does not relate to the documented significance; or due to alterations, additions, disturbances or other changes, it no longer possesses historic integrity.

Object. A term used to distinguish buildings and structures from those constructions that are primarily artistic in nature or small in scale and simply constructed. It may be by nature or design movable, but it is associated with a specific setting and environment.

Rehabilitation. Making a building or structure sound and usable without attempting to restore it to a particular period appearance, while retaining the character-defining features.

Relocation. Moving a building or structure from its original, historically significant or existing location to another location.

Repair. To restore to a sound or good state after decay, dilapidation or partial destruction.

Restore. The repair or recreation of the original architectural elements or features of an historic property so that it resembles an appearance it had at some previous point in time.

Significance. The documented importance of a property for its contribution to or representation of broad patterns of national, regional or local history, architecture, engineering, archaeology and culture.

Site. The location of a significant event, a prehistoric or historic occupation or activity or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archaeological value regardless of the value of any existing structure.

17.29.040 DESIGNATION OF HISTORIC STRUCTURES, SITES AND DISTRICTS

A. Authority

Pursuant to the procedures set forth in this Chapter, the City Council may, by ordinance:

1. Designate as historic an individual structure, site or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value; and/or
2. Designate as an historic district an area containing a number of structures or sites having special historical or architectural value.

B. Designation description

Each such designation shall include a description of the characteristics of the structure, site or historic district which justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the historic structure, site or district.

No individual structure or site will be designated without the consent of all owners and/or lien holder(s) of record. Historic districts may be designated in accordance with Colorado Revised Statutes and the provisions in this Chapter.

C. Purpose and effect of designation

1. To assist local groups interested in preservation of physical structures, sites or districts, and to recognize locally significant structures, sites or districts;
2. To provide a mechanism to educate the public on local history, development of the community, architectural styles, and housing and business development;
3. To enable the owners of the property in the city to take advantage of historic preservation programs and opportunities; and
4. To make all properties listed on the City Registry eligible for such incentive programs as may be developed.

17.29.050 PROCEDURES FOR DESIGNATING HISTORIC STRUCTURES, SITES AND DISTRICTS FOR PRESERVATION

A. Application for designation

A nomination for designation listing in the City Register may be made by the Board or by any citizen by filing an application with the Community Development Department. The applicant shall pay all public notice expenses, recording fees and any other fees established by resolution of the City Council.

B. Historic Preservation Board Review

1. *Public hearing.* The Board shall hold a public meeting on the designation application during a regularly scheduled meeting.
2. *Action.* The Board shall review the application for conformance with the established criteria for designation and with the purposes of this Chapter. Within thirty (30) days after the conclusion of the public meeting, but in no event more than thirty (30) days after the meeting, unless otherwise mutually agreed by the Board, the applicant, and the owner or owners other than the applicant, the Board shall take one of the following actions:
 - a. Recommend the Planning Commission approve the application for a landmark, conditional upon the execution of certain easements, covenants, or licenses;
 - b. Recommend the Planning Commission disapprove the application for a landmark; or
 - c. Continue the hearing to a future Historic Preservation Board meeting, which continuance may include a modification of the application or a

request for any additional information deemed necessary to make a recommendation to approve or deny the application.

The Board shall forward to the Planning Commission in writing any recommendation concerning a designation and further state any recommendations as to easements, covenants, or licenses that must be met by the property owner to receive and/or maintain the designation.

C. Planning Commission Review.

1. *Public hearing.* The Planning Commission shall hold a public hearing on the designation application during a regularly scheduled meeting after receipt of the Historic Preservation Board's recommendation.
2. *Action.* The Planning Commission shall review the application for conformance with the established criteria for designation set forth in this Chapter and with all documents submitted by the Historic Preservation Board. The Planning Commission shall take on of the following actions:
 - a. Recommend the City Council approve, or modify and approve the proposal;
 - b. Recommend the City Council disapprove the proposal; or
 - c. Continue hearing to a future Planning Commission Meeting, which continuance may include a modification of the application or a request for any additional information deemed necessary to make a recommendation to approve or deny the proposal.

D. City Council Review.

1. *Public hearing.* The City Council shall hold a public hearing on the designation application during a regularly scheduled meeting after receipt of the Planning Commission's recommendation.
2. *Action.* The City Council shall review the application for conformance with the established criteria for designation set forth in this Chapter and with all documents submitted by the Planning Commission. After considering the evidence presented to it, the City Council shall choose to designate or not designate a structure, site, or historic district by ordinance.

E. Recording of designation.

When a structure, site or historic district has been designated as provided herein, the Director of the Community Development Department shall promptly notify the record owners of the property, according to the County Assessor's records or other available information, and record the designation with the County Clerk and Recorder.

17.29.060 CRITERIA FOR DESIGNATION

The Historic Preservation Board, Planning Commission and City Council will consider the following criteria in reviewing nominations of properties for designation.

A. Structures.

Structures must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, cultural or geographic/environmental significance. A structure can be exempted from the age standard if the City Council finds it to be exceptionally important in other criteria.

1. Historic structures or sites shall meet one (1) or more of the following in order to be considered for designation.

a. Architectural:

- i. Exemplifies specific elements of an architectural style or period;
- ii. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
- iii. Demonstrates superior craftsmanship or high artistic value;
- iv. Represents an innovation in construction, materials or design;
- v. Represents a built environment of a group of people in an era of history;
- vi. Exhibits a pattern or grouping of elements representing at least one (1) of the above criteria; or
- vii. Is a significant historic remodel.

b. Cultural:

- i. Is a site of historic event that had an effect upon society;
- ii. Exemplifies cultural, political, economic or ethnic heritage of the city; or is associated with a notable person or the work of a notable person.

c. Geographic/Environmental:

- i. Enhances the sense of identity of the city; or

- ii. Is an established and familiar natural setting or visual feature of the city.
- 2. Prehistoric, paleontological and historic archaeological structures or sites shall meet one (1) or more of the following:
 - a. Architectural:
 - i. Exhibits distinctive characteristics of a type, period or manner of construction; is a unique example of structure.
 - b. Cultural:
 - i. Has the potential to make an important contribution to the knowledge of the area's history or prehistory;
 - ii. Is associated with an important event in the area's development;
 - iii. Is associated with a notable person(s) or the work of a notable person(s);
 - iv. Is a typical example or is associated with a particular ethnic or other community group; or
 - v. Is a unique example of an event in local history.
 - c. Geographic/Environmental:
 - i. Is geographically or regionally important.
- 3. Each property will also be evaluated based on physical integrity using the following criteria (a property need not meet all the following criteria):
 - a. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state, or nation;
 - b. Retains original design features, materials and/or character;
 - c. Is in the original location or same historic context if it has been moved; or
 - d. Has been accurately reconstructed or restored.

B. Historic Districts.

1. For the purposes of this Chapter a district is a geographically definable area including a concentration, linkage or continuity of sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities.
2. Significance is determined by applying criteria to the pattern(s) and unifying element(s).
3. Nominations will not be approved unless the application contains written approval from owners of at least sixty (60) percent of the properties within the district boundaries.
4. Properties that do not contribute to the significance of the historic district may be included within the boundaries as long as the non-contributing elements do not noticeably detract from the district's sense of time, place and historical development. Non-contributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or Information potential.
5. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or intensity as established through testing or survey.
6. Once districts are designated, applicable design guidelines and other appropriate restrictions may be included as part of the designation.
7. In addition to meeting at least one (1) of the criteria as outlined in subsection (8) of this subsection (B), the designated contributing sites and structures within the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria.
8. Historic districts shall meet one (1) or more of the following:
 - a. Architectural:
 - i. Exemplifies specific elements of an architectural period or style;
 - ii. Is an example of the work of an architect or builder who is recognized for expertise nationally, State-wide, regionally or locally;
 - iii. Demonstrates superior craftsmanship or high artistic value;
 - iv. Represents an innovation in construction, materials, or design;

- v. Represents a built environment of a group of people in an era of history;
 - vi. Is a pattern or a group of elements representing at least one of the above criteria; or
 - vii. Is a significant historic remodel.
- b. Cultural:
- i. Is the site of an historic event that had an effect upon society;
 - ii. Exemplifies cultural, political, economic or social heritage of the community; or
 - iii. Is associated with a notable person(s) or the work of a notable person(s);
- c. Geographic/Environmental:
- i. Enhances sense of identity of the community; or
 - ii. Is an established and familiar natural setting or visual feature of the community.
- d. Archaeology/Subsurface:
- i. Has the potential to make an important contribution to the area's history or prehistory;
 - ii. Is associated with an important event in the area's development;
 - iii. Is associated with a notable person(s) or the work of a notable person(s);
 - iv. Has distinctive characteristics of a type, period or manner of construction;
 - v. Is of geographical importance;
 - vi. Is a typical example/association with a particular ethnic group;
 - vii. Is a typical example/association with a local cultural or economic activity; or
 - viii. Is a unique example of an event or structure.

17.29.070 ALTERATION, RELOCATION, OR DEMOLITION OF LISTED PROPERTIES AND DISTRICTS

A. Requirements

1. Before carrying out any new construction, alteration, relocation, or demolition involving the exterior of any designated property or property within a district (including non-contributing properties) or a structure listed on the City Register, the property owner(s) must first submit the proposed work to the Board under this Section, as well as apply for any other permits required by municipal code.
2. The City shall review any building permit application received to determine whether the property is a listed designated property or located in a designated district and if so, if the applicant has completed review by the Commission as required by this Section.
3. No person shall receive a building permit to construct, alter, remove or demolish any property or other feature on a site, or element of a district nominated for designation after an application has been filed to initiate the designation of such property or district. No such building permit shall be approved while proceedings are pending on such designation.
4. The Board shall review any proposed demolition and have up to one hundred eighty (180) days to review alternatives to demolition such as historic grants and loans for rehabilitation, adaptive reuse alternatives, advertisement for alternatives to demolition, public/private partnerships, etc.

B. Criteria for Review

1. In reviewing a proposed alteration, the Board shall consider the project in terms such as design, finish, material, scale, mass and height. When the subject site is in an historic district the Board must find that the proposed development is visually compatible with the development on adjacent properties, as well as any guidelines adopted as part of the given historic district designation.
2. The Board will review all alterations in terms of the Secretary of the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."
3. The Board will use the following criteria to determine compatibility of a proposed alteration:
 - a. The effect upon the general historical and architectural character of the structure and property;
 - b. The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation and compatibility with other structures;
 - c. The size of the structure, its setbacks, its site, location, and the appropriateness thereof, when compared to existing structure and the site;
 - d. The compatibility of accessory structures and fences with the main structure on the site, and with other structures;

- e. The effects of the proposed work in creating, changing, destroying, or otherwise impacting the exterior architectural features of the structure upon which such work is done;
- f. The condition of existing improvements and whether they are a hazard to public health and safety; and
- g. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.

17.29.080 REVOCATION OF DESIGNATION

- A. If a building or special feature on a designated site has been altered in such a way so as to negate the features necessary to retain designation, the owner may apply to the Board for a revocation of the designation, or the Board shall recommend revocation of the designation to the City Council in the absence of the owner's application to do so.
- B. If a designated structure is moved or demolished, the designation shall, without notice and without Board recommendation, automatically terminate. If moved, a new application for designation at the new location must be made in order for designation to be considered.
- C. Upon the City Council's decision to revoke a designation, the Department of Community Development shall cause to be prepared a notice to the property owner (s) of the revocation.

Chapter 17.31
MANUFACTURED AND MOBILE HOME AND PARK STANDARDS

Sections:

17.31.010	Purpose
17.31.020	Permits Required for Placement of Manufactured Housing and Mobile Homes
17.31.030	Restrictions
17.31.040	Manufactured Home Site, Design, and Building Requirements
17.31.050	Manufactured and Mobile Home Park Design Requirements
17.31.060	Manufactured or Mobile Home Park Application Submittal Requirements
17.31.070	Manufactured Housing Subdivisions

17.31.010 PURPOSE. The purpose of this Chapter is to set forth the conditions under which manufactured housing and mobile homes will be allowed within the City of Fruita. The Chapter also outlines the allowances and requirements for manufactured and mobile home parks and subdivisions.

17.31.020 APPLICABILITY AND APPROVALS REQUIRED.

- A. Individual mobile homes are conditional uses in the RE, LLR, CR, SFR, MP, and DMU zone districts, pursuant to Chapter 17.05 (Land Uses), and shall require conditional use approval pursuant to Chapter 17.09.030. They may also be permitted as a conditional use in a Planned Unit Development (PUD).
- B. Manufactured and mobile home parks are a high density residential use on a parcel of land under single ownership or control on which two (2) or more manufactured homes or mobile homes are located. Manufactured Housing Parks and Mobile Home Parks are conditional uses in the CR zone district pursuant to Chapter 17.05 (Land Uses), and shall require conditional use approval pursuant to Chapter 17.09.030. They may also be permitted as a conditional use in a Planned Unit Development (PUD).
- C. Manufactured and Mobile Homes. No person shall locate a manufactured or mobile home in the City of Fruita without first obtaining a planning clearance for a building permit from the Community Development Department.
- D. Manufactured and Mobile Home Parks - Approval Procedure.
 - 1. The applicant shall submit the required information on forms and in numbers as determined by the Community Development Department. The application shall be distributed to appropriate staff and others for review and comment.
 - 2. An applicant seeking to develop a manufactured or mobile home park as a conditional use in the CR zone shall apply for a conditional use permit in accordance with the

requirements set forth in Section 17.07.040 and 17.09.030 of this Title. Prior to, or simultaneously with the submittal of an application for a conditional use permit, the applicant shall submit a manufactured or mobile home park development plan for the subject property for review and approval.

3. An applicant seeking to develop a manufactured or mobile home park as part of a Planned Unit Development shall comply with the procedures and standards set forth in Chapter 17.19 of this Title.
4. Prior to, or simultaneously with an application for a conditional use permit, or Planned Unit Development approval, the applicant shall submit an application for subdivision in accordance with the requirements of Chapter 17.21 of this Title. A manufactured or mobile home park shall be subdivided for the purpose of dedication of adjacent public streets, internal public streets and ways, parks, open space or recreation areas, easements and other public facilities.
5. Development of a manufactured or mobile home park is permitted only in accordance with a manufactured or mobile home park development plan and subdivision final plat prepared and approved in accordance with the requirements of this Title. The owners and their successors, heirs, or assigns shall be bound by the approved manufactured or mobile home park development plan and the subdivision final plat, including any amendments thereto approved by the City Council as provided in this Title.

E. Manufactured and Mobile Home Park Review and Approval Criteria. In addition to the criteria set forth for conditional use permits (Section 17.09.030) or Planned Unit Developments (Chapter 17.19), the following criteria shall be considered by the Planning Commission and City Council in the review of manufactured and mobile home park development plan applications:

1. Whether the application is in compliance with the requirements of this Chapter;
2. Whether the proposed park is compatible with the surrounding land uses;
3. Whether the subject land is suitable for the intended use and is compatible with the natural environment; and
4. Whether the manufactured or mobile home park is compatible with the City of Fruita's Master Plan and related plans and documents and complies with all provisions of this Title 17.

17.31.030 RESTRICTIONS.

- A. Placement of Manufactured Housing and Mobile Homes. It is unlawful within the City of Fruita for any person to place or park any manufactured home or mobile home as

defined in Chapter 17.57, on any street, alley, highway or other public place, or on any tract of land owned by any person, firm, or corporation, occupied or unoccupied, within the city, except as provided in this Chapter and in other Chapters of this Title.

- B. Recreational Vehicles. Recreational vehicles, travel trailers, and truck campers as defined in Chapter 17.57; and other camping vehicles are not considered manufactured homes or mobile homes and are not allowed in mobile home parks, manufactured home parks, or as permanent year round dwelling units. Recreational vehicles, travel trailers, truck campers and other camping vehicles are allowed in approved recreational vehicle parks and campgrounds for a limited time period. Recreational vehicles may be stored on residential, commercial or industrially zoned parcels of land in approved parking or recreational vehicle storage areas in conformance with the provisions of this Title.
- C. Uncertified Mobile Homes. Mobile homes located within the City on the effective date of this Chapter, which have not been certified as conforming to the U.S. Department of Housing and Urban Development's (H.U.D.) 1984 Mobile Home Standards, as amended, are hereby declared legal nonconforming uses, but may not be replaced by another mobile home that is not H.U.D. certified.

17.31.040 MANUFACTURED HOME SITING, DESIGN, AND BUILDING REQUIREMENTS.

- A. Siting Requirements. Manufactured single family homes, as defined in Chapter 17.28, are allowed as a conditional use in all zones that allow residential land uses. Manufactured homes are also permitted in manufactured home parks and manufactured home subdivisions. All manufactured homes shall comply with the design standards set forth in this Chapter. An owner shall provide proof of all required certifications to the Community Development Department prior to the placement of any manufactured home on any parcel of land.
- B. Design and Building Requirements. Every manufactured home installed or located within the City of Fruita after the effective date of this Chapter shall comply with the following standards and requirements:
 - 1. The manufactured home sections must be partially or entirely manufactured in a factory;
 - 2. The finished home dimensions must be not less than twenty- four (24) feet in width and thirty-six (36) feet in length, excluding porches;
 - 3. The manufactured home must be set on an excavated, backfilled, engineered foundation enclosed at the perimeter so that the top of the perimeter wall sits no more than twelve (12) inches above finish grade. The foundation shall be similar in appearance and durability to a masonry foundation of a site-built dwelling. The foundation shall provide an anchoring system for the manufactured home that is

totally concealed under the structure;

4. The finished home must have brick, wood or cosmetically equivalent exterior siding on all exterior walls which provides a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter foundation. The exterior siding of the finished home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized;
5. The finished home must have a pitched roof with a pitch of at least a nominal three in twelve (3:12). The roof must be covered with shingles, shakes, or tile. Eaves of the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls;
6. The finished home must have windows that are wood, vinyl coated or anodized aluminum;
7. The finished home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same;
8. The main entrance to the finished home must face or be oriented toward an adjacent street;
9. The transportation mechanisms including the wheels, axles and hitch must be removed;
10. No finished home shall be occupied for dwelling purposes unless it is properly placed and connected to water, wastewater, electric and natural gas utilities, as appropriate, in conformance with the city's building codes set forth in Title 15;
11. All manufactured homes shall be certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. §5401, *et seq.*, as amended, or shall be certified by the Colorado Division of Housing pursuant to Sections 24-32-701, *et seq.*, C.R.S.; and
12. All finished homes shall have an enclosed crawl space underneath the finished home and shall not provide a harborage for rodents or create a fire hazard. No enclosed crawl space shall be used for storage unless the storage area is surfaced with concrete. Basements may be used to satisfy this requirement. Adequate access and ventilation shall be provided in accordance with the city's building codes set forth in Title 15 of the Fruita Municipal Code.

17.31.050 MANUFACTURED AND MOBILE HOME PARKS SITING, DESIGN, AND BUILDING REQUIREMENTS

A. General Requirements Applicable to Manufactured or Mobile Home Parks.

1. In order to provide uniform administrative procedures and quality development standards, manufactured and mobile home parks shall conform to all provisions of this Title except as such provisions are specifically altered in the approved manufactured or mobile home park development plan.
2. No development within a manufactured or mobile home park shall occur until a subdivision final plat for the portion to be developed is approved and recorded as provided in Chapter 17.21.
3. Vesting of property rights for a manufactured or mobile home park development accrue only for that portion of the property granted subdivision final plat approval.
4. All public utility distribution lines shall be placed underground.
5. The minimum number of acres which may constitute a manufactured or mobile home park development shall be five (5) acres.
6. Planning clearances, building and occupancy permits for manufactured or mobile homes in a manufactured or mobile home park development shall comply with the following requirements:
 - a. It shall be unlawful to erect, move or place any manufactured or mobile home, or other structure on or onto any site space, lot or tract in a manufactured or mobile home park without first obtaining a planning clearance and a building permit.
 - b. No planning clearance for building permit for the installation of a manufactured or mobile home shall be issued unless the manufactured home meets the requirements set forth in this Chapter.

B. Density, Dimensional and Spacing Standards for Manufactured or Mobile Home Parks

1. The minimum area for a manufactured or mobile home space shall be four thousand (4,000) square feet.
2. The minimum lot length shall be eighty (80) feet.
3. The minimum lot width shall be fifty (50) feet.
4. The maximum building height shall be thirty-five (35) feet.
5. The distance between any building or manufactured or mobile home from a property line of the manufactured or mobile home park shall be twenty (20) feet.

6. The front setback of a manufactured or mobile home shall be fifteen (15) feet from the back of the curb, provided however, that in order to encourage the enclosed storage of parked vehicles, the setback from the back of curb to a garage shall be either five (5) feet or fifteen (15) feet or greater.
7. Side spacing shall provide for a distance of twenty (20) feet between manufactured or mobile homes.
8. Rear spacing shall provide for a distance of twenty (20) feet between units when units are side to end, and a distance of ten (10) feet between units when units are end to end.
9. There shall be a minimum setback of twenty (20) feet between any service facility or park permanent building and a manufactured or mobile home.
10. Accessory buildings and structures shall be constructed in accordance with the city's building codes adopted in Title 15 of the Fruita Municipal Code. Accessory buildings and structures shall include steps, attached or detached patios that are open on three (3) sides, attached or detached decks that are open on three (3) sides, attached or detached storage units, attached or detached garages, and attached or detached carports. Accessory buildings or structures may be located adjacent to a manufactured or mobile home space line provided, however, that a minimum of six (6) feet of separation is provided between a garage and any other structure on an adjoining space. Any other building or structure shall provide a minimum of ten (10) feet between it and any structure on an adjoining space.
11. The limits of each manufactured or mobile home space shall be clearly marked on the ground by permanent monuments set pursuant to Section 38-51-101, C.R.S.

C. Street Design Standards.

1. All interior streets in a manufactured or mobile home park shall be privately owned and maintained by the park owner, unless otherwise permitted by the City Council, and shall be a minimum width of twenty-two (22) feet from back of curb to back of curb, including the width of gutter pans.
2. Primary through streets shall be thirty-four (34) feet from back of curb to back of curb with a four (4) foot wide detached sidewalk on one side being located six (6) feet from the back of curb.

D. Parking.

1. Every manufactured or mobile home space shall have two (2) off-street parking spaces adjacent to the manufactured or mobile home. There shall be one (1) additional parking

space for each manufactured or mobile home space within one hundred (100) feet for the use of occupants and guests.

2. Off-Street Vehicle Parking for Recreation Facilities. Off-street vehicle parking shall be provided for recreation facilities located within a manufactured or mobile home park. One (1) space per two hundred fifty (160) square feet of gross floor area, plus one (1) space per employee at the maximum shift shall be provided for enclosed recreations facilities, or twenty (20) spaces are to be provided for every diamond or athletic field, or one (1) space for every four (4) spectator seats, whichever is greater. (One seat is equal to two (2) feet of bench seating length.) Handicapped parking spaces shall be provided in conformance with the Americans with Disabilities Act, as may be amended from time to time.
- E. Pedestrian Circulation. The developer shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks if any are adjacent to the property. The system shall be designed to link residential units with recreation facilities, school bus stops and existing sidewalks in the neighborhoods. Detached sidewalks within the manufactured or mobile home park shall be a minimum of four (4) feet in width.
- F. Street and Sidewalk Lighting. All streets and sidewalks shall be lighted in accordance with the city's lighting standards.
- G. Access and Circulation. A manufactured or mobile home park development shall have two (2) means of access to public streets at the perimeter of the site. Internal circulation may be provided by public or private streets, driveways and alleys. Each manufactured or mobile home space shall be provided access to the internal circulation system. No manufactured or mobile home space shall have direct access to a public street on the perimeter of the site.
- H. Sidewalk Between Street and Manufactured or Mobile Home. Concrete sidewalks shall be provided between the manufactured or mobile home and the adjacent street sidewalk; except, the paved parking area may satisfy this requirement provided a sidewalk is provided from the parking area to the manufactured or mobile home.
- I. Traffic Control.
1. Pursuant to Section 42-4-1102, C.R.S., the city elects to impose and enforce stop sign regulations, speed limits and parking restrictions posted in accordance with the Manual of Uniform Traffic Control Devices upon all streets which are privately maintained in manufactured or mobile home parks. The owner of the manufactured or mobile home park shall provide such signs as may be required by the City Engineer, and agrees to erect and maintain such signs in conformity with the Model Traffic Code and other applicable regulations.

2. The stop sign placement, speed limits and parking restrictions shall be determined by the City Engineer, but shall be consistent with the provisions of Sections 42-4-1101 to 42-4-1104 *et. al.*, C.R.S., Section 42-4-1204, C.R.S. and Section 42-4-1208, C.R.S.
3. There shall be posted at each entrance to any manufactured or mobile home park a sign giving notice of such enforcement in the following text: "NOTICE: Stop sign, speed limits and parking restrictions enforced by the city."
4. When all signs are in place, stop sign, speed limits and parking regulations shall be enforced and violations thereof punished in accordance with the provisions of the Model Traffic Code, as adopted by the City of Fruita.

J. Utility Design Requirements.

1. All public utilities shall be installed in accordance with the applicable city standards.
2. A manufactured or mobile home park may have multiple master meters for water service.
3. Each manufactured or mobile home space shall have its own meter for water, electrical, and natural gas service.

K. Manufactured or Mobile Home Space Landscaping. The developer shall provide front and rear manufactured or mobile home space landscaping for each space, including but not limited to, grass, a non-potable irrigation system, and trees and shrubs. The developer shall provide a graphical representation of "typical" manufactured or mobile home space landscaping for each of the manufactured or mobile home designs to be located in the manufactured or mobile home park, for review and approval by the Planning Commission and City Council.

L. Manufactured or Mobile Home Park Perimeter and Common Space Landscaping. The developer shall landscape the perimeter and common areas of the manufactured or mobile home park in accordance with landscaping plans submitted to the Planning Commission and City Council for review and approval.

M. Outdoor Living Area.

1. No less than eight (8) percent of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in a location or locations convenient to all manufactured or mobile home spaces.
2. An outdoor living area shall be provided on each space equal to at least ten (10) percent of its area, provided that in no case shall such area be less than three hundred

(300) square feet or required to be more than five hundred (500) square feet. The minimum horizontal dimension of such area shall be not less than fifteen (15) feet.

3. Such outdoor living area shall be properly drained, located for convenience and optimum use and walled, fenced or landscaped to provide reasonable privacy.

N. Tenant Storage.

1. A separate uniform tenant storage structure may be provided for each space, located on each space.
2. There shall be a minimum of two hundred twenty-four (224) cubic feet of storage area provided for each manufactured or mobile home space.
3. Design and location of tenant storage shall enhance the appearance of the park and the exterior siding of the structure shall have the same appearance as materials commonly used on residential dwellings.

O. Street Names, Addressing, Mail Delivery. All proposed street names shall be indicated on the development plan and submitted by the owner for approval. Each space shall be numerically designated for address and mail purposes and signs furnished and installed by the manufactured or mobile home park owner. Cluster postal boxes will be provided at a central location(s) convenient to the residents. No individual street-side mailboxes are permitted unless otherwise approved by the city.

P. Solid Waste Disposal.

1. The owner of the manufactured or mobile home park shall be responsible for the promulgation and enforcement of rules and regulations governing solid waste storage and handling that meet or exceed state or federal regulations.
2. The owner shall provide containers for the storage of solid wastes awaiting collection for each manufactured or mobile home space. Containers are to be sized to completely contain all solid wastes that are generated on the premises. Containers are to be flytight, watertight, and rodent proof and are to be kept off the street, curb, sidewalk and all other public ways, and concealed from public view, except on collection day.

17.31.060 MISCELLANEOUS REQUIREMENTS FOR MANUFACTURED OR MOBILE HOME PARKS.

A. Residents Council. A manufactured or mobile home park development shall establish a residents council. This residents council shall be established from residents living within the

community and from different sections of the community. The purpose of the residents council shall be to foster communication between residents and park management. The council shall serve as a method for residents of a manufactured or mobile home park development to direct questions and concerns to management and to assist in the social programs of the community. The residents council shall meet with management on a regular basis as established by the council, but no less than quarterly. The meeting shall be noticed and be open to all residents of the park. Members of the residents council shall be subject to popular election by residents of the park.

- B. Single Ownership of a Manufactured or Mobile Home Park Required. A manufactured or mobile home park development may not be converted to another use other than such uses provided for in the approved development plan without the approval of the city and meeting the appropriate lot size, lot width, setback and other requirements for the new use.
 - 1. The land within a manufactured or mobile home park development shall remain in a unified ownership and the individual ownership of lots or spaces or portions of lots or spaces shall not be transferred.
 - 2. No dwelling unit other than a manufactured or mobile home shall be located within a manufactured or mobile home park development.
- C. Conformance of Manufactured or Mobile Home Park to State Law. A manufactured or mobile home park and its operation shall conform to the provisions of the Mobile Home Park Act, Sections 38-12-201, *et. seq.*, C.R.S., as amended from time to time.
- D. Business License. The owner or operator of a manufactured or mobile home park shall obtain and maintain a business license as provided in Title 5 of the Fruita Municipal Code.

17.31.070 MANUFACTURED HOUSING SUBDIVISIONS.

- A. Manufactured Housing Subdivision Approval Procedure.
 - 1. Prior to, or simultaneously with the application for a conditional use permit pursuant to Section 17.09.030 or Planned Unit Development approval pursuant to Chapter 17.19, the applicant shall submit a manufactured housing subdivision development plan for the property for review and approval.
 - 2. Prior to, or simultaneously with the application for development plan approval, the applicant shall submit a subdivision application for the property for review and approval as provided in Chapter 17.21 of this Title. Development of a manufactured housing subdivision shall be subject to review and approval through the concept plan, preliminary plan, and final plat process in compliance with all of the standards contained in this Title. Public hearings on these matters may be combined or occur

separately.

3. A manufactured housing development shall be subdivided for the purpose of creation of the residential lots, dedication of adjacent public streets, internal public streets and ways, utility and other easements, parks, trails, open space, and other public facilities, and a subdivision final plat shall be recorded as provided in Chapter 17.21 of this Title.
4. Development of a manufactured housing subdivision is permitted only in accordance with a development plan and final plat(s) prepared and approved in accordance with the provisions herein. The owners and their successors, heirs, or assigns shall be bound by the approved development plan and final plat(s), including any amendments thereto, approved by the City Council, as provided herein.

B. General Requirements Applicable to Manufactured Housing Subdivisions.

1. In order to provide uniform administrative procedures and quality development standards, manufactured housing subdivisions shall conform to all provisions of this Title.
2. No development within a manufactured housing subdivision shall occur until a subdivision final plat for the portion to be developed is approved and recorded as provided in the city's subdivision regulations.
3. A portion of the gross site area shall be dedicated to the city for public use as required by Chapter 17.47 or a fee in lieu of land shall be paid. Impact fees as required by Chapter 17.47 shall also be paid.
4. Vesting of property rights accrue only for that portion of the property granted final subdivision final plat approval.
5. All public utility distribution lines shall be placed underground.
6. The minimum number of acres, which may constitute a manufactured housing subdivision, shall be five (5) acres.
7. Planning clearances, building and occupancy permits for manufactured homes in a manufactured housing subdivision shall comply with the following requirements:
 - a. It shall be unlawful to erect, move or place any manufactured home, or other structure on or onto any site, lot or tract in a manufactured housing subdivision without first obtaining a planning clearance and a building permit.
 - b. No planning clearance for a building permit for the installation of a

manufactured shall be issued unless the manufactured home meets the requirements set forth in this Chapter.

8. All manufactured housing subdivision developers shall establish an association of homeowners for their development. The homeowners association shall establish bylaws governing the association which shall satisfy certain standards including, but not limited to, the following:
 - a. Mandatory participation in the homeowners association for the purpose of maintenance of all common areas, buffer areas and vacant lots within the subdivision and to enforce the declaration of restrictive covenants;
 - b. Binding effect on all future property owners;
 - c. Perpetual existence;
 - d. Unaffected by any change in zoning or land use;
 - e. Assurance of adequate maintenance;
 - f. Enforceable by the city by appropriate legal action; and
 - g. If maintenance or preservation of common areas or lots no longer comply with the provisions of the association's declaration, the city may take all necessary action to assure compliance and assess the association all costs incurred by the city for such purpose, including reasonable attorney fees.

Chapter 17.33
CAMPGROUNDS AND RECREATIONAL VEHICLE PARKS

17.33.010	Development Standards
17.33.020	Size and Density of Camping Spaces and Recreational Vehicle Spaces
17.33.030	Streets and Parking
17.33.040	Accessory Uses
17.33.050	Open Space and Recreational Areas
17.33.060	Setbacks, Landscaping and Fencing
17.33.070	Utilities
17.33.080	Fire Prevention and Protection
17.33.090	Sanitary Facilities
17.33.100	Miscellaneous Requirements
17.33.110	Permanent Occupancy Prohibited
17.33.120	Responsibilities of Management

17.33.010 DEVELOPMENT STANDARDS.

- A. Site Conditions. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- B. Soil and Groundcover. Exposed ground surfaces in all parts of the campground or recreational vehicle park shall be paved, or covered with stone screening or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.

17.33.020 SIZE AND DENSITY OF CAMPING SPACES AND RECREATIONAL VEHICLE SPACES

- A. Minimum Camping Space Size. Each tent or recreational vehicle camping space shall contain a minimum of one thousand five hundred (1,500) square feet and shall have a minimum width of twenty-five (25) feet.
- B. Parking. Each camping or recreational vehicle space shall contain one (1) paved vehicle parking space with a minimum length of twenty (20) feet and a minimum width of nine (9) feet. For recreational vehicle camping spaces, an additional paved area with a minimum length of thirty-five (35) feet and a minimum width of 12 (twelve) feet shall be provided. No part of a recreational vehicle or other camping unit placed on the camping space shall be closer than five (5) feet to the edge of the camping space.
- C. Required Separation Between Recreational Vehicles. Recreational vehicles shall be separated from each other and from buildings by at least ten (10) feet. Any projections,

such as attached awnings for purposes of this separation requirement shall be considered to be part of the recreational vehicle.

- D. Space Identification. Each space for the parking of a recreational vehicle or tent camping space shall be identified by numbers, a minimum of three (3) inches in height, posted in a conspicuous place at the front of the space.

17.33.030 STREETS AND PARKING.

- A. Interior Streets. All interior two-way streets shall be twenty-eight (28) feet minimum width and all interior one-way roads shall be twenty (20) feet minimum width. All streets shall be paved and shall be designed for the safe and convenient movement of vehicles, bicyclists and pedestrians.
- B. Parking Requirements. At least one and one-fifth (1 1/2 1/5) off-street parking spaces shall be provided in the campground or recreational vehicle park per each camping or recreational vehicle space. No on-street parking will be permitted.

17.33.040 ACCESSORY USES.

- A. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a campground or recreational vehicle park are permitted as accessory uses to the campground or recreational vehicle park.
- B. In addition, stores, restaurants and other convenience establishments shall be permitted as accessory uses incampgrounds and recreational vehicle parks in zone districts where such uses are not allowed as principal uses, subject to the following restrictions:
 - 1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the campground or recreational vehicle park.
 - 2. Such establishments shall be restricted in their uses to occupants of the campground or recreational vehicle park.
 - 3. Such establishments shall present no visible evidence from any street outside the campground or recreational vehicle of their commercial character which would attract customers other than occupants of the campground or recreational vehicle park.

17.33.050 OPEN SPACE AND RECREATIONAL AREAS.

- A. A general area or areas amounting to not less than ten (10) percent of the gross area of any campground and recreational vehicle park, excluding any area dedicated as public right-of-way, shall be developed for passive park and/or active recreation uses. The minimum size required shall be no less than five thousand (5,000) square feet, regardless of campground or recreational vehicle park size, measuring no less than fifty (50) feet on any side.
- B. Such areas shall not include any area designated as a camping space or recreational vehicle space, storage area, required buffer, screen or setback, service building, sanitary

facility, or waste station area.

17.33.060 SETBACKS, LANDSCAPING AND FENCING.

- A. Setbacks. Each campground and recreational vehicle park shall set aside along the perimeter of the facility the following areas which shall be landscaped and used for no other purpose:
 - 1. Minimum front setback. Twenty-five (25).
 - 2. Minimum side and rear setback. When abutting residential zones or land uses, the side setback shall be fifty (50) feet; when abutting a dedicated public right-of-way, the side setback shall be twenty-five (25) feet on the side street; when abutting any other zone or land use, the side setback shall be fifteen (15) feet along the interior lot line.
- B. Landscaping. A landscaping plan prepared by a licensed landscape architect must be submitted as part of the campground or recreational vehicle park development plan. The design of the landscaping must mitigate the visual impact of the campground or recreational vehicle park on the surrounding area.
- C. Boundary Fencing. Except for the front boundary, each campground or recreational vehicle park shall be enclosed by a solid fence or wall not less than six (6) feet in height.

17.33.070 UTILITIES.

- A. All Utilities Underground. All public utilities within a campground or recreational vehicle park shall be underground.
- B. Potable Water Supply. The potable water supply for a campground or recreational vehicle park shall be provided by a delivery system that is owned and operated by the Ute Water Conservancy District. The water system shall be connected to all service buildings and all recreational vehicle spaces in compliance with the standards set by the Ute Water Conservancy District. In addition to other provisions of this Title 17, the water distribution system within a campground or recreational vehicle park shall meet the following minimum standards:
 - 1. The water distribution system shall be designed, constructed and maintained in compliance with State Department of Public Health and Environment regulations and Ute Water Conservancy District regulations to provide a safe, potable and adequate supply of water.
 - 2. Tent camping spaces shall be provided with common use water faucets located no more than one hundred fifty (150) feet from any tent camping space.
 - 3. A water station for filling water storage containers shall be provided at a rate of one (1) water station for every one hundred (100) spaces (both camping and recreational vehicle spaces), with a minimum of one water station per campground or recreational vehicle park.
- C. Wastewater Disposal and Collection. Facilities shall be provided and properly maintained for the collection and disposal or treatment of wastewater.

1. When the city's wastewater collection system is available, all plumbing fixtures, building sewers and camping and recreational vehicle space sewers shall be connected thereto in compliance with all city regulations and policies. If the city's wastewater system is not available, a private sewage collection and disposal facility meeting requirements of the State Water Quality Control Commission, the State Department of Public Health and Environment and Mesa County Health Department shall be installed and all plumbing fixtures, building sewers, and camping and recreational vehicle space sewers shall be connected thereto in compliance with all city regulations and policies.
2. Solid and liquid wastes shall not be discharged or otherwise disposed of on the surface of the ground or into any well, cave, open ditch, stream, lake or reservoir.

D. Wastewater Collection.

1. Individual wastewater connections shall be provided at each recreational vehicle space and shall meet the following requirements: A four (4) inch inside diameter wastewater lateral and riser pipe with the surrounding ground graded to drain from the rim of the riser pipe. The wastewater lateral shall be properly trapped and vented if recreation vehicles without individually trapped and vented plumbing fixtures are accommodated.
2. Recreational vehicles with a drain hose less than three (3) inches in diameter shall be connected with reducers and a screw or clamp-type fittings.
3. A sanitary waste station meeting all city regulations for removing and disposing of waste from self-contained recreational vehicle sewage holding tanks shall be provided for each one hundred (100) recreational vehicle spaces.

E. Electricity and Natural Gas.

1. An electric outlet shall be provided for each recreational vehicle space. The installation shall comply with all adopted building codes. Such electrical outlets shall be weatherproof.
2. Street and yard lights shall be provided in such number and intensity as to ensure safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during hours of darkness.
3. Where natural gas is provided, the installation shall comply with all adopted building codes.

17.33.080 FIRE PREVENTION AND PROTECTION.

- A. All campgrounds and recreational vehicle parks shall comply with the adopted building codes and the NFPA (National Fire Protection Association) 1194 Standard for Recreational Vehicle Parks and Campgrounds.
- B. No outdoor fires will be allowed except in grills, ovens, stoves or provided fire boxes.

17.33.090 SANITARY FACILITIES.

- A. Sanitary facilities shall be provided and installed in accordance with the city's adopted

building codes (Title 15 of the Fruita Municipal Code).

- B. Required toilet, lavatory and bathing facilities shall be provided in the following minimum numbers:

Recreational vehicle spaces or campsites	Toilets		Urinals	Lavatories		Showers	
	M	F	M	M	F	M	F
15	1	1	1	1	1	1	1
16 - 30	1	2	1	2	2	1	1
31 - 45	2	2	1	3	3	1	1
46 - 60	2	3	2	3	3	2	2
61 - 80	3	4	2	4	4	2	2
81 - 100	3	4	2	4	4	3	3
101 - 120	4	5	3	5	5	4	4
M = Male F = Female							

- C. No portable toilets will be allowed in campgrounds or recreational vehicle parks.

17.33.100 MISCELLANEOUS REQUIREMENTS.

- A. Liquid petroleum storage containers for use with individual recreational vehicle sites shall be limited to one hundred (100) poundsize.
- B. Storage buildings, lean-tos, bins or other outside storage facilities (other than waste storage facilities, e.g. trash cans) shall not be allowed at camping or recreational vehicle spaces.

17.33.110 PERMANENT OCCUPANCY PROHIBITED.

- A. No recreational vehicle or tent shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond one hundred and eighty (180) days in a calendar year shall be presumed to be permanent occupancy; however, twenty-five percent (25%) of the recreational vehicle spaces in a recreational vehicle park may be occupied as a recreational vehicle residence for more than six (6) months in a calendar year.
- B. Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.

17.33.120 RESPONSIBILITIES OF MANAGEMENT.

- A. Enforcement of Regulations. The owner or operator of any campground or recreational vehicle park shall arrange for the management and supervision of such facility so as to

enforce or cause compliance with the provisions of this Chapter.

- B. Maintenance. The owner, operator or attendant of every campground or recreational vehicle park shall assume full responsibility for maintaining in good repair and clean condition all facilities of the campground or recreational vehicle park.
- C. Business License. Every owner or operator of a campground or recreational vehicle park shall obtain and continuously maintain in effect a business license pursuant to Title 5 of the Fruita Municipal Code.
- D. Office. In every campground or recreational vehicle park there shall be a designated office building in which shall be located the office of the person in charge of said facility. A copy of all required city and State licenses and permits shall at all times be kept in said office.
- E. Management Duties. It shall be the duty of the attendant or person in charge, together with the owner or operator, to:
 - 1. Keep at all times a register of all tenants (which shall be open at all times to inspections by state, county and federal officials and City of Fruita officials) showing for all tenants:
 - a. Name of party;
 - b. Dates of entrance and departure;
 - c. License numbers of all recreational vehicles, towing vehicles or and automobiles; and
 - d. States issuing such license.
 - 2. Maintain the campground or recreational vehicle park in a clean, orderly and sanitary condition at all times;
 - 3. See that provisions of this Chapter are complied with and enforced and report promptly to the proper authorities any violations of law, which may come to his or her attention;
 - 4. Report to local health authorities all persons known to the owner or manager to be infected with any communicable diseases.
 - 5. Prohibit the use of any tent or recreational vehicle by a greater number of occupants than that which it is designed to accommodate, and prohibit stays beyond the time limits identified in this Chapter of the Land Use Code; and
 - 6. Promptly report all violations of State, federal or municipal law that occur within the boundaries of the facility.

Chapter 17.35
MINERAL EXTRACTION AND MINING OPERATIONS

Sections:

- 17.35.010 Purpose**
- 17.35.020 Procedure for Extraction and Rehabilitation Requests**
- 17.35.030 Operation and Rehabilitation Standards for all Mining Operations**
- 17.35.040 Revocation of Conditional Use Permit**

17.35.010 PURPOSE. The purpose of this Chapter is to establish reasonable and uniform limitations, safeguards, and controls for conservation of natural resources and for rehabilitation of mineral extraction lands. Gravel and other mineral extraction, washing, crushing, cement batch plants, asphalt plants, and processing activities should be located and conducted in sufficiently sized parcels where extraction and rehabilitation can be undertaken while still protecting the health, safety, and welfare of the area and the city. In cases where the location of the proposed mining use abuts other zoning or land uses, or structures, mineral excavation, extraction, processing and rehabilitation may be restricted in order to be compatible with and protect the adjoining uses.

17.35.020 PROCEDURE FOR EXTRACTION AND REHABILITATION REQUESTS.

The extraction of commercial mineral deposits with necessary accessory uses shall be allowed in the Monument Preservation (MP) zone, Commercial-1 (C-1) zone, Commercial-2 (C-2) zone, and the Industrial (I) zone as a conditional use and in conformance with an approved excavation and rehabilitation plan. Any excavation plan being followed under previous regulations shall fulfill this requirement. A plan shall contain, in addition to those relevant requirements outlined for a conditional use application, the following requirements:

- A. A detailed description of the method of operation of extraction, processing and rehabilitation to be employed, including any necessary accessory uses; such as, but not limited to, crushers, washers, batch plants and asphalt plants;
- B. An extraction plan showing the areas to be mined, location of stockpile areas, location of structures, and general location of processing equipment, with accompanying time schedules, fencing if applicable, depth of deposit, estimated quantity of the deposit, and other pertinent factors;
- C. A detailed rehabilitation plan showing proposed rehabilitation with time schedule including, but not limited to, finish contours, grading, sloping, types, placement and amount of vegetation, reuse plans and any other proposed factors;
- D. Topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the land covered in the application;
- E. Type, character, and amount of proposed vegetation;

- F. The operator's estimated cost at each of the following segments of the rehabilitation process, including, where applicable, backfilling, grading, reestablishing topsoil, planting, re-vegetation management, and protection prior to vegetation establishment and administrative costs;
- G. A drainage report and drainage basin plan prepared by a registered engineer in the State of Colorado with consideration of natural drainage, drainage during excavation including erosion and sedimentation controls, drainage after rehabilitation, such that proposed excavation will have no adverse effects in excess of natural conditions. Where applicable, the report shall include a flood plain permit;
- H. A traffic impact analysis, which reviews road and safety conditions in the pit area and in the vicinity of the pit area. This shall include ingress/egress, parking and loading areas, on-site circulation, estimate of the number of trucks per day and the average and maximum number of trucks per day (ranges are acceptable). The analysis shall include the times and location of school bus stops in the vicinity of the haul route and mitigation measures, such as staggering hours of operation, to avoid conflicts between hauling and school children on the haul route; and
- I. Additional information as may be required by the Community Development Department.
- J. Upon approval, the excavation and rehabilitation plans shall be recorded with the County Clerk and Recorder. Any change in the approved excavation and rehabilitation plan shall be prohibited unless amended by approval of the City Council.

17.35.030 OPERATION AND REHABILITATION STANDARDS FOR ALL MINING OPERATIONS.

Mining and necessary accessory uses shall be subject to the following conditions and to the approved excavation and rehabilitation plan:

- A. A permit to extract minerals issued by the Colorado Division of Minerals and Geology (DMG) in conformance with the Open Mining Land Recovery Act and other applicable state laws;
- B. Excavation within one hundred twenty- five (125) feet of an existing residence is not permitted unless by written agreement of the owners and occupants of the residence, and no excavation involving the use of rock crushers, washers, asphalt plant, cement batch plant and other similar equipment shall take place within two hundred fifty (250) feet of a residence;
- C. At a minimum, a one hundred (100) foot greenbelt setback will be provided from watercourses for the protection of valuable plant life, riparian areas and wildlife areas. Erosion and sedimentation controls will be practiced throughout the life of the pit including the maintenance of vegetative buffers, use of straw bales in drainage ways and mulching and reseeding exposed areas adjacent to the active mining area. Existing trees and ground cover along public street frontage and drainage ways shall be preserved,

maintained and supplemented, if necessary, for the depth of the setback to protect against and reduce noise, dust and erosion;

- D. The operator shall submit a haul route plan to the Community Development Department and Department of Public Works Director and receive permission to use for haulage in public rights-of-way not designated for such haulage by reason of load limit, dust, right-of-way or pavement width or other relevant factors. The City Public Works Director may place reasonable restrictions on such right-of-way use. Alternative haul routes shall be developed where hauling impacts the health, safety, and welfare of the local area;
- E. Haulage roads within the premises shall be maintained in a reasonably dust free condition. Dust retardant measures may include the use of watering, application of magnesium chloride, oiling, or paving;
- F. Unless otherwise approved, the hours of operation shall be 6:00 a.m. to 7:00 p.m. normally; shorter hours of operation may be imposed in urbanized areas as part of the conditional use permit;
- G. In no event shall a slope of less than 2:1 be left for dry pits, or the slope of 3:1 for pits deeper than ten (10) feet. In a wet pit, in no event shall a slope be less than 2:1 except as provided herein;
- H. The floor of excavation pits, whether wet or dry, shall be left in a suitable condition;
- I. The operator shall not store, overburden, or excavate materials or construct dikes or levies in such a manner as to increase any drainage or flooding on property not owned by the operator or damage public facilities;
- J. Prior to starting excavation, where the operation is adjacent to subdivided and/or developed commercial, residential, or industrial property, fencing may be required to prevent the visibility of the mining operation, and buffering and screening may be required if deemed necessary by the City Council as part of the conditional use permit. The operator may be required to fence and/or buffer and screen the entire parcel or fence only areas of excavation as it proceeds. None of these fences shall be removed until rehabilitation has been completed;
- K. Where the operation is adjacent to subdivided property, and/or developed commercial or residential property, once mining has been completed, the site shall not be used as an area to stockpile mineral and/or gravel resources, unless otherwise permitted by the conditional use permit. The mining operator shall reclaim mined areas as rapidly as possible;
- L. Operations shall comply with noise, vibration, and other standards of Mesa County and the noise standards contained in Sections 25-12-101, *et. seq.*, C.R.S., as amended;
- M. All air emissions shall comply with standards established by the Colorado Department of Public Health and Environment and the Mesa County Health Department. An air

emissions permit shall be obtained from these agencies prior to commencing the mining operation;

- N. All water uses and discharges shall conform to standards established by the State Water Quality Control Commission and the water laws of the State of Colorado;
- O. All slopes shall be stabilized and re- vegetated. Land shall be reformed to most closely resemble the natural contours of the land before mining commenced. Lakes created, as the result of mining in the river bottom, shall have undulating surfaces, shallow and deep areas, established wetlands, and natural riparian vegetation. Other areas shall be re-vegetated with plant material indigenous to the area;
- P. The re-vegetation plan must meet the standards of the Colorado State University Tri- River Extension Service;
- Q. After re-vegetation of the area, the area must be maintained for a period of three (3) years, or until all vegetation is firmly established in the reclamation area;
- R. A time limit for reclamation will be included in each conditional use permit. This time limit will be dependent upon the type of reclamation effort; and
- S. A development schedule shall be submitted describing the life span of the plan in months and years (ranges are acceptable) and, if applicable, the months and years per phase. Diligence in meeting this schedule is required. Extensions of time may be granted by the City Council with proper justification.
- T. Extensions of time in the development schedule may be granted by the City Council if a written request is submitted outlining the factors and reasons for the extension. New or changed conditions, if any, will be considered.
- U. If no material has been extracted within three (3) years of obtaining the conditional use permit for mineral extraction and a request for extension has not been received and approved by the City Council, the conditional use permit will expire. A new application and extraction plan shall then be submitted and reviewed in the manner described in this Chapter.
- V. An extension request shall provide information concerning the factors and reasons for the request. The City Council will consider these factors and reasons as well as the extent conditions have changed in the area, if any, in granting extensions of the conditional use permit.

17.31.40 VOCATION OF CONDITIONAL USE PERMIT. The City Council shall have the power after a public hearing to revoke the conditional use permit for violation of this Chapter or conditions imposed by the City Council pursuant to subsection 17.09.030. Upon at least ten (10) days notice to the owner and the operator, the City Council may hold a hearing to determine the nature and extent of an alleged violation, and shall have the power, upon a showing of good cause, to revoke the conditional use permit and to require that immediate reclamation measures be commenced.

Chapter 17.37
PARKING STANDARDS

Sections:

17.37.010	Off-Street Parking Standards; General Provisions
17.37.020	Off-Street Parking Standards; Applicability
17.37.030	Number of Off-Street Parking Spaces Required
17.37.040	Location of Parking Areas
17.37.050	Loading Areas
17.37.060	Parking Area Surfacing
17.37.070	Design of Parking Areas
17.37.080	On-Street Parking Standards for Residential Cul-de-Sacs

17.37.010 OFF-STREET PARKING STANDARDS; GENERAL PROVISIONS.

The purpose of this chapter is to ensure that sufficient parking is provided to serve the needs of all land uses in the City of Fruita while encouraging appropriate, demand-based provision of parking infrastructure and facilitating travel choices beyond the personal vehicle. Additional spaces above the total minimum number required may be provided up to 150% of the total requirement for a given development.

17.37.020 OFF-STREET PARKING STANDARDS; APPLICABILITY.

- A. Except as provided herein, the provisions of this Chapter shall apply to all uses established or commenced on or after the effective date of this Title.
- B. For uses existing on the effective date of this Title, the number or dimensions of parking spaces shall not be diminished to less than that required for such use under this Chapter, unless a reduction or waiver is approved pursuant to the guidelines set forth in this Chapter.
- C. When an existing use or building is expanded, off-street parking, loading areas and landscaping shall be provided as required for the added floor area, whether or not they were provided for the existing use or building, unless a reduction or waiver is approved pursuant to the guidelines set forth in this Chapter.
- D. When the use of an existing building or land is changed and requires more off-street parking than the existing use, off-street parking, loading areas and landscaping shall be provided as required for the new use, whether or not they were provided for the existing use, unless a reduction or waiver is approved pursuant to the guidelines set forth in this Chapter.

17.39.30 NUMBER OF OFF-STREET PARKING SPACES REQUIRED.

- A. Off-street parking spaces shall be provided according to the following schedule, and when computations result in a fraction, the nearest whole number shall apply. When parking is required for more than one use, the sum of the requirements for all uses shall apply.

Use Categories (Examples of Uses are in Chapter 17.03)	Minimum Motorized Vehicle Parking Per Land Use (fractions rounded down to the closest whole number)	Minimum Bicycle Parking Per Land Use (fractions rounded down to the closest whole number)	Minimum Motorized Vehicle Parking Per Land Use (DMU Zone District)
Residential Categories			
Accessory Dwelling	None	None	None
Single Family Dwelling, including attached and detached dwellings	3 spaces per dwelling unit	None	2 spaces per dwelling unit
Duplex	3.5 spaces per duplex	None	2 spaces per duplex
Multi-family	1 space per studio or 1-bedroom unit 1.5 spaces per 2- bedroom unit 2 spaces/unit per 3- bedroom or larger unit	1 space per unit	0.95 spaces per studio or 1-bedroom unit 1.25 spaces per 2- bedroom unit 2 spaces per 3-bedroom or larger unit
Short-Term Rental	Same as base Residential Use		
Group living, such as nursing or convalescent homes, rest homes, assisted living, congregate care, and similar special needs housing	1 space per 10 beds	1 space per 20 beds	1 space per 10 beds
Commercial Categories			
Drive-up/Drive- in/Drive-Through (drive-up windows,	See Section 17.37.070 B	None	None

kiosks, ATMs, similar uses/facilities)			
Educational Services, not a school (e.g. tutoring or similar services)	2 spaces per 1,000 sq. ft rentable floor area	1 space per 1,000 sq. ft. rentable floor area	1.5 spaces per 1,000 sq. ft rentable floor area
Entertainment, Major Event	1 space per 6 seats or 4 spaces per 1,000 sq. ft. gross floor area, whichever is greater	2 spaces per 1,000 sq. ft. gross floor area	2 spaces per 1,000 sq. ft. gross floor area
Office, including medical, dental, and veterinary offices (excluding co-working spaces)	2.5 spaces per 1,000 sq. ft. gross floor area	1 space per 1,000 sq. ft. gross floor area	2 spaces per 1,000 sq. ft. gross floor area
Co-Working Spaces	1.5 spaces per 1,000 sq. ft. gross floor area	1 space per 1,000 sq. ft. gross floor area	1 space per 1,000 sq. ft. gross floor area
Outdoor Recreation, Commercial	2 spaces per 1,000 sq. ft	1 space per 1,000 sq. ft	1 space per 1,000 sq. feet
Retail Sales and Service (see also Drive-up Uses)	General Dry Goods: 2 spaces per 1,000 sq. ft	2 spaces per 1,000 sq. ft	1 space per 1,000 sq. ft
	Grocery Stores: 2.5 spaces per 1,000 sq. ft	1 space per 1,000 sq. ft	2 spaces per 1,000 sq. ft
	Food and Beverage: 5 spaces per 1,000 sq. ft	2 spaces per 1,000 sq. ft	2 spaces per 1,000 sq. ft
	Health Clubs, Gyms, Continuous Entertainment (e.g. bowling alleys): 3 spaces per 1,000 sq. ft	2 spaces per 1,000 sq. ft	1 space per 1,000 sq. ft
Bed and Breakfast	0.75 spaces per key	1 space per 4 keys	0.5 spaces per key
Lodging (hotel, motel)	0.75 spaces per key Uses entirely accessory to the hotel will not be subject to a parking requirement. Uses expected to draw external visitors, such	1 space per 4 keys	0.5 spaces per key Uses entirely accessory to the hotel will not be subject to a parking requirement. Uses expected to draw external visitors, such as restaurants and

	as restaurants and conference centers, are subject to the parking requirement applicable to that use.		conference centers, are subject to the parking requirement applicable to that use.
Self-Service Storage	See 17.37.050	None	None
Industrial Categories			
Industrial Service (See also Drive-up Uses)	1 space per 1,000 sq. ft. gross floor area	1 space per 3,000 sq. ft.	N/A
Manufacturing and Production	1 space per 1,000 sq. ft. gross floor area	1 space per 3,000 sq. ft.	N/A
Warehouse and Freight Movement	None	None	N/A
Wholesale Sales	1 space per 1,000 sq. ft. gross floor area	None	N/A
Institutional Categories			
Basic Utilities	None	None	N/A
Community Service	3 spaces per 1,000 sq. ft. gross floor area	2 spaces per 1,000 sq. ft. gross floor area	1.5 spaces per 1,000 sq. ft. gross floor area
Daycare/Childcare	2 spaces per 1,000 sq. ft. gross floor area	1 space per 1,000 sq. ft. gross floor area	1.5 spaces per 1,000 sq. ft. gross floor area
Parks and Open Space	Determined per CU or subdivision review, or no standard	3 spaces per 1,000 sq. ft.	Determined per CU or subdivision review, or no standard
Religious institutions and Houses of Worship	10 spaces per 1,000 sq. ft. of main assembly area	2 spaces per 1,000 sq. ft. of main assembly area	6 spaces per 1,000 sq. ft. of main assembly area
Schools	<u>Grade, elementary, middle, junior high schools:</u> 2 spaces per classroom	5 spaces per classroom	<u>Grade, elementary, middle, junior high schools:</u> 2 spaces per classroom
	<u>High Schools:</u> 7 per classroom	5 spaces per classroom	<u>High Schools:</u> 7 per classroom
Other Categories			
Accessory Uses (with a permitted use)	None	None	None
Agriculture- Nurseries and Similar Horticulture	See Retail Sales and Wholesale, as applicable	See Retail Sales and Wholesale, as applicable	See Retail Sales and Wholesale, as applicable
Temporary Uses	As required by	As required by Section	As required by Section

	Section 17.05.100.E	17.05.100.E	17.05.100.E
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- B. For all uses requiring a Conditional Use Permit, the Community Development Department Director may require a parking demand and supply analysis prepared by a qualified firm or party.
- C. Other Uses. For uses not specifically listed above the Community Development Department Director may require a parking demand and supply analysis prepared by a qualified firm or party.
- D. Reduction and Waiver Opportunities

1. Alternative Requirements. Alternative requirements to those set forth in Section 17.37.030 are available for uses that advance the City of Fruita's Comprehensive Plan.

Use/Amenity	Alternative Requirement	Applicable Zone(s)
Affordable Housing	0.5 spaces per studio or 1-bedroom unit 0.75 spaces per 2-bedroom unit 1.25 spaces per 3-bedroom or larger unit	All
Supportive Housing	0.25 spaces per unit	All
Independent Senior Living (55+)	0.75 spaces per unit	All
Assisted Senior Living (55+)	0.5 spaces per unit	All

2. Standard Reductions. Standard reductions are available for amenities that advance the City of Fruita's Comprehensive Plan. Standard reductions can be deducted automatically from the applicable minimum parking requirement pursuant to Section 17.37.030 if the stated criteria is met, as determined by the Community Development Department Director.

Use/Amenity	Standard Reduction	Applicable Zone(s)
Park or plaza of at	15% reduction	All

least 1,000 sq. ft, open to the public at least 8 hours per day		
Residential Primary Uses Only: On-site car sharing program, including peer-to- peer programs. The carshare program must be active and available in the same building or on the same zone lot as the primary use and made available to building residents.	5 required vehicle parking spaces reduced for each 1 car share space provided	All
On-site bike share program, including peer-to-peer programs. The bikeshare program must be active and located in the same building, on the same zone lot, or in the public right-of-way abutting the subject zone lot. The bike share program must be publicly available.	1 required vehicle parking space reduced for every 4 bike share spaces provided	DMU

3. Demand Analysis. An applicant may propose parking in amounts less than listed in Table 17.37.030 by submitting a parking demand analysis prepared by a qualified third party firm or professional to the Community Development Director for review and approval. The Community Development Director may, at his or her discretion, request the applicant submits supplemental information prepared by a qualified professional, which may include but is not limited to examples from similar uses in other comparable communities. The analysis shall be reviewed concurrently with other pending proposed land use application(s), if any.
4. Off-Site Parking. Applicants may provide parking off-site within a 1,000 foot ADA-accessible walking distance from the entrance to the proposed

development. Parking at the off-site location can be reserved, or shared if a parking study prepared by a qualified third party demonstrating the ability to accommodate shared parking is provided. An applicant requesting the joint use of parking spaces shall submit the final, executed written agreement between the property owners, and a copy of such agreement, once executed, shall be recorded with the Mesa County Clerk and Recorder's Office. If the agreement is terminated at any time, the applicant must fulfill their parking needs at an alternative location and submit the new agreement or proposal to the City.

5. Shared Community Parking (Applicable only in the DMU Zone): Commercial buildings (or commercial portions of mixed-use buildings) in the DMU Zone are eligible for a waiver of parking requirements with the submission of a parking demand and supply analysis demonstrating the ability of surrounding publicly-available parking to accommodate projected demand. Publicly-available parking surveyed must be within a 1,000 foot ADA-accessible walking distance from the proposed development entrance.

17.37.040 LOCATION OF PARKING SPACES.

- A. Off-street parking shall be located only on portions of a lot improved for parking purposes, consistent with city standards and as approved by the city decision-making body. Enclosed underground parking spaces may be located anywhere on the lot.
- B. Parking areas shall not be located closer than five (5) feet to any public sidewalk (see also Section 17.37.070.G.2.a).
- C. Non-residential parking areas containing more than five parking spaces shall not be located closer than ten (10) feet to any residential zone or residential land use. This requirement does not apply in the DMU zone or commercial portions of a C-1 or C-2 zone.
- D. Bicycle parking spaces shall be located as close as possible to the entrance to the building or land use and shall not interfere with motorized or pedestrian traffic.

17.37.050 LOADING AREAS. For those uses requiring deliveries or service by truck and which are not contiguous to an alley, an off-street delivery truck berth at least fourteen (14) feet wide and thirty (30) feet long shall be provided in addition to the required parking area. Where the property or use is served or designed to be served by tractor-trailer delivery vehicles, the off-street loading berth shall be designed so that delivery vehicles using the loading area do not obstruct traffic movements in the parking area or in the public right-of-ways.

17.37.060 PARKING AREA SURFACING. All parking areas including bicycle parking areas

shall be surfaced with asphalt, concrete or brick, except the Rural Estate zones. All parking areas and driving aisles which are not paved shall provide a dust-free surface whether the parking area and driving aisles are required by this Title or not. This includes parking for heavy equipment and overflow parking areas.

17.37.070 DESIGN OF PARKING AREAS. The following design standards shall be met for all parking areas, whether or not the parking area is required.

A. Access.

Except single and two (2) family residential dwellings, each access way between a public street and the parking area shall be not less than fifteen (15) feet or more than thirty-two (32) feet wide at the intersection of the access way with the public street, and a divider stop at least six (6) feet long shall be installed if the access way exceeds twenty-five (25) feet in width. Each access way shall be clearly and permanently marked and defined through the use of landscaping, rails, fences, walls or other barriers or markers. Said marking and defining may be augmented by painting or striping.

B. Stacking Spaces.

For any drive-in or drive-through retail use (such as fast food or pharmacy), four (4) stacking spaces shall be provided for each window, or counter on the entrance side, and one (1) such space on the exit side. For service uses (such as gas stations, quick lube and car washes), two stacking spaces shall be provided for each bay on the entrance side and one such space on the exit side. Stacking spaces shall not interfere with other required parking areas. Stacking spaces must measure at least twenty-two (22) feet long by ten (10) feet wide.

C. Parking for the Disabled.

Parking shall be provided pursuant to the Americans With Disabilities Act guidelines and standards. In the event the Americans with Disabilities Act, as amended, or the city's building codes adopted pursuant to Title 15 of the Fruita Municipal Code contain additional requirements, the strictest standard shall apply.

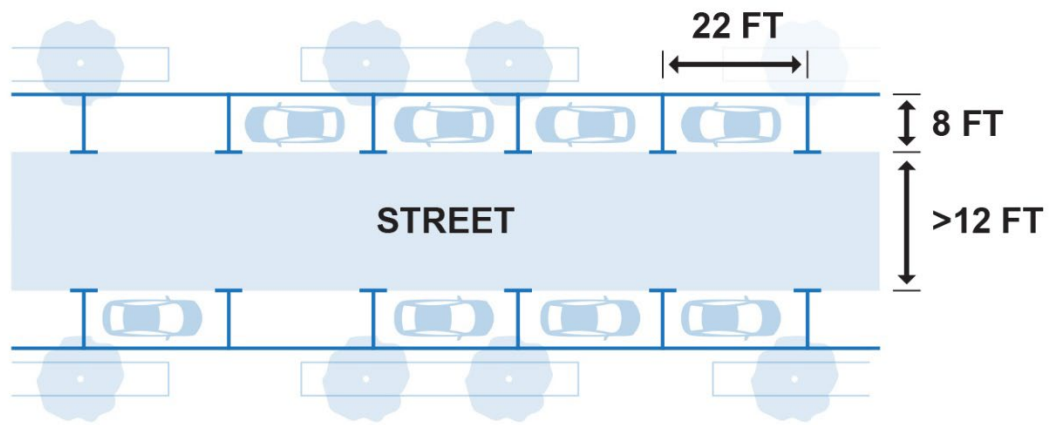
Table 17.37.070.C Minimum Number of Accessible Parking Spaces			
Source: ADA Standards for Accessible Design 4.1.2(5)			
Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (with 60" access aisle, or 96" aisle for vans*)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle

	Column A 1		
1 to 25		1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A**	7/8 of Column A***
1001	20 plus 1 for each 100 over 1000	1/8 of Column A**	7/8 of Column A***
*vans and cars may share access aisles **one out of every 8 accessible spaces ***7 out of every 8 accessible parking spaces			

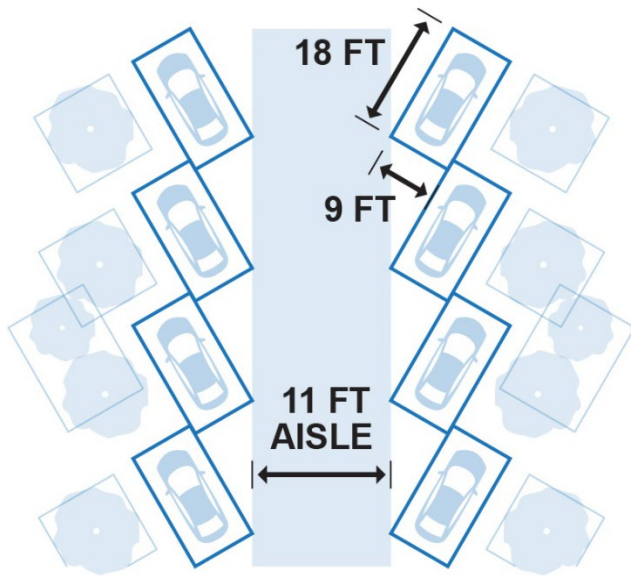
D. Parking Area Layout.

The dimensions of required off-street parking areas shall comply with the standards shown in the following Parking Dimensions Table.

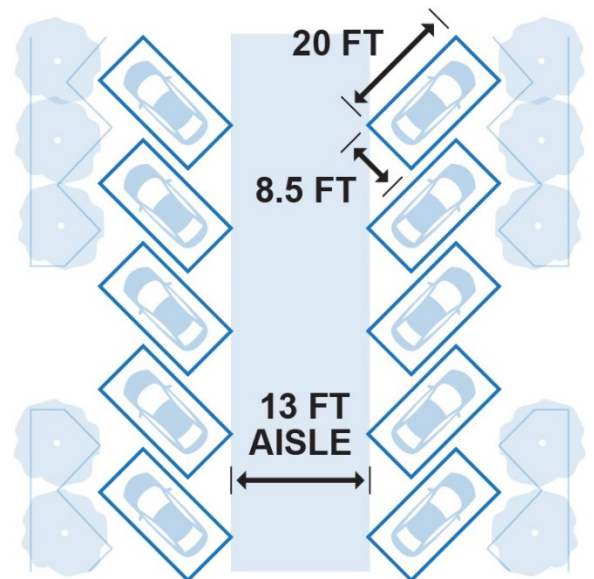
Table 17.37.070.D Parking Dimension Table			
Parking Angle	Stall Width	Stall Depth	Aisle Width
	(feet)	(feet)	(feet)
0°	8.0	22.0	12
30°	9.0	18.0	11
	9.5	18.0	11
	10.0	20.0	11
45°	8.5	20.0	13
	9.0		12
	9.5		15
60°	8.5	21.0	18
	9.0		16
	9.5		15
75°	8.5	19.5	25
	9.0		23
	9.5		22
90°	8.5	18.5	28
	9.0		25
	9.5		24



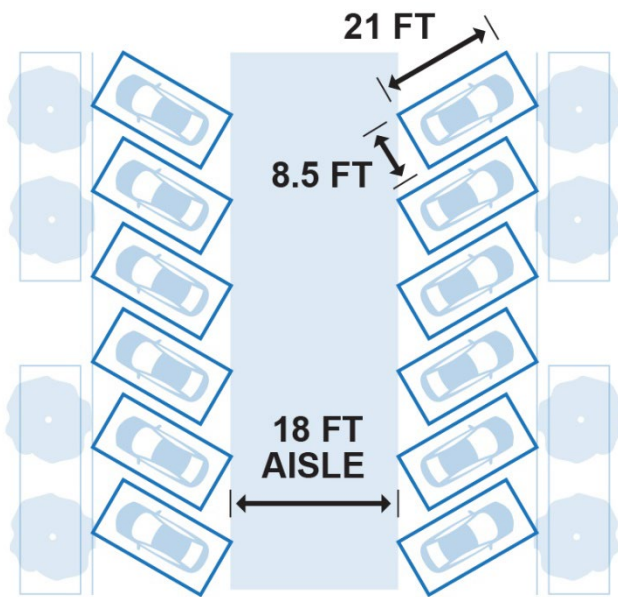
PARALLEL PARKING (ZERO-DEGREE)



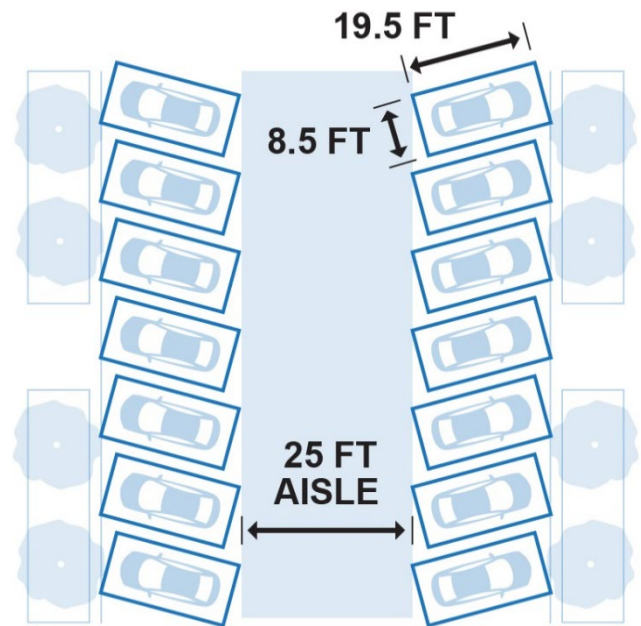
30-DEGREE PARKING



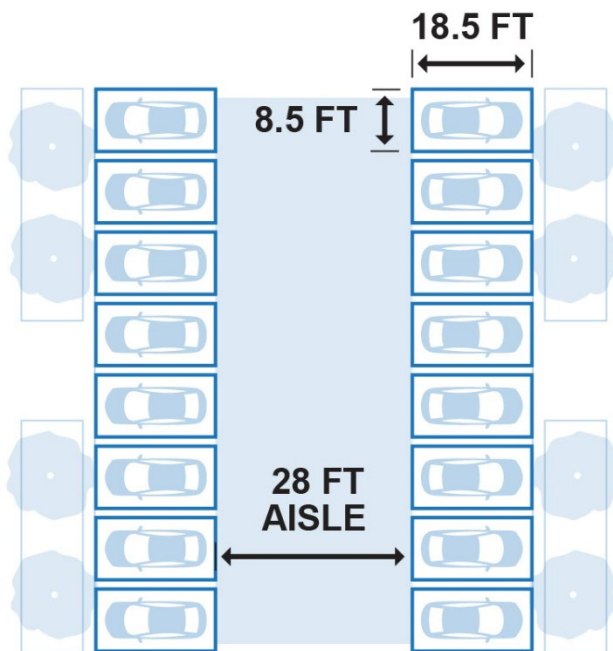
45-DEGREE PARKING



60-DEGREE PARKING



75-DEGREE PARKING



**PERPENDICULAR PARKING
(90-DEGREE)**

E. Grade of Parking.

Outdoor parking areas shall not exceed a four (4) percent grade and shall be not less than one (1) percent grade. The grade of access-ways shall not exceed four (4) percent within one hundred (100) feet of the intersection with a public street.

F. Bicycle Parking Design

Bicycle parking devices shall be designed to allow one tire and the frame of the bicycle to be locked to the parking device with a standard U-lock and shall support the bicycle by the frame and not the tire.

G. Landscaping of Parking Areas.

1. Parking areas. For parking lots containing more than fifteen (15) parking spaces, a minimum ten (10) percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped in addition to landscape requirements contained in other areas of this Code. Such landscaping shall consist of evenly distributed shade trees with shrubs and/or ground cover. "Evenly distributed" means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial shade canopy during summer months. At a minimum, one tree per seven (7) parking spaces shall be planted to create a partial tree canopy over and around the parking area. All parking areas with more than twenty (20) spaces shall include landscape islands with trees to break up the parking area into rows of not more than twelve (12) contiguous (side-by-side) parking spaces. All parking area landscapes shall have dimensions of not less than twenty-four (24) square feet of area, or not less than four (4) feet in width by six (6) feet in length, to ensure adequate soil, water, and space for healthy plant growth. Such areas shall have irrigation.
2. Buffering and Screening Required. Buffering and screening are required under the following circumstances:
 - a. Parking/Maneuvering Area Adjacent to Streets and Walkways. Where a parking or vehicle maneuvering area is within twenty (20) feet of a public street, sidewalk or walkway, an evergreen plant screen (e.g., ground covers and hedge) or decorative masonry wall, arcade, trellis, or similar partially opaque structure at least three (3) feet in width and three (3) feet in height shall be established between the parking/vehicle maneuvering area and public street, sidewalk or walkway as applicable. The required screening shall have breaks or portals to allow visibility (natural surveillance) into the site and to allow pedestrian access to any adjoining walkways. Hedges used to comply with this standard shall be a minimum of thirty-six (36) inches, and not more than forty-eight (48) inches, in height at maturity, and shall be of such species, number, and spacing to provide year-round screening within one (1) year after planting. Landscaping must consist of desert landscaping

or drought tolerant plant species as identified by the Colorado State University Tri-River Extension Service.

- b. Parking/Maneuvering Area Adjacent to Building or private street, sidewalk or walkway. Where a parking or maneuvering area or driveway is adjacent to a building or private street, sidewalk or walkway, the area shall be separated from the building private street, sidewalk or walkway by a curb or wheel stops and a raised walkway, plaza, or landscaped buffer. Raised curbs, bollards, wheel stops, or other design features shall be used to protect pedestrians, landscaping, and buildings from being damaged by vehicles. Where parking areas are located adjacent to residential ground-floor living space, a five (5) foot wide landscape buffer with a curbed edge may fulfill this requirement.

Chapter 17.41

TRANSPORTATION SYSTEM PLANNING AND DEVELOPMENT

Sections:

17.41.010	Street System Standards; General Provisions
17.41.020	Private Street Construction and Inspection
17.41.030	Planning Principles for Local Circulation Systems
17.41.040	Minimum Requirements for Local Circulation Systems
17.41.050	Access to Private Property
17.41.060	General Access Standards
17.41.070	Access Control Standards for Arterial Streets
17.41.080	Access Control Standards for Major Collector and Minor Collector Streets
17.41.090	Access Control Standards for Local Streets
17.41.100	Intersection Requirements

17.41.010 TRANSPORTATION SYSTEM STANDARDS; GENERAL PROVISIONS.

- A. Legislative Authority. The City Council is authorized to regulate vehicular access to or from any public street within the city in order to protect the public health, safety and welfare, to maintain efficient traffic flow, to maintain proper street right-of-way drainage and to protect the functional levels of public streets. The City Council is also authorized to prohibit anyone from causing or permitting a street to become obstructed or damaged in any way, or permitting water, waste water or other substance from any ditch, lateral, canal, reservoir, rain or flume or other artificial course to flow across such a street.
- B. Design Specifications. All streets within the City of Fruita shall be constructed in accordance with the latest version of the City of Fruita Design Criteria and Construction Specifications Manual.
- C. Roadway Classifications. The public street systems within the City of Fruita consist of four roadway classifications as defined in the Fruita Area Street Classifications & Traffic Control Plan document. These four roadway classifications include arterial, major collector, minor collector, and local street designations. Alternate street sections for minor collector and local streets internal to a subdivision will be considered, but should meet the minimum lane widths identified in the City of Fruita Design Criteria and Construction Specifications Manual.
- D. Permits Required.
1. An excavation and right-of-way permit, issued by the City of Fruita, is required for all work within a city right-of-way, including alleys, and for all work adjacent to a city right-of-way where use of the right-of-way is needed for construction vehicles, staging of

materials, or safety barricades. For the purposes of this Section, work is defined as the installation, modification, or repair to any utilities, pavement, curb, gutter, sidewalk, or any alteration of the ground surface within or adjacent to the public right-of-way for the purpose of installing any improvement which will affect drainage patterns or sight distances. The requirements of this Section apply to all projects or construction, and to all individuals and entities, including utility companies which may hold a franchise from the city. A performance bond or other security approved by the city may be required to ensure conformance with permit provisions. Engineered plans prepared by a Colorado registered professional engineer may also be required. All construction shall be in accordance with plans, specifications and details approved by the city. Approved permits shall not be changed without the written consent of the city.

2. Exceptions. The following work and/or projects are exempt from the permit requirements of this Chapter:
 - a. City capital improvement projects for which construction drawings have been issued and approved by the city and for which a project specific traffic control plan has been approved by the city.
 - b. Work performed in or adjacent to a County, State, or federal, right-of-way shall obtain applicable permits from the appropriate governing agency.
- E. Street Maintenance - Notice. The city shall not be responsible for the maintenance of public streets in new subdivisions and developments until the street improvements are approved and accepted by the city. In the event such street improvements have not been accepted, the city may post at all entrances to the subdivision or other development a sign which states: "Notice: Streets within this subdivision have not been accepted by the city for maintenance".

17.41.020 PRIVATE STREET CONSTRUCTION AND INSPECTION.

Construction of private streets within the city are not preferred and shall be considered on an individual basis. Private streets shall be subject to the same process and design standards for a public street. Private streets will not be maintained by the city.

17.41.030 PLANNING PRINCIPLES FOR LOCAL CIRCULATION SYSTEMS.

Basic considerations in the design of local circulation systems shall recognize the following factors: (1) safety for both vehicular and pedestrian traffic; (2) efficiency of service for all users; (3) liability especially as affected by traffic elements in the circulation system; and (4) economy of both construction and the use of land. Design of streets should minimize maintenance costs.

Each of the following principles is an elaboration on one or more of these four (4) factors. The principles are not intended as absolute criteria since instances may appear where certain principles conflict. The principles should, therefore, be used as guides to proper systems layout.

- A. Ensure Vehicular and Pedestrian Access and Provide Utility Access. The primary function of local streets is to serve abutting properties. Street widths, placement of sidewalks, patterns of streets and the number of intersections are related to safe and efficient access to abutting lands.
- B. Control Access to Collectors and Arterials. Local circulation systems and land development patterns should not detract from the efficiency of peripheral collector and arterial streets. Ideally, land development should occur so that no lots require direct access to collector or arterial routes. The number of access points between the local circulation system and the arterial system should be minimized. Intersections along collector and arterial routes should be properly spaced for efficient signalization and traffic flow.
- C. Discourage Speeding. Residential streets should be designed to discourage fast movement of vehicular traffic and incorporate traffic calming measures where appropriate.
- D. Interconnectivity. All developments should be planned to provide both vehicle and pedestrian/bicycle connectivity to adjacent undeveloped properties and to the existing circulation system. Wherever possible, street stubs to adjacent parcels, and connections for pedestrian/bicycle paths shall be incorporated into the design of the development.

17.41.040 MINIMUM REQUIREMENTS FOR LOCAL CIRCULATION SYSTEMS.

In addition to the planning principles outlined in Section 17.41.030, the minimum requirements of this Section shall apply to the design of new streets. Additional specific requirements can also be found in the Mesa County Standard Specification for Road and Bridge Construction. Where conflicts exist between this Section and provisions of the Mesa County Standard Specification for Road and Bridge Construction, the provisions of this Section shall apply.

- A. Development Access. Any development exceeding two hundred fifty (250) average daily trips (ADT) or twenty-five (25) units shall have a minimum of two (2) fully platted ingress/egress points (dedicated rights-of-way), or one (1) fully platted ingress/egress point plus a secondary access point for emergency vehicles. Any development exceeding three hundred fifty (350) ADT or thirty-five (35) units shall have a minimum of two (2) fully platted ingress/egress points. Any development exceeding seven hundred fifty (750) ADT or seventy-five (75) units shall have a minimum of three (3) fully platted ingress/egress points.
- B. Phased Developments. For phased developments, secondary access shall be installed at or prior to the time at which the total number of units served by a single access exceeds twenty-five (25) units.
- C. Courts and Cul-de-sacs. A cul-de-sac shall not exceed two hundred fifty (250) ADT and in no case should its length exceed six hundred (600) feet, unless a secondary emergency access is provided, in which case the cul-de-sac length may be increased to one thousand (1000) feet. Dead end streets or cul-de-sacs without bulbs shall not be permitted. Streets provided or

designed for future connection to adjacent areas shall be improved. Such connections which provide access to structures shall have dedicated cul-de-sacs. A cul-de-sac bulb which may be vacated in the future shall be improved to paved standards if access is provided to dwellings or other structures. Cul-de-sac bulbs not providing access to dwellings or other structures shall be improved with a gravel surface and barricades may be required.

- D. Street Stubs. Proposed street stubs to adjacent undeveloped property may be considered in meeting the requirements of subsections (B) and (C) of this Section. The City Council shall have sole discretion to make this determination based on a consideration of current information pertaining to the potential and timing of the development of adjacent parcels.
- E. Urban and Rural Street Sections Based on Lot Size. Urban street sections, which include concrete curb and gutter, and either detached or attached sidewalks on both sides, are required in all residential and commercial developments serviced by public streets, wherein the minimum lot size in the development is less than two (2) acres. For residential developments wherein the minimum lot size in the development is equal to or greater than one-half (½) acre, the sidewalk on one (1) side of the street may be deleted at the discretion of the City Council. Rural street sections without curb and gutter, or sidewalks, are allowed only in developments having a minimum lot size of two (2) acres or greater.

17.41.050 ACCESS TO PRIVATE PROPERTY.

In order to qualify as access to property within the city, a street shall be one (1) of the following:

- A. Public Maintained Street. A public street maintained by the city, the Colorado Department of Transportation (C.D.O.T.) or other public agencies. All new driveways or other access points to a public street shall be designed in accordance with the Fruita Design Criteria and Construction Specifications.
- B. Private Street Not Maintained by a Public Agency. Such a street shall be constructed according to the provisions of this Chapter and shall be owned by a homeowners association or other private entity that will take responsibility for maintenance. A maintenance waiver shall be signed by all lot owners accessing the street acknowledging that the city does not maintain the street, and will be recorded by the city in the records of the Mesa County Clerk and Recorder. The right-of-way widths and level of improvement of such street shall be the same as that of a public street.
- C. Shared Drives. The level of improvements required for shared driveways shall be designed according to the following guidelines.
 - 1. Widths of Shared Drives:
 - a. Less than twenty (20) feet: A maximum density of two (2) units will be allowed

on the shared driveway. Minimum improved travel surface roadway width shall be considered on an individual basis.

- b. Twenty (20) feet to twenty-six (26) feet: A maximum density of four (4) units will be allowed on the shared driveway. Minimum improved travel surface roadway width of eighteen (18) feet.

2. Access Requirements. The access requirements for shared driveways are:

- a. Garages and other parking facilities accessing shared driveways shall be located on the lot in such a manner that movement into or out of the garage or parking area will not encroach on adjacent private property or parking areas.
- b. No parking is allowed on shared driveways. For all lots accessing from a shared driveway, one additional off-street car parking space must be provided.

17.41.060 GENERAL ACCESS STANDARDS.

- A. Purpose. The lack of adequate access management to the city's street system and the proliferation of driveways and other access approaches can become a major contributor to traffic accidents and a major factor contributing to the functional deterioration of city streets. As new access approaches are constructed, the traffic speed and capacity of streets decrease, while congestion and hazards to the traveling public increase. As a result, significant amounts of tax dollars can be spent to improve city streets and provide additional operational capacity and safety.

The objective of these standards is to both maintain safety and preserve street capacity while at the same time allowing accessibility to adjacent land uses, in a manner consistent with the functional classifications of roads.

B. Standards.

- 1. In all areas where curb and gutter are provided, all driveways accessing single family building lots shall conform to the standard construction details published by the city. In areas where curb and gutter are not provided, all driveways shall have a minimum surface width of eighteen (18) feet at the edge of pavement, or drive surface, and taper to a minimum surface width of twelve (12) feet at a distance of six (6) feet from the edge of the drive, and maintain this surface width to the edge of the city street or right-of-way.

A paved surface with a minimum of twelve (12) feet in width shall be available to fire, ambulance and police vehicles to within one hundred (100) feet of the principal entrances to all principal buildings.

2. In the Rural Estate (RE) and Agricultural Residential (AR) zones for lots three (3) acres in size or larger, access surfacing material outside of the public right-of-way may be six (6) inches Class 6 aggregate base course, or other material such as recycled asphalt, so long as the surfacing material is treated to maintain a dust free condition.
3. The maximum total width of access(s) serving any one (1) parcel shall be limited to thirty-two (32) feet.
4. Access grades may not exceed ten (10) percent. The grade of the entrance and exit shall slope downward and away from the street surface at the same rate as the normal cross slope and for a distance equal to the width of the shoulder, but in no case less than ten (10) feet from the pavement edge.
5. All driveways and approaches shall be constructed so that they do not interfere with the drainage system of the public street or highway. The applicant will be required to provide, at its own expense, drainage structures at entrances and exits which will become an integral part of the existing drainage system. The dimensions of all drainage structures shall be approved by the city prior to installation.
6. No more than one (1) access shall be allowed to any parcel or lot having an area of one (1) acre or less. Additional accesses to parcels or lots having an area of greater than one (1) acre shall be subject to all of the provisions of Chapter 17.03 and this Chapter 17.41.
7. An access approach that has a gate across it shall be designed so that the longest vehicle using it can completely clear the traveled way of the public street when the gate is closed.
8. A parcel or lot fronting on two (2) public streets with identical functional classifications shall take access from the street with the lowest twenty (20) year projected traffic volume. Residential lots fronting on two local roads do not necessarily have to take access from the street with the lowest twenty (20) year projected traffic volume.

17.41.070 ACCESS CONTROL STANDARDS FOR ARTERIAL STREETS.

- A. Private Direct Access. Private direct access to arterials is discouraged. Private direct access to such arterial streets shall be permitted only when the property in question has no other reasonable access to the city's street system. When direct access is necessary, the following shall be required:
 1. Access shall continue until such time that some other reasonable access to a lower functional category street is available and permitted. Access permits issued by the city or by the Colorado Department of Transportation shall specify the future reasonable

access location and, if known, the date the change will be made. This provision shall not be construed as guaranteeing a public street access. Subdivisions of land shall make provisions for all parcels or lots in the area to have access to a lower functional classification street in the future. Back-out driveways shall not be allowed.

2. No more than one (1) access approach shall be provided to an individual parcel or to contiguous parcels or lots under the same ownership unless it can be shown that additional accesses would be significantly beneficial to the safety and operation of the street or the local circulation system. Subdivision of a parcel or lot shall not result in additional access unless shown as necessary for safety or operational reasons.
 3. On two-lane arterials, access approaches may be limited to right turns only if the approach is within five hundred (500) feet, measured near curb line to near curb line, from the nearest signalized intersection. Under no circumstances may a driveway be closer than one hundred (100) feet to the curb line of the intersecting street when measured from the driveway edge nearest the intersecting street.
 4. Access approaches on multi-lane divided roads shall be limited to right turns only unless either: (1) the approach does not have the potential for signalization; or (2) it can be shown that allowing left turns would significantly reduce congestion and safety problems at a nearby intersection; or (3) there are no intersections, existing or planned, which allow a U-turn, and left turns can be safely designed without signalization; or (4) a painted median is present which allows continuous turning storage.
- B. Spacing and Signalization Shall be Considered. In areas where higher traffic volumes are present or growth is expected in the foreseeable future that will require signalization, it is imperative that the location of all public approaches be planned carefully to ensure good signal progression. An approved traffic engineering analysis shall be made to properly locate all proposed connecting access approaches that may require signalization.

17.41.080 ACCESS CONTROL STANDARDS FOR MAJOR COLLECTOR AND MINOR COLLECTOR STREETS.

- A. Private Direct Access. No more than one (1) access approach shall be provided to an individual parcel/lot or to contiguous parcels/lots under the same ownership unless it can be shown that additional access approaches would not be detrimental to the safety and operation of the public street, and are necessary for the safety and efficient use of the property. Back-out driveways shall not be allowed on Major Collector streets. Under no circumstances may a driveway be closer than one hundred (100) feet to the flow line or edge of the traveled way of the intersecting street when measured from the driveway edge nearest the intersecting street. Subdivision of a parcel shall not result in additional access unless shown as necessary for safety or operational reasons. Shared driveways are encouraged on all collector or larger roads to minimize access points.

- B. Spacing of Intersecting Streets. Spacing of major intersecting streets should be at one-quarter (1/4) mile intervals plus or minus two hundred (200) feet. Spacing of other streets where intersection channelization improvements are not required in accordance with the Fruita Design Criteria and Construction Standards shall be at intervals no less than three hundred (300) feet, providing that reasonable access cannot be obtained from lower classification streets.
- C. Separation of Driveways. Individual driveways shall have a minimum edge to edge separation distance of one hundred (100) feet. Where the lot dimensions or the location of existing driveways prevent one hundred (100) feet separation, the minimum separation distance shall be the maximum achievable, as determined by the City Engineer on a case-by-case basis.

17.41.090 ACCESS CONTROL STANDARDS FOR LOCAL STREETS.

- A. Private Direct Access. Accesses located near an intersection of two (2) local streets shall be constructed so that the edge of the access nearest the intersection is no less than fifty (50) feet from the flowline of the intersecting street. Where the intersecting street is classified as a collector or arterial, setbacks for accesses shall be no less than eighty (80) feet from the flowline of the intersecting street. All accesses are subject to the sight distance requirements of subsection 17.41.090.
- B. Spacing of Intersecting Streets. Intersecting public and private streets shall be located opposing where possible or be offset by a minimum of one hundred fifty (150) feet when measured from near curb line to near curb line
- C. Separation of Driveways. Individual driveways shall have a minimum edge to edge separation distance of ten (10) feet. Driveways cannot be located closer than five (5) feet to any side property line.

17.41.100 INTERSECTION REQUIREMENTS.

- A. General. Most streets intersect at grade. To minimize potential conflicts and to provide adequately for the anticipated crossing and turning vehicle movements, geometric design of the intersection at grade shall be given careful consideration. The geometric design components of all intersections, including but not limited to the location, approach radii, and sight distance, shall be designed in accordance with the Design Criteria and Construction Standards.

Chapter 17.43
PARKS, OPEN SPACE AND TRAILS

Sections:

- 17.43.010 Purpose**
- 17.43.020 General Provisions**
- 17.43.030 Public Parks, Open Spaces, and Trails Criteria**
- 17.43.040 Maintenance of Public Parks, Open Spaces, and Trails**

17.43.010 PURPOSE. The purpose of this Chapter is to guide the planning and design of public parks, trails, open spaces, and other public sites, where such facilities are required to be provided pursuant to this Title. Where a provision of this Chapter is preceded by the word “shall” or “must,” the provision is mandatory; absent the word “shall” or “must,” the provision is a guideline. However, the city decision-making body may invoke guidelines as requirements where the applicant has requested approval of a Density Bonus under Chapter 17.09.050, Planned Unit Development approval under Chapter 17.19, or where the applicant has requested one or more adjustments pursuant to Chapter 17.13 and/or other provisions of this Title. The intent of this Chapter is to implement the city’s Comprehensive Plan by providing for a comprehensive, integrated network of public parks, trails, recreation facilities and open spaces to be developed and preserved as the community grows.

17.43.020 GENERAL PROVISIONS.

- A. The city will typically require the payment of a fee in lieu of land dedication for the parks, open space, and trail impact fee/dedication requirement as outlined in Chapter 17.47 of this Title. As part of the dedication requirement set forth in Chapter 17.47, residential developments with 1,000 residents or more (based on the schedule in Section 17.47.090) shall provide at least six acres of land for a public neighborhood park and/or community park and at least one (1) mile of trail land. For residential developments with less than 1,000 residents, public parks, open space, and/or trails may be provided or a fee in lieu of this dedication requirement may be paid as determined by the city decision making body through the land development review process and based on the approval criteria of Title 17.
- B. Land to be dedicated for parks, open space, and/or trails must be contained in an out lot dedicated to either the City of Fruita or a Property Owners’ Association and the out lot must include an easement for public access/use on the same basis as the land in question is available to the residents of the development in which it is located. Private open space, parks, trails, or other private recreation areas in any development shall not be a substitute for the required public parks, open space, and trails impact fee/dedication.
- C. In all cases, land and improvements and/or a fee in lieu of land and improvements will

be required to meet the requirements set forth in Chapter 17.47.

- D. Ownership and maintenance of public parks, open space, and trails shall be determined by the City Council on a case-by-case basis through the development review process. The city reserves the right to reject any land which it deems unsuitable for park, open space, and/ or trail purposes.
- E. Landscape improvements to public parks, open space and trails must follow landscaping requirements of Appendix A of the Fruita Land Use Code.

17.43.030 PUBLIC PARKS, OPEN SPACE, AND TRAILS CRITERIA.

- A. In determining which land areas are appropriate and/or necessary for public parks and eligible for credit against the otherwise required park, open space, and trails impact fee/dedication, the following criteria must be considered:
 - 1. Land area to be dedicated should be at least two acres in size.
 - 2. The land area to be dedicated should be in an area underserved by existing public parks as identified by the Fruita Parks, Health, Recreation, Open Space, and Trails Master Plan.
 - 3. The land should be located adjacent to other open space or schools.
 - 4. The land area's proposed improvements must be designed, signed and stamped by a licensed landscape architect and must include at a minimum the following: water rights, irrigation system, appropriate groundcover, at least one large tree per every 5,000 square feet of landscape area, and at least one of the following:
 - a. Paved, multi-purpose area for court games (e.g. basketball, tennis);
 - b. A multi-purpose play field with backstop;
 - c. Playground equipment and a bench;
 - d. Shade structure for picnics and sitting within a landscaped setting.
 - 5. The land area to be dedicated should have at least twenty percent (20%) of the perimeter of the parkland area adjacent to a public right-of-way so that the park is visible to the public and to increase safety by allowing activities in the park to be easily seen from other public areas.
 - 6. The land to be dedicated should be relatively flat and lend itself to organized recreational activities without the need for substantial improvements to accommodate facilities for recreational activities.

7. The size and shape of the land to be dedicated must lend itself to recreational activities.
 8. The soil conditions and drainage must allow for development of park facilities.
 9. The parkland should be used to organize and focus lot, block, and circulation patterns in a development and enhance surrounding development. Street, block, lot and building patterns shall respond to the views, landscape and recreational opportunities provided by such parks, open space, and trail areas.
 10. Surrounding the site with the rear property lines of residential lots is strongly discouraged.
 11. Parks to be used for on-going organized recreational activities should include adequate access and parking areas (both motorized vehicles and bicycles) for the type and intensity of uses intended for the park.
 12. Uses designated within public parks shall be appropriate to the context and character of the site and the intensity of the proposed development.
 13. Notwithstanding the preceding criteria, a five-foot wide landscaped outlot abutting and parallel to public right-of-way for collector and arterial roads will be eligible for credit against the otherwise required parks, open space and trails impact fee/dedication. Both the land area and the improvement to the land are eligible for credit. The minimum required width is five feet and the minimum required landscaping must consist of one large tree for every forty linear feet along the public right-of-way and appropriate groundcover and irrigation. This outlot must be owned and maintained by a Homeowners Association and contain a public access easement in order to receive credit.
- B. The following public trails will be required to be provided in all developments to provide an adequate bicycle and pedestrian transportation system. The land area required for the public trail is not eligible for credit against the otherwise required public parks, open space, and trails impact fee/dedication. Construction of the public trail(s) may be required and the cost of trail construction of a primary trail or an off-site trail is eligible for credits against the public parks, open space, and trails impact fee/dedication. Internal links necessary to provide an adequate bicycle and transportation network internal to the development are not eligible for credits.
1. Land for primary trails as identified in the Parks, Health, Recreation, Open Space, and Trails Master Plan must be provided. Trail heads should be required for primary trails at all major access points and should include parking areas, restrooms, shaded

seating and picnic areas, regulatory, informational and entry signs, and drinking fountains where feasible.

2. Local trails must be provided to link to existing or planned future trails.
 3. Trails that provide a valuable link to destinations such as schools, parks, open space, other neighborhoods, and commercial areas must be provided.
 4. Trails are required to provide a connection to avoid out-of-direction travel by pedestrians and bicyclists. As an example, a trail is required at the end of all cul-de-sacs to connect to an existing road, other trail or future development connection if the property has development potential (regardless of future land use).
 5. Trails proposed adjacent to a roadway should be a last resort when no other options exist. Attached sidewalks are not considered trails. If a trail is proposed adjacent to a roadway, the trail must be detached from the roadway and trail user safety shall be a primary consideration.
 6. The width of land required for primary trails shall be at least 30 feet, but 50 feet or more is preferred. The width of the trail surface for a primary trail should be at least 10 feet and may be required to be wider in certain circumstances such as in areas of limited site distance. The width of land required for local trails must be at least 16 feet for short connections (such as between cul-de-sacs) and wider for longer connections (such as a trail behind rear property lines along a block). The width of the trail surface for local trails should be at least 8 feet and may be required to be wider in certain circumstances.
 7. Trails will be required to be paved in most circumstances and trails must be paved in order to receive credit.
 8. Vertical clearance on all trails must be at least eight (8) feet. Horizontal clearance must be at least 3 feet on both sides.
 9. Adequate lighting should be required at all trailheads, primary trail access points, underpasses and at intersections with other trails. Adjacent roadway lighting may be used where possible.
 10. Maximum grade should be no more than 5%.
- C. Open space that is not a park as defined in this Title is not eligible for credits against the otherwise required park, open space, and trails impact fee/dedication (with the exception of five foot wide landscape strips as described in Section 17.43.030.A.13). In open space areas,

the emphasis is on resource protection or preservation and public use should be balanced with the need for resource protection. Types of public use should be limited to trails, benches, picnic sites, environmental interpretation and educational areas. Easements for a public trail, protection of natural or historical features, watersheds, wildlife, and similar resources may be required and improvements to open space areas may be eligible for credits against the otherwise required public parks, open space, and trails impact fee/dedication and will be determined on a case-by-case basis by the city decision making body through the land development review process.

- D. Appropriate buffering and setbacks shall be used between environmental resources and proposed development to ensure that the proposed development does not degrade the existing habitat or interfere with other uses. At a minimum, the following buffer standards apply to the following environmental resources:

Canals and drains – fifty (50) feet on both sides of the canal or drain as measured from the centerline of the canal or drain.

Washes and creeks and wetlands – one hundred (100) feet on both sides of the wash, or creek as measured from the centerline of the wash or 100 feet from the edge of the wetland area.

Colorado River – three hundred (300) feet on both sides of the river as measured from the centerline of the river.

17.43.040 MAINTENANCE OF PUBLIC PARKS, OPEN SPACE, AND TRAILS.

- A. Any homeowners' association of other organization established to own and maintain public parks, open space, or trails shall maintain such lands and improvements in a reasonable order and condition in accordance with the approved land development.
- B. In the event a homeowners' association or other organization established to own and maintain public parks, open space, or trails fails at any time after approval of the development by the city to maintain the public parks, open space, or trails in a reasonable order and condition, the Community Development Department may serve written notice upon such organization or upon the residents of the development setting forth the manner in which the organization has failed to maintain the public parks, open space, or trails, as applicable, in a reasonable order and condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of a hearing thereon before the City Council which shall be held within twenty-one (21) days of the notice. At such hearing, the City Council may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured.

If the deficiencies set forth in the original notice or in the modification thereof are not cured within said thirty (30) days, or any extension thereof, the City Council, in

order to preserve the taxable values of the properties within the development, and to prevent the public park, open space, or trails from becoming a public nuisance, may enter upon said public park, open space, or trails and maintain the same for a period of one (1) year. Said entry and maintenance shall not vest in the public any right to use the park, open space, or trails, except when the same is voluntarily dedicated to the public by the developer. Before the expiration of said year, the City Council, upon its own initiative or upon the written request of the organization previously responsible for the maintenance of the public park, open space, or trails, shall call a public hearing upon notice to such organization or to the residents of the development, at which hearing such organization or the residents of the development shall show cause why such maintenance by the city should not, at the election of the city, continue for a succeeding year. If the City Council determines that such organization is ready and able to maintain the public park, open space, or trails in a reasonable condition, the city shall cease to maintain such area at the end of the one (1) year period. If the City Council determines that such organization is not ready and able to maintain said public park, open space, or trails in a reasonable condition, the city may, at its discretion, continue to maintain the public park, open space, or trails during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

- C. The cost of the maintenance of a public park, open space, or trails by the City of Fruita, including and administration fee equal to ten (10) percent of such cost, shall be paid by the organization established to own and maintain the park, open space, or trail, and any unpaid assessments shall become a tax lien on the properties within the development. The city shall file a notice of such lien in the office of the Mesa County Clerk and Recorder upon the properties affected by such lien within the development and shall certify such unpaid assessments to the Mesa County Board of County Commissioners and the Mesa County Treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement, and remittance of general property taxes.

Chapter 17.45
FLOOD DAMAGE PREVENTION

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17.45.010 PURPOSE.

- A. It is the purpose of this Chapter to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
1. Protect human life and health;
 2. Minimize expenditure of public money for costly flood control projects;
 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. Minimize prolonged business interruptions;
 5. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
 6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
 7. Insure that potential buyers are notified that property is located in a flood hazard area.
- B. The flood hazard areas of the City of Fruita are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection

and relief, all of which adversely affect the health, safety and general welfare of the public.

- C. These flood losses are caused by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
- D. In order to accomplish its purposes, this Chapter uses the following methods to reduce flood losses:
 - 1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 - 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - 3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
 - 4. Control filling, grading, dredging and other development which may increase flood damage;
 - 5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

17.45.020 Authority.

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council for the City of Fruita, Colorado, does hereby adopt the floodplain management contained herein.

17.45.030 Applicability.

- A. This Chapter applies to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the City of Fruita, Colorado. A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Chapter.
- B. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another Chapter, Chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- C. The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study of

Mesa County, Colorado and Incorporated Areas,” dated October 16, 2012, with an accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Title. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this Chapter and may be supplemented by studies designated and approved by the City of Fruita. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, and/or FIRMs on file and available for public inspection.

- D. No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Chapter and other applicable regulations. Nothing herein shall prevent the Fruita City Council from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.
- E. In the interpretation and application of this Chapter, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under State statutes.
- F. Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Community or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

17.45.040 FLOODPLAIN ADMINISTRATION.

- A. The City Engineer is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
 - 1. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate that may be required.
 - 2. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this Chapter.

3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
4. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Chapter, including proper elevation of the structure.
5. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. When Base Flood Elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of this Chapter.
7. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
8. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
9. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
10. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

- B. **Application Procedures.** Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed

structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with Article 4, Section B.

C. **Review Procedures.** Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

10. The relationship of the proposed use to the comprehensive plan for that area.

D. Variance Procedures.

1. The Board of Adjustment, shall hear and render judgment on requests for variances from the requirements of this Chapter, in accordance with the processes outlined in Title 2, and Chapter 17.04.040.
2. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in this Chapter have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
3. Upon consideration of the factors noted above and the intent of this Chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.
4. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
5. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
6. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - i. Showing a good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Chapters.
 - c. Any applicant to whom a variance is granted shall be given written notice

that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

7. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
 - a. The criteria outlined in Article 4, Section D (1)-(9) are met, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Appeal Procedures.

1. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.
2. Any person or persons aggrieved by the decision of the Board of Adjustment may appeal such decision in the courts of competent jurisdiction.
3. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

- F. Penalties For Noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of City of Fruita. Nothing herein contained shall prevent the City of Fruita from taking such other lawful action as is necessary to prevent or remedy any violation.

17.45.050 DEFINITIONS

The following definitions are applicable only to the flood control regulations and this Chapter of the Land Use Code. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

ALLUVIAL FAN FLOODING - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT - Any area of a building having its floor sub-grade (below ground level) on all sides.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY - A structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section H, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Article 5, Section H.

DEVELOPMENT - Any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured

home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

- The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL REGISTER - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;
2. The unusual and rapid accumulation or runoff of surface waters from any source; or
3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

FLOOD INSURANCE RATE MAP (FIRM) - An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOODPLAIN ADMINISTRATOR - The community official designated by title to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT – A permit required before construction or

development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management Chapter.

FLOODPLAIN MANAGEMENT - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS - Zoning Chapters, subdivision regulations, building codes, health regulations, special purpose Chapters (such as a floodplain Chapter, grading Chapter and erosion control Chapter) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODPROOFING - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

FREEBOARD - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior

to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) - FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE - A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance

premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

MATERIAL SAFETY DATA SHEET (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill- handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

NO-RISE CERTIFICATION – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA's action whereby one or more map panels

are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

START OF CONSTRUCTION - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or

2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

THRESHOLD PLANNING QUANTITY (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - A grant of relief to a person from the requirement of this Chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Chapter. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

17.45.060 GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

- A. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- E. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of

anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

- F. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- H. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

17.45.070 SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B(7), or (iii) Article 5, Section G, the following provisions are required:

A. RESIDENTIAL CONSTRUCTION

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

B. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article 5, Section H, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain

Administrator, as proposed in Article 4, Section C.

C. ENCLOSURES

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. MANUFACTURED HOMES

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

1. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

E. RECREATIONAL VEHICLES

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use, or
3. Meet the permit requirements of Article 4, Section C, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

F. PRIOR APPROVED ACTIVITIES

Any activity for which a Floodplain Development Permit was issued by City of Fruita or a CLOMR was issued by FEMA prior to November 5, 2013 (date of this Chapter) may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Chapter if it meets such standards.

17.45.080 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONE)

Located within the Special Flood Hazard Area established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

A. RESIDENTIAL CONSTRUCTION

All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

B. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article 5, Section H, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

17.45.090 FLOODWAYS.

Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Article 2). Located within Special Flood Hazard Area established in Article 3, Section B, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
- B. If Article 5, Section D (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- C. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

17.45.100 ALTERATION OF A WATERCOURSE.

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

- A. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- B. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- C. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and Chapters.
- D. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
- E. All activities within the regulatory floodplain shall meet all applicable Federal, State and City of Fruita floodplain requirements and regulations.
- F. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
- G. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

17.45.110 PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL.

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

A. RESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be

elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

B. NONRESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

17.45.120 STANDARDS FOR SUBDIVISION PROPOSALS.

- A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
- B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this Chapter.
- C. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B of this Chapter.
- D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

17.45.130 STANDARDS FOR CRITICAL FACILITIES. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

A. CLASSIFICATION OF CRITICAL FACILITIES

It is the responsibility of the City of Fruita to identify and confirm that specific structures in their community meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
- c. Designated emergency shelters;
- d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- f. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the City of Fruita that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility

or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City of Fruita on an as-needed basis upon request.

2. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- a. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- b. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- c. Refineries;
- d. Hazardous waste storage and disposal sites; and
- e. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this Chapter, but exclude later amendments to or editions of the regulations. Specific exemptions to this category include:

- a. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.

- b. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- c. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

3. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- a. Elder care (nursing homes);
- b. Congregate care serving 12 or more individuals (day care and assisted living);
- c. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

4. Facilities vital to restoring normal services including government operations.

These facilities consist of:

- a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the City of Fruita that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Chapter, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the City of Fruita on an as-needed basis upon request.

B. PROTECTION FOR CRITICAL FACILITIES

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Chapter, protection shall include one of the following:

1. Location outside the Special Flood Hazard Area; or
2. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

C. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

New Critical Facilities shall, when practicable as determined by the City of Fruita, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

CHAPTER 17.47
PUBLIC DEDICATIONS AND
IMPACT FEES

Sections:

17.47.010	Purpose
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17.47.025	Payment of Impact Fees
17.47.030	Criteria for Requiring Dedications or Payment of Impact Fees
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17.47.120	School Land Dedication Fee Trust Fund
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17.47.140	Chip and Seal Impact Fee
17.47.150	Drainage Impact Fee

17.47.010 PURPOSE. The City Council declares it is the policy of the city that dedications of real property and/or exactions in the form of monetary payments shall be required in those instances where the City Council determines that a proposed project, development or improvement: (1) will create the need for new facilities or services, or (2) will result in increased use of existing services or facilities in such a manner as to require the expansion or eventual replacement thereof. In those instances, this Chapter shall be applied to provide a method whereby such dedication or impact fee shall be quantified to assure that a fair and equitable proportionality is established between the cost of the improvements or facilities which are attributable to the proposed development or improvement (and which are therefore the responsibility of the owner/developer), and the overall public cost of the provision of such improvements or facilities. In interpreting and implementing the provisions of this Chapter, the City Council shall give due weight to the needs of the general public, and especially the development or improvement proposed, so as not to burden disproportionately the general public and existing residents with costs or expenses to provide services or facilities, the need for which are generated by the proposed development or improvement.

17.47.020 AUTHORITY TO IMPOSE DEDICATION OR IMPACT FEE REQUIREMENTS.

- A. Pursuant to Article XX, Section 6 of the Constitution of the State of Colorado, § 29-20- 104.5, C.R.S and provisions of other applicable law, authority is specifically given to the City Council, as a part of its legislative function, to establish general schedules

or formulas for monetary impact fees for those classes of development that are subject to real property dedications, public improvement requirements, and/or impact fees.

- B. Moneys collected pursuant to this Chapter shall be utilized to pay for growth-related improvements, facilities and equipment in the general functional area of municipal facilities, recreation, transportation, stormwater management and general government or administration. Operation, maintenance or replacement costs are specifically excluded from eligibility for these funds.
- C. The City Council, in its discretion, shall accept or reject any proposed dedication of land to the city prior to final approval of a proposed development. Dedication of land to the city is required to be in fee title.

17.47.025 PAYMENT OF IMPACT FEES

- A. Notwithstanding any provision contained in this Chapter to the contrary, any vacant building lot within the city created prior to January 1, 1980, shall be subject to the impact fees/land dedications set forth in this Chapter. Fees for such lots shall be calculated based on the impact fees in effect and payable at the time of Planning Clearance approval.
- B. Impact fees assessed for developments approved after the effective date of this Chapter shall be calculated based on the impact fees in effect and payable at the time of Final Plat approval.
- C. Impact fees for multi-family dwellings and non-residential subdivisions may be paid at the time of Planning Clearance approval.
- D. Required land dedications cannot be deferred until the time of Planning Clearance approval and must be provided with the plat.

17.47.030 CRITERIA FOR REQUIRING DEDICATIONS OR PAYMENT OF IMPACT FEES. Dedications or payment of an impact fee is required of an owner/developer based on the following:

- A. That a legitimate, identifiable public purpose is served by the required dedication or payment of a fee;
- B. That the City of Fruita is acting within its power to provide the facilities or services for which the fee or dedication is required, either directly or through such dedication/impact fee process, for the benefit of the residents of the community;
- C. That, but for the proposed development or improvement or the proposed development or improvement in conjunction with other developments, actual or proposed, the city would not currently be considering providing or expanding either the services or facilities in question (i.e. existing facilities and services are adequate to service the existing population);
- D. That the proposed development or improvement, and the projected use of facilities and

services generated by such development or improvement, is a contributing cause to the need for new or expanded facilities or services;

- E. That the City of Fruita would be legally justified in declining to approve the proposed development or improvement unless the dedication or impact fee was imposed because of the negative effect of the proposed development or improvement, on either existing private property or the city's or another local government's facilities or services;
- F. That the City of Fruita, acting within its lawful authority, requires all owners or developers similarly situated to provide similar, in both quantity and quality, or roughly similar dedications, or to pay the same or roughly the same fees;
- G. That the dedication or impact fee will serve the proposed development or improvement directly, provided, however, the fact that certain services or facilities of a general nature which provide a general benefit to all residents of the community including residents of the proposed development shall not constitute a valid ground for failing to impose a dedication or fee requirement; and
- H. That the dedication or impact fee is required to and does address needs for capital facilities brought about by the proposed development or improvement which needs are not addressed by any other requirement of this Title.

17.47.040 ALTERNATIVE METHODS FOR DETERMINING THE EXTENT OF DEDICATION OR IMPACT FEE REQUIREMENTS.

Upon a determination by the City Council pursuant to the provisions of this Chapter that payment of an impact fee or a dedication of land may lawfully be required, the extent of such fee or dedication shall be determined using whichever of the following methods is selected by the owner/developer.

- A. The city has adopted local or nationally recognized general standards or formulas relating to dedications and impact fees, as contained in this Chapter, and is authorized to adjust or modify these general standards and formulas from time to time by action of the City Council. Such standards or formulas shall be applicable to all owners/developers unless the owner/developer requests the city to implement the provisions of subsection C of this Section. If an owner/developer voluntarily accepts the general standards or formulas of the city by proceeding to a hearing before the Planning Commission and/or City Council, the owner/developer shall be deemed to have waived any rights under subsection C and shall be conclusively presumed to have accepted the general standards or formulas contained in this Chapter.
- B. In the event no general standard or formula has been adopted relating to a certain type of dedication or impact fee, the owner/developer may voluntarily agree to comply with the dedication or fee recommended by the city staff, or request a review and determination by City Council in a public hearing. Unless the owner/developer affirmatively requests the city to implement the provisions of subsection C of this Section, at the pre-application conference prior to submittal of a subdivision Sketch Plan

application, PUD Concept Plan application, or similar application, he shall be deemed to have waived any rights under subsection C and shall be conclusively presumed to have accepted the dedication or fee requirement recommended by city staff.

C. Individualized Study.

1. An owner/developer may request that an individualized study or report be made by the city relating solely to its proposed development or improvement in order to determine whether or not dedications or improvements shall be required, and, if so, to determine the extent thereof. Such study or report shall be individualized to the owner/developer's property or proposed development or improvements, shall fairly and accurately delineate the need for additional public services or facilities which will be generated by the owner/developer's proposed development or improvement, and shall include consideration of the following criteria:
 - a. Whether the proposed public improvements or facilities would be required but for the owner/developer's proposed development or improvement;
 - b. Whether, and to what extent, it is reasonably likely that other developments or residents thereof will utilize the public facility or improvement in question;
 - c. Whether existing public facilities or services can adequately serve the proposed development or improvement without the additional expense to construct, expand, or improve the public facility or service in question; and
 - d. The conclusions of such study or report shall contain a recommendation as to the nature of the dedications(s) or impact fee(s) to be required, and the extent or amount thereof. In determining any such extent or amount of a dedication or impact fee to be required of an owner/developer, a proportion shall be established between the total cost of providing or expanding such necessary public facilities or services on the one hand, and the amount or extent of such total cost which is attributable to, or is caused or generated by, the proposed development or improvement, on the other hand. The extent of the dedication or amount of the fee due from the owner/developer must bear roughly the same proportion to the total cost of providing the public services or facilities in question as the need for such facilities or services generated by the owner/developer's development or improvement bears to the general population's need for or use of the facilities or services.
2. The owner/developer shall request such an individualized study or report at the pre-application conference prior to the submittal of a subdivision Sketch Plan application, Planned Unit Development Concept Plan application, or similar application and shall pay to the city a fee established by the City Council to secure a portion of the city's review and supervision expenses. In addition, at such time the owner/developer shall submit to the city a deposit in an amount established by the city equal to the estimated costs the city will incur for any necessary engineering, consultant and planning

services to be performed by persons not employed on a full time basis by the city or by city staff. The required fee and deposit shall be tendered to the City Clerk and no public hearing on the owner/developer's application shall be held unless the fee and deposit is paid in full. Unless a request for an individualized study or report is made at the time provided herein, such right shall be deemed to be waived by the owner/developer.

3. Prior to the approval of any requested rezoning, conditional use permit, subdivision, Planned Unit Development, other development or Planning Clearance, if applicable, the owner/developer shall pay to the city the actual cost to the city for any engineering, consultant, or planning services provided under the direction of the city necessary to conduct the individualized study or report.
 4. The owner/developer may agree with the provisions of such study or report, in which case the same shall be submitted to the Planning Commission and the City Council as a joint finding and recommendation. However, if the owner/developer disagrees with all or any part of the city's report, the owner/developer may, at his sole expense, submit a written report detailing the owner/developer's findings with regard to the criteria set forth in this Chapter, and shall submit the same to the Planning Commission and the City Council. The Planning Commission and the City Council shall consider such reports at all required public hearings, and the City Council shall ultimately determine what dedications or impact fees, if any, are required, and if so, the extent or amount of such dedications or fees. The decision of the City Council shall be final, subject to the owner/developer's right to appeal to the Mesa County District Court.
- D. Any owner/developer may prepare or cause to be prepared, at his sole cost and expense, a study or report described in subsection (C) above. Said report shall be in writing and, upon the submission of such study or report, the owner/developer shall pay a fee established by the City Council to compensate the city for the review time and costs of the city's staff in reviewing said study or report. In the event the city needs to obtain engineering, consultant or planning services by a person who is not a regular full time employee of the city to conduct such review, the owner/developer shall pay the costs for such services in the manner set forth in subsection (C). The city's staff shall review such study or report, and shall comment thereon in writing to the Planning Commission and the City Council. Any disagreement by the city's staff with any of the findings or conclusions of such study or report shall be delivered to the owner/developer of the development or improvement in question. In the event of disagreement between the city's staff and the owner/developer as to what dedications or impact fees should be required, the City Council shall determine what dedications or impact fees, if any, are required, and if so, the extent or amount of such dedications or fees. The decision of the City Council shall be final, subject only to the right of the owner/developer to appeal the same to the Mesa County Court.
- E. The city staff retains the right to require preparation and submittal of an individualized report or study as a condition of review of the proposed development, with said report(s) paid for solely by the owner/developer.

17.47.050 BASIS OF DETERMINATION. In deciding whether to impose a dedication or impact fee requirement, and the extent of such dedication or impact fee, the Planning Commission and the City Council shall consider the criteria set forth in Section 17.47.030, and shall be guided by the overriding principle that an impact fee or public dedication requirement is unfair, disproportionate and unconstitutional if it imposes a burden on an owner/developer which in equity and fairness should be borne by the public in general. However, an impact fee or dedication will be required in compliance with all existing constitutional requirements when the failure of the owner/developer to provide the dedication or impact fee would fail to remedy impacts to the city, other local governments or to the general public created or exacerbated by the owner/developer's proposed project or improvement to such an extent that the City Council would be justified in denying approval of the proposed project or improvement.

17.47.060 FEE FUNDS ESTABLISHED USE OF IMPACT FEES.

- A. All impact fees collected pursuant to this Chapter shall be deposited in funds created by the city and shall be used for the purposes for which they were collected. All impact fees collected pursuant to this Chapter shall be accounted for in the manner required by Sections 29-1-801, et. seq., C.R.S. and other applicable law.
- B. Funds collected from impact fees shall be used to acquire additional real property necessary for the purposes for which they were collected, or for purposes of acquiring or improving capital facilities, as defined in Section 29-20-104.5, C.R.S., related to the purposes for which such funds were collected. A "capital facility" includes planning, preliminary engineering, engineering design studies, land surveys, final engineering, permitting, property acquisition, and the construction and installation of all the necessary features for the facilities. Funds collected from impact fees shall not be used for operations or periodic or routine maintenance of city or other government facilities.
- C. If an impact fee is assessed in lieu of a dedication to address large scale impacts that are borne by the city and by the public in general, as in the case of school land dedication fees, public park, open space, and trail fees, transportation impact fees and storm water and drainage management fees, such impact fees shall be considered as directly benefiting the proposed development even if such fees are used to partially fund the mitigation of impacts that are of general benefit to the community as a whole.
- D. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which impact fees may be expended, such fees may be used to pay debt service on such bonds or similar debt instruments.
- E. Monies in the impact fee account shall be considered spent in the order collected, on a first-in/first-out basis.

17.47.070 CREDITS, OFFSETS, AND REIMBURSEMENTS.

- A. As a general policy, owners/developers that propose, who are required to construct improvements of a type and nature for which an impact fee would normally be utilized, such owners/developers may be eligible for offsets of up to one hundred (100) percent of the

impact fees assessed to a particular phase or filing of a development, provided that the constructed improvements are of general benefit to the City of Fruita and general public, as determined by the city, and are not required solely because of the development. No offsets shall be provided where the constructed improvement is required to be constructed pursuant to the requirements set forth in this Chapter.

- B. For improvements that meet the requirements set forth in subsection (A) above, where the required exceed the costs of the assessed impact fee, the city may fund a portion of the cost of the improvements using collected impact fees, if available.
- C. For constructed public improvements meeting the requirements set forth in subsection (A) above, where the construction cost exceeds the assessed impact fee, owners/developers may apply to the city for a credit against impact fees assessable at a future phase or filing. The eligibility and amount of the fee credit shall be determined by the city taking into consideration the intent and purpose of the applicable development impact fee and the monetary value of the constructed improvement provided by the owners/developers which otherwise would be paid for from development impact fee proceeds. Credits for the cost of constructed improvements may be carried over or transferred to successive filings or phases within the same development, but in no case shall credits be carried over or transferred to a different development, project or owner/developer. In lieu of applying for the credit set forth herein, owners/developers may apply for reimbursement by the city from impact fees previously collected by the city from the owners/developers in connection with the same development or project.
- D. In all cases, offsets or credits against one (1) fee, such as a transportation impact fee, cannot be used to offset or credit another type of fee, such as a Public Parks, Open Spaces, and Trail Impact Fee Dedication.
- E. Constructed improvements to designated State Highways are eligible for the same offsets and credits provided for improvements to other streets and roads, provided the improvements are of benefit to the general public and not just the property being developed. By way of example, street widening and the installation of a sidewalk along a State Highway would be eligible for offsets and credits, but acceleration/deceleration lanes strictly servicing the development would not be eligible for offsets or credits.
- F. Specific to transportation impact fees, offsets or credits for the value of right-of-way abutting the development are specifically not allowed.
- G. The purpose and monetary value of any offset, credit, or reimbursement against assessed impact fees shall be specifically delineated in the appropriate section of the subdivision or development improvements agreement for the development, and the basis (e.g. cost of constructed improvements) of the offset, credit, or reimbursement shall be detailed in the improvements agreement.
- H. The City Council may, in its sole discretion and by an affirmative vote of at least three fourths (3/4) of all members of the Council, waive, suspend, defer or alter all or some of the impact fees imposed by this Chapter, or agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the city that

are not restricted to other uses upon finding such waiver, suspension, alteration or payment is necessary to promote the economic development of the city or public health, safety and general welfare of its residents. Any resolution adopted by the City Council providing for the waiver, suspension, deferment or altering of impact fees shall contain specific findings of fact supporting the waiver, suspension, deferment or alternation or payment.

17.47.080 REFUND OF IMPACT FEES PAID.

If a development approval expires without commencement of construction or development, the owner/developer shall be entitled to a refund without interest, of impact fees paid, unless otherwise agreed by the city and the owner/developer, except that the city shall retain one (1) percent of the fee to offset a portion of the cost of collection and refund. The owner/developer must submit a letter requesting a refund to the Community Development Department within thirty (30) days following expiration of the development approval granted.

17.47.090 PUBLIC PARKS, OPEN SPACES, AND TRAILS IMPACT FEE/DEDICATION.

- A. The City of Fruita has determined that new residential developments cause financial impacts to the city's public park, open space, and trail systems necessitating capital improvements that would not be required without such development. The city has adopted a Parks, Open Space, and Trails Master Plan which provides general policy guidelines and planning recommendations for provision of public parks, open space, and trails. The purpose of this section is to implement and be consistent with the City's Master Plan, specifically, the parks, open space, and trails section of the Master Plan, by requiring all new residential development to contribute a proportionate share of the public parks, open space, and trails necessary to accommodate any impacts or need for such facilities through the dedication of land and/or fees in lieu of land dedications.

The dedication of land and/or the payment of the cash equivalent will enable the city to provide parks in the proper location and of the proper size to serve the citizens of the city. This regulation also is adopted to help discourage the proliferation of small parcels, tracts, and outlots that are ostensibly created as open space and/or parks but are not sized, located or maintained as functional sites for these uses.

Consistent with this Section and with Chapter 17.43 of this Title, every residential development which increases the number of dwelling units above that which was approved as of the effective date of this title shall include a dedication of land to the city or other entity, as determined by the City Council, to be used for public parks, open space, and/or trails and/or payment of a public parks, open space, and trails fee in lieu of such dedication, as provided herein. Accessory dwelling units are not subject to this fee.

- B. Amount of Land Dedication Required. Land for public parks, open space, and trails shall be based on the adopted level of service standard as identified in the Parks, Open

Space, and Trails Master Plan (POST Plan) as follows:

For every 1,000 residents, the following parks and trail areas are needed to meet the level of service standard identified in the POST Plan:

2.0 acres of neighborhood parks
4.0 acres of community parks, and
1.0 mile of trails

Parkland per household is the product of the average household size multiplied by the level of service standard. Average household size is 2.52 people per dwelling unit (which is the US Census Bureau's 2006 Colorado statewide average):

$2.52 * (2.0/1,000) = .005$ acres per household for neighborhood parks
 $2.52 * (4.0/1,000) = .010$ acres per household for community parks
 $2.52 * (1.0/1,000) = .0025$ miles per household for primary trails

- C. Dedication and Improvement of Public Parks, Open Space, and Trails. Standards for when a fee in lieu of land dedication is required or when land is required to be dedicated, including improvements to the dedicated land, is identified in Chapter 29 of this Title.

If credit is to be given for land and improvements dedicated for public use, the credit shall be based on the estimated cost of the improvements including installation costs and the average cost of land in the area. The average cost of land shall be set annually by the City Council by resolution.

- D. Payment in Lieu of Dedication and Improvements. The amount of payment to be provided in lieu of land dedication shall be based on the number of acres of land dedication which otherwise would be required. The following formula, combined with consideration of affordability issues, the goals of the city's Master Plan, and other community issues, will be used to determine the fee required and such fee shall be set annually the City Council by resolution.

Acquisition costs of un-subdivided development-ready land: \$57,000 per acre

Neighborhood park development costs: \$140,000 per acre
Community park development costs: \$180,000 per acre
Primary trails development costs: \$420,000 per mile

Neighborhood park fee calculation: $.005 \text{ acres} \times (\$57,000 + \$140,000) = \985
per household

Community park fee calculation: $.010 \text{ acres} \times (\$57,000 + \$180,000) =$
\$2,370

Primary trails fee calculation: $.0025 \text{ miles} \times \$420,000 = \$1,050$
per household

per

household Maximum combined parkland and trail

impact fee = \$4,405

The above land values and development costs are based on average land values in Fruita and data on recent park and trail construction costs in the region for 2009.

- E. The city may require the applicant to dedicate other land owned by the applicant for use as a public park, open space, or trail. If the city determines to accept other land not within the development instead of, or as partial payment toward, the land dedication/fee payment required hereunder, the amount of land dedication shall be the same amount of land that would otherwise be dedicated within the proposed development.
- F. The proceeds from a fee in lieu of land dedication shall be placed in a public parks, open space, and trails fund established by the city and maintained for the acquisition and improvement of land for public parks, open space, and trails, which may benefit the residents of the city in general, as well as those of the proposed development.

17.47.100 SCHOOL LAND DEDICATION.

- A. When Required. Every subdivision or other development, which is proposed to contain residential units and which increases the number of permitted residential dwelling units over and above that approved as of the effective date of this Section shall be required to dedicate land for school purposes, based on the increased number of approved dwelling units, if the Mesa County School District No. 51 ("School District") determines that such development includes within it "suitable school lands" which are necessary for implementing a school plan. If such subdivision does not contain "suitable school lands," the fee required under Section 17.47.110 shall be paid in lieu of a school land dedication, based upon the increased number of approved residential dwelling units. The provisions of this Section and Section 17.47.110 shall be the exclusive standards for the dedication of "suitable school lands" and imposition of fees in lieu thereof as prescribed by Section 17.47.110, and in the event of any conflict between such provisions and any other provision contained in this Chapter, the requirements of this Section and Section 17.47.110 shall control.

In the event a dedication of land for school purposes is required under this Section, such dedication shall be made by the owner at or before the time of approval of the subdivision Final Plat, Final Planned Unit Development Plan, or Planning Clearance. No such approval shall be granted until good and sufficient title to the "suitable school lands" to be dedicated under this Section, free and clear of all liens and encumbrances whatsoever, except for current general property taxes and patent reservations, is conveyed or dedicated to, and accepted by, the School District.

- B. Amount. The amount of "suitable school lands" which may be required to be dedicated under this Section shall be roughly proportional to the additional real property required by the School District for expansion of existing school facilities and construction of new school facilities to accommodate enrollment growth from the proposed residential subdivision and the future inhabitants thereof. Such rough proportionality shall be deemed to be met by the following formula:

$$\frac{\text{Number of dwelling units in the proposed residential development} \times \text{Student generation fee factor of .023}}{\text{Number of acres of suitable school lands required}}$$

The student generation fee factor is based upon a study conducted by Mesa County Valley School District No. 51 and referenced in the Intergovernmental Agreement between Mesa County Valley School District No. 51 and the City of Fruita, and may be modified from time to time in the manner provided in subsection 17.47.110(F) below.

17.47.110 FEE IN LIEU OF SCHOOL LAND DEDICATION.

- A. When Required. Except for developments where a school land dedication is required in accordance with Section 17.47.100 above, or is permitted under subsection (D) below, or an exemption under subsection (C) applies, all proposed developments, which increases the number of approved dwelling units over and above the number approved as of the effective date of this Section, shall pay fees in lieu of school land dedication (SLD fee) in an amount per unit, based upon the increased number of dwelling units, set forth in subsection (F) hereof. In no case shall the requirement of SLD fees or the amount thereof be subject to individualized determination as provided in subsection 17.47.040(C) or (D). SLD fees shall be collected by the city for the exclusive use and benefit of the School District, and shall be expended by such School District solely to acquire real property or an interest in real property reasonably needed for development or expansion of school sites and facilities, or to reimburse the School District for sums expended to acquire such property or interests. Revenues derived from such fees shall be used only for such purposes.
- B. Payment of SLD Fee.
1. No Planning Clearance for a building containing residential units shall be approved until and unless the applicable SLD fee has been paid as required by this Section based on the increased number of approved dwelling units. No SLD fee shall be required or collected under this Section with respect to any subdivision for which final approval has been granted as of the effective date of this Section.
 2. In the sole discretion of the City Council, the city may elect to approve a Planning

Clearance subject to payment of required SLD fees due under this Section pursuant to a deferred payment plan. Provided, however, any deferred payment plan shall provide for a performance guarantee such as a performance bond, irrevocable letter of credit, or escrow fund approved by the City Council, to assure payment of such fees.

3. Any plan for payment of SLD fees on a deferred basis in accordance with subsection (B)(2) above shall be documented in a written deferred payment plan. Such deferred payment plan shall contain, at a minimum, the following:
 - a. The legal description of the real property subject to the deferred payment plan.
 - b. A detailed statement of the SLD fees owed pursuant to the condition of approval of the Planning Clearance, which remain unpaid.
 - c. The agreement of the owner/developer to pay all SLD fees owed with respect to such real property upon the sale of such property or upon application for a Planning Clearance permit for one (1) or more dwelling units to be constructed on such property, which ever first occurs.
 - d. A description of the performance guarantee assuring that such fees shall be paid when due and owing.
 - e. The notarized signature of the record owners of the property or their duly authorized agents.
 - f. The notarized signature of the Community Development Department Director or his or her designee, indicating approval of the deferred payment plan.
- C. Exemptions. The following shall be exempted from dedication of school lands or payment of the SLD fee:
 1. Subdivisions or other developments containing only non-residential buildings;
 2. Subdivisions or other developments containing only nursing homes, adult foster care facilities, or specialized group care facilities; and
 3. Approved residential developments that are subject to recorded covenants restricting the age of the residents of dwelling units contained within such developments in such a manner that the dwelling units may be classified as "housing for older persons" pursuant to the Federal Fair Housing Amendments Act of 1988.
- D. Credits.
 1. An applicant for subdivision or other development approval who owns other "suitable school lands" within the same School District may offer to convey such lands to the District in exchange for credit against all or a portion of the SLD fees

otherwise due or to become due. The offer must be in writing, specifically request credit against fees in lieu of school land dedication, and set forth the amount of credit requested. If the city and the School District accept such offer, the credit shall be in the amount of the value of the "suitable school lands" conveyed, as determined by written agreement between the city, the School District and the owner/developer.

2. Credit against SLD fees otherwise due or to become due will not be provided until good and sufficient title to the property offered under this subsection is conveyed to and accepted by the School District in which the development is located. Upon such conveyance, the School District and the city shall provide the owner/developer with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and a description of the project or development to which the credit shall be applied.
3. Credits shall not be transferable from one project or development to another.

E. Refund of Fees Paid.

1. Any SLD fee, which has not been expended by a School District within five (5) years of the date of collection shall be refunded, with all accumulated interest, if any, to the person or entity which paid the fee. Prior to such refund, such amount shall be reduced by an amount equal to three (3) percent of the principal amount to be refunded, for the costs incurred by the city in the refund of such fee. The city shall give written notice by first class mail to the person or entity, which paid the fee at the last known address as contained in the records of the city or Mesa County Clerk and Recorder. If such person or entity does not file a written claim for such refund with the city within ninety (90) days of the mailing of such notice, such refund shall be forfeited and shall be retained and used for the purposes set forth in subsection 17.47.110(A).
2. The City Council may, upon the School District's request, extend the five (5) year period of time specified in Paragraph (1) of this subsection above upon a showing that such extension is reasonable necessary in order for the School District to complete or close a purchase transaction entered into in writing by the District prior to expiration of such period, or to give the District an opportunity to exercise a purchase option it acquired prior to expiration of such period. Such request shall be made at a public hearing of the City Council. In no event shall any extension of time exceed one (1) additional five (5) year period.

F. SLD Fees-Establishment and Application.

1. SLD fees shall be collected and held in trust for the use and benefit of the School District pursuant to Section 17.47.120. Such fees shall be expended by the School District to acquire additional real property for expansion of existing school facilities and construction of new school facilities necessitated by new residential development in the School District, or to reimburse the School District for sums

expended to acquire such property. The amount of the SLD fee shall be based on a methodology which takes into account the student generation rates of new residential development, the quantity of land required to build new school facilities on a per pupil basis, and the anticipated cost of acquiring suitable school lands in the School District to expand existing school facilities and construct new school facilities to accommodate new residential development without decreasing current levels of educational services.

2. At the time SLD fees are initially adopted and annually thereafter, the City Council shall determine the average cost per acre of "suitable school lands," after a public hearing. The city shall give the School District sixty (60) days prior written notice of the hearing. Such hearing shall consider the School District's long-range capital improvement plans and any other evidence, comments or recommendations submitted by the School District and the public in making such determination.
3. The SLD fee shall then be set, by resolution of the City Council, in accordance with the following formula:

$$\begin{array}{l} \text{Cost per acre of suitable school lands within the School District x} \\ \text{Student generation fee factor of .023=} \\ \text{SLD fee per dwelling unit} \end{array}$$

[For example, if the average cost of "suitable school lands" is fifteen thousand dollars (\$15,000.00) per acre, the SLD fee per dwelling unit would be fifteen thousand dollars (\$15,000.00) times (X) .023, or three hundred forty-five dollars (\$345.00).]

4. The student generation fee factor may also be modified at the hearing, provided that either the School District gives notice to the City Council that it requests such a modification at least thirty (30) days prior to the hearing, or the City Council adopts a motion providing for consideration of a modification of said fee factor and its hearing notice to the School District pursuant to this subsection so states. Said hearing shall consider the School District's school facilities plan currently in place, the methodology and data supporting the proposed modification, and any evidence, comments or recommendations submitted by the County Community Development Department, the City's Community Development Department, the School District and interested members of the public.

17.47.120 SCHOOL LAND DEDICATION FEE TRUST FUND.

1. Creation. A School Land Dedication Trust Fund ("SLD Trust Fund") shall be established for the benefit of School District. All SLD fees collected by the city, pursuant to this Chapter, for approved residential dwelling units in the city and within the boundaries of the School District shall be deposited in the SLD Trust Fund. Such SLD Trust Fund shall be governed by the provisions of this Chapter, as supplemented by the terms of the intergovernmental agreement entered into between the city and the School District. Such agreement shall substantially comply with the requirements

of this Section, and shall include, but need not be limited to, provisions regarding the following: Maintenance and management of the SLD Trust Fund as a separate interest-bearing account in accordance with Sections 24-75-601 to 605 C.R.S., apart from all other funds of the city, the funds in which are held in trust for the use and benefit of the School District;

2. The powers and fiduciary obligations of one (1) or more trustees named in the agreement with respect to the management of the SLD Trust Fund;
3. The retention of a specified portion of the SLD fees collected by the city for the reasonable costs incurred by the city in the collection of said fees;
4. An accounting system to ensure that SLD fees are expended for the provision of new or expanded school sites benefiting the School District for which such fees are paid;
5. An annual audit of the SLD fees collected and disbursed, with said audit to be in accordance with generally accepted accounting standards for governmental entities;
6. A periodic update of the School District's school facilities plan;
7. An agreement by the School District to submit an annual report to the city describing the School District's expenditure of SLD fees during the preceding fiscal year;
8. An agreement by the School District to furnish, when requested by the city, an accounting from the chief financial officer of the District concerning the expenditure of the SLD fees paid to the School District; and
9. An annual review by the city of the matters set forth in the report described in subsection 17.47.110(F) above.

Any intergovernmental agreement entered into pursuant to this subsection may contain terms permitting an SLD Trust Fund to be managed by one (1) or more trustees in combination with other SLD Trust Funds established under provisions of comparable school site fee resolutions or ordinances adopted by the county or other municipalities within the county.

B. Ownership. The School District shall be beneficial owner of the funds in its SLD Trust Fund, but the signature of the chief financial officer of the School District, or his or her designee, and the signature of the City Manager or his or her designee, shall be required for the withdrawal of monies from such fund.

C. Earmarking And Expenditure Of SLD Fees.

1. All SLD fees collected by the city shall be properly identified and promptly deposited in the SLD Fee Trust Fund, and shall not be withdrawn for any purpose except as authorized in accordance with this Chapter, and any applicable intergovernmental agreement;

2. Each SLD fee collected by the city pursuant to this Chapter, shall be earmarked for the School District, and shall be expended only for the purposes set forth in this Chapter. Any changes to School District boundaries that would affect the expenditure of fees in lieu of land dedication must be reviewed by the City Council prior to the implementation of such changes. Such fees shall not be used to pay general obligation bonds, or to compensate for costs incurred by the School District for costs incurred to upgrade existing educational facilities, unless such fees are expended for the purpose of increasing the site or land area for such existing facilities for the benefit of the School District.
3. Upon the written request of the School District or its authorized representative, the City Council or its authorized designee shall promptly notify the Board of Education of the amount of fees in lieu of dedication received and deposited in the SLD Trust Fund for its benefit and the amount of interest earned thereon, as of the end of the month immediately preceding the month in which the request was made. Upon receipt of such notice, the School District may file with the Board a request for disbursement to such District of all or part of the fees and interest accumulated in its SLD Trust Fund for purposes authorized by this Chapter.
4. Such request for disbursement shall be in writing, set forth the amount of funds needed, and contain a brief description of the purposes for which the funds will be used.
5. Such request shall be heard at a regular meeting of the City Council held within thirty (30) days after it is filed, at which time the School District, through its authorized representative, shall demonstrate to the City Council a need for the moneys requested to expend for purposes authorized by this Chapter. Such demonstration shall be deemed sufficient if it is shown that the request is in furtherance of an existing capital improvement or site acquisition plan duly adopted by the Board of Education and has been included and relied upon in its budget for the fiscal year in which the moneys are to be expended. Upon the City Council's approval, which shall not be unreasonably withheld, the requested funds shall be transferred to the School District's Capital Projects Fund.

17.47.130 TRANSPORTATION IMPACT FEE.

- A. The City of Fruita has determined that new developments and expansion, modification or redevelopment of existing developments cause financial impacts to the city's transportation system necessitating capital improvements that would not be required without such development. These impacts include wear and tear on existing pavements requiring rehabilitation or reconstruction of existing streets, increased traffic volumes requiring widening to improve traffic flow and provide better turning movements, additional traffic control devices and safety concerns associated with the interaction of vehicular traffic with pedestrian and bicycle traffic.
- B. The city has further determined that typically, no single development creates enough traffic to warrant construction of off-site improvements based strictly on a traffic capacity analysis or a required level of service analysis. However, each development incrementally

depletes existing capacity and incrementally decreases the level of service. The cumulative impacts from new developments results in unacceptable depletions in capacity and level of service, thereby requiring the expenditure of capital funds for improvements.

- C. The city has also determined that irrespective of a capacity or level of service analysis for traffic flow, construction of facilities to facilitate safe turning movements for vehicles, and for the safe movement of bicycles and pedestrians are reasonable requirements for urban streets, and shall be accounted for in any impact fee calculation.
- D. Consistent with the city's need to plan for, engineer and construct transportation improvements resulting from the cumulative impacts of new development, including bikeways and sidewalks, the city's general policy is that the proportional impact resulting from a new development be paid by the owner/developer, and consistent with the provisions of this Chapter, a transportation impact fee shall be assessed for new development.
 - 1. For developments for which a site-specific traffic impact analysis is conducted pursuant to Sections 17.47.040 and 17.21.100 of this Title, the transportation impact fee shall be calculated by the city based upon the following criteria:
 - a. An evaluation of the site-specific traffic impact analysis, which shall describe the percentage impact of the development on the local street network in the vicinity of the development. The traffic impact analysis shall include an estimate of twenty (20) year future traffic volumes, and use a pass-by traffic growth rate of two (2) percent or less, unless otherwise approved by the city. The traffic impact analysis should also include projected travel mode split for users of the new development. The analysis should include projected demand generated by the development for bicycle and pedestrian infrastructure, as well as on-street pick-up and drop-off and loading space.
 - b. Estimated costs of future improvements on local streets and intersections, plus a calculated pro rata cost for improvements to regional roads. The scope of future local improvements shall be based on the long-term needs of the city, as determined by the city, consistent with long range planning documents, and irrespective of a strict level of service analysis. Improvements may include, but are not limited to, curb, gutter, and sidewalk; bikeways; traffic signals; pavement widening, replacement, or rehabilitation; traffic calming devices; and traffic control devices. The scope of future regional road improvements, and estimated costs thereof, shall be determined from current and future regional planning studies, including the Transportation Impact Fee Study prepared for Mesa County by Duncan & Associates, and dated September, 2002. (The "Duncan Study"), and the subsequent update (Transportation Impact Fee Study for Mesa County, Colorado) dated December, 2018.
 - c. The roughly proportional impacts from the development on individual local streets and/or intersections multiplied by the total estimated costs for these improvements,

plus a calculated pro rata amount for regional roads, shall equal the total transportation impact fee.

2. The base rate for residential subdivisions with single family and duplex dwelling units for which no traffic impact analysis is performed, shall be six thousand seven hundred sixty-three dollars (\$6,763.00) per dwelling unit. The base rate may be adjusted by resolution of the City Council annually for inflation based on the change in the Colorado Department of Transportation's Construction Cost Index. For multi-family dwelling units in excess of two units, the base rate of six thousand seven hundred sixty-three dollars (\$6,763.00) shall be multiplied by a factor of 0.68 per unit for the fee per dwelling unit. Said fees are based upon traffic impact analysis performed according to subsection (D)(1) of this Section and adjusted to reflect recent actual costs incurred on local road projects. The base rate may be adjusted by resolution of the City Council annually for inflation based on the change in the Colorado Department of Transportation's Construction Cost Index.
3. The transportation impact fee for commercial, industrial and other uses specified in the following table shall be a base rate of six thousand seven hundred sixty-three dollars (\$6,763) multiplied by the factor listed for that use. The base rate may be adjusted by resolution of the City Council annually for inflation based on the change in the Colorado Department of Transportation's Construction Cost Index.

LAND USE TYPE	ITE CODE	UNIT	FACTOR
Other			
Mobile Home/Manufactured Home/RV Park	240	per unit or space	0.53
Hotel/Motel	310/320	per room	0.62
Retail/Commercial			
Shopping Center/Commercial	820	Per 1000 sf floor	1.64
Auto Sales/Service	840/942	Per 1000 sf floor	1.48
Bank, Drive-In	912	Per 1000 sf floor	2.72
Convenience Store w/ Gas Sales	853	Per 1000 sf floor	3.90
Golf Course	430	Hole	1.90
Movie Theater	444	Per 1000 sf floor	4.88
Restaurant, Standard	931	Per 1000 sf floor	2.21
Restaurant, Fast Casual	930	Per 1000 sf floor	3.32
Restaurant, Drive Through	934	Per 1000 sf floor	4.91
Office/Institutional			
Office, General	710	Per 1000 sf floor	0.99
Office, Medical	720	Per 1000 sf floor	3.79
Animal Hospital/Vet Clinic	640	Per 1000 sf floor	2.34
Hospital	610	Per 1000 sf floor	1.17
Nursing Home	620	Per 1000 sf floor	0.46
Place of Worship	560	Per 1000 sf floor	0.40
Day Care Center	565	Per 1000 sf floor	0.66
Elementary/Secondary School	520/522/530	Per 1000 sf floor	0.25

Public/Institutional	500	Per 1000 sf floor	0.56
Industrial			
Industrial	130	Per 1000 sf floor	0.31
Warehouse	150	Per 1000 sf floor	0.18
Mini-Warehouse	151	Per 1000 sf floor	0.16

Note: All factors for all uses are based on the sum total of non-regional and regional costs/unit from Table 16 and Table 17 of the Duncan Study published in December, 2018, with the value of the ratio for a single family unit assumed to be 1.0.

The increase in the Retail/Commercial impact fees provided in this Section 3 shall take effect on the phased schedule as provided below:

Year (January 1)	Percentage of Fee to be Imposed	Base Fee
January 1 2020	0%	\$1,589.00
July 1, 2020	25%	\$2,882.50
January 1, 2021	50%	\$4,176.00
July 1, 2021	75%	\$5,469.50
January 1, 2022	100%	\$6,763.00

4. For specific uses not identified in the table above, the transportation impact fee factor shall be determined by the city based on an evaluation of the traffic generating characteristics of the proposed development compared to specific uses listed in the table.
 - a. For non-single family residential developments for which no traffic impact analysis is performed, the transportation impact fee shall be calculated based on the schedule set forth in subsection (3) above.
 - b. A change of use in an existing commercial, industrial, or institutional structure that does not involve a change in the square footage of the structure shall not require a new transportation impact fee unless the use requires a site plan review, conditional use permit or rezone in which case a traffic study may be required and a transportation impact fee may be imposed based on the net increase in traffic. Alternatively, the transportation impact fee assessed shall be calculated based on the difference in Table Values for the new versus the previous use.
 - c. In many instances, a particular structure may include auxiliary uses associated with the primary land use. For example; in addition to the actual production of goods, manufacturing facilities usually also have office, warehouse, research, and other associated functions. The impact fees generally are assessed based on the primary land use. If the applicant can document that a secondary land use accounts for over twenty-five (25) percent of the gross floor area of the structure, and that the secondary use is not assumed in the trip generation or other impact

data for the primary use, then the impact fees may be assessed based on the disaggregated square footage of the primary and secondary land use. For an expansion, redevelopment, or modification of an existing development, the fee shall be based on the net increase in the impact of the new use and/or square footage as compared to the previous use and/or square footage.

- d. In the event that the proposed change of land use type, redevelopment, or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of impact fees previously paid.
 - e. For fees expressed per one thousand (1,000) square feet, the square footage shall be determined according to gross floor area, measured from the outside surface of exterior walls and excluding unfinished basements and enclosed parking areas. The fees shall be prorated and assessed based on actual floor area, not on the floor area rounded to the nearest one thousand (1,000) square feet.
5. All transportation impact fees shall be deposited in a fund created by the city for transportation improvements until used to construct actual capital facilities and improvements on impacted local streets and intersections, or allocated to regional road improvements. Consistent with Section 17.47.060, the total amount of deposited impact fees may be used at the discretion of the city to construct improvements to the local street network, or to regional street projects, so long as the fees are used to perform improvements to streets and/or intersections impacted by the development.

17.47.140 CHIP AND SEAL IMPACT FEE. The city has determined that the life of a new asphalt street can be extended through the use of a "chip and seal" coat within the first two (2) to five (5) years after the construction of the new street. In order to extend the life of asphalt streets in new developments and reduce initial maintenance costs to the City of Fruita, a chip and seal impact fee will be assessed for each new development that provides additional constructed public streets. The chip and seal impact fee changes annually, and is calculated based on the current square yard bid cost of chip and seal work, as contracted by the city, multiplied by the total number of square yards of new asphalt for dedicated, city maintained streets interior to a development as shown in the approved schedule of improvements contained in the applicable subdivision improvements agreement or development improvements agreement.

17.47.150 DRAINAGE IMPACT FEE.

- A. The City of Fruita had prepared a Storm Water Management Master Plan (SWMMP) (June 1998) which provides general policy guidelines and planning recommendations for storm water management, and provides specific criteria for calculating drainage impacts and associated impact fees for new developments. The City of Fruita has determined that storm water management is a desirable and necessary part of new developments, and has adopted the Storm Water Management Master Plan (SWMMP) (June 1998) as a component of its Master Plan. Technical criteria for drainage calculations are also found in the Mesa County Storm Water Management Manual (SWMM),

which has also been adopted as a component of the city's Master Plan.

- B. Consistent with the justifications and formula found in the SWMMP, a drainage impact fee shall be assessed for all new developments when the calculated runoff volume and/or flow rate from developed conditions exceeds the runoff volume and/or flow rate from historic (pre-development) conditions. A drainage impact fee which the City Council has determined is roughly proportional to the infrastructure impacts caused by the development, shall be calculated according to the following formula:

Drainage impact fee (\$) = $B \times (C100_d - C100_h) \times A^{0.7}$ where:

B = Base Value = \$17,058.00, as of January 1, 2019, to be adjusted annually for inflation based on the Consumer Price Index, All Items, All Urban Consumers, Western Region, size B/C, published on a monthly basis by the United States Department of Labor (Bureau of Labor Statistics)

(ACPI-U).

C100 = 100-year Rational Method composite runoff coefficient, with subscripts "d" and "h" representing developed and historic conditions respectively.

A = Area to be developed, in acres

- C. Consistent with Section 17.47.060 of this Chapter, drainage impact fees shall be deposited in a fund established by the city for such purposes and shall be used to resolve drainage and flooding issues anywhere within the basin affected by the development being charged the impact fee, and may also be used for city-wide or regional studies and plans, so long as the percentage of impact fees used on city-wide or regional studies and plans is roughly proportional to the percentage of the study or plan devoted to the basin from which the fees were generated.

CHAPTER 17.49
IMPROVEMENT GUARANTEES AND DEVELOPMENT AGREEMENTS

Sections:

17.49.010	General Requirements
17.49.020	Construction of Improvements
17.49.030	Schedule of Improvements to Be Constructed
17.49.040	City Inspections of Improvements
17.49.050	Final Approval of Improvements by City Staff
17.49.060	Conveyance of Public Improvements
17.49.070	Warranty for Public and Other Required Improvements
17.49.080	Performance Guarantee Required
17.49.090	Indemnification and Insurance
17.49.100	Default; Notice and Termination of Development Agreements
17.49.110	Issuance of Certificate of Compliance

17.49.010 GENERAL REQUIREMENTS.

An approval of a land development application which requires a development agreement does not become effective until a development agreement and related documents, setting forth financial arrangements to secure the actual construction of required public or semi-public (shared) improvements required by the City, has been executed between the property owner and the City Manager or Community Development Director. The development agreement shall include a guarantee to construct all required improvements together with collateral which shall be sufficient to ensure the completion of the required improvements. With the property owner's written consent, the City may enter into a development agreement with a developer or applicant who is not the property owner, provided that the agreement(s) are binding on the subject property and run with the land.

17.49.020 CONSTRUCTION OF IMPROVEMENTS.

Every development agreement shall provide that the applicant, at its sole cost and expense, shall design, purchase, construct and install all elements of all improvements, whether the improvements are located within the subdivision or development property (on-site) or outside of the subdivision or development (off-site). The improvements shall be designed and built in conformance with this Title and other applicable City ordinances and regulations in effect as of the effective date of the development agreement, unless otherwise provided in the approved plans and specifications. Those improvements shall be designed and approved by a registered professional engineer retained by the developer or applicant. All drawings and plans for those improvements shall be stamped by the engineer. Prior to the commencement of construction of the development improvements, the City shall review and approve all

drawings and plans.

17.49.030 SCHEDULE OF IMPROVEMENTS TO BE CONSTRUCTED.

- A. All development agreements shall include a schedule of the required improvements showing in detail the required improvements, their costs, and reasonable provisions to complete the improvements in accordance with design and time specifications. No work shall be commenced on those improvements until the schedule of improvements is approved by the City and the required performance guarantee is delivered to the City.
- B. Every improvement identified in the development agreement shall include a time schedule for the construction and completion of the required improvements. The schedule shall provide for a commencement date as well as a date when such improvements will be substantially completed. Under the schedule, all required development improvements shall be completed no later than one (1) year following the start of development.
- C. Where a developer or property owner is prevented from commencing or completing any of the required improvements within the time periods set forth in the development agreement due to an unforeseeable cause or delay beyond the control and without the fault or negligence of the developer or applicant, the times for commencement and/or completion of such improvements may be extended by the Community Development Director in accordance with Section 17.07.080 in an amount equal to the time lost due to such delay if a request is made in writing to the City by the developer or applicant.
 - 1. Delays beyond the control of the developer or applicant shall include acts of neglect by the City, fires, floods, epidemics, abnormal weather conditions, strikes, freight embargos or acts of God. Time extensions, however, will not be granted for rain, snow, wind or other natural phenomena at normal intensity within Mesa County.
 - 2. Delays attributable to and within the control of the developer's or applicant's contractors, subcontractors or suppliers are deemed delays within the control of the developer or applicant.

17.49.040 CITY INSPECTIONS OF IMPROVEMENTS.

The City may inspect and require testing during construction of the required improvements in reasonable intervals as the responsible city officials may request. Inspection, acquiescence and approval of any inspector of the construction of physical facilities, at any particular time, does not constitute an approval by the City of any phase of the construction of such improvements. The approval is made by the City only after completion of construction of all improvements in the manner set forth in Section 17.49.060. The City also reserves the right to perform or contract for independent quality assurance tests to confirm compliance with City requirements.

17.49.050 FINAL APPROVAL OF IMPROVEMENTS BY CITY STAFF.

- A. Upon completion of construction of all required improvements, the responsible city officials shall perform final inspections of the improvements and certify with specificity whether they conform to the approved plans, specifications and design standards. The development agreement shall provide that the property owner or developer make all corrections necessary to bring the improvements into conformity with applicable city standards, approved for construction drawings, and the utility, drainage and street improvements plans and requirements of other agencies, as approved. The City is under no obligation to provide any wastewater collection service, street maintenance or issue any further planning clearances for building permits or certificates of occupancy, until all of those facilities conform to the applicable standards, plans and specifications and approved by the responsible city officials.
- B. The applicant or developer shall provide all necessary engineering designs, surveys, field surveys, and "as-built" drawings for all public improvements and utility improvements, which shall be subject to review and approval by the City, and any incidental services related to the construction of the improvements, at its sole cost and expense. The legal description of all utility service lines shall be prepared by a registered land surveyor at the applicant's or developer's sole expense. In addition, all expenses incurred by the City in updating the City's base maps shall be paid by the applicant or developer, to the City.
- C. All areas disturbed by construction shall be promptly revegetated with native vegetation following completion of such work unless a building permit application has been requested for a particular lot, in which case revegetation shall be provided prior to legal occupancy of such lot. The property owner or developer shall comply with all city regulations concerning dust suppression, drainage and the control of other nuisances. In addition, the applicant or developer shall control all noxious weeds and rodents within such areas to the reasonable satisfaction of the City until conveyed to individual lot owners.

17.49.060 CONVEYANCE OF PUBLIC IMPROVEMENTS.

All public improvements shall be conveyed to the City or other public entity, as applicable. Upon completion of construction in conformity with the applicable plans, standards, specifications and any properly approved changes, and final approval by the responsible city official, all public improvements shall be conveyed to the City or other public entity, as applicable. Acceptance of said conveyance to the City shall be made by the City Engineer. Following that conveyance, the City is solely responsible for the maintenance of those public improvements, unless otherwise provided for by the agreement, except for any correction work required during the warranty period.

17.49.070 WARRANTY FOR PUBLIC AND OTHER REQUIRED IMPROVEMENTS.

The property owner or developer shall warrant in the development agreement all public improvements constructed by the applicant or developer which are conveyed or dedicated to the City for a period of twenty-four (24) months from the date the City accepts the improvements. Specifically, but not by way of

limitation, the property owner or developer shall warrant the following:

- A. That the title conveyed shall be good and its transfer rightful; and
- B. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
- C. Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.
- D. To secure the warranty:
 - 1. The guarantee of performance provided for in this Section shall remain in effect until the end of the warranty period; or
 - 2. The applicant or developer shall furnish the City with a cash deposit or letter of credit in an amount equal to a percent of the total construction costs as set forth in this Subsection. This security shall guarantee the payment of any reconstruction or repair costs that may be undertaken due to failures occurring during the warranty period. Responsibility for identifying the necessity of repairs or reconstruction of the improvements shall rest with the City.

Percent to Secure Warranty

Total Construction Costs	Percent to Secure Warranty
\$0.00-\$500,000.00	10%
\$500,000.01-\$1,000,000.00	7.5%
\$1,000,000.01 and over	5%

- 3. **Correction of Deficiencies Under Warranty.** Within thirty (30) days or a reasonable extension at the sole discretion of the City Engineer, of notification by the City of the need for repair or reconstruction, the applicant or developer shall correct the deficiencies, satisfactory to the City. Such notification shall be made by certified mail. If the applicant or developer fails to repair or reconstruct the deficiency within the time specified in this Section, the City will make the repair at the developer or property owner's sole expense. The City may then bill the applicant or developer for the cost of the repair or declare the deposit forfeited. All repairs shall have a two (2) year warranty period and shall be guaranteed by the applicant or developer in a manner satisfactory to the City Engineer, including extension of the full warranty guarantee.
- 4. **Release of Warranty.** Inspection will be made by the City at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be corrected prior to release of the warranty security. Upon satisfactory correction of all deficiencies and completion of the warranty period for the corrected improvements, the City will release the remaining security.

5. Default. If the applicant or developer defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the City may demand immediate payment on the performance or warranty guarantee. In the case of deposits in escrow or letter of credit, the City may demand immediate payment of a portion of all sums obligated for the performance or warranty of any improvement. In the case of a deed of trust guarantee method, the City may foreclose on the deed of trust and may also retain any sums deposited to obtain a partial release of the deed of trust.

All funds received by the City shall be used for any construction, repair or reconstruction necessary to ensure that:

- a. All required public improvements are built to specifications necessary to receive final acceptance; and
 - b. The improvements remain in good condition for the completion of the warranty period. The City may use guarantee funds for the construction, repair or maintenance of required public improvements from the date of initial default until three (3) years after the funds have become available to the City for such use, except that no use shall be made of the funds later than two (2) years after satisfactory completion and final acceptance of the work. Following either: (1) the final acceptance of all public improvements and posting of the warranty security, or (2) successful completion of the warranty period, or (3) the three-year period provided for in this Subsection, the City shall pay to the property owner or developer all guarantee funds which were not used or obligated for the completion of the improvements.
6. Standards May not Be Altered. All provisions of this Section are mandatory and may not be altered by the subdivision agreement. The obligations contained in this Section shall be enforceable by methods of this Land Use Code, as well as by contract.

17.49.080 PERFORMANCE GUARANTEE REQUIRED.

- A. To secure the construction and installation of the public and other required improvements listed in the schedule of improvements for which the applicant or developer is responsible, whether on-site or off-site, including tasks not specifically itemized within the schedule of improvements but which can be reasonably considered necessary for the development and for which the property owner or developer is responsible, the property owner or developer shall furnish the city with a cash, letter of credit, cash bond, performance bond, or other security acceptable to the City Attorney to secure the performance and completion of such required improvements, in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of those improvements.

The purpose of the cost estimate described above in Section 17.49.030 is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and the applicant or developer shall agree to pay the actual cost of all such public and other required improvements. Neither the estimated costs nor the amount of the security establishes the maximum amount of the applicant's or developer's liability.

- B. The developer or property owner shall deliver to the city the performance guarantee required by subsection (A) above prior to the recording of a subdivision final plat, or prior to recording of a PUD final development plan, or prior to the issuance of a conditional use permit or planning clearance, as applicable. Unless expressly authorized by the city, work shall not be commenced within the development until the approved security is furnished to the city. No lot within a subdivision shall be conveyed to any third party until the approved security is delivered to the city and the final plat is recorded in the records of the Mesa County Clerk and Recorder.
- C. Partial Release. Upon completion of improvements, a portion of the guarantee may be released as follows:
 - 1. Upon completion of a certain class of improvements, such as wastewater facilities by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security tendered may be reduced by up to one hundred (100) percent of the approved cost for the installation of such class of improvements, upon approval by the city.
 - 2. Upon completion of portions of the improvements by the applicant or developer, evidenced by a detailed cost breakdown of the completed improvements, and submittal of as-built drawings, a property owner or developer may apply to the City for a release of part or all of the collateral deposited with the City. Upon inspection and approval, the City may authorize the reduction of the amount of any performance guarantee security issued pursuant to the development agreement may be reduced by seventy- five percent (75%) of the approved estimated cost for the installation of such improvements, upon written request of the applicant or developer, and approval by the Community Development Director.
 - 3. Upon completion of all of the improvements required by the development agreement, and upon final inspection and approval by the city of all such improvements, the city shall further authorize a reduction of the amount of the security guaranteeing the required development improvements pursuant to Section 17.49.070(D)(2).
- D. Full Release. Pursuant to Section 17.49.110, any performance guarantee tendered to the city shall be fully released and discharged by certificate or resolution upon expiration of the twenty-four (24) month warranty period described in Section 17.49.080 and the correction of any defects discovered during such warranty period. If the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) month warranty period, the city will retain the existing performance guarantee and may require a new performance guarantee and withhold further planning clearances for building permits and certificates of occupancy within the subdivision or development

until the new performance guarantee is tendered to the city.

- E. Every development agreement shall provide that upon the developer's or property owner's failure to perform its obligations under such agreement and all other applicable plans, drawings, specifications and documents, as approved, within the time periods set forth in the agreement, the city may give written notice to the developer or property owner of the nature of the default and an opportunity to be heard before the City Council concerning such default. If the default is not remedied within thirty (30) days of receipt of the notice or of the date of any hearing before the City Council, whichever is later (or any reasonable time period necessary to cure the default provided that the developer or the property owner has commenced in good faith to cure the default), the city may then give written notice to the developer or property owner and any surety on a performance bond, issuer of a letter of credit, or escrow agent that the city, as agent for the developer or property owner, is proceeding with the task of installing and completing the remaining required improvements in whole or in part.
- F. Every development agreement must contain a power of attorney whereby the developer or property owner designates and irrevocably appoints the City Attorney of the City of Fruita, Colorado as its attorney in fact and agent for the purpose of completing all necessary improvements required by the development agreement in the event of a default by the developer or property owner. The agreement shall be recorded in the office of the Clerk and Recorder of Mesa County, Colorado, and shall constitute constructive notice of the agreement and the power of attorney. The agreement and power of attorney may be enforced by the City pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.
- G. If a substantial amount of time elapses between the time of delivery of the security and actual construction of the improvements, the city may require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.
- H. In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.

17.49.090 INDEMNIFICATION AND INSURANCE.

Every development agreement shall require the developer, property owner and any contractor or subcontractor employed by the developer or property owner who performs work within public rights-of-way, easements dedicated to the City, or within other property owned by the city to indemnify and hold harmless the City of Fruita, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by the developer or property owner, its contractors and subcontractors, within city rights-of-way, easements or

other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, an act, omission, error, professional error, mistake, negligence, or other fault of the developer, property owner, or contractor, and any subcontractor. The City may also require in a development agreement that any contractor employed by the developer or property owner to perform work within public rights-of-way, easements dedicated to the city, or within any other property owned by the city to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by contractors and subcontractors pursuant to this section.

17.49.100 DEFAULT; NOTICE; AND TERMINATION OF DEVELOPMENT AGREEMENTS.

In the event of any default or breach by a property owner or developer of a covenant, term, condition or obligation contained in a development agreement, and if the default or breach continues after notice and an opportunity of a hearing as set forth in this Chapter, the City may terminate the agreement. Any declaration of termination of an agreement is effective only after and upon a resolution to that effect adopted by the City Council. If a property owner or developer fails to construct any required improvements in accordance with the terms of a development agreement, the City may suspend approval of the development during which time the property owner or developer shall not sell, transfer or otherwise convey tracts or lots within the development or property without the express written approval of the city.

17.49.110 ISSUANCE OF CERTIFICATE OF COMPLIANCE.

Upon satisfactory completion of all required improvements, expiration of the applicable warranty period, and compliance with all of the terms of the development agreement, the City shall, upon request, execute a resolution or certificate stating that all improvements have been constructed in compliance with the development agreement.

Chapter 17.51
PUBLIC PURPOSE DEVELOPMENT – LOCATION AND EXTENT REVIEW

17.51.010	Purpose
17.51.020	Applicability
17.51.030	Required Submittal Documents
17.51.040	Review Process
17.51.050	Final Plat

17.51.010 PURPOSE.

The purpose of this Section is to provide the city an opportunity to review and approve or disapprove a project as proposed by a public or quasi-public entity in relation to the applicable policies and goals of the adopted Comprehensive Plan, and to inform any public or quasi-public entity of the city's reasonable expectations for land use and development within the city. Location and Extent Review is mandated by State law, C.R.S. §§ 30-28-110 and 22-32-101 et seq.

17.51.020 APPLICABILITY.

A Location and Extent Review is required when projects are proposed by political subdivisions of the state such as charter or public schools, transportation districts or special districts when funding is provided by taxpayers and considered to be political subdivisions of the state and for publicly and privately owned utilities.

17.51.030 REQUIRED SUBMITTAL DOCUMENTS.

The entity charged with authorizing and financing a public or quasi-public project, or the board of education, shall submit a Location and Extent Plan Application to City staff for review. Such Plan Application shall include the following documents:

- A. A completed land use application.
- B. A narrative describing the proposed facility(s), their purpose and demonstration of compliance with the city's adopted Comprehensive Plan.
- C. A legal description of the land subject to the proposed development. A deed or plat may suffice.
- D. A vicinity map detailing:
 - 1. One (1) mile setback radius from the proposed development site superimposed thereon. Such vicinity map shall be at a legible scale.
- E. A site plan detailing the following:

1. Existing and proposed access to the site, surfacing and width of all roads, easements, and drainage ways, loading areas, parking, and outdoor storage areas.
2. Existing and proposed topography shown at least two (2) foot contour intervals, or another contour interval approved by the city staff. Existing contour intervals shall be demarcated with dashed lines, and proposed interval contours with solid lines. Where retaining walls are proposed, provide examples of wall materials and demonstrate wall heights.
3. The location and dimension of all existing and proposed structures, the use of each structure, building elevations at the ground floor, and building heights.

F. A statement of the source and availability of water for the site, the method of waste disposal, and plan for connection to utility services, as applicable.

G. A site plan depicting existing and proposed utility lines and appurtenances.

H. An illustrative landscape plan showing all proposed landscape, including materials, fences, walls, planters, art installations, and other landscape features.

17.51.040 REVIEW PROCESS.

Location and Extent Plan Applications shall be processed by the city staff.

A. Upon receipt of the application, the city staff shall review the application for completeness. The applicant shall be notified of any incomplete information. If the application is incomplete and cannot be scheduled for a Planning Commission hearing within 30 days, the hearing may be continued with the consent of the applicant.

B. Once the submittal is determined to be complete, staff shall review the application and schedule a hearing before the Planning Commission within thirty (30) days, unless an extension of time is agreed to by the applicant. Staff shall notify the applicant of the date and time of the hearing.

C. The location and extent application shall be reviewed by the Community Development Director and be referred by city staff to the applicable review agencies pursuant to Section 17.07.040.C.2 of this Title. Their comments shall be forwarded to the applicants and the Planning Commission. The applicant is encouraged to meet with City staff and/or the reviewing agencies to address any concerns.

D. Before being presented to the City Council, the Planning Commission shall hold a public hearing on the application in accordance with Section 17.07.040 of this Title for a recommendation to the City Council. The Planning Commission shall evaluate the application in light of the city's Comprehensive Plan, other City plans and policies and input from city staff and the public. The Planning Commission shall recommend approve, approve with conditions, or deny

the application. A record of the Planning Commission's hearing and actions shall be provided to the applicant.

E. After the Planning Commission has made a recommendation, the Community Development Department shall provide to the City Council all information presented to the Planning Commission and include a report containing the Planning Commission's recommendation and whether staff concurs in whole or in part with the Planning Commission's findings and recommendation. At the next City Council meeting following the hearing held by the Planning Commission, the City Council shall hold a public hearing in accordance with Section 17.07.040 of this Title to evaluate the application in light of the city's Comprehensive Plan, other City plans and policies and input from city staff and the public. The applicant or the applicant's representative shall be present at the City Council public hearing to represent the application. The City Council shall approve, approve with conditions, or deny the application.

F. In the case of a charter or public school, the Planning Commission may request a public hearing before the Board of Education on the proposed location and extent application.

G. The city, at the public entity's sole cost, shall provide public notice for both the Planning Commission hearing and the City Council hearing in accordance with Section 17.07.040.

17.51.050 FINAL PLAT.

A. Within one hundred eighty (180) days of the City Council hearing, the public entity shall, if a Final Plat for the parcel does not exist, file an application for Final Plat approval. Final Plat applications can be approved administratively.

B. Applications for Final Plat approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.

C. The Final Plat and related documents must be recorded within ninety (90) days of the City Council's hearing unless a time extension has been granted by the Community Development Director. If more than ninety (90) days have elapsed from the date of the City Council's hearing, and if no extension is granted, the approval of the Final Plat shall expire.

D. Additional requirements for Final Plat approval.

1. As part of the Final Plat submittal requirements, once staff has approved the Final Plat application, a peer reviewer shall prepare a letter to the Fruita Community Development Director and the public entity documenting any deficiencies in the Final Plat to be corrected. After all corrections to the Final Plat are made to the satisfaction of the peer reviewer, the public entity shall obtain from the reviewer a signed and sealed certification to the Community Development Department that the Final Plat has been reviewed, and to the best of his or her knowledge, the plat satisfies the

requirements pursuant to Section 38-51-106, C.R.S., as amended, for the recording of the Final Plat in the office of the Mesa County Clerk and Recorder. The public entity shall pay all review fees charged by the peer reviewer, which shall be billed directly to the public entity by the peer reviewer.

This certification makes no warranties to any person for any purpose. It is prepared to establish for the City of Fruita Community Development Director and the County Clerk and Recorder that a professional peer review has been obtained. The certification does not warrant:

- a. Title or legal ownership of the land platted nor the title of legal ownership of adjoining;
 - b. Errors and/or omissions, including but not limited to, the omission(s) of rights-of-way and/or easements, whether or not of record;
 - c. Liens and encumbrances, whether or not of record; and
 - d. The qualifications, licensing status and/or any statement(s) or representation(s) made by the surveyor who prepared the above named subdivision plat.
2. The Final Plat shall be approved by certain reviewers as determined by the city with signatures indicating all requirements or changes have been fulfilled.
3. The Community Development Department staff shall ensure the Final Plat and related documents are recorded with the Mesa County Clerk and Recorder's office.

CHAPTER 17.53
VESTED PROPERTY RIGHTS

Sections:

17.53.010	Purpose
17.53.020	Definitions
17.53.030	Applications; Approval by the City
17.53.040	Establishment of Vested Property Rights; Public Notice and Hearing Required
17.53.050	Approval of Site Specific Development Plan; Conditions
17.53.060	Duration and Termination of Vested Property Rights
17.53.070	Waiver of Vested Property Rights
17.53.080	Subsequent Regulation Prohibited; Exceptions
17.53.090	Payment of Costs
17.53.100	Other Provisions Unaffected
17.53.110	Limitations

17.53.010 PURPOSE.

The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, as amended, which establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site specific development plan, and to establish local control over creation of vested real property rights to the fullest extent permitted by law.

17.53.020 DEFINITIONS.

The following definitions are for the purposes of administration of this Chapter only and do not apply to other sections of this Code. Unless modified in this Section, the terms used in this Chapter shall have the same meaning as set forth in Section 24-68-102, C.R.S.

- A. A "site specific development plan" means a plan that has been submitted to the city by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right if the landowner wishes said approval to have the effect of creating vested rights. The landowner must request vested rights approval in writing at the time a land development application is submitted. The following shall be considered "site specific development plans":

Table 17.53.020.A	
DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
1. Site Design Review pursuant to Section 17.09.020	Site Design Review as approved Administratively
2. Minor Subdivisions pursuant to Chapter 17.21.	Subdivision final plat as approved Administratively
3. Major Subdivisions pursuant to Chapter 17.21.	Subdivision final plat as approved Administratively
4. Planned Unit Development (PUD), not accompanied by subdivision of land pursuant to Chapter 17.19.	Final PUD Plan, any applicable PUD Guide approved by City Council AND the applicable development agreement
5. Planned Unit Development (PUD) pursuant to Chapter 17.19, accompanied by subdivision of land pursuant to Chapter 17.21.	Subdivision final plat together with Final PUD Plan, PUD Guide as approved by City Council AND any applicable development agreement

If not indicated above, a "site specific development plan" shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to a Planning Clearance application.

Provided however, the City Council may, by agreement with the applicant, designate an approval step other than those indicated above, or the final approval step, to serve as the "site specific development plan" approval for a specific project.

The following are specifically excluded from, and shall not constitute, a "site specific development plan": variances, subdivision Sketch Plans, subdivision Preliminary Plans, PUD Concept Plans, PUD Preliminary Plans, business licenses, floodway or floodplain permits, franchises, temporary use permits, any Master Plan element, creation of improvement districts, zoning, rezoning other than Planned Unit Developments, final architectural plans, or final construction drawings and related documents specifying materials and methods for construction of improvements.

B. "Vested property right" means the right to undertake and complete development and use

of property under the terms and conditions of a "site specific development plan."

17.53.030 APPLICATIONS: APPROVAL BY THE CITY.

- A. Except as otherwise provided in this Section, an application for approval of a "site specific development plan" as well as the approval, conditional approval, or denial of approval of a plan shall be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the city. For purposes of this Section, "laws and regulations" includes any zoning, development, or land use law of general applicability adopted by the city as well as any zoning, development or land use regulations that have previously been adopted for the particular parcel described in the plan and that remain in effect at the time of application for approval of the plan. In the event the application for a "site specific development plan" requires review and approval in multiple stages, "application" means the original application submitted at the first stage in any multi-stage process that may culminate in the ultimate approval of a "site specific development plan."
- B. Notwithstanding the limitations contained in subsection (A) above, the city may adopt a new or amended law or regulation when necessary for the immediate preservation of public health and safety and may enforce such law or regulation in relation to applications for "site specific development plans" pending at the time such law or regulation is adopted.

17.53.040 ESTABLISHMENT OF VESTED PROPERTY RIGHTS: PUBLIC NOTICE AND HEARING REQUIRED.

A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a "site specific development plan". A vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the "site specific development plan", as approved, including any amendments thereto. A "site specific development plan" shall be deemed approved upon the effective date of the city's legal action, resolution or ordinance relating thereto. Such approval shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a newspaper of general circulation within the city, of a notice advising the general public of the "site specific development plan" approval and creation of a vested property right pursuant to this Chapter. Such publication shall occur no later than fourteen (14) days following approval.

17.53.050 APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN: CONDITIONS.

- A. The city may approve a "site specific development plan" upon such terms and

conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions, at the option of the City Council following a public hearing, shall result in the forfeiture of vested property rights. This subsection shall be strictly construed.

B. Terms and conditions imposed or agreed upon may include, without limitation:

1. Future approvals by the city not inconsistent with the original approval;
2. Approvals by other agencies or other governments;
3. Satisfactory inspections;
4. Completion of all or certain phases or filings of a project by certain dates;
5. Waivers of certain rights;
6. Completion and satisfactory review of studies and reports;
7. Payment of fees to the city or other governmental or quasi- governmental agencies as they become due and payable;
8. Payment of costs and expenses incurred by the city relating to the review and approval;
9. Continuing review and supervision of the plan and its implementation and development;
10. Obtaining and paying for planning clearances, building permits, water plant investment fees (taps) and wastewater plant investment fees (taps);
11. Compliance with other codes and laws, including building codes, of general applicability;
12. Construction of on-site or off-site improvements or facilities for the use of future inhabitants or the public at large;
13. Payment of any applicable impact fees; and
14. Dedication or conveyance of public site or parkland, trails, school land, common area or open spaces, with provision for its maintenance; or payment of a fee in lieu thereof, and dedication of necessary easements and rights-of-way.

17.53.060 DURATION AND TERMINATION OF VESTED PROPERTY RIGHTS.

A. A property right, which has been vested pursuant to this Chapter, shall remain

- B. vested for a period of three (3) years. This vesting period shall not be extended by any amendments to a "site specific development plan" unless expressly authorized by the City Council.
- C. Notwithstanding the provisions of subsection (A) above, the City is authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three (3) years where warranted in the light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Such development agreements shall be adopted as legislative acts subject to referendum.
- D. Following approval or conditional approval of a "site specific development plan", nothing contained in this Chapter shall exempt such a plan from subsequent reviews and approvals by the city to insure compliance with the terms and conditions of the original approval, if such further reviews and approvals are not inconsistent with said original approval. The Community Development Director shall make this determination.
- E. The failure of a developer to abide by the terms and conditions contained in a development agreement, site-specific development plan, development agreement, final PUD development plan agreement, annexation agreement, or the provisions of this section shall result in the forfeiture of vested property rights for the subject property.

17.53.070 WAIVER OF VESTED PROPERTY RIGHTS.

An applicant may waive a vested property right by separate written agreement, which shall be recorded in the office of the Mesa County Clerk and Recorder. Unless otherwise agreed to by the City Council, any landowner requesting annexation to the City of Fruita shall waive in writing any pre-existing vested property rights as a condition of such annexation.

17.53.080 SUBSEQUENT REGULATION PROHIBITED; EXCEPTIONS.

- A. A vested property right, once established as provided in this Chapter, precludes any zoning or other land use action by the city or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in an approved "site specific development plan," except:
 - 1. With the consent of the affected landowner;
 - 2. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of "site specific development plan" approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
 - 3. To the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner after approval by the city,

including, but not limited to, costs incurred in preparing the site for development consistent with the "site specific development plan", all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property, which is caused by such action.

- B. Establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City of Fruita, including, but not limited to, building, fire, plumbing, electrical, housing, mechanical, and dangerous building codes.

17.53.090 PAYMENT OF COSTS. In addition to any and all other fees and charges imposed by this Title, the applicant for approval of a "site specific development plan" shall pay all costs incurred by the city as a result of the "site specific development plan" review and approval, including publication of notices, public hearing and review costs, when such costs are incurred apart and in addition to costs otherwise incurred by the city or applicant for a public hearing relative to the subject property.

17.53.100 OTHER PROVISIONS UNAFFECTED. Approval of a "site specific development plan" shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to the development and use of property.

17.53.110 LIMITATIONS. Nothing in this Chapter is intended to create any vested property right, but only to implement Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or judicial determination that said Article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective.

Chapter 17.55
ENFORCEMENT

Sections:

- 17.55.010 PURPOSE AND AUTHORITY**
- 17.55.011 VIOLATIONS**
- 17.55.012 ENFORCEMENT AND PENALTIES**

17.07.010 PURPOSE AND AUTHORITY

This Chapter established procedures by which the City seeks to ensure compliance with the provisions of this Code and obtain corrections for violations. This Chapter also sets forth remedies and penalties that apply to violations of this Code.

17.07.020 VIOLATIONS

- A. After the effective date of this Title, any person who knowingly erects, constructs, reconstructs, uses or alters any building, structure or land or who knowingly subdivides or uses any land in violation of this Title commits a Class B municipal offense. Any person who violates any provision of this Title shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Title are committed, continued or permitted. Nothing in this Section shall be construed to prevent the city from pursuing any other remedies it may have for violations of this Title.
- B. In case any building or structure is proposed to be erected, constructed, reconstructed, altered, moved, or used or any land is proposed to be subdivided or used in violation of this Title, the city, in addition to other remedies provided by law, may institute an appropriate action to prevent, enjoin, abate, or remove the violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act or use.
- C. In addition to the other enforcement provisions in this Title, the city may exercise any and all enforcement powers granted to it by State Law, including without limitation to Section 31-23-308 C.R.S., (Enforcement of Zoning Ordinance), Section 24-67-106 C.R.S., (Enforcement of Planned Unit Development Plan), and Section 31-23-215 C.R.S. (Subdivision Enforcement).
- D. Any land development permit granted under this Title may be revoked, following public hearing, upon the determination that one (1) or more of any conditions or requirements contained in the land development permit, including any conditions set forth pursuant to subsection 17.01.040(F) has been violated. In the event the Community Development Director has reasonable cause to believe that one (1) or more conditions or requirements of the land development permit has been violated, the Community Development Director shall serve the record owner of the property subject to the land development permit and the holder of such permit if other than the owner, in person or by certified mail, return

receipt requested, a notice to show cause why the land development permit should not be revoked and any vested property rights related thereto forfeited. Such notice shall state the date, time and place for a public hearing at which the City Council will consider whether the land development permit should be revoked. The notice shall also set forth a concise statement of the grounds for revocation. The notice shall be served at least fifteen (15) days prior to the date of the hearing. The public hearing shall be conducted by the City Council, pursuant to Chapter 2.60 of the Fruita Municipal Code. Following such hearing, the City Council shall issue a written decision either revoking the subject land development permit or finding insufficient evidence exists to revoke the permit.

17.55.030 ENFORCEMENT AND PENALTIES.

- A. If, in the process of inspecting improvements being constructed pursuant to this Title and for which a valid land development permit has been issued, a defect, design flaw or an unforeseen condition is discovered or work is being performed which has not been approved by the city which, if uncorrected, would create a non-conforming use or structure, or would violate other provisions of this Chapter, or state law or applicable design and construction standards, the City Engineer or Community Development Director may administratively suspend existing approved land development permits, and suspend the issuance of new land development application approvals, pending correction of the flaw, defect or unforeseen condition. Suspensions may include partial suspension of specific tasks, or complete stop work orders.
- B. The applicant is responsible for correcting said flaw, defect or unforeseen condition, including any necessary design or engineering work, information submitted for city approval, and the cost of construction.
- C. Any suspensions so issued by the city, and any subsequent releases of a suspension, shall be done in writing and be transmitted to the project representative.
- D. Any permit or approval that remains suspended for sixty (60) days automatically can be considered to be revoked, requiring re-submittal of a permit application or request for approval and payment of applicable fees.
- E. Specific to subdivisions, if an applicant elects not to correct said flaw, defect or unforeseen condition to the satisfaction of the city, the Community Development Director may also initiate actions to terminate the development agreement following the procedure described in Chapter 17.49.
- F. Specific to the issuance of a permit or approval under this Title, the city imposes a specific requirement on the applicant for the permit or approval to remedy any impacts to city infrastructure caused by the construction. This includes but is not limited to repair or replacement of damaged sidewalk and streets, cleaning and sweeping of streets to remove dirt and debris, removal of construction debris, and

cleaning and jetting of storm drains. The city retains the right to suspend the issuance of a Certificate of Occupancy or other land development applications until remedial actions are performed to the satisfaction of the city.

Chapter 17.57
DEFINITIONS & RULES OF INTERPRETATIONS

Sections:

17.57.010 Definitions

17.57.010 DEFINITIONS

Words contained in this Chapter are those having a special meaning relative to the purposes of this Title. Words not listed in this Chapter shall be defined by reference to a published standardized dictionary. Words used in the singular include the plural and words used in the plural include the singular.

201 PLAN. A regional plan for wastewater collection and treatment to prevent pollution of the State's water.

ABUTTING PARCELS. Parcels which are directly touching and have common parcel boundaries. Parcels separated by a public right-of-way are not considered abutting, but would be adjacent.

ACCESS PERMIT. A permit obtained from the City of Fruita, Mesa County, or the State of Colorado allowing access to a public street, road or highway.

ACCESSORY DWELLING UNIT. Also known as granny flat, elder cottage or accessory apartment. A separate self-contained dwelling unit including a separate kitchen and bathroom, which is located on the same parcel or lot but is secondary to a principal dwelling unit. An accessory dwelling unit may be attached to the principal dwelling unit or detached in an accessory structure.

ACCESSORY STRUCTURE. A detached subordinate structure, the use of which is customarily incidental to, and supportive of, the principal structure or the principal use of land, and which is located on the same parcel of ground with the principal structure or use.

ACCESSORY USE. A use conducted in conjunction with a principal use of a property and constitutes an incidental or insubstantial part of the total activity that takes place on the lot or is commonly associated with the principal use and integrally related to it.

ADJACENT. For purpose of this Land Use Code, shall mean surrounding property or use, any portion of which is within a three hundred and fifty (350) foot radius.

ADMINISTRATIVE DECISION. Any decisions regarding a land development application or development issue made by the Community Development Director, City Engineer or City Manager pursuant to this Title. The City Manager retains the final authority in administrative

decisions.

ADMINISTRATOR. The Community Development Director as selected by the City Manager to serve within the Fruita Community Development Department.

AFFORDABLE HOUSING UNIT. Affordable housing unit is a low/moderate income housing unit which is financially sponsored by a government finance agency and/or which is developed or sponsored by a private non-profit affordable housing agency. These sponsorships either reduce the development costs of the property or provide vouchers or other payments to renters or homeowners to fill in housing payment gaps. Such sponsorships are provided by Housing Resources of Western Colorado, Habitat for Humanity, Family Health West, the Grand Junction Housing Authority, or any other entity or agency, as determined by the Fruita City Council. An affordable housing unit may be any housing type and may have a rental or ownership structure. Average Median Incomes are used to establish income limits that determine eligibility for assisted housing programs. Income limits are based on both the Median Family Income estimates and Fair Market Rent area definitions.

AGRI-BUSINESS. A business and/or commercial use operated primarily for the support of agricultural needs. It may consist of products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals; medical and/or technical support services.

AGRICULTURAL PRODUCE. Fruit, vegetables, eggs and honey prior to processing of any kind other than washing. Canned fruits or vegetables, preserves, wine, meat and dairy products shall not be considered agricultural produce for the purposes of this Title.

ALLEY. A service road providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ALTERATIONS TO HISTORIC SITE. Any proposed modification to a designated historic site, structure or district which could have an affect on the character of the historic resource relative to the criteria by which it was designated. Examples of alterations to structures may include additions, any exterior modifications, including signage to be affixed to the facade, and any interior modifications that may affect the characteristics for which the structure was designated.

ANIMAL CLINIC. Facility used for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for animals.

ANIMAL HOSPITAL. Facility used for the medical care and treatment of animals under the supervision of a licensed veterinarian with outdoor accommodations for animals.

ANIMALS, AGRICULTURAL. Those animals commonly associated with agricultural use; such as, cattle, horses, mules, burros, pigs, sheep, goats, rabbits, chickens, ducks and geese, whose primary value is commercial rather than personal enjoyment.

ANIMALS, HOUSEHOLD. Those animals which are commonly kept as pets, whose primary value is personal enjoyment. These animals shall not be raised for commercial purposes and shall be limited to common species whose presence in the neighborhood does not arouse unusual community odor, noise, health, interest or curiosity sufficient to attract the community residents to a specific neighborhood.

ANIMALS, OTHER. Those animals not defined as household animals or agricultural animals or exotic animals.

ANNEXATION. The process of incorporating an unincorporated portion of Mesa County into the boundaries of the city pursuant to the Municipal Annexation Act of 1965, Sections 31-12-101, et. seq., C.R.S.

ANTENNA. Any device designed and intended for transmitting or receiving television, radio, microwave signals, or other electromagnetic waves. An antenna includes all mounting and stabilizing items such as a tower, a pole, a bracket, guy wires, hardware, connection equipment and related items.

APPEAL. A request for a review of the City of Fruita staff's interpretation of any provisions of this Title.

APPLICANT. Any person, developer, subdivider, petitioner, property owner, firm, partnership, joint venture, association, corporation, group or organization who may apply for any land development permit, approval or decision governed or required by this Title.

APPLICATION. A written request for any land development permit, approval or decision governed or required by this Title. An application is not complete until each requirement of this Title is met and all fees are paid.

AS BUILT DRAWING. An engineering drawing indicating the final, as constructed location, grades, elevations, and construction details of streets, utilities, and other public facilities.

ATTACHED. Buildings joined and architecturally integrated by means such as common walls or a common roof.

AUTO REPAIR SHOP. A shop or place of business used for repair and maintenance of automobiles, trucks and other motor vehicle equipment. All motor vehicle equipment on the property shall carry a valid registration, have a registration or title applied for, or show a work order. Motor vehicle equipment, for which the shop operator holds no valid registration or work order shall be classified as salvage and junk and may not be kept, stored or worked on, in or on the property of an auto repair shop.

AUTOMOBILE SALES ESTABLISHMENT AND LOTS. An open area under private ownership used for the display, sale or rental of new and/or used motor vehicles where no repair work is done, except minor incidental repair of motor vehicles, to be displayed, sold or rented. An office/shelter structure as an accessory use is permitted.

AWNING. A projection from a building which shelters an area next to the building, supported entirely by the exterior wall of the building, composed of a covering of rigid or non-rigid material and/or fabric on a supporting framework that may be either permanent or retractable. Also known as a canopy.

BASE DENSITY. The maximum number of dwelling units/lots permitted by right, per gross acre, on a parcel of land within a zone district.

BED AND BREAKFAST FACILITY. A facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis. A short-term rental is not a Bed and Breakfast.

BIKE LANE. An area defined on a public roadway for exclusive use by bicyclists.

BIKE PATH. An off-street trail available for use by bicyclists. Also known as a trail.

BLOCK. A land area consisting of contiguous lots established by recorded plats; usually bordered by public ways or spaces.

BLOCK FRONTAGE. All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, waterway (wider than thirty (30) feet), or end of a dead-end street. An intercepting street shall determine only the boundary of the frontage of the side of the street that it intercepts.

BONUS DENSITY. The additional number of dwelling units permitted on a parcel of land above the base density permitted in a zone.

BUFFER. A distance separation between land uses or buildings. Buffers typically contain landscaping. Accessory uses or structures, dumpsters, parking areas, etc. are not permitted in designated buffer areas.

BUILDING. Any permanent roofed structure built for the shelter and enclosure of persons, animals, materials or property of any kind. Does not include mobile or manufactured homes, but does include covered decks, porches, gazebos and sheds.

BUILDING DESIGN CAPACITY. The maximum occupancy load of a building as provided by the most recent version of the International Building Code, adopted by the city.

BUILDING ENVELOPE. Lines enclosing a horizontal and vertical space in which a building is to be constructed. These lines indicate the maximum exterior dimensions of the proposed building, covered porches, breezeways and other portions of the building that are allowed to be constructed within the lot.

BUILDING FACADE. The exterior face of a building.

BUILDING HEIGHT. The maximum vertical distance measured from finished grade at foundation to the highest part of the structure, including roof equipment or attachments, but excluding antennas.

BUILDING LOT. A lot which meets the applicable requirements for construction of a building.

BUILDING PERMIT. A permit issued by the Mesa County Building Department, acting on behalf of the City of Fruita after receipt of a Planning Clearance for a building permit issued by the City Community Development Department, which allows the construction of a structure within the city.

BUSINESS RESIDENCE. A single residential dwelling unit, accessory to, and located on the same lot, as a structure primarily devoted to business or commercial uses.

CANOPY. See Awning.

CARPORT. A structure with roof providing space for the storage of one or more automobiles and enclosed on not more than two (2) sides by walls.

C.C.I.O.A. The Colorado Common Interest Ownership Act, Sections 38-33.3-101, et. seq., C.R.S., governing the formation and operation of common ownership communities and condominiums.

CERTIFICATE OF OCCUPANCY. Refers to the Certificate of Occupancy defined in the currently adopted International Building Code or the permission to occupy a development for the approved use, granted by the City of Fruita.

CHANGE IN USE. A change from one principal use of a building or land to another principal use of the building or land. There may or may not be an increase in the size of the existing building or extent of the use of the land, but one or more of the following factors are present and confirmed for the new use:

1. The new use has an off-street parking requirement under this Title which is greater than parking available and necessary for the previous use; or
2. The number of vehicle trips generated by the new use is or will be greater than the number of vehicle trips generated by the previous use as determined by the Institute of Transportation Engineers Trip Generation, latest edition; or
3. The amount of stormwater runoff or impervious (to drainage) surface area will be increased with the new use.
4. The amount of wastewater generated by the use will be greater than the previous use.

[**Note:** If there is a change from one principal use of a building or land to another principal use

of a building or land, but there is no increase in the size of the existing building or extent of the use of the land and none of the above previous factors apply, a change of use shall not have occurred.]

CHANNEL. A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

CHIEF BUILDING OFFICIAL. The person appointed by the Fruita City Manager to administer the Building Codes, as adopted by the City of Fruita, for the city.

CHILD CARE CENTER. A facility for child care for less than 24 hours a day in a location which is maintained for the whole or part of a day for the care of two (2) or more children under the age of sixteen (16) years and not related to the owner of the center, whether such facility is operated with or without compensation for such care and with or without stated education purposes. The term includes facilities commonly known as " child daycare centers," "nursery schools," "kindergartens," "preschools," "play groups," "day camps," and "summer camps."

CHILD CARE HOME. A type of child care center that provides less than 24-hour care for two (2) to eight (8) children on a regular basis in a place of residence. Children in care are from different family households and are not related to the head of the household.

CHURCH. Any structure or building for organized public worship.

CITY. The City of Fruita.

CITY ENGINEER. The individual selected by the City Manager to serve as the appointed Chief Engineer for the City of Fruita.

CIVIC CLUB. A group of people organized for a common purpose to pursue common goals, interests, or activities, are not commercial in nature and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws.

CIVIC SPACES. Public areas, such as plazas, landscaped courtyards, alcoves or pocket parks that provide pedestrian rest areas and/or aesthetic relief.

CLUSTER/CLUSTERED. A group of dwelling units that are placed close together in order to preserve open space.

CODE ENFORCEMENT OFFICER. The individual hired by the Community Development Director to perform duties within the community that enforce adherence to the Land Use Code by all individuals for the health, safety and welfare of the community and the residents therein.

COMMUNITY CORRECTIONS FACILITY.

1. A facility providing residential or non-residential services operated under the direction of a Community Corrections Program, as defined by Sections 17-27-101, et. seq., C.R.S.; or
2. A facility providing residential or non-residential services substantially similar to that described in Section 17-27-102(3), C.R.S., although not being administered pursuant to Sections 17-27-101 et. seq., C.R.S., which is operated by a private individual, partnership, corporation or association.

A community corrections facility shall manage and supervise "offenders" in accordance with adopted standards and pursuant to a contract supervised and administered by an agency of the State of Colorado; such a facility is not required to be in direct privity of contract with the State so long as it is subject to the same, or equivalent, standards and rules applicable to a facility which is subject to Sections 17-27-101, et. seq., C.R.S. The applicant for a community corrections facility which is not administered pursuant to Sections 17-27-101 et. seq., C.R.S. shall identify, and provide as required by the Director, the rules and contract under which such facility is regulated and administered. A community corrections facility shall provide to the Director, upon request, evidence that the facility/program is subject to 'program audits' by the State, or an agent of the State, and is operating and has been operated in compliance with all applicable standards. "Offenders" means, for the purposes of this definition, a person accused or convicted of a felony, misdemeanor or other criminal offense.

COMPOSITE SITE PLAN. A site plan submitted and recorded with the platting of subdivisions. The composite site plan should show information not typically included on the plat, such as; specific driveway restrictions, non-typical building setback lines, developer/HOA maintained fencing, etc.

CONCEALED OR STEALTH TELECOMMUNICATIONS TOWER. Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land, buildings, structures and uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements and towers designed to not look like a tower; such as, light poles, power poles and trees. The term stealth does not necessarily exclude the use of un-camouflaged lattice, guyed or monopole tower designs.

CONCEPT PLAN. The optional first step of a Planned Unit Development proposal or a Subdivision, pursuant to Chapters 17.19 and 17.21. This typically includes map(s) of a proposed subdivision or PUD and supporting documents submitted to evaluate concept, feasibility and design characteristics at an early stage in the planning of a subdivision.

CONDITIONAL USE. A use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district. After due consideration, as provided for in Section 17.09.030 of this Title, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

CONDOMINIUM. A common interest community in which portions of the real estate are

designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

CONDOMINIUM UNIT. A unit in a condominium consisting of any enclosed room(s) occupying all or part of a floor(s) in a building of one or more floors used for residential, professional, commercial, or industrial purposes together with the interest in the common elements appurtenant to that unit.

CONSERVATION EASEMENT. A deed restriction placed on property that restricts its owner to specific limited uses of the property, typically agriculture or as passive, public or private open space.

CONSTRUCTION. For the purposes of this Title, any improvements made to land, existing buildings, or other above or below ground facilities, and any erection or installation of new structures or above or below ground facilities for which a Planning Clearance or other land development application approval is required by the Fruita Municipal Code.

CONSTRUCTION PLAN. Complete construction drawings of a facility or improvement, including but not limited to road plans and profiles, drainage plans and utility plans.

CONVEYANCE OF THE LAND. Transfer of all or a part of a title or equitable interest in land; the lease or assignment of an interest in land; the transfer of any other land interest.

COOPERATIVE PLANNING AREA. An area defined in an intergovernmental agreement between Mesa County, the City of Fruita, and the City of Grand Junction and generally located between 20 Road and 21 Road from the Bureau of Land Management Lands on the north to State Highway 6 & 50 on the south and extending south to the Colorado National Monument in areas between 18 ½ Road and 21 Road. Also known as the Community Separator and Buffer Zone.

COTTAGE OR COTTAGE CLUSTER. A single lot or parcel of land developed with two or more detached single family dwellings. (See cluster.)

COUNCIL. The Fruita City Council.

COUNSELING CENTER. A facility where individuals or small groups are provided professional counseling assistance with personal, emotional, marital, medical, or similar problems on an out-patient basis.

COUNTY. Mesa County.

CUL-DE-SAC. A local dead-end street terminating in a vehicular turnaround area.

CURB FACE. The vertical or shaped portion of a curb, facing the roadway, and designed to direct stormwaters.

DAYCARE CENTER. A facility for the care, protection and supervision of two (2) or more adults, on a regular basis, away from their primary residence, for less than twenty-four (24) hours per day. (See child care center.)

DAYCARE HOME. A type of daycare center that provides less than 24- hour care for two (2) to eight (8) adults on a regular basis in a place of residence. Adults in care are from different family households and are not related to the head of the household. (See child care home.)

DECK. Open floor space above ground level, without a roof. A deck over thirty (30) inches above finished grade (ground surface) requires a building permit.

DECORATIVE WALL. Masonry or masonry with wood, with surface variations so that it is dissimilar from a plain cinder block wall.

DEDICATION. Land, easements, or rights-of-way which are permanently conveyed to a public entity or utility and accepted by that public entity or utility.

DEED. A document conveying and evidencing a conveyance of land or a conveyance of an interest in land.

DEED RESTRICTION. A legal document recorded with the County Clerk and Recorder describing restricted activities on a lot or parcel of land.

DEPARTMENT. The Fruita Community Development Department.

DESERT LANDSCAPING. The use of landscaping materials, both vegetative and non-vegetative, which are native to an arid or semiarid climate. (See xeriscape.)

DESIGN CAPACITY. The practical capacity of a facility, whether a road, building, ditch, pond, or other structure determined by engineering analysis to be capable of accommodating the design volume or load.

DESIGN CRITERIA AND CONSTRUCTION SPECIFICATIONS MANUAL. City of Fruita regulations and standards concerning the construction of wastewater systems, sanitary sewer systems, street system and other transportation systems, storm drainage and erosion control systems, irrigation systems and others.

DESIGN STANDARDS. Local, State, or national criteria, specifications or requirements referenced within this Title and used for the design of public or private infrastructure including but not limited to, streets, sewers, and sidewalks.

DEVELOPER. A person, firm, partnership, joint venture, association, corporation, group or organization who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

DEVELOPMENT. Construction, improvement, or remodeling of a building or placement of a use on a parcel of land. Development may be deemed to include all property adjacent or abutting, whether or not to be immediately planned or developed, under the same or substantially the same ownership. Development includes, but is not limited to any of the following: the division of a parcel of land into two (2) or more lots; the construction, reconstruction, conversion, excavation, clearing of roadways or building sites; the extension of utilities; landfill or land disturbance; any use or extension of the use of land; the placement of a use on any property; or any planned unit development. Development does not include movement of earth associated with crops and/or farming or landscaping.

DEVELOPMENT APPLICATION. See Application.

DEVELOPMENT AGREEMENTS. An agreement between the city and a property owner and developer which provides for the construction, installation and development of public or shared improvements associated with a development and includes a performance guarantee and various exactions required by the city as further described in Chapter 17.49 of this Title.

DEVELOPMENT SCHEDULE/PHASING SCHEDULE/FILING SCHEDULE. A schedule showing the order and timing for the start and completion of various parts of a development. Such a schedule is mandatory and considered a condition of approval of a subdivision to be completed in phases or filings.

DIRECTOR. The Director of the City of Fruita Community Development Department.

DISBURSEMENTS AGREEMENT. An agreement recorded in the records of the County Clerk and Recorder which binds a developer and/or landowner to expend funds required for the construction of development improvements, and which provides for the escrow of funds controlled by a financial institution and the city to secure the completion of improvements.

DOWNTOWN AREA. The area within the city designated in the Fruita Comprehensive Plan as Downtown.

DRIVEWAY. A paved or unpaved area used for the ingress and/or egress of vehicles and allowing access from a street to a building or other structure or facility. Also known as a driving aisle when used in reference to a parking lot.

DWELLING, CARETAKER. A dwelling designed for a resident to oversee a commercial or industrial establishment.

DWELLING, DUPLEX. A building containing two (2) dwelling units on a single lot in either

an over-and-under or side-by-side configuration totally separated from each other by an unpierced wall at least one-story in height above grade, or a common unpierced floor/ceiling, as applicable.

DWELLING, MULTI-FAMILY. A building containing three or more dwelling units arranged, designed for, and intended for occupancy of three (3) or more family units independent of each other, having independent cooking and bathing facilities located on a single lot.

DWELLING, SINGLE-FAMILY, ATTACHED. One of two (2) or more single family dwelling units having a common or party wall separating dwelling units with each dwelling unit located on a separate lot.

DWELLING, SINGLE-FAMILY, DETACHED. A residential building containing not more than one (1) dwelling unit entirely surrounded by open space on a single lot. This includes modular houses.

DWELLING UNIT. One (1) or more rooms designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DWELLING, ZERO LOT LINE. A single-family dwelling unit located on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line.

EASEMENT. An ownership interest in real property entitling the holder thereof to use, but not full possession, of that real property.

ELECTRONIC MESSAGE BOARDS. A sign with electronically changeable copy.

ENGINEER. An engineer licensed or registered by the State of Colorado.

EQUIPMENT. Rolling stock or movable personal property except that, for the purpose of this Title, it shall not include those items defined as heavy equipment.

ESCROW AGREEMENT. A legal instrument binding a developer and/or landowner to apply funds held in trust by a financial institution for the construction of required improvements of a development or other specified purpose.

EVIDENCE. Any map, documentary or testimonial material offered by a person in support of a specific claim, condition, or assertion.

EXOTIC ANIMALS. Those animals not defined as household pets or agricultural animals.

EXTRACTIVE USES. Surface and/or subsurface natural resources which may be extracted from the land. This includes exploratory drilling or mining, but excludes individual water well drilling.

FACADE. The exterior walls of a building exposed to public view or that wall viewed by persons not in the building.

FAMILY. Any number of persons living together on the premises as a single unit, but shall not include a group of more than four (4) individuals not related by blood, marriage or adoption. Notwithstanding the foregoing, a family shall be deemed to include four (4) or more persons not related by blood, marriage, adoption, or legal custody occupying a residential dwelling unit and living as a single household, if the occupants are handicapped persons as defined in Title VIII, Part 3 of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by '24-34-301, C.R.S. A household that includes persons identified above shall not be excluded from the necessary persons employed in the care and supervision of such handicapped or disabled persons.

FARM AND RANCH STRUCTURES AND USES. Those structures and uses devoted to the shelter and/or raising of livestock, poultry, feed, flowers, crops, field equipment or other agricultural items, with or without a dwelling unit. Also known as Agricultural structures and uses.

FARMERS MARKET. A structure or place where agricultural produce is brought for the purposes of retail sales. (Note: A farmers market differs from a produce stand in that there may be more than one (1) seller allowed per parcel of land and the structure from which produce is sold at a farmers market need not be portable or capable of being dismantled or removed from the site.)

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The federal agency responsible for the National Flood Insurance Program which includes the Flood Insurance Rate Maps (FIRM) and Federal Flood Insurance Zones.

FEED LOT. An area which is used for custom feeding of livestock where charges are made to owners of livestock for yardage, feed and feed processing.

FENCE. A barrier constructed to mark a boundary or to prevent exit from or entry onto or into premises or property and/or to screen premises or property from view regardless of the material used, except vegetative materials, including walls but not retaining walls. A fence is considered a structure.

FILING. A portion of a development where a plat is created showing only the lots to be developed at the time of recording of such plat, plus a large remainder lot (as a single parcel) reserved for future filings.

FINAL PLAN. The last most detailed plan submitted to the city for approval as part of the subdivision or development review process.

FINAL PLAT. A survey map establishing real estate interests for recording with the County Clerk and Recorder prepared by a registered surveyor. This survey shall be marked on the

ground so that streets, blocks, lots and other divisions thereof can be identified and drawn in accordance with the requirements of this Title.

FIRE FLOW SURVEY. A testing of fire hydrants to determine capacity by volume and pressure for fire fighting purposes in accordance with the requirements of the local Fire Marshal.

FLEA MARKETS. A flea market, swap shop, or similar activity by whatever name, where the use involves the setting up of two (2) or more booths, tables, platforms, racks, or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products or other items offered for sale outside an enclosed building. Flea markets do not include any of the following activities: garage sales, produce stands, or fund raising activities done by a non-profit organization.

FLOODPLAIN. An area adjacent to a watercourse which may be subject to flooding as a result of an increase in water flow beyond a normal high-water mark.

FLOOR AREA. The total horizontal area of all floors in a building.

FLOOR AREA, GROSS. The total horizontal square footage of a building measured within the exterior face of exterior walls (all square footage within a building plus square footage of exterior faces or walls including façade). In the case of attached units, the measurement includes the centerline of walls separating two (2) abutting buildings. The measurement includes all floors of a multistory building whether finished or unfinished.

FLOOR AREA, NET. The horizontal square footage of the primary use area of a building including restrooms, hallways and stairwells, but not including normally unoccupied areas such as garages, storage rooms, furnace areas, or any space where floor-to-ceiling height is less than six (6) feet and six (6) inches.

FRONTAGE. The distance measured where a property line is common with a road right-of-way line. This does not include property lines common with an alley right-of-way.

GARAGE, PUBLIC. A structure, or portion thereof, attached or detached, and accessory to the principal building on a parcel of land for the storage of motor vehicles. A structure other than a private garage used for the housing of motor vehicles or where vehicles are stored or kept for remuneration, hire or sale. This garage shall not be considered an "Auto Repair Shop".

GARAGE (YARD) SALE. A sale of used clothing or household goods held at the seller's home.

GASOLINE SERVICE STATION. Buildings and/or surfaced area where automotive vehicles may be refueled and/or serviced. This service shall not include tire recapping, body painting and repair, or engine repair, which requires removal of the head or pan of the engine.

GEOLOGIC HAZARD AREA. An area identified by a qualified State or federal government

agency as containing or being directly affected by a geologic hazard.

GEOTECHNICAL REPORTS. A report describing the engineering and construction properties of soils at a site based on drilling and sampling information and which provides recommendations for foundations, utility lines, and pavement design within the development.

GOVERNING BODY. The Fruita City Council.

GRADE. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, the point between the building and a line five (5) feet from the building.

GRADE, FINISHED. The level of the soil after completion of site development.

GRADE, HIGHEST ADJACENT. The highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

GRADE, NATURAL. The undisturbed ground level which may be determined by on-site evidence (vegetation, ground level on adjacent land, elevation of adjacent streets and roads, soil types and locations, etc.).

GROSS ACREAGE. The area of a proposed development, including proposed dedications of easements, rights-of-way or other property rights, but excluding existing dedicated rights-of-way.

GROSS LEASABLE AREA. The total building area, expressed in square feet and designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, as measured from exterior walls or the centerline of walls separating two (2) abutting buildings, but excluding any space where floor-to-ceiling height is less than six (6) feet and six (6) inches.

GROUND COVER. Rocks, mulch, grass or other plants and similar materials used to keep soil from being blown or washed away.

GROUND SUBSIDENCE. A process characterized by the downward displacement of surface material caused by natural phenomena; such as, removal of underground fluids, natural consolidation, or dissolution of underground minerals or by manmade phenomena such as underground mining.

GROUND WATER. Subsurface water found within and below the zone of continuous saturation.

GROUP HOMES. The residential occupancy of a structure by a group of people who do not meet the definition of Household Living. Tenancy is arranged on a monthly or longer basis, and the size of the group may be larger than a family. The residents may receive care, training or

treatment, as long as the care givers also reside at the site. Group home does not include a home for adults who have been charged or convicted and are under court supervision for any violent crime, but shall include homes for adjudicated delinquent children.

GROUP HOMES, LARGE. A group home for more than eight (8) persons or for less than eight (8) persons when on-site medical or psychological treatment, therapy, or counseling is provided for all or some of the residents of the group home.

GROUP HOMES, SMALL. An owner occupied group home for the exclusive use of not more than eight (8) persons who do not receive or require on-site medical or psychological treatment, therapy, or counseling, but some or all of whom are receiving on-site physical assistance with day- to-day living activities. The limit of eight individuals includes both those receiving and those providing assistance.

HABITABLE FLOOR. Any floor usable for living purposes, which includes: working, sleeping, eating, cooking, recreation, or a combination thereof.

HARDSCAPE. Stone, brick, rock, sand, textured or shaped concrete, decorative walls and/or pedestrian facilities (i.e. benches, tables, play equipment, walking or bike paths).

HAZARD PRONE AREA. An area which has not yet been officially designated by the State or federal government as a geological hazard area but where historical evidence, climatological data, surface or subsurface geological, topographical, vegetative, or on other onsite naturally occurring factors indicate a relatively greater risk of property damage than exists on other parcels in the city.

HAZARDOUS SUBSTANCE. Any material that, by reason of its toxic, corrosive, caustic, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

HEALTH CLUB. An establishment that provides facilities for exercise activities; such as, running, jogging, aerobics, weight lifting, court sports and swimming, as well as, locker rooms, showers, massage rooms, saunas and related accessory uses.

HEALTH DEPARTMENT. The Mesa County Health Department.

HEARING. See Public Hearing.

HEAVY EQUIPMENT. Any vehicle with a gross weight greater than fifteen -thousand (15,000) pounds which is used primarily for commercial purposes, including but not limited to, trucks, earthmovers, backhoes and loaders, but not including recreational vehicles or farm equipment.

HEDGE VEGETATION. A plant which will grow, with regular trimming, to a height of four (4) to six (6) feet maximum.

HELIPAD. A facility without the logistical support provided by a Heliport (See Heliport) where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling or storage of helicopters.

HELIPORT. An area used for the take-off and landing of helicopters and fuel facilities (whether fixed or mobile) or appurtenant areas for parking, maintenance, and repair of helicopters.

HIGH WATER MARK. The ordinary high water level or bank of a stream, river, lake or impoundment which, in the absence of evidence to the contrary, shall be presumed to be the edge of the vegetation growing along the shore.

HILLSIDE DISTURBANCE. Includes any and all areas of the building site disturbed during construction by grading or excavation and temporary or permanent construction for all buildings, parking areas, driveways, roads, sidewalks, and other areas of concrete, asphalt, or other construction materials.

HOME OCCUPATION. A commercial or business use within a dwelling unit by the residents thereof, which is incidental or secondary to the principle use of the dwelling for residential purposes.

HOMEOWNERS ASSOCIATION (HOA). A formally constituted non-profit association made up of the property owners and/or residents of a fixed area, which association is formed for the purpose of assuming permanent responsibility for costs and upkeep of common areas, common elements, open space, irrigation system, and similar shared facilities or to enforce the covenants for a development whether or not there are shared facilities.

HOSPITAL. Any building used for overnight accommodation and medical care of human patients including sanitariums, but excluding clinics, rest homes and convalescent homes.

HOTEL. A structure providing short term lodging or boarding for guests for not more than thirty (30) consecutive days, including lodges and motels. A short-term rental is not a Hotel. (see Lodge and Motel)

HUMAN SCALE. Buildings and spaces built in scale with each other and in scale with the human use of these buildings and spaces. Buildings scaled to human physical capabilities have steps, doorways, railings, work surfaces, seating, shelves, fixtures, walking distances, and other features that fit well to the average person.

ILLUMINATION, DIRECT. When applied to the lighting of signs, lighting by means of an unshielded light source (including neon tubing) which is effectively visible as a part of the sign, where light travels directly from the source to the viewer's eye.

ILLUMINATION, INDIRECT. When applied to the lighting of signs, lighting by means of a light source directed at a reflecting surface in a way that illuminates the sign from the front, or a light source that is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting which is primarily used for

purposes other than sign illumination; e.g., parking lot lights, or lights inside a building that may silhouette a window sign, but are primarily installed to serve as inside illumination.

ILLUMINATION, INTERNAL. When applied to the lighting of signs, lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are themselves made of a translucent material.

IMPOUND LOT. A lot for the storage of vehicles which have been towed or otherwise moved to the lot by a towing carrier permitted to operate pursuant to Sections 40-13-101 et. seq. C.R.S., in which lot no vehicle dismantling or repair work occurs.

IMPROVEMENTS. Street pavements, curbs, gutters, sidewalks, paths, bikeways, sedimentation control facilities, revegetation, water lines and mains, irrigation systems, storm sewers, wastewater collection lines and wastewater mains, irrigation systems, lateral wastewater lines, drain ways, gas lines, electric and telephone lines and appurtenances, street signs, street lights, lot pin monuments, range point boxes, cable television lines, fiber optic cables, recreational facilities, landscaping, fire hydrants, and traffic control devices and any other item required for compliance with the regulations of this Title or the conditions of approval in a development.

Public Improvements shall be deemed to include water lines, water mains, fire hydrants, wastewater collection lines and mains, public recreational facilities, traffic control devices, public roads, curb, gutter, sidewalk, bike paths and other facilities conveyed to the city.

Private Improvements include all development improvements not conveyed to the city or other governmental entity; such as, natural gas facilities, telephone lines, electric lines, cable television system facilities, irrigation systems, drainage facilities and homeowner association common area facilities.

INTENSITY. The number of dwelling units per acre for residential development and gross floor area/level of activity and impacts of activity for non-residential development.

IRRIGATION OR IRRIGATED. Water used, whether or not potable, to sustain or grow landscapes or flora.

JUNK. Any waste, scrap, surplus, or discarded material, including but not limited to, metal, glass, paper, appliances not used for their intended purposes, junk vehicles, dismantled machinery, discarded construction materials, cardboard or fabric which is worn, deteriorated, and may or may not be used again in some form, but excluding animal wastes and human sewage.

JUNK VEHICLE. Any motor vehicle, trailer, or semi-trailer that is not operable in its existing condition because of damage or because parts necessary for operation are removed, damaged or deteriorated; or, is not capable of being lawfully driven on a public highway or street pursuant to the minimum standards set forth in Title 42 of the Colorado Revised Statutes. Any such motor vehicle, trailer, or semi-trailer shall be presumed to be a junk vehicle if no current Colorado license plates are displayed thereon, or if Colorado license plates have been invalid for more than sixty (60) days.

JUNK YARD. Any yard, lot, land, parcel, building or structure, or part thereof, used for storage, collection, processing, purchase, sale, salvage or disposal of used or scrap materials, equipment, vehicles or appliances. The term "Junk Yard" shall include "Wrecking Yard" and "Salvage Yard." Junk Yard does not include storage of vehicles used for agricultural purposes on a property used for agricultural purposes, or facilities qualifying as motor vehicle repair shops.

JURISDICTION. The sphere of responsibility of the Fruita City Council or a tax-assessing district.

KENNEL. A facility in which five (5) or more animals of the same species are housed, groomed, bred, boarded, and/or trained in return for compensation, and/or sold, and which may offer incidental medical treatment.

LAND DEVELOPMENT APPLICATION. A written request submitted for any approval, permit, or action required by this Land Use Code.

LANDLOCKED PARCEL. A parcel of land without access of record with the County Clerk and Recorder to a public right-of-way.

LANDSCAPE AREA. An area set aside from structures and parking which is developed with plantings, woods, stone, brick, rock, sand, textured or shaped concrete and/or pedestrian facilities (i.e. benches, tables, play facilities, paths, etc.).

LANDSLIDE. A mass movement where there is a distinct surface of rupture or zone of weakness, which separates the slide material from more stable underlying material.

LAND SURVEY PLAT. A plat which shows the information developed by a monumented land survey and includes all the information required by C.R.S. Section 38-51-106.

LAND USE. List of uses within categories enumerated in Chapter 17.05 of this Title for various uses of land in the city.

LAND USE CODE OR CODE. Unless otherwise specified, refers to this Title 17 of the Fruita Municipal Code.

LETTER OF CREDIT. A letter from a bank or other financial institution which guarantees that sufficient funds may be drawn on the financial institution to cover the cost of constructing the required improvements in a development.

LOADING SPACE. An off-street portion of a parcel for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel.

LODGE. A structure providing short term lodging or boarding for guests for not more than thirty (30) consecutive days, including hotels and motels. A short-term rental is not a Lodge. (See Hotel and Motel)

LOT. A parcel of land as established by recorded plat.

LOT AREA, NET. The horizontal area of land enclosed within the property lines of the lot excluding adjacent streets and alleys, and any easements or dedications.

LOT AREA, GROSS. The horizontal area within the exterior boundaries for the subject property, including: any streets and required improvements, easements, reservations or dedications.

LOT, CORNER. A lot abutting upon two (2) or more intersecting streets.

LOT COVERAGE. Lot coverage is measured as a percentage of the total horizontal lot area covered by buildings. It is calculated by dividing the square footage of a building cover by the square footage of the lot. All covered patios, decks, porches and accessory buildings are included in the calculation of building cover. Roof eaves are not included.

LOT DEPTH. The horizontal distance measured from the front property line to the rear property line. If front and rear property lines are not parallel, the lot depth is the shortest distance between the front and rear property lines.

LOT, DOUBLE FRONTAGE (THROUGH LOT). A lot having frontage on two (2) non-intersecting streets. A double frontage lot shall be required to have one (1) front yard setback and one (1) rear yard setback.

LOT, FLAG. A lot having no frontage or access to a street or place except by a narrow strip of land.

LOT FRONTAGE. The distance for which a lot abuts on a street. (See Frontage.)

LOT, INTERIOR. A lot whose side property lines do not abut on any street.

LOT LINE. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public or private space.

LOT LINE, FRONT. The property line dividing a lot frontage from a road right-of-way.

LOT, PENINSULA. A lot which is bordered on three (3) sides by a street. Peninsula lots are required to have two (2) front yard setbacks. The third street frontage shall be treated as a rear yard for setback purposes.

LOT WIDTH. The horizontal distance between side property lines measured parallel to the street, or to the tangent of a curved street property line. If side property lines are not parallel, the lot width is the shortest distance between the side property lines.

MACHINE SHOP. A structure used for containing machinery for the manufacture, modification or repair of metal goods and automotive equipment. This use shall be conducted entirely inside the building and does not include the dismantling of automotive equipment.

MAINTAIN. To use, to keep in existence.

MAJOR STREET PLAN. A plan or plans showing the location of rights-of-way, which will be developed in the future, which must be adhered to when planning new development or land uses. Plans for areas smaller than the entire city are still considered "major street plans." The city relies on the authority in Title 31, C.R.S., in addition to its other powers and authority relating to major street plans. Also known as the Fruita Area Street Classifications and Traffic Control Plan.

MANUFACTURED HOME. A factory-built single-family dwelling manufactured under the Federal Manufactured Home Construction and Safety Standards Act. The Act, commonly called the HUD Code, went into effect June 15, 1976.

MANUFACTURED OR MOBILE HOME PARK. A parcel of land used for the continuous accommodation of five (5) or more occupied manufactured homes or mobile homes and operated for the pecuniary benefit of the owner of the parcel of land, his agents, lessees, or assignees. A manufactured or mobile home park does not include manufactured or mobile home subdivisions. (See Chapter 17.31)

MANUFACTURED OR MOBILE HOME SUBDIVISION. A parcel or contiguous parcels of land subdivided into two (2) or more lots configured specifically for development of manufactured or mobile home housing. (See Chapter 17.31)

MASTER PLAN. Collectively, the City of Fruita Comprehensive Plan (2020); the Parks, Health, Recreation, Open Space, and Trails Master Plan (2021); Fruita Greenway Business Park Plan (2001); City of Fruita Traffic Calming, Bicycle, Pedestrian Plan (1999); City of Fruita Stormwater Management Master Plan (1998); Mesa County Stormwater Management Plan; Fruita Kokopelli Greenway Plan (1996); The SH 340 Corridor Conceptual Development Plan (1994); and City of Fruita 201 Regional Wastewater Plan and any other plans approved by City Council Resolution.

MEMBERSHIP CLUB. An association of persons, incorporated or unincorporated for a common purpose, but not including groups organized primarily to render a service carried on as a business.

MESA COUNTY ROAD AND BRIDGE STANDARDS. Mesa County Standard Specifications for Road and Bridge Construction (Adopted March 28, 1995), as amended, should be used in accordance with the Fruita Land Use Code.

MINI STORAGE WAREHOUSE. A structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases for varying periods of time.

MOBILE HOME. A factory-built single-family dwelling constructed prior to the enactment of the HUD Code on June 15, 1976. The term "mobile home" shall only include those units designed and intended for use as a permanent residence and shall not include office trailers, manufactured homes, travel trailers, camp trailers, or other recreational type vehicles designed for temporary occupancy.

MODULAR HOME. A factory-built single-family dwelling constructed in compliance local building code standards. Such dwellings are divided into multiple modules or sections which are manufactured in a remote facility and then delivered to the site. The modules are assembled into a single residential building using either a crane or trucks. Also known as factory-built homes.

MONUMENTED LAND SURVEY. Land survey in which monuments are either found or set pursuant to Sections 38-51-103, 38-51-104, and 38-51-105, C.R.S., to mark the boundaries of a specified parcel of land.

MOTEL. A structure providing short term lodging or boarding for guests for not more than thirty (30) consecutive days, including hotels and lodges. A short-term rental is not a Motel. (See Hotel and Lodge)

MUDFLOW. Describes a flowing mass of predominantly fine-grained earth material possessing a high degree of fluidity during movement.

MULCH. Wood chips, bark, rock or other accepted material placed around plants to assist in moisture retention, weed prevention and erosion control.

NATURAL HAZARD. Describes a geologic, floodplain, or wildfire hazard, as identified by a State or federal agency.

NATURAL RESOURCE. A resource established through the ordinary course of nature.

NEIGHBORHOOD. An area of a community with characteristics that distinguishes it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers; such as, major highways and railroads or natural features such as rivers.

NEIGHBORHOOD ASSOCIATION. Any group that has been recognized by the Community Development Department or has registered with the Community Development Department the boundaries of a particular area with which it is related and which the association represents.

NIGHT CLUB. A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which music, dancing or live entertainment is conducted.

NO BUILD AREA. An area identified on a plat or other document indicating the areas where no permanent buildings or structures are permitted including slabs and raised landscaping.

Fencing may be permitted in some no build areas, such as over a storm drain.

NONCONFORMING. LEGAL. A use, lot, structure, and/or development which was legally established prior to the adoption of this Code or any amendment thereto, which does not presently conform to the Code or its amendments.

NOTICE. The method used of informing persons of requests, hearings, actions taken and similar actions. The form and specifics of notice will vary depending on the application process and other factors.

NOTICE OF INCOMPLETENESS. A notice issued by the City Community Development Department to an applicant indicating that a land development application does not meet the minimum requirements for processing.

NURSERY-GREENHOUSE. A place where plants are grown, acquired and maintained for transplanting or sale. Sale or rental of small landscaping tools and supplies may be an accessory use.

NURSERY SCHOOL/PRESCHOOL/ DAY NURSERY. See Child Care Center

OFF-STREET PARKING SPACE. The space required to park one (1) motor vehicle, exclusive of access drives, and not on a public right-of-way.

OPEN MINING. The mining of natural mineral deposits by removing the overburden lying above such deposits and mining directly from the deposits exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying and dredging.

OPEN SPACE. Any property or portion thereof without habitable structures or significant impervious surface and not designated and used for a specific purpose. Open space must also have all three (3) of the following characteristics: 1) land in a natural, near natural, agricultural, or other desirable condition or reserved for outdoor recreational activities; 2) permanent protection, and; 3) has attributes or features worthy of protection.

OPEN SPACE. PRIVATE. An open space which is privately owned and designed for private use.

OPEN SPACE. PUBLIC. An open space that is designated for public access and may be posted with hours of operation and use. Public open space can be publicly owned or owned by a private entity such as a homeowners' association but contains a public access easement.

OUTDOOR EVENTS. Entertainment, educational and cultural events generally involving large numbers of people as spectators or participants in an outdoor setting.

OUTLOT. An area of land on a plat which will be used for a purpose other than a building site.

OUTSIDE STORAGE. Storage of materials, supplies, and merchandise that is not within an enclosed structure and in the same place for more than forty-eight (48) hours.

OVERBURDEN. All the earth and other materials which lie above natural mineral deposits or materials disturbed from their natural state in the process of mining and/or other development.

OVERFLOW PARKING. Any off street, ground level open area, used for the temporary storage of excess motor vehicles.

OVERLAY DISTRICT. A zoning district which has been superimposed over basic districts to address development constraints which require special attention and treatment and to alert developers to issues they need to address in preparing an application to develop. The City may adjust overlay areas by Council Ordinance.

OWNER OF RECORD. The fee simple owner of a parcel or parcels of land as indicated by the records of the Mesa County Clerk and Recorder.

PARCEL. An area of land defined by a legal description recorded with the Mesa County Clerk and Recorder.

PARK. A type of open space that is used for recreational activities and typically contain recreational amenities such as picnic tables and/or ball fields depending on the size of the park.

PARK, COMMUNITY. Community parks are large, multi-purpose parks that serve the entire community. These parks are generally designed to provide active play opportunities for all ages. Community parks can also provide indoor facilities to meet a wider range of recreation and interests. These parks should be designed to meet the active community while providing a sanctuary for those individuals who also enjoy more leisure-oriented activities.

PARK, NEIGHBORHOOD. Neighborhood scale parks are intended to serve residents in the neighborhoods surrounding the park. These parks are typically designed primarily for informal and unorganized activities, such as pickup ball games. They are generally small in size at two (2) to eight (8) acres of usable area. While it is not the rule, neighborhood parks sometimes provide space for programmed activities, such as organized athletics.

PARK, PRIVATE. A park that is privately owned and not generally open for public use.

PARK, POCKET. Pocket parks are smaller versions of neighborhood parks with fewer amenities, and serve a smaller radius of homes. In Fruita, these parks are found in most subdivision with more than 25 units and have historically been privately developed and maintained, but have public access agreements allowing for public use. However, there are a few pocket parks that are owned and maintained by the city.

PARK, PUBLIC. A park that is open for public use and can be owned by a private entity such as a homeowners' association or publicly owned.

PARKS, OPEN SPACE, AND TRAILS IMPACT FEE/DEDICATION. Land dedicated for public use or a fee paid by the developer of a new development to the city for the purpose of acquisition and development of public parks, open space, trails, or other similar municipal facilities. (See Chapters 17.43 and 17.47)

PARKWAY STRIP. The undeveloped portion of right-of-way between the back of curb and the detached sidewalk. Also known as a Tree Lawn.

PATIO. An outdoor area which is flush with the ground and is usually paved and partially enclosed by the existing dwelling unit, walls, fencing or garage.

PEDESTRIAN PATH. A right-of-way or easement dedicated for public pedestrian access or a private path intended for pedestrian use. Also known as a trail.

PERFORMANCE GUARANTEE. Cash, letter of credit, escrow and disbursement agreement or bond used for securing the performance of certain obligations, such as, the completion of development improvements.

PERSON. The word "person" shall also include association, firm, partnership, or corporation.

PETITIONER. See Applicant.

PHASE. A portion of an approved development plan for which an approved plat or approved site plan often exists.

PLANNED UNIT DEVELOPMENT (PUD). A zone which allows for modification of the normal use, density, size or other zoning restrictions for the development of residential, business, commercial, industrial or other areas as part of a unified planned development for the entire property for purposes identified in Chapter 17.19 of this Title.

PLANNED UNIT DEVELOPMENT (PUD) GUIDE. Documents submitted that describe, with written and graphic materials, the provisions for a Planned Unit Development zone. The PUD Guide serves as the primary reference for the zoning standards of a PUD and describes the purposes of the PUD, its land uses, development standards, and construction phasing and other pertinent information.

PLANNING CLEARANCE. A permit issued by the City of Fruita that allows development to proceed, a use to be made or maintained or improvements, including structures, to be built or placed in accordance with this Title and with the requirements of the Mesa County Building Department.

PLANNING COMMISSION. The City of Fruita Planning Commission.

PLANT INVESTMENT FEE (TAP FEE). A charge applied for connecting to the city wastewater collection and treatment system. The fee is dedicated for the improvement and expansion of the city's wastewater treatment plant and lines.

PLAT. A map of surveyed and legally described land, which may have appropriate dedications and/or restrictions, which is an instrument for recording of real estate interests with the Mesa County Clerk and Recorder's office.

PLAYGROUND. Any property, public or private, used for and equipped with facilities for recreation especially by children. A playground may be incidental to school use but is not limited to school use or school facilities as defined herein.

PORCH. A roofed, enclosed or partially enclosed extension of a dwelling unit that is unheated and usually without windows or screens.

PRE-CONSTRUCTION MEETING. A meeting held between the city staff and the developer/contractor prior to the commencement of construction of a building or development.

PRELIMINARY PLAN. The map or maps of a proposed development and supporting materials which permit the evaluation of the proposal prior to final detailed engineering and design.

PRINCIPAL STRUCTURE OR USE. The main or primary purpose for a structure or use on a parcel of land.

PRIVATE. Anything not owned or operated by a governmental entity, political subdivision, or tax-assessing district.

PRODUCE STAND. An open air stand for the selling of agricultural products. This stand may be portable for dismantling for moving in an off-season.

PROFESSIONAL OFFICE. An office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, and others who, through training, are qualified to perform services of a professional nature, and where no storage or sale of merchandise is permitted, except as a clearly accessory use.

PROPERTY. A lot, parcel, tract or other real estate.

PUBLIC. Any property or asset owned or operated by a governmental entity, political subdivision, or tax- assessing district.

PUBLIC BUILDING. Any building owned, leased or held by the United States of America, the State of Colorado, Mesa County, the City of Fruita, any school district or other agency or political subdivision, whose building is used for governmental purposes.

PUBLIC HEARING. A public meeting for which public notice has been given and an opportunity for public testimony is provided. Usually, a public hearing will be conducted in accordance with Title 2, and Chapter 17.07.040 of the Fruita Municipal Code.

PUBLIC MEETING. A meeting of the Board of Adjustment, Planning Commission, or City Council, which the public may attend, as further defined by State law.

PUBLIC NOTICE. Notice to the public of an official public hearing. This notice shall be published as set forth in Section 17.04.040 of this Title.

PUBLIC SITE. Property which is owned by a public entity or is open to the public.

RADIOACTIVITY. A condition related to various types of radiation emitted by radioactive minerals that occur in deposits of rocks, soils or water.

RECAPTURE AGREEMENT. An agreement between a developer and the city or other property owners which sets forth the terms and conditions under which part of the costs of an improvement are recoverable from a subsequent development using the improvement.

RECLAMATION. Rehabilitation of plant cover, soil stability, water resources, and other measures appropriate to the subsequent beneficial use of land.

RECORDED. Document(s) of record being placed in the coded files and books of the Mesa County Clerk and Recorder's office.

RECREATIONAL VEHICLE. A vehicle that is: 1) built on a single chassis; 2) four hundred (400) square feet or less when measured at the largest horizontal projection; 3) designed to be self propelled or permanently towable by a light duty truck; and 4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping travel or seasonal use.

Recreational vehicles also shall include the following: truck campers, all watercraft subject to registration by the State of Colorado, all off-road motorcycles, mini-bikes, all-terrain vehicles (ATVs), go-carts and similar vehicles with motor power that are prohibited from operating on a public street by the State of Colorado.

RECREATIONAL VEHICLE PARK. Any lot or parcel developed to provide spaces and facilities for the temporary residential use of two (2) or more recreational vehicles. (See Chapter 17.33)

RECREATIONAL VEHICLE RESORT. An integrated development where recreational vehicles are used for temporary residential purposes in conjunction with recreational and social centers designed to provide a significant portion of the recreational and social needs of the occupants of the resort. (See Chapter 17.33)

RECREATIONAL VEHICLE SPACE. A parcel of land within an approved recreational vehicle park, shown in the records of the City of Fruita Community Development Department, and which was designed and intended for the accommodation of one (1) recreational vehicle.

RECYCLING CENTER/FACILITY. A structure or facility in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

RECYCLING COLLECTION POINT. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources with no processing of such items being allowed. This facility would generally be located on a shopping center parking lot or in other public/quasi-public areas, such as churches and schools.

REGULATION. A specific regulatory section of the Fruita Municipal Code or other law, or promulgated pursuant thereto.

REHABILITATIONS. Restoration or remodeling of an existing structure.

RELEASE. A document signifying the satisfactory completion of a subdivision or development improvement. Releases are typically approved by the City Council at a public hearing.

RENTAL, HEAVY EQUIPMENT. The use of any building, land area or other premises for the rental of heavy equipment, large trucks, trailers, or other similar items.

RENTAL, HOME ORIENTED. A business providing items for rent generally found or used in and around the home.

REQUEST. A writing seeking an approval required under this Title; this is the same as an application.

RESIDENTIAL. A land use which is primarily designed as a living and dwelling unit.

RESIDENTIAL DENSITY-MAXIMUM. Maximum residential density means the number calculated by dividing the total number of dwelling units or residential lots, by the gross acreage expressed in square feet or acres of the development property. Gross land area includes all of the parcel or property at the time a development application is filed. The "gross residential density" is calculated the same as maximum residential density.

RESIDENTIAL DENSITY-MINIMUM. This calculation shall apply to the term "net minimum residential density" as used in this Title. Minimum residential density means the number calculated by dividing the total number of dwelling units or residential lots by the new developable land area of the development parcel.

RESORT CABIN. A building accommodating individuals on a term occupancy basis located in areas providing recreational environmental opportunities in rural areas.

RESTAURANT. An establishment serving food and beverage.

RETAINING WALL. A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site. If a retaining wall exceeds four (4) feet on any part of the property, it requires a Planning Clearance.

REVOCABLE LICENSE OR PERMIT. A permit issued by the City Council, allowing private development within a public right-of-way or property, which may be revoked, with or without cause, at the discretion of the City Council.

RIGHT-OF-WAY, PUBLIC. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation in fee simple and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, wastewater line, storm sewer, and other similar uses; generally, the right of one to pass over the property of another.

ROADWAY. That portion of the street within a right-of-way and/or easement.

ROCK FALL. The rapid freefalling, bounding, sliding, or rolling of large mass of rock(s).

ROOF LINE. The highest edge of the roof or the top of parapet, whichever establishes the top line of the structure when viewed in a horizontal plane.

SATELLITE DISH. An antenna, consisting of radiation element(s) that transmit or receive radiation signals, that is supported by a structure, with or without a reflective component, to the radiating dish, usually circular in shape with parabolic curve design constructed of solid or open mesh surface and intended for transmitting or receiving television, radio, microwave signals or other electromagnetic waves to or from earth satellites.

SCHOOL DISTRICT. The Mesa County Valley School District No. 51, a school district duly organized under the laws of the State of Colorado, which includes within its boundaries the City of Fruita.

SCREENING. Shielding, concealing and effectively hiding from view of a person standing at ground level on an abutting site, or outside the area of the feature so screened by a wall, fence, hedge, berm or any combination of these methods, or any similar architectural or landscaped feature, such as a landscape perimeter strip.

SECURED/SECURITY. Cash, escrow fund, letter of credit, bond or other readily available source of money securing the performance of certain obligations.

SEISMIC EFFECTS. Direct and indirect effects caused by a natural earthquake or a manmade phenomenon.

SELF SERVICE STORAGE FACILITY. A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractor's supplies. Also known as a mini warehouse.

SELF SERVICE STORAGE YARD. A secured area for the storage of recreational vehicles, trailers, campers, etc. Not for storage of uncovered business materials, household goods, contractor's supplies or other loose unsecured items.

SERVICE LINES. Electric, gas, communication, cable television, water, wastewater, irrigation and drainage lines providing local distribution, transmission or collection service.

SERVICE YARD AND ENTRANCE. An area and entrance to a structure which is used for pickup and delivery of goods and services especially in conjunction with retail and wholesale outlets. These areas are usually provided to accommodate commercial trucks and not for general customer use.

SETBACK. The distance that structures are required to be placed from the property lines of a parcel of land or from other established reference points. (See yard, front setback; yard, rear setback; yard, side setback.)

SHORT-TERM RENTAL. A type of lodging wherein any dwelling unit, either in full or in part, is rented or leased to a temporary occupant(s) for monetary consideration for fewer than thirty (30) consecutive days. Also commonly referred to as Vacation Rentals, Vacation Rental by Owners, Airbnb's.

SHORT-TERM RENTAL PERMIT. A permit issued by the Community Development Department pursuant to Section 17.09.060.

SHRUB. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

SIDEWALK. A paved walkway along the side of a street, which may be attached or detached to the street.

SIGN. Any device, fixture, placard, structure, or part thereof, that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce or identify the purpose of, a person or entity, or to communicate information of any kind to the public.

SIGN, ADDRESS. A sign which identifies the address and/or occupants of a dwelling or establishment.

SIGN, ATTACHED. A sign attached to a building such as a wall sign, projecting sign, awning or canopy sign or window sign. The opposite of a freestanding sign.

SIGN, AWNING OR CANOPY. An attached sign that is permanently affixed to a roofed shelter attached to and supported by a building.

SIGN, CREATIVE. Unique signs that exhibit a high degree of thoughtfulness and imagination that make a positive visual contribution to the overall image of the city while mitigating the impacts of large signs or sign of unusual design.

SIGN, CONSTRUCTION. Temporary signs identifying the development of the property on which the sign is located and may include the builder, contractor or other person furnishing service, materials or labor to the premise during the period of construction, development or lot sales.

SIGN, COURTESY. Signs which identify as a courtesy to customers, items such as credit cards accepted, redemption stamps offered, menus or hours of operation.

SIGN, DIRECTIONAL. An on-premise sign providing direction to features of a site such as the entrance or exit, bathroom location, additional parking areas, etc.

SIGN, DOOR. A sign affixed to a door which identifies the name and address of the establishment.

SIGN, EXEMPT. Signs that are exempt from the requirement to obtain a sign permit but are still required to meet the minimum requirements of this Title.

SIGN, FLASHING. A sign, which contains an intermittent or flashing light source or a sign which includes the illusion of intermittent or flashing light by means of animation or an externally mounted light source.

SIGN, FREE STANDING. A sign structure which is supported by one or more columns, uprights, poles or braces extended from the ground or which is erected on the ground; provided that no part of the structure is attached to any building. The opposite of an attached sign.

SIGN, IDENTIFICATION. A sign which displays the address, name and/or use of the parcel upon which the sign is located.

SIGN, INSTITUTIONAL. A sign setting forth the name of a public, charitable, educational, or religious institution.

SIGN, INTEGRAL. Names of building, dates of erection, monumental citation, commemorative tablets and the like which are carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

SIGN, MEMORIAL. Non-commercial signs intending to celebrate or honor the memory of a person or an event.

SIGNS, MENU. Signs at restaurants which are not designed to be read from the public right-of-way and are not visible beyond the boundaries of the lot or parcel upon which they are located or from any public thoroughfare or right-of-way.

SIGN, MONUMENT. A freestanding sign continuously attached to the ground; the opposite of a pole sign.

SIGN, OFF-PREMISE. A sign that directs attention to a commercial business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located, including billboards. The opposite of an on-premise sign.

SIGN, ON-PREMISE. A sign that advertises a commercial business, commodity, service, or entertainment conducted, sold or offered on the same property on which the sign is located; the opposite of an off-premise sign.

SIGN, PERMANENT. A sign which is securely attached to the ground or a structure so that it cannot readily be moved. The opposite of a temporary sign.

SIGN, POLE. A freestanding sign erected above the ground on a pole.

SIGN, POLITICAL. A sign relating to a candidate, issue, proposition, ordinance or other matter to be voted upon by the electors of the city.

SIGN, PORTABLE. A sign that is not permanent, affixed to a building, structure, or the ground. A sign that is mounted or painted or erected upon a vehicle, van, truck, automobile, bus, railroad car or other vehicle shall be considered a portable sign.

SIGN, PROJECTING. A sign attached to a structure wall and extending outward from the wall more than twelve (12) inches.

SIGN, PUBLIC INFORMATION. Signs which identify restrooms, public telephones, self-service or provide instructions as required by law or necessity and similar informational signs.

SIGN, REAL ESTATE. A temporary sign indicating the availability for sale, rent or lease land or buildings and can either be on-premise or off-premise.

SIGN, REGULATORY. Signs which provide information regarding specific regulations on a property such as "no trespassing," "no solicitors," "no smoking," etc.

SIGN, ROOF TOP. A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and which projects above the top walk or edge of a building with a flat roof, the eave line of a building with gambrel, gable or hip roof, or the deck line of a building with a mansard roof.

SIGN, SUBDIVISION. A sign which identifies only the name of the subdivision located at the

entrance to that subdivision.

SIGN, TEMPORARY. A sign which is not permanently affixed to the ground or a structure and can be readily removed from its location. The opposite of permanent sign.

SIGN, TIME AND TEMPERATURE. Signs displaying the time and temperature only.

SIGN VARIANCE. An exception to the numerical requirements of Chapter #41, Signs, which may be approved by the City Council after a public hearing. See also Variance.

SIGN, VEHICLE. A sign painted affixed to or otherwise mounted on any vehicle or on any object which is placed on, in or attached to a vehicle. For the purpose of this definition, the term vehicle shall include trucks, buses, vans, railroad cars, automobiles, tractors, trailers, motor homes, semi-tractors or any other motorized or non-motorized transportation device whether such vehicle is in operating condition.

SIGN, WALL. A sign attached to, or erected against, the wall of a structure which has the sign face in a plane parallel to the plane of the wall and which does not extend more than twelve (12) inches from the building face.

SIGN, WIND. A sign consisting of a series of banners, flags, pennants, ribbons, spinners, streamers, captive balloons, or other objects or material fastened in a manner, which will move when subjected to pressure by wind or breeze.

SIGN, WINDOW. A sign that is painted on, applied to or attached to a window or that can be read through the window from the public right-of-way.

SITE PLAN. The plans and supplemental materials, including a grading and drainage plan, a landscape plan and other detailed information, drawn and submitted to city staff to evaluate a project prior the construction of a building.

STICK BUILT CONSTRUCTION. A type of construction wherein a complete structure is assembled on a building site from individual pieces of common building materials such as lumber, sheathing, piping, etc. The use of prefabricated sub assemblies such as structural floor, wall, or roof panels, trusses, precast concrete foundation assemblies, and/or insulated concrete form (ICF) construction meet the definition of stick built for the purposes of this Title.

STORY. A horizontal division of a building constituting the area between two adjacent levels designed and intended to be a habitable floor.

STREET, ARTERIAL. Streets carrying general traffic within the city and providing communication with surrounding territory and which may be part of the federal-aid and state highway connecting links within the city.

STREET, COLLECTOR. Streets penetrating neighborhoods and routes serving intra-city rather than statewide travel. A minor amount of through traffic may be carried on a collector

street, but the system primarily carries local traffic. Average trip lengths and travel speeds are less than on arterial streets.

STREET FURNITURE. Furniture designed for and permitted in the public right-of-way; e.g. benches, bus shelters.

STREET, LOCAL. Streets within the city open to public travel and which is not a part of a federal-aid connecting link, state highway, or a street designated as a collector or arterial street.

STREET, PRIVATE. Streets not accepted into the City of Fruita street system for maintenance, but maintained by a private homeowners association or private landowners.

STREET, PUBLIC. Streets built to the City of Fruita standards and accepted into the City of Fruita street system for maintenance.

STREETSCAPE. The landscaping and other man-made objects located within the public right-of-way which add variety and are placed for aesthetic purposes as well as functional, pedestrian guidance and traffic control.

STRUCTURE. Anything constructed or erected which requires location on or in the ground or is attached to something having a location on the ground. Structures do not include ditches and their appurtenances, poles, lines, cables, or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, or landscaping materials. A fence is a structure.

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, tracts parcels or other divisions of land for sale or development.

SUBDIVISION, PLATTED. A group of lots, tracts, or parcels of land created by recording a map which meets the requirements of Section 38-51-106, C.R.S., and which shows the boundaries of such lots, tracts, or parcels and the original parcel from which they are created.

SUITABLE SCHOOL LANDS. Tracts of vacant land lying within areas designated by the School District for school sites or other school facilities and having characteristics rendering such tracts suitable or desirable for development as school sites or facilities, including but not limited to, appropriate size and dimensions, lack of geologic, environmental or topographic barriers to development, reasonable access to utilities, roads and other necessary facilities, including irrigation water, compatible zoning, and proximity to other schools, school facilities and residential areas.

SURVEYOR. A land surveyor registered by the State of Colorado.

SWMM. Stormwater Management Master Plan as adopted by the city.

TELECOMMUNICATION FACILITIES. Cables, wires, lines, wave guides, antennas, other

equipment and facilities and any other equipment or facilities associated with the transmission or reception of electromagnetic waves and/or communications which are located or as a part of a tower or antenna support structure.

TELECOMMUNICATIONS, TOWER. A self-supporting latticed, guyed or monopole structure constructed from grade which supports a telecommunications facility. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

TEMPORARY USE OR STRUCTURE. Any use or structure placed on a parcel of land for a non-permanent use of limited duration.

TOWNHOUSE. Refers to a single-family dwelling unit that is connected to a similar single-family dwelling unit by one (1) or two (2) common sidewalls. An owner of a townhouse also owns the land area on which the foundation of the townhouse is constructed and may also own portions of the abutting land not occupied by other dwelling units.

TRACT. A lot, piece or parcel of land, of greater or less size, the term not importing, in itself, any precise dimension, though term generally refers to a large piece of land.

TRAFFIC VOLUME. As calculated, according to national or other city approved objective standards, such as the Institute of Traffic Engineers publication. If an applicant provides proof that actual traffic volume will be different, the city may vary from the approved standards.

TRAFFIC IMPACT STUDY. A study prepared by a professional traffic engineer which calculates the relative effect of a proposed development on the local, collector and/or arterial road system.

TRAIL. Any off-street pathway designed mainly for non-motorized travel and recreation. Also known as a pedestrian path or bicycle path.

TRAILHEAD. The trailhead is the point at which a trail starts. Trailheads often contain rest rooms, maps, sign posts, and distribution centers for informational brochures about the trail and its features, and parking areas for vehicle and trailers.

TRAIL, LOCAL. A low volume trail that provides connectivity within and between developments and serves as a connector to primary or other trails.

TRAIL, PRIMARY. A continuous trail that provides a major conduit for travel on trail systems and forms the major trail spines throughout the community with connection to a larger regional trail system.

TRAIL, PRIVATE. A trail which is privately owned and is not generally open for public use.

TRAIL, PUBLIC. A trail that is designed for public use. Public trails can be publicly owned or owned by a private entity such as a homeowners' association but contains a public access

easement.

TRANSMISSION LINES. Electric lines (285 KW and over) and appurtenant facilities which emanate from a power plant or a substation and terminate at a substation; or pipelines/conveyors (ten (10) inches diameter or larger) and appurtenant facilities for transporting natural resources, chemicals, petroleum derivatives, or waste substances.

TRAVEL TRAILER. A vehicle or portable unit mounted on its own chassis and wheels which does not exceed eight (8) feet in width and/or forty (40) feet in length, is drawn by a motor vehicle, and provides temporary living quarters for recreational, camping or travel use.

TRUCK CAMPER. A portable unit consisting of a roof, floor and sides designed to be loaded onto, and unloaded from, the bed of a pickup truck, and provides temporary living quarters for recreational, camping or travel use.

TRUCK PARKING AREA. An area for the temporary parking of trucks which are often left with motors running and/or refrigerator unit motors operating.

UNDERGROUND PRESSURIZED IRRIGATION SYSTEM. A watering system for landscaped areas, consisting of underground, pressurized pipes connected to sprinkler heads, bubbler heads, or drip systems.

UNSUITABLE OR POTENTIALLY UNSTABLE SLOPE. An area susceptible to or impeded by rapid erosion, a landslide, a mudflow, a rockfall or accelerated creep of slope forming materials.

USE. The purpose for which land or a structure is designed, arranged, intended, or occupied.

USE, PUBLIC. A use which is owned by a public entity or is open to the public

UTILITIES. Services and facilities provided by public agencies and private companies; such as, electrical and natural gas service, telephone service, water (domestic and irrigation), wastewater disposal, drainage systems, solid waste disposal, etc.

VACATION OF EASEMENT. A formal abandonment of an easement by the City, or other owner.

VACATION OF RIGHT-OF-WAY. A formal abandonment of a public right-of-way by the City or County in accordance with State law.

VARIANCE. An exception from the numerical requirements within zoning regulation requirements of this Title for parcels in which the location, size, shape, topography and/or other physical conditions vary substantially from those of other parcels in the same zoning district or vicinity. Exceptions exclude the numerical standards contained in Chapter 28. Use variances are not permitted.

VERTICAL CONTROL. All drawings with grades shall have at least one benchmark described. If public facilities besides curb, gutter, and sidewalk, or driveways are proposed, then

a permanent benchmark must be referenced, with the elevation based upon U.S.G.S. datum. If the existing benchmark is far enough removed from the site that it reasonably cannot be shown on the plan, then the description of the benchmark location shall not only include aliquot corner description, but street reference. Also, all proposed benchmarks must be shown.

WALL. Refers to the vertical exterior surface of a building; the vertical interior surfaces that divide a building's space into rooms.

WASTEWATER COLLECTOR (OR MAIN). A wastewater line located within public right-of-way or easement generally eight (8) inches in diameter or larger which receives wastewater flows from wastewater laterals and transports these flows to the treatment facility.

WASTEWATER LATERAL. A wastewater line which discharges into a wastewater collection line or main.

WASTEWATER SYSTEM. A unified collection and treatment system operated by the city for the disposal of sanitary wastewater.

WATERCOURSE. An area in which water flows regularly or periodically.

WILDFIRE HAZARD. An area containing or directly affected by a hazard from uncontrolled fire in a natural area.

WILDLIFE HABITAT RESOURCE AREA. A geographical area containing those elements of food, water, cover, space and general welfare in combination and quantities adequate to support a species for at least a portion of a year. An area need not be occupied by a species in order to be considered a habitat for that species; habitat may include those areas, which were historically occupied and are still suitable for occupancy, are presently occupied, or are potentially suitable though not historically occupied. Significant wildlife habitats are those areas containing, or having significant impact upon, those wildlife habitats in which the wildlife species could be endangered by development, and includes those essential elements of habitat, which, if altered or eliminated, would impair or destroy the area's capability to sustain a wildlife species.

WOONERE. A street or group of streets designed primarily to meet the interests of pedestrians and cyclists rather than motorists, opening up the street for social use.

WORKING DAY. A business day; those days the Community Development Department is open to the public for business; holidays, Saturdays, and Sundays are not working days.

XERISCAPE. Landscape methods, which conserve water through the use of drought-tolerant plants and specialized planting and irrigation techniques. (See desert landscaping)

YARD. An existing or required open space on a parcel. A yard is open, unoccupied and unobstructed from the ground to the sky, except as otherwise provided in this Title.

YARD, FRONT. A yard extending across the full width and depth of the lot between a front road right-of-way, front lot line or access easement line, and the nearest line or point of the building.

YARD, FRONT SETBACK. The minimum horizontal distance required between any building and the front property line.

YARD, REAR. A yard extending across the full width and depth of the lot between the rear lot line and the nearest line or point of the building.

YARD, REAR SETBACK. The minimum horizontal distance required between any building and the rear property line.

YARD, SIDE. A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

YARD, SIDE SETBACK. The minimum horizontal distance required between any building and the side property line.

ZONE. A particular set of rules and regulations, applied to specific areas identified on the Official Zoning Map, which limits the types and intensity of uses. Also known as Zone District.

APPENDIX LANDSCAPING STANDARDS

UPDATED MARCH 16, 2010

CITY OF FRUITA LANDSCAPING SPECIFICATIONS

DEVELOPED AND COMPILED BY THE CITY OF FRUITA COMMUNITY
DEVELOPMENT DEPARTMENT USING THE TRI RIVER AREA COLORADO STATE
UNIVERSITY EXTENSION OFFICE PUBLICATIONS ON RECOMMENDED PLANT
SPECIES.

TABLE OF CONTENTS

- I. Recommended Tree Planting List
- II. Recommended Shrub/Ground Cover Planting List
- III. Choosing a Soil Amendment (Details & specifications)
- IV. Tree Staking Detail
- V. The Science of Planting Trees-Attachment (15 pages)

THE CITY OF FRUITA IS LOCATED IN USDA HARDINESS ZONE: 6-7

LANDSCAPE PLANTS SUITABLE FOR THE CITY OF FRUITA

Compiled using the CSU Extension Office recommended landscape and planting publications

PLANT TYPE:

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PLANT SIZE:

S=Small; M=Medium; L=Large

If the Xeriscape cell is selected, plant/tree/shrub is considered suitable for a Xeriscaping landscape. Tree size at time of planting not to exceed 3" caliper. (Trunk measured at 6" above finished grade) Staking and Guying of trees shall be completed immediately upon planting and stay for 1-2 years.

TREES					
BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Acer campestre	Maple, Hedge	1" Caliper	T	S	
Acer freemanii 'Jeffersred'	Maple, Autumn Blaze	1" Caliper	T	L	
Acer ginnala	Maple, Amur	1" Caliper	T	S	
Acer platanoides	Maple, Norway	1" Caliper	T	L	
Acer platanoides 'Emerald Queen'	Maple, Emerald Queen	1" Caliper	T	L	
Acer tataricum	Maple, Tatarian	1" Caliper	T	S	
Betula nigra	Birch, River	1" Caliper	T	L	
Catalpa speciosa	Catalpa, Western	1" Caliper	T	L	<input type="checkbox"/>
Celtis occidentalis	Hackberry, Western	1" Caliper	T	L	<input type="checkbox"/>
Cercis canadensis	Redbud, Eastern	1" Caliper	T	S	
Crataegus crus-galli inermis	Hawthorn, Thornless Cockspur	1" Caliper	T	S	
Crataegus laevigata 'Paul's Scarlet'	Hawthorn, Paul's Scarlet	1" Caliper	T	S	
Crataegus phaenopyrum	Hawthorn, Washington	1" Caliper	T	S	
Crataegus viridis	Hawthorn, Winter King	1" Caliper	T	M	
Corylus columna	Filbert, Turkish	1" Caliper	T	L	
Fraxinus americana 'Autumn Purple'	Ash, Autumn Purple	1" Caliper	T	L	
Fraxinus pennsylvanica	Ash, Green	1" Caliper	T	L	<input type="checkbox"/>
Fraxinus pennsylvanica	Ash, Marshall's seedless	1" Caliper	T	L	<input type="checkbox"/>

Ginkgo biloba	Maidenhair Tree	1" Caliper	T	L	
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BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Gleditsia triacanthos inermis	Honeylocust, Thornless	1" Caliper	T	L	<input type="checkbox"/>
Gymnocladus dioica	Kentucky Coffeetree	1" Caliper	T	L	<input type="checkbox"/>
Juniperus scopulorum	Juniper, Rocky Mountain	1" Caliper	E	M	<input type="checkbox"/>
Koelreuteria paniculata	Golden Rain Tree	1" Caliper	T	S	<input type="checkbox"/>
Liriodendron tulipifera	Tulip Tree	1" Caliper	T	L	
Malus spp.	Crabapple (Spring Snow, Adams, Radiant)	1" Caliper	T	S	
Morus alba 'Pendula'	Mulberry, Weeping	1" Caliper	T	S	
Morus alba 'Stribling'	Mulberry, Fruitless	1" Caliper	T	L	
Picea glauca 'Conica'	Spruce, Dwarf Alberta	1" Caliper	E	M	
Picea pungens	Spruce, Colorado	1" Caliper	E	L	
Pinus aristata	Pine, Bristlecone	1" Caliper	E	S	<input type="checkbox"/>
Pinus cembroides edulis	Pine, Pinyon	1" Caliper	E	M	<input type="checkbox"/>
Pinus nigra	Pine, Austrian	1" Caliper	E	L	
Pinus strobiformis	Pine, Southwestern White	1" Caliper	E	L	
Pinus sylvestris	Pine, Scotch	1" Caliper	E	L	
Platanus acerifolia	Planetree, London	1" Caliper	T	L	
Populus angustifolia	Cottonwood, Narrowleaf	1" Caliper	T	L	
Populus fremontii	Cottonwood, Fremont	1" Caliper	T	L	
Prunus cerasifera	Plum, Cherry	1" Caliper	T	S	
Prunus cerasifera 'Newport'	Plum, Newport Purple-Leaf	1" Caliper	T	S	

Prunus cerasifera 'Thundercloud'	Plum, Thundercloud Purple-Leaf	1" Caliper	T	S	
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Prunus cerasifera 'Mt. St. Helens'	Plum, Mt. St. Helens Cherry	1" Caliper	T	S	
Prunus maackii	Chokecherry, Amur	1" Caliper	T	S	
Prunus virginiana	Chokecherry	1" Caliper	T	M	
Pseudotsuga menziesii	Fir, Douglas	1" Caliper	E	L	
Pyrus calleryana	Pear, Ornamental (Aristocrat, Autumn Blaze, Redspire,	1" Caliper	T	S	
Quercus bicolor	Oak, Swamp White	1" Caliper	T	L	
Quercus macrocarpa	Oak, Bur	1" Caliper	T	L	<input type="checkbox"/>
Quercus shumardii	Oak, Shumard	1" Caliper	T	L	
Robinia ambigua 'Idahoensis'	Locust, Idaho	1" Caliper	T	M	
Sophora japonica	Japanese Pagoda Tree	1" Caliper	T	L	
Thuja occidentalis	Arborvitae, American	1" Caliper	E	M	
Tilia americana	Linden, American	1" Caliper	T	L	
Ulmus parvifolia	Elm, Lacebark	1" Caliper	T	L	

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In some instances, perennials and ornamental grasses may be substituted in place of a shrub. Perennials listed below are recommendations.

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SHRUBS, GROUNDCOVER, GRASSES, PERENNIALS & VINES					
BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Achillea hybrids	Yarrow	#1	P	S	<input type="checkbox"/>
Agastache cana	Hyssop, Wild	#1	P	S	<input type="checkbox"/>
Agastache rupestris	Hyssop, Sunset	#1	P	S	<input type="checkbox"/>
Alcea rosea	Hollyhock	#1	P	M	<input type="checkbox"/>
Alyssum saxatile	Basket of Gold	#1	P	S	
Andropogon gerardii	Big bluestem	#1	OG	L	<input type="checkbox"/>
Aegopodium podagraria 'variegatum'	Variegated Bishop's weed	#1	GC	M	<input type="checkbox"/>
Amelanchier alnifolia	Serviceberry	#5	S	L	
Aquilegia hybrids	Columbine	#1	P	S	<input type="checkbox"/>
Arctostaphylos x coloradensis	Manzanita, Colorado	#5	S/GC	S	
Artemisia filifolia	Sage, Sand	#5	S	S	<input type="checkbox"/>
Artemisia 'Powis Castle'	Sage, Silver	#1	P	S	
Artemisia schmidtiana	Sage, Silver Mound	#1	GC	S	<input type="checkbox"/>
Artemisia tridentata	Sage, Basin	#5	S	M	<input type="checkbox"/>
Aster spp.	Aster	#1	P	S-M	
Berberis thunbergii 'Crimson Pygmy'	Barberry, Crimson Pygmy	#5	S	S	<input type="checkbox"/>

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BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Berberis thunbergii 'Rosy Glow'	Barbery, Rosy Glow	#5	S	M	<input type="checkbox"/>
Buddleia davidii	Butterfly bush	#5	S	M	
Buxus microphylla	Boxwood, Wintergreen	#5	S	S	
Calamagrostis x acutiflora 'Karl Foerster'	Reed Grass, Karl Foerster	#5	OG	M	
Calamagrostis x acutiflora 'Overdam'	Reed Grass, Overdam Feather	#5	OG	M	
Callirhoe involucrata	Poppy Mallow	#1	P	S	
Campanula persicifolia	Bellflower, Peachleaf	#1	P	S	
Campsis radicans	Trumpet Vine	#5	V	L	
Caragana arborescens	Siberian Peashrub	#5	S	L	
Carex buchananii	Japanese Red Sedge	#1	OG	S	
Caryopteris incana	Spirea, Bluemist	#5	S	S	
Centaurea montana	Bachelor Button	#1	GC	S	<input type="checkbox"/>
Cerastium tomentosum	Snow-in-Summer	#1	GC	S	<input type="checkbox"/>
Chaenomeles speciosa	Flowering quince	#5	S	M	
Chrysothamnus nauseosus	Rabbitbrush	#5	S	M	<input type="checkbox"/>
Coreopsis grandiflora 'Sunray'	Coreopsis, Sunray	#1	P	S	<input type="checkbox"/>

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SHRUBS, GROUNDCOVER, GRASSES, PERENNIALS & VINES					
BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Coreopsis verticillata 'Moonbeam'	Coreopsis, Moonbeam	#1	P	S	<input type="checkbox"/>
Cornus sericea	Dogwood, Redtwig	#5	S	L	
Cornus sericea 'Kelsey'	Dogwood, Kelsey Redtwig	#5	S	S	
Cortaderia selloana 'Pumila'	Dwarf Pampas grass	#1	OG	M	
Cotinus coggygia 'Purple Robe'	Smoketree, Purple	#5	S	L	
Cotoneaster apiculatus	Cotoneaster, Cranberry	#5	S	S	
Cotoneaster horizontalis	Cotoneaster, Rock	#5	S	M	<input type="checkbox"/>
Cotoneaster acutifolia	Cotoneaster, Peking	#5	S	L	<input type="checkbox"/>
Dalea purpurea	Purple Prairie Clover	#1	P	S	
Delphinium elatum 'Magic Mountain Mix'	Delphinium, Dwarf	#1	P	S	
Delosperma nubigenum	Iceplant, Hardy Yellow	#1	GC	S	<input type="checkbox"/>
Dianthus 'Brilliance'	Dianthus, Pinks	#1	P	S	
Dianthus barbatus	Sweet William, mixed	#1	P	S	
Echinacea purpurea	Coneflower, Purple	#1	P	S	<input type="checkbox"/>
Erianthus ravennae	Pampas Grass	#5	OG	L	
Erigeron hybrids	Daisy, Fleabane	#1	P	S	<input type="checkbox"/>
Euonymus alatus	Burning bush	#5	S	L	

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SHRUBS, GROUND COVER, GRASSES, PERENNIALS & VINES					
BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Euonymus alatus 'Compacta'	Dwarf Burning bush	#5	S	M	
Euonymus fortunei 'Emerald Gaiety'	Euonymus, Emerald Gaiety	#5	S	M	
Euonymus fortunei 'Emerald'n Gold'	Euonymus, Emerald'n Gold	#5	S	M	
Euonymus fortunei 'Moonshadow'	Euonymus, Moonshadow	#5	S/GC	S	
Euonymus kiautschovicus	Euonymus, Manhattan	#5	S	M-	
Euphorbia marginata	Snow-on-the-mountain	#1	GC	M	<input type="checkbox"/>
Fallugia paradoxa	Apache Plume	#5	S	M	<input type="checkbox"/>
Festuca ovina glauca	Fescue, Blue	#1	OG/G	S	<input type="checkbox"/>
Festuca idahoensis	Fescue, Idaho		OG	S	<input type="checkbox"/>
Forestiera neomexicana	Privet, New Mexican	#5	S	L	<input type="checkbox"/>
Forsythia spp.	Forsythia	#5	S	L	
Gaillardia x grandiflora 'Dazzler'	Dazzler Blanketflower	#1	P	S	<input type="checkbox"/>
Gaillardia x grandiflora 'Goblin'	Goblin flower	#1	P	S	<input type="checkbox"/>
Gaura lindheimeri	Whirling butterflies	#1	P	S	<input type="checkbox"/>
Geranium sanguineum	Bloody Cranesbill	#1	P	S	

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BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Geum hybrids	Geum	#1	P	S	
Helianthemum nummularium	Yellow sunrose	#1	P	S	<input type="checkbox"/>
Helictotrichon sempervirens	Blue oat grass	#1	OG	S	<input type="checkbox"/>
Heliopsis helianthoides 'Summer Sun'	False sunflower	#1	P	M	
Hemerocallis spp.	Daylily	#1	P	S	<input type="checkbox"/>
Heuchera sanguinea	Coral bells	#1	P	S	
Hibiscus syriacus	Rose-of-Sharon	#5	S	L	
Holodiscus dumosus	Rock Spirea	#5	S	M	<input type="checkbox"/>
Hydrangea arborescens 'Annabelle'	Hydrangea, Annabelle	#5	S	S	
Iberis sempervirens	Candytuft	#1	P	S	<input type="checkbox"/>
Imperata cylindrica 'Rubra'	Japanese Blood Grass	#1	OG	S	
Iris hybrids	Bearded Iris	#1	P	S	<input type="checkbox"/>
Juniperus 'Blue Star'	Juniper, Blue Star	#5	S	S	
Juniperus 'Calgary Carpet'	Juniper, Calgary Carpet	#1	GC	M	<input type="checkbox"/>
Juniperus chinensis 'Armstrong'	Juniper, Armstrong	#5	S	M	<input type="checkbox"/>
Juniperus chinensis 'Blue Point'	Juniper, Upright	#5	S	M	

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BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Juniperus chinensis 'Old Gold'	Juniper, Old Gold	#5	S	M	<input type="checkbox"/>
Juniperus 'Hetzii'	Juniper, Hetzi	#5	S	L	<input type="checkbox"/>
Juniperus horizontalis 'Blue Chip'	Juniper, Blue Chip	#1	GC	M	<input type="checkbox"/>
Juniperus horizontalis 'Hughes'	Juniper, Hughes	#1	GC	M	<input type="checkbox"/>
Juniperus horizontalis 'Prince of Wales'	Juniper, Prince of Wales	#1	GC	M	<input type="checkbox"/>
Juniperus scopularum 'Gray Gleam'	Juniper, Gray Gleam	#5	S	L	<input type="checkbox"/>
Kniphofia uvaria	Red Hot Poker	#1	P	S	<input type="checkbox"/>
Lavandula angustifolia	Lavender	#1	P	S	<input type="checkbox"/>
Leucanthemum x superbum	Daisy, Shasta	#1	P	S	
Liatrus spicata 'Kobold'	Blazing star	#1	P	S	<input type="checkbox"/>
Ligustrum x vicaryi	Privet, Golden Vicary	#5	S	M	
Lilium asiatica	Lily, Asiatic	#1	P	S	
Lilium orientalis	Lily, Oriental	#1	P	S	
Lonicera japonica 'Halliana'	Hall's Japanese Honeysuckle	#1	V/GC	L	<input type="checkbox"/>
Mahonia aquifolium	Oregon Grapeholly	#5	S	M	

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BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Mirabilis multiflora	Desert Four O'Clock	#1	P	S	<input type="checkbox"/>
Miscanthus sinensis 'Gracillimus'	Maiden Grass	#5	OG	L	
Miscanthus sinensis 'Silberfeder'	Variegated silver Maiden Grass	#5	OG	L	
Miscanthus sinensis 'Zebrinus'	Zebra grass	#5	OG	L	
Oenothera speciosa	Primrose, Mexican Evening	#1	P	S	<input type="checkbox"/>
Paeonia hybrids	Peonies	#1	P	S	
Panicum virgatum	Switch grass	#1	OG	L	
Papaver orientale	Poppy, Oriental	#1	P	S	
Parthenocissus quinquefolia	Virginia Creeper	#1	V	L	
Parthenocissus tricuspidata	Boston Ivy	#1	V	L	
Pennisetum alopecuroides	Fountain grass	#5	OG	M	
Pennisetum alopecuroides 'Hamelin'	Dwarf Fountain grass	#5	OG	S	
Penstemon caespitosus	Penstemon, Mat	#1	GC	S	<input type="checkbox"/>
Penstemon strictus	Penstemon, Rocky Mountain	#1	P	S	
Perovskia atriplicifolia	Russian Sage	#5	S	M	
Phalaris arundinacea 'Picta'	Ribbon grass	#1	OG	M	

LANDSCAPE PLANTS SUITABLE FOR THE CITY OF FRUITA

Compiled using the CSU Extension Office recommended landscape and planting publications

PLANT TYPE:

GC=Ground Cover; ET= Evergreen Tree; OG= Ornamental Grass; P=Perennial; S=Shrub; T= Tree; V=Vine

PLANT SIZE:

S=Small; M=Medium; L=Large

#5=5 Gallon, #1=1 Gallon

In some instances, perennials and ornamental grasses may be substituted in place of a shrub. Perennials listed below are recommendations.

If the Xeriscape cell is selected, plant/tree/shrub is considered suitable for a Xeriscaping landscape.

SHRUBS, GROUNDCOVER, GRASSES, PERENNIALS & VINES					
BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Philadelphus x virginialis	Mockorange	#5	S	L	
Phlox subulata	Phlox, Creeping	#1	GC	S	<input type="checkbox"/>
Physocarpus opulifolius	Common ninebark	#5	S	L	
Picea glauca 'Conica'	Spruce, Dwarf Alberta	#5	S	M	
Pinus mugo	Pine, Mugo	#5	S	S-L	
Pinus mugo 'Slowmound'	Pine, Dwarf Mugo	#5	S	S	
Platycodon grandiflora	Balloonflower	#1	P	S	
Polygonum aubertii	Silver Lace Vine	#1	V	M	
Potentilla fruticosa	Cinquefoil	#5	S	S	<input type="checkbox"/>
Potentilla verna	Creeping potentilla	#1	GC	S	<input type="checkbox"/>
Prunus x cistena	Plum, Cistena	#5	S	M	
Prunus tomentosa	Cherry, Nanking (Manchu)	#5	S	L	
Prunus virginiana	Chokecherry	#5	S	L	
Prunus virginiana 'Shubert'	Chokecherry, Shubert	#5	S	L	
Rhamnus frangula 'Columnaris'	Columnar buckthorn	#5	S	L	
Rhus trilobata	Sumac, Three-leaf	#5	S	M	<input type="checkbox"/>
Rhus aromatica 'Grow-low'	Sumac, Grow Low	#5	S	S	
Ribes alpinum	Currant, Alpine	#5	S	S	
Ribes aureum	Currant, Golden	#5	S	M	
Rosa spp. (Climbing)	Climbing roses	#5	S	M-	

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BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Rosa spp. 'Meidiland or other'	Shrub roses	#5	S	S-L	
Rosa hybrid (Florabunda)	Florabunda roses	#5	S	M	
Rosa hybrid (Hybrid-Tea)	Hybrid-Tea roses	#5	S	M	
Rudbeckia fulgida	Black-eyed Susan	#1	P	S	<input type="checkbox"/>
Salix purpurea nana	Willow, Dwarf arctic	#5	S	M	
Salvia nemorosa 'May Night'	Salvia, May Night	#1	P	S	
Sambucus canadensis 'Aurea'	Elderberry, Golden	#5	S	L	
Santolina chamaecyparissus	Gray Santolina	#1	GC	S	<input type="checkbox"/>
Scabiosa caucasica	Pincushion flower	#1	P	S	
Schizachyrium scoparium	Little bluestem	#1	OG	M	<input type="checkbox"/>
Sedum 'Autumn Joy'	Stonecrop	#1	P	S	<input type="checkbox"/>
Sedum 'Dragon's Blood'	Stonecrop, Dragon's Blood	#1	GC	S	<input type="checkbox"/>
Sedum pinifolium	Blue Spruce Sedum	#1	GC	S	<input type="checkbox"/>
Sorbaria sorbifolia	Spirea, Ash-leaf	#5	S	L	
Spiraea x bumalda 'Anthony Waterer'	Spirea, Anthony Waterer	#5	S	S	
Spiraea x bumalda 'Froebeli'	Spirea, Froebel	#5	S	S	

LANDSCAPE PLANTS SUITABLE FOR THE CITY OF FRUITA

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SHRUBS, GROUNDCOVER, GRASSES, PERENNIALS & VINES					
BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Spiraea x bumalda 'Goldflame'	Spirea, Goldflame	#5	S	S	
Spiraea x vanhouttei	Spirea, Vanhoutte	#5	S	M	
Symphoricarpos albus	Snowberry	#5	S	M	
Symphoricarpos x chenaultii 'Hancock'	Hancock Coralberry	#5	S	S	
Syringa patula 'Miss Kim'	Lilac, Miss Kim	#5	S	M	
Syringa vulgaris	Lilac	#5	S	L	
Tanacetum niveum	Daisy, Snow	#1	P	S	
Tanacetum x coccineum	Daisy, Painted	#1	P	S	
Thuja occidentalis	Arborvitae, American	#5	S	L	
Thymus pseudolanuginosa	Thyme, Wooly	#1	GC	S	<input type="checkbox"/>
Thymus Serpyllum	Thyme, Wild	#1	GC	S	<input type="checkbox"/>
Veronica pectinata	Speedwell, Blue Woolly	#1	GC	S	<input type="checkbox"/>
Veronica prostrata	Speedwell, Prostrate	#1	GC	S	<input type="checkbox"/>
Veronica spicata	Blue Spike Speedwell	#1	P	S	
Viburnum opulus	Cranberry bush, European (Snowball bush)	#5	S	L	
Viburnum opulus 'Compactum'	Cranberry bush, Compact European (Snowball bush)	#5	S	M	
Viburnum trilobum 'Compactum'	Cranberry bush, Compact American	#5	S	M	

LANDSCAPE PLANTS SUITABLE FOR THE CITY OF FRUITA

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SHRUBS, GROUNDCOVER, GRASSES, PERENNIALS & VINES					
BOTANICAL NAME	COMMON NAME	MIN. SIZE	PLAN T	PLAN T	XERISCA
Vinca minor	Periwinkle		GC	S	<input type="checkbox"/>
Weigela florida 'Java Red'	Weigela, Java Red	#5	S	M	
Weigela florida 'Variegata'	Weigela, Variegated	#5	S	M	
Yucca baccata	Yucca, Banana	#5	S	M	<input type="checkbox"/>
Yucca filamentosa 'Golden Sword'	Yucca, Golden Sword	#5	S	S	<input type="checkbox"/>
Yucca harrimaniae	Yucca, Harriman's	#5	S	S	<input type="checkbox"/>
Zinnia grandiflora	Zinnia, Rocky Mountain	#1	P	S	<input type="checkbox"/>

Choosing a Soil Amendment

by J.G. Davis and C.R. Wilson¹(5/05)

no. 7.235

Quick Facts...

- Soil amendments improve the physical properties of soils.

- Amendments are mixed into the soil. Mulches are placed on the soil surface.
- The best soil amendments increase water- and nutrient-holding capacity and improve aeration and water infiltration.
- Wood products can tie up nitrogen in the soil.
- Sphagnum peat is superior to Colorado mountain peat.
- When using biosolids, choose Grade 1 biosolids.

A soil amendment is any material added to a soil to improve its physical properties, such as water retention, permeability, water infiltration, drainage, aeration and structure. The goal is to provide a better environment for roots.

To do its work, an amendment must be thoroughly mixed into the soil. If it is merely buried, its effectiveness is reduced, and it will interfere with water and air movement and root growth.

Amending a soil is not the same thing as mulching, although many mulches also are used as amendments. A mulch is left on the soil surface. Its purpose is to reduce evaporation and runoff, inhibit weed growth, and create an attractive appearance. Mulches also moderate soil temperature, helping to warm soils in the spring and cool them in the summer. Mulches may be incorporated into the soil as amendments after they have decomposed to the point that they no longer serve their purpose.

Organic vs. Inorganic Amendments

There are two broad categories of soil amendments: organic and inorganic. Organic amendments come from something that is or was alive. Inorganic amendments, on the other hand, are either mined or man-made. Organic amendments include sphagnum peat, wood chips, grass clippings, straw, compost, manure, biosolids, sawdust and wood ash. Inorganic amendments include vermiculite, perlite, tire chunks, pea gravel and sand.

Not all of the above are recommended by Colorado State University. These are merely examples. Wood ash, an organic amendment, is high in both pH and salt. It can magnify common Colorado soil problems and should not be used as a soil amendment. Don't add sand to clay soil -- this creates a soil structure similar to concrete.

Organic amendments increase soil organic matter content and offer many benefits. Organic matter improves soil aeration, water infiltration, and both water- and nutrient-holding capacity. Many organic amendments contain plant nutrients and act as organic fertilizers.

Organic matter also is an important energy source for bacteria, fungi and earthworms that live in the soil.

Application Rates

If your soil has less than 3 percent organic matter, then apply 3 cubic yards of your chosen organic amendment per 1,000 square feet. To avoid salt buildup, do not apply more than this. Retest your soil before deciding whether to add more soil amendment.

Wood Products

Wood products can tie up nitrogen in the soil and cause nitrogen deficiency in plants. Microorganisms in the soil use nitrogen to break down the wood. Within a few months, the nitrogen is released and again becomes available to plants. This hazard is greatest with sawdust, because it has a greater surface area than woodchips.

If you plan to apply wood chips or sawdust, you may need to apply nitrogen fertilizer at the same time to avoid nitrogen deficiency.

Sphagnum Peat vs. Mountain Peat

Sphagnum peat is an excellent soil amendment, especially for sandy soils, which will retain more water after sphagnum peat application. Sphagnum peat is generally acid (i.e., low pH) and can help Gardeners grow plants that require a more acidic soil. Colorado mountain peat is not as good a soil amendment. It often is too fine in texture and generally has a higher pH.

Mountain peat is mined from high-altitude wetlands that will take hundreds of years to rejuvenate, if ever. This mining is extremely disruptive to hydrologic cycles and mountain ecosystems. Sphagnum peat is harvested from bogs in Canada and the northern United States. The bogs can be revegetated after harvest and grow back relatively quickly in this moist environment.

Are Biosolids Safe?

Biosolids are byproducts of sewage treatment. They may be found alone or composted with leaves or other organic materials. The primary concerns about biosolids are heavy metal content, pathogen levels and salts. To avoid excessive levels of heavy metals and to ensure that pathogens have been killed, always choose a Grade 1 biosolid. While Grade 1 biosolids are acceptable for food Gardens, do not use them on root Crops because they will come in direct contact with the edible portion of the plant. Do not use biosolids below Grade 1.

Manure vs. Compost

Fresh manure can harm plants due to elevated ammonia levels. To avoid this problem, use only aged manure (at least six months old). Pathogens are another potential problem with fresh manure, especially on vegetable Gardens. Compost manure for at least two heating cycles at 130 to 140 degrees F to kill any pathogens before applying the manure to vegetable Gardens. **Most home composting systems do not sustain temperatures at this level.** Home-composted products containing manure are best used in flower Gardens, shrub borders and other nonfood Gardens. See fact sheets [9.369, Preventing E. coli From Garden to Plate](#), and [7.212, Composting Yard Waste](#).

During composting, ammonia gas is lost from the manure. Therefore, nitrogen levels may be lower

in composted manure than in raw manure. On the other hand, the phosphorus and potassium concentrations will be higher in composted manure. Modify fertilizer practices accordingly. Salt levels also will be higher in composted manure than in raw manure. If salt levels are already high in your Garden soil, do not apply manures.

Other composts are available that are made primarily from leaf or wood products alone or in combination with manures or biosolids.

Factors to Consider When Choosing an Amendment

There are at least four factors to consider in selecting a soil amendment:

- how long the amendment will last in the soil,
- soil texture,
- soil salinity and plant sensitivities to salts, and
- salt content and pH of the amendment.

Laboratory tests can determine the salt content, pH and organic matter of organic amendments. The quality of bulk organic amendments for large-scale landscape uses can then be determined.

Longevity of the Amendment

The amendment you choose depends on your goals.

- Are you trying to improve soil physical properties quickly? Choose an amendment that decomposes rapidly.
- Do you want a long-lasting improvement to your soil? Choose an amendment that decomposes slowly.
- Do you want a quick improvement that lasts a long time? Choose a combination of amendments.

Table 1: Decomposition rate of various amendments.	
Amendment	Decomposition rate
Grass clippings, manures	Rapid decomposition (days to weeks)
Composts	Moderate decomposition (about six months)
Wood chips (redwood, cedar), hardwood bark, peat	Slow decomposition (possibly years)

Soil Texture

Soil texture, or the way a soil feels, reflects the size of the soil particles. Sandy soils have large soil particles and feel gritty. Clay soils have small soil particles and feel sticky. Both sandy soils and clay soils are a challenge for Gardeners. Loam soils have the ideal mixture of different size soil particles.

When amending sandy soils, the goal is to increase the soil's ability to hold moisture and store nutrients. To achieve this, use organic amendments that are well decomposed, like composts or aged manures.

With clay soils, the goal is to improve soil aggregation, increase porosity and permeability, and improve aeration and drainage. Fibrous amendments like peat, wood chips, tree bark or straw are most effective in this situation.

Use Tables 2 and 3 for more specific recommendations. Because sandy soils have low water retention, choose an amendment with high water retention, like peat, compost or vermiculite. Clay soils have low permeability, so choose an amendment with high permeability, like wood chips, hardwood bark or perlite. Vermiculite is not a good choice for clay soils because of its high water retention.

Table 2: Permeability and water retention of various soil types.		
Soil Texture	Permeability	Water Retention
Sand	high	low
Loam	medium	medium
Silt	low	high
Clay	low	high

Table 3: Permeability and water retention of various soil amendments.		
Amendment	Permeability	Water Retention
Fibrous		
Peat	low-medium	very high
Wood chips	high	low-medium
Hardwood bark	high	low-medium
Humus		
Compost Aged	low-medium	medium-high
manure	low-medium	medium

Inorganic		
Vermiculite	high	high
Perlite	high	low

Soil Salinity and Plant Sensitivity to Salts

Some forms of compost and manures can be high in salts. Avoid these amendments in soils that are already high in salts (above 3 mmhos/cm) or when growing plants that are sensitive to salts. Raspberry, strawberry, bean, carrot, onion, Kentucky bluegrass, maple, pine, viburnum and many other landscape plants are salt sensitive. In such cases, choose sphagnum peat or ground leaves instead of compost or manures.

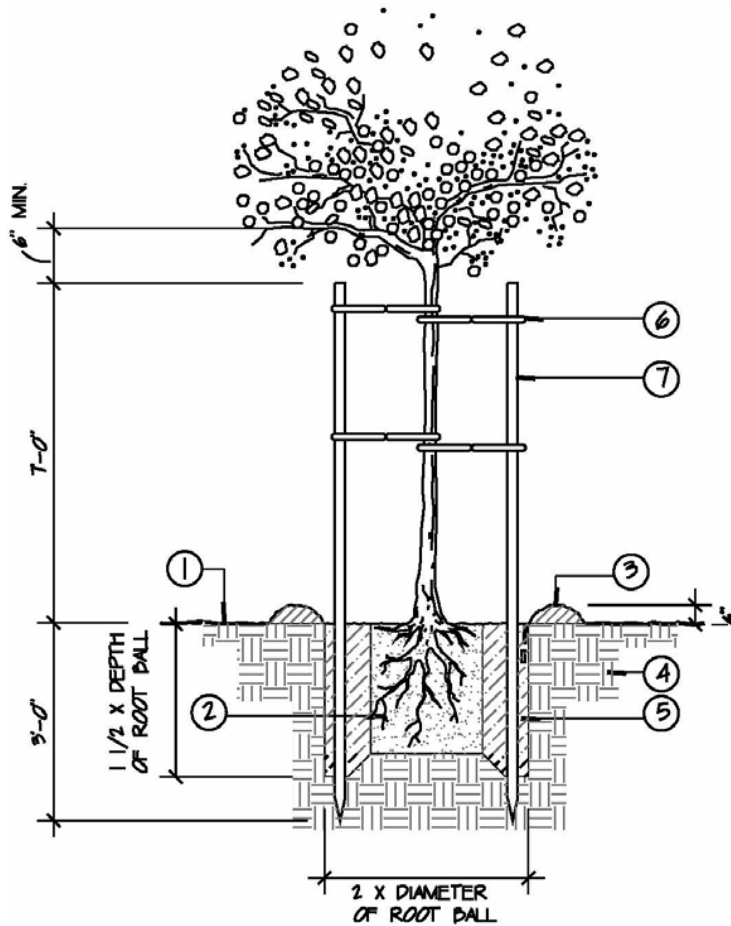
Salt Content and pH of the Amendment

Always beware of salts in soil amendments. High salt content and high pH are common problems in Colorado soils. Therefore, avoid amendments that are high in salts or that have a high pH. Amendments high in salts and/or pH include wood ash, Colorado mountain peat and composted manures. An amendment with up to 10 mmhos/cm total salts is acceptable if well mixed into low-salt soils (less than 1 mmhos/cm). Amendments with a salt content greater than 10 mmhos/cm are questionable. Choose a low-salt amendment for soils testing high in salts.

Sphagnum peat and compost made from purely plant sources are low in salts and are good choices for amending Colorado soils. Ask for an analysis of the organic amendments that you are considering, and choose your amendments wisely. If no analysis is available, test a small amount of the amendment before purchasing a large quantity.

¹J.G. Davis, Colorado State University Extension soil specialist and associate professor, soil and crop sciences; and C.R. Wilson, Extension horticulture agent, Denver County. 6/00. Reviewed 5/05.

EXAMPLE OF TYPICAL STAKING/GUYING OF TREE **DETAIL**



- KEY**
- ① FINISH GRADE
 - ② ROOTBALL
 - ③ TEMPORARY 6" WATERING BASIN
 - ④ NATIVE SOIL
 - ⑤ BACKFILL MIX (PER PLANTING SPECIFICATIONS)
 - ⑥ TREE TIES (MIN. 4 REQUIRED) SECURE TO POLE W/GALV. NAIL.
 - ⑦ 2" DIA. TREATED LODGEPOLE PINE STAKE

NOTE:

- STAKES SHALL NOT PIERCE ROOTBALL AND SHALL EXTEND INTO UNDISTURBED SOIL.

- PLACE PRE-MANU. TIES ACCORDING TO MANU. RECOMMENDATIONS.



STAFF REPORT

PLANNING & DEVELOPMENT DEPARTMENT SEPTEMBER 14, 2021

Application #s: 2021-39
Project Names: Title 17 – Fruita Land Use Code
Application: Land Use Code Amendment
Representative: City of Fruita
Request: Repealing and reenacting Title 17, Fruita Land Use Code, of the Fruita Municipal Code.

BACKGROUND:

This is a request to repeal and reenact the Fruita Land Use Code, which is Title 17 of the Fruita Municipal Code. There are a number of minor changes which are meant to align with the Fruita In Motion: Plan Like a Local Comprehensive Plan which was adopted in early 2020. Once the Comprehensive Plan was adopted, Staff began the process of putting a team together to get the Land Use Code amended. The goals of the proposed amendments are to bring the Land Use Code in alignment with the Comprehensive Plan, provide greater clarity in language, standardize processes, and simplify for easier understanding by Staff, elected and appointed officials, and the community. Many of the major changes like parking, design standards, density bonuses and zoning were already amended and adopted in early 2021. Since early-2020 City Staff, Design Workshop, Planning Commission, City Council and a Land Use Focus Group have been working toward a final draft of the Fruita Land Use Code, which is proposed with this Staff Report.

Prior to the version presented with this Staff Report, Staff and Design Workshop presented the updates to the Planning Commission at their June 22nd meeting seeking feedback for moving forward. Additionally, Staff presented the updates to the City Council most recently at their July 6th meeting and their August 31st Workshop. The proposed amendments with this Staff Report have included the direction received after these meetings from both the Planning Commission and City Council.

REVIEW OF LAND USE CODE REQUIREMENTS:

Section 17.13.070.B of the Land Use Code (2009, as amended), states that amendments to the Land Use Code may be made upon a finding that the amendment is consistent with the City's goals, policies and Master Plan.

Many of the action items contained in the Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan) have already been implemented with the recent changes to the Land Use Code with regards to Parking, Zoning, Design Standards, and Density Bonuses. There are amendments proposed that create clarity in process, language and formatting that are meant to create a Land Use Code that is simple and easier to understand. Additionally, amendments are also in alignment with industry standards which are meant to align with the City Council's commitments to review the Land Use Code to help ensure that the regulations reflect the best promotion of Fruita's Core Services, Staff believes that these amendments meet this criterion.

REVIEW COMMENTS:

No reviewer expressed concerns regarding this proposed Land Use Code amendments.

PUBLIC COMMENTS:

At this time, no written public comments have been received regarding this proposed Land Use Code amendment.

LEGAL NOTICE:

17.01.120 (C) Public Notices

When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

Legal Notice in Paper- August 27, 2021 (18 days prior to public hearing)

Posted Legal Notice- August 27, 2021 (18 days prior to public hearing)

STAFF RECOMMENDATION:

Staff recommends **approval** of the proposed Land Use Code amendments.