



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PLANNING & DEVELOPMENT DEPARTMENT

DATE: JULY 6, 2021

RE: LAND USE CODE UPDATE

BACKGROUND

This coversheet is meant to provide a brief background to several amendments to the Land Use Code under review by Staff and Design Workshop. The purpose of this meeting is to discuss the proposed changes and answer any questions the Council might have. This will allow Staff and Design Workshop the opportunity to make necessary changes before moving forward with scheduled public hearing dates.

Many changes proposed are meant to align with industry best practices while other changes are meant to clean up and clarify the Code. For example, the Common Development Review Procedures section, clarifies the review procedure required for specific applications. Attached are versions of the amendments in both a clean and redlined version. This is to help show where the proposed changes are within the Code.

Staff and Design Workshop updated the Planning Commission at their June 22, 2021, public meeting with these amendments.

Attachments:

1. Powers and Duties – Clean & Redlined
2. Common Development Review Procedures – Clean & Redlined
3. Definitions – Clean & Redlined
4. Historic Preservation – Clean & Redlined
5. Planned Unit Development – Clean & Redlined
6. Variances and Modifications – Clean & Redlined

Chapter 2.20

CITY DEPARTMENTS

[Sections 2.20.010, 2.20.020, 2.20.040, 2.20.050, 2.20.060, 2.20.070 omitted from this document]

2.20.30 COMMUNITY DEVELOPMENT DEPARTMENT.

- A. The Community Development Department is responsible for the implementation and enforcement of Title 17, Land Use Code; Title 15, Building and Construction. The Community Development Department shall perform all planning and building functions for the City, shall provide technical support and guidance for action on development applications and building permits, and shall review and perform such other actions as may be requested by the City Council or other decision-making body as set forth in this Title. The Community Development Director is responsible for oversight of the Department.
- B. The position of Code Enforcement Officer shall be under the administration and operational control of the Community Development Director. Such Code Enforcement Officer shall have the power, together with the Community Development Director and the City Attorney, to enforce all terms and provisions contained in Title 17 of the Fruita Municipal Code concerning Land Use and Development, as well as the terms and conditions of any permits or other land use approvals granted pursuant to Title 17. Such Code Enforcement Officer shall also have the authority, together with the City Attorney and members of the Fruita Police Department, to enforce provisions contained in Title 6 concerning Animals, Title 8 concerning Health and Safety, Title 9 concerning Public Peace, Morals and Welfare, Title 10 concerning Vehicles and Traffic, Title 12 concerning Public Improvements and Title 15 concerning Building and Construction, as well as other provisions of the Fruita Municipal Code as may be determined from time to time by the City Council. The Code Enforcement Officer shall have the authority to issue notices of violation, compliance orders, and may issue citations or summons and complaints in the Fruita Municipal Court. Provided, however, such Code Enforcement Officer need not be a “peace officer” as defined by Title 18, C.R.S., and if the Code Enforcement Officer is not a “peace officer,” shall not be permitted to carry a firearm or conduct arrests.
- C. The Building Inspector shall perform all required inspections within the City pursuant to Title 15, Building and Construction. The Building Inspector may be an employee of the City or may be a person or entity under contract with the City to perform building inspections within the City.

Chapter 2.39
PLANNING COMMISSION

Sections:

2.39.010 Creation; Membership

2.39.020 Meetings of the Planning Commission

2.39.030 Quorum and Voting

2.39.040 Planning Commission Officers

2.39.050 Powers and Duties of Planning Commission

2.39.010 CREATION; MEMBERSHIP.

- A. In accordance with the City Charter, there shall be a Planning Commission consisting of seven (7) members. Members shall reside within the City and shall serve without compensation.
- B. Planning Commission members shall be appointed by the Mayor, with approval of the City Council, for three (3) year overlapping terms. The members may continue to serve until their successors have been appointed. All vacancies shall be filled by the City Council .
- C. Members may be appointed to successive terms without any limitation. The Mayor or one (1) City Council member shall serve as a member of the Planning Commission. The City Council member or Mayor shall be appointed by the City Council immediately following the regular municipal election held every two (2) years.
- D. Planning and Zoning Commission members may be removed by the City Council at any time for failure to attend two (2) unexcused consecutive meetings or for the failure to attend thirty percent (30%) or more of the meetings within any twelve (12) month period, or for any other good cause related to performance of duties. Upon request by the member proposed for removal, the City Council shall hold a hearing on the proposed removal before it becomes effective.
- E. Chapter 2.70 of the Fruita Municipal Code concerning the Code of Ethics for City Officials and Sections 24-18-101, *et. seq.*, C.R.S. shall apply to all members of the Planning Commission.

2.39.020 MEETINGS OF THE PLANNING COMMISSION.

- A. The Planning Commission shall establish a regular meeting schedule and shall meet as frequently as necessary to perform its duties in conformance with Title 17 of the Fruita Municipal Code.
- B. Minutes shall be kept of all Planning Commission proceedings.

- C. All Planning Commission meetings shall be subject to the Colorado Open Meetings Law, Sections 24-6-401, *et. seq.*, C.R.S.
- D. Whenever the Planning Commission is required to hold a public hearing pursuant to the City's Land Use Code, Title 17 of the Fruita Municipal Code, the Community Development Department shall notify the public of the date, time and place of such hearing in accordance with Section 17.01.130 of the Fruita Municipal Code. The quasijudicial procedures set forth in Chapter 2.60 of the Fruita Municipal Code shall apply to all land use hearings.
- E. The Planning Commission can hold work sessions. At work sessions, agenda items for consideration for future meetings are brought forward and discussed. Unless previously announced, there is no voting that takes place at a work session. Although the public and applicants are invited to attend, no testimony on the record is taken from members of the public. Applicants and the public may provide comment when recognized by the Chair of the Planning Commission.

2.39.030 QUORUM AND VOTING.

- A. Quorum for the Planning Commission shall consist of a majority of the Commission membership, excluding vacant positions. A quorum shall be necessary for the Planning Commission to take official action.
- B. All official actions of the Planning Commission shall be taken by a majority vote, requiring a quorum being present. A simple majority vote is required for all official actions. In the event there is a tied vote, this shall constitute a failed motion and shall not be considered an action. The no action shall have occurred, and the matter shall be considered active until a motion receives a majority vote.
- C. A roll call vote shall be taken upon the request of any member.

2.39.040 PLANNING COMMISSION OFFICERS.

- A. In its first meeting in April of each year, the Planning Commission shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chair who shall preside over the Commission's meetings, and one (1) member to serve as vice chairman. The persons so designated shall serve in such capacities for a term of one (1) year. A vacancy in these offices may be filled for the unexpired term by a majority vote of the Commission membership, excluding vacant positions.
- B. The chair and vice-chair may take part in all deliberations of the Planning Commission and vote on all matters.

2.39.050 POWERS AND DUTIES OF PLANNING COMMISSION.

A. The Planning Commission may:

1. Make studies and recommend to the City Council plans, goals and objectives related to the growth, development and redevelopment of the City and the surrounding extraterritorial planning area.
2. Develop and recommend to the City Council policies, ordinances, administrative procedures, and other means for carrying out land use planning in a coordinated and effective manner.
3. Adopt bylaws, rules and procedures for the conduct of Planning Commission business, not inconsistent with any provisions of the Fruita Municipal Code.

B. The Planning Commission shall:

1. Conduct public hearings and make recommendations to the City Council concerning land use applications in accordance with the requirements of the City's Land Use Code, Title 17 of the Fruita Municipal Code.
2. Perform such additional duties as assigned by the City Council.

Chapter 2.40

BOARD OF ADJUSTMENT

Sections:

2.40.010 Creation; Membership

2.40.020 Meetings of the Board of Adjustments

2.40.030 Quorum

2.40.040 Voting

2.40.050 Board of Adjustment Officers

2.40.060 Powers and Duties of Board of Adjustment

2.40.010 CREATION; MEMBERSHIP.

- A. In accordance with the City Charter, there shall be a Board of Adjustment and appeals for the City consisting of five (5) regular members and two (2) alternates. Members shall reside within Fruita and shall serve without compensation.
- B. Board of Adjustment regular members and alternates shall be appointed by the Mayor, with approval of the City Council, for three (3) year overlapping terms, but both regular members and alternates may continue to serve until their successors have been appointed.
- C. All vacancies shall be filled by the City Council. Members may be reappointed by the City Council to successive terms without limitation.
- D. Regular members of the Board of Adjustment may be removed by the City Council at any time for failure to attend two (2) unexcused consecutive meetings or for failure to attend thirty percent (30%) or more of the meetings within any twelve (12) month period, or for any other good cause related to performance of their duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request by the member proposed for removal, the City Council shall hold a hearing on such removal before it becomes effective.
- E. Chapter 2.70 of the Fruita Municipal Code, concerning the Code of Ethics for City Officials, and Sections 24-18-101, *et. seq.*, C.R.S. shall apply to all members of the Board of Adjustment.

2.40.020 MEETINGS OF THE BOARD OF ADJUSTMENT.

- A. The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with the requirements of the City's Land Use Code, Title 17 of the Fruita Municipal Code.
- B. The Board shall conduct its meetings in accordance with quasi-judicial procedures set forth in Chapter 2.60 of the Fruita Municipal Code.

- C. Whenever the Board of Adjustment is required to hold a public hearing pursuant to the City's Land Use Code, Title 17 of the Fruita Municipal Code, the Community Development Department shall notify the public of the date, time and place of such hearing in accordance with Section 17.01.130 of the Fruita Municipal Code.
- D. All meetings of the Board of Adjustment shall comply with the Colorado Open Meetings Law, Section 24-6-401, *et. seq.*, C.R.S. Whenever feasible, an agenda for each Board of Adjustment meeting shall be made available to the public in advance of such meeting.

2.40.030 QUORUM.

- A. A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths (4/5) of the regular Board membership, excluding vacant positions. A quorum shall be necessary for the Board to take any official action.
- B. A member who has withdrawn from a meeting without being excused shall be counted as present for purposes of determining whether a quorum is present.

2.40.040 VOTING.

- A. The concurring vote of four-fifths (4/5) of the regular Board membership, excluding vacant positions, shall be necessary to reverse any order, requirement, decision, or determination of the administration; to decide in favor of an applicant on any matter upon which it is required to render a decision under the Fruita Municipal Code; or to grant any variance. All other actions of the Board shall be taken by majority vote, a quorum being present. In the event there is a tied vote, this shall constitute a failed motion and shall not be considered an action. The no action shall have occurred, and the matter shall be considered active until a motion receives a majority vote.
- B. Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (C) or has been allowed to withdraw from the meeting in accordance with subsection (D).
- C. A member shall be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - 1. The member has direct financial interest in the outcome of the matter at issue, or
 - 2. The matter at issue involves the members own official conduct, or

3. Participation in the matter might violate the letter or spirit of the City's Code of Ethics for City Officials, Chapter 4 of the Fruita Municipal Code, or the Standards of Conduct for Local Government Officials, Sections 24-18-101, *et. seq.*, C.R.S., or
 4. A member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound objective judgment in the public interest.
- D. A member may be allowed to withdraw from the entire remainder of a meeting by a majority vote of the remaining members present for any good and sufficient reason, other than the member's desire to avoid voting on matters to be considered at that meeting.
 - E. A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
 - F. A roll call vote shall be taken upon the request of any member.

2.40.050 BOARD OF ADJUSTMENT OFFICERS.

- A. At its first regular meeting in April, the Board of Adjustment shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chair who shall preside over the Board's meetings, and one (1) member to serve as vice-chair. The person so designated shall serve in such capacity for a term of one (1) year. A vacancy may be filled for an unexpired term only by majority vote of the Board's membership, excluding vacant positions.
- B. The chair or any member temporarily acting as chair may administer oaths to witnesses coming before the Board.
- C. The chair and vice-chair may take part in all deliberations and vote on all matters.

2.40.060 POWER AND DUTIES OF BOARD OF ADJUSTMENT.

- A. The Board of Adjustment shall hear and decide:
 1. Appeals from any order, decision, requirement or interpretation made by the Community Development Director, building official, or any other zoning, building or code enforcement officer.
 2. Applications for variances in accordance with the standards set forth in Title 17 of the Fruita Municipal Code.

3. Questions involving interpretations of the City's Official Zoning Map, including disputed district boundary lines and lot lines.
 4. All other matters referred to it under the provisions of Titles 15 and 17 of the Fruita Municipal Code, or other ordinances of the City, or any Codes adopted by reference by the City.
- B. The Board may adopt bylaws, rules and regulations governing its procedures and meetings not inconsistent with any provisions of the Fruita Municipal Code.

Chapter 2.43

HISTORIC PRESERVATION BOARD

Sections

2.43.010 Creation; Membership

2.43.020 Meetings of the Historic Preservation Board

2.43.030 Quorum and Voting

2.43.40 Historic Preservation Board Officers

2.43.050 Powers and Duties of Historic Preservation Board

2.43.010 CREATION; MEMBERSHIP.

- A. There is hereby established an Historic Preservation Board, which shall have principal responsibility for matters of historic preservation.
- B. The Board shall consist of a minimum of five (5) members and not more than seven (7) members providing a balanced, community- wide representation. The Director of the Community Development Department and/or appointed department representatives shall serve as staff to the Board. There shall be one (1) member representative of the downtown merchants. Members shall reside within the City and shall serve without compensation.
- C. Historic Preservation Board members shall be appointed by the City Council for three (3) year staggered terms from the date of appointment. Members may continue to serve until their successors have been appointed. Appointments to fill vacancies on the Board shall be made by the City Council. Members may be appointed to successive terms without any limitation.
- D. Historic Preservation Board members may be removed by the City Council at any time for failure to attend two (2) unexcused consecutive meetings or for the failure to attend thirty percent (30%) or more of the meetings within any twelve (12) month period, or for any other good cause related to performance of duties. Upon request by the member proposed for removal, the City Council shall hold a hearing on the proposed removal before it becomes effective.
- E. Chapter 2.70 of the Fruita Municipal Code concerning the Code of Ethics for City Officials and Sections 24-18-101 *et. seq.* C.R.S. shall apply to all members of the Historic Preservation Board.

2.43.020 MEETINGS OF THE HISTORIC PRESERVATION BOARD

- A. The Historic Preservation Board shall establish a regular meeting schedule and shall meet as frequently as necessary to perform its duties in conformance with Title 17 of the

Fruita Municipal Code.

- B. Minutes shall be kept of all Historic Preservation Board proceedings.
- C. All Board meetings shall be subject to the Colorado Open Meetings Law, Sections 24-6-401, et. seq., C.R.S.
- D. Whenever the Historic Preservation Board is required to hold a public hearing pursuant to the City's Land Use Code, Title 17 of the Fruita Municipal Code, the Community Development Department shall notify the public of the date, time and place of such hearing in accordance with Section 17.01.130 of the Fruita Municipal Code. The quasijudicial procedures set forth in Chapter 2.60 of the Fruita Municipal Code shall apply to all land use hearings.

2.43.030 QUORUM AND VOTING.

- A. Quorum for the Historic Preservation Board shall consist of a majority of the Board membership, excluding vacant positions. A quorum shall be necessary for the Board to take official action.
- B. All official actions of the Historic Preservation Board shall be taken by a majority vote, requiring a quorum being present. A simple majority vote is required for all official actions. In the event there is a tied vote, this shall constitute a failed motion and shall not be considered an action. The no action shall have occurred, and the matter shall be considered active until a motion receives a majority vote.
- C. A roll call vote shall be taken upon the request of any member.

2.43.40 HISTORIC PRESERVATION BOARD OFFICERS.

- A. In its first meeting in April of each year, the Historic Preservation Board shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chair who shall preside over the Board's meetings, and one (1) member to serve as vice chair. The persons so designated shall serve in such capacities for a term of one (1) year. A vacancy in these offices may be filled for the unexpired term by a majority vote of the Board membership, excluding vacant positions.
- B. The chair and vice-chair may take part in all deliberations of the Historic Preservation Board and vote on all matters.

2.43.50 POWERS AND DUTIES OF THE HISTORIC PRESERVATION BOARD.

- A. The Historic Preservation Board may

1. The Board may adopt bylaws, rules and procedures for the conduct of Historic Preservation Board business, not inconsistent with any provisions of the Fruita Municipal Code.

B. The Historic Preservation Board shall:

1. Conduct public hearings and make recommendations to the City Council concerning land use applications in accordance with the requirements of the City's Land Use Code Title 17 of the Fruita Municipal Code. This shall include the ability to:
 - i. Recommend eligibility criteria for the designation of historic resources and for review of proposals to alter designated resources.
 - ii. Review and determine qualifications of properties nominated for designation as either an historic structure, site or district and recommend to City Council approval or denial of a designation.
 - iii. Review and make recommendations to the owner(s) on proposed alterations or demolitions to a designated historic structure, site or district.
 - iv. Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the City Register, the State Register and the National Register of Historic Places.
 - v. Develop and assist in public education programs including, but not limited to, walking tours, brochures, a marker program for historic properties, lectures, exhibits and conferences.
 - vi. Conduct surveys of historic sites, properties, and areas for the purpose of defining those of historic significance, and prioritizing the importance of identified historic areas. The Board may create a list of structures of historical or archeological merit, which have not been designated.
 - vii. Advise the City Council on matters related to preserving the historic character and substance of the City and recommend easements, covenants, licenses and other methods which would implement the completion of purposes of this Chapter.
 - viii. Actively pursue financial assistance for preservation-related programs.
2. Perform such additional duties as assigned by the City Council.

Chapter 2.20 CITY DEPARTMENTS

[Sections 2.20.010, 2.20.020, 2.20.040, 2.20.050, 2.20.060, 2.20.070 omitted from this document]

2.20.30 COMMUNITY DEVELOPMENT DEPARTMENT.

- A. The Community Development Department is responsible for the ~~oversight of current and long range planning and zoning including~~ implementation and enforcement of Title 17, Land Use Code; Title 15, Building and Construction; ~~and other duties and responsibilities as may be prescribed.~~ The Community Development Department shall perform all planning and building functions for the City, shall provide technical support and guidance for action on development applications and building permits, and shall review and perform such other actions as may be requested by the City Council or other decision-making body as set forth in this Title. The Community Development Director is responsible for oversight of the Department.
- A.
- B. The position of Code Enforcement Officer shall be under the administration and operational control of the Community Development Director. Such Code Enforcement Officer shall have the power, together with the Community Development Director and the City Attorney, to enforce all terms and provisions contained in Title 17 of the Fruita Municipal Code concerning Land Use and Development, as well as the terms and conditions of any permits or other land use approvals granted pursuant to Title 17. Such Code Enforcement Officer shall also have the authority, together with the City Attorney and members of the Fruita Police Department, to enforce provisions contained in Title 6 concerning Animals, Title 8 concerning Health and Safety, Title 9 concerning Public Peace, Morals and Welfare, Title 10 concerning Vehicles and Traffic, Title 12 concerning Public Improvements and Title 15 concerning Building and Construction, as well as other provisions of the Fruita Municipal Code as may be determined from time to time by the City Council. The Code Enforcement Officer shall have the authority to issue notices of violation, compliance orders, and may issue citations or summons and complaints in the Fruita Municipal Court. Provided, however, such Code Enforcement Officer need not be a “peace officer” as defined by Title 18, C.R.S., and if the Code Enforcement Officer is not a “peace officer,” shall not be permitted to carry a firearm or conduct arrests.
- C. The Building Inspector shall perform all required inspections within the City pursuant to Title 15, Building and Construction. The Building Inspector may be an employee of the City or may be a person or entity under contract with the City to perform building inspections within the City.

Chapter 2.39
PLANNING COMMISSION

Sections:

2.39.010 Creation; Membership

2.39.020 Meetings of the Planning Commission

2.39.030 Quorum and Voting

2.39.040 Planning Commission Officers

2.39.050 Powers and Duties of Planning Commission

2.39.010 CREATION; MEMBERSHIP.

- A. In accordance with the City Charter, there shall be a Planning Commission consisting of seven (7) members. Members shall reside within the City and shall serve without compensation.
- B. Planning Commission members shall be appointed by the Mayor, with approval of the City Council, for three (3) year overlapping terms. The members may continue to serve until their successors have been appointed. ~~All vacancies may be~~ shall be filled by the City Council ~~for the unexpired term only.~~
- C. Members may be appointed to successive terms without any limitation. The Mayor or one (1) City Council member shall serve as a member of the Planning Commission. The City Council member or Mayor shall be appointed by the City Council immediately following the regular municipal election held every two (2) years.
- D. Planning and Zoning Commission members may be removed by the City Council at any time for failure to attend two (2) unexcused consecutive meetings or for the failure to attend thirty percent (30%) or more of the meetings within any twelve (12) month period, or for any other good cause related to performance of duties. Upon request by the member proposed for removal, the City Council shall hold a hearing on the proposed removal before it becomes effective.
- E. Chapter 2.70 of the Fruita Municipal Code concerning the Code of Ethics for City Officials and Sections 24-18-101, *et. seq.*, C.R.S. shall apply to all members of the Planning Commission.

2.39.020 MEETINGS OF THE PLANNING COMMISSION.

- A. The Planning Commission shall establish a regular meeting schedule and shall meet as frequently as necessary to perform its duties in conformance with Title 17 of the Fruita Municipal Code.
- B. Minutes shall be kept of all Planning Commission proceedings.

- C. All Planning Commission meetings shall be subject to the Colorado Open Meetings Law, Sections 24-6-401, *et. seq.*, C.R.S.
- D. Whenever the Planning Commission is required to hold a public hearing pursuant to the City's Land Use Code, Title 17 of the Fruita Municipal Code, the Community Development Department shall notify the public of the date, time and place of such hearing in accordance with Section 17.01.130 of the Fruita Municipal Code. The quasijudicial procedures set forth in Chapter 2.60 of the Fruita Municipal Code shall apply to all land use hearings.
- D.E. The Planning Commission can hold work sessions. At work sessions, agenda items for consideration for future meetings are brought forward and discussed. Unless previously announced, there is no voting that takes place at a work session. Although the public and applicants are invited to attend, no testimony on the record is taken from members of the public. Applicants and the public may provide comment when recognized by the Chair of the Planning Commission.

2.39.030 QUORUM AND VOTING.

- A. Quorum for the Planning Commission shall consist of a majority of the Commission membership, excluding vacant positions. A quorum shall be necessary for the Planning Commission to take official action.
- B. All official actions of the Planning Commission shall be taken by a majority vote, requiring a quorum being present. A simple majority vote is required for all official actions. In the event there is a tied vote, this shall constitute a failed motion and shall not be considered an action. The no action shall have occurred, and the matter shall be considered active until a motion receives a majority vote.
- C. A roll call vote shall be taken upon the request of any member.

2.39.040 PLANNING COMMISSION OFFICERS.

- A. In its first meeting in April of each year, the Planning Commission shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chair~~man~~ who shall preside over the Commission's meetings, and one (1) member to serve as vice chairman. The persons so designated shall serve in such capacities for a term of one (1) year. A vacancy in these offices may be filled for the unexpired term by a majority vote of the Commission membership, excluding vacant positions.
- B. The chair~~man~~ and vice-chair~~man~~ may take part in all deliberations of the Planning Commission and vote on all matters.

2.39.050 POWERS AND DUTIES OF PLANNING COMMISSION.

A. The Planning Commission may:

1. Make studies and recommend to the City Council plans, goals and objectives related to the growth, development and redevelopment of the City and the surrounding extraterritorial planning area.
2. Develop and recommend to the City Council policies, ordinances, administrative procedures, and other means for carrying out land use planning in a coordinated and effective manner.
3. Adopt bylaws, rules and procedures for the conduct of Planning Commission business, [not inconsistent with any provisions of the Fruita Municipal Code](#).

B. The Planning Commission shall:

1. Conduct public hearings and make recommendations to the City Council concerning land use applications in accordance with the requirements of the City's Land Use Code, Title 17 of the Fruita Municipal Code.
2. Perform such additional duties as assigned by the City Council.

Chapter 2.40 BOARD OF ADJUSTMENT

Sections:

2.40.010 Creation;— Membership

2.40.020 Meetings of the Board of Adjustments

2.40.030 Quorum

2.40.040 Voting

2.40.050 Board of Adjustment Officers

2.40.060 Powers and Duties of Board of Adjustment

2.40.010 CREATION; —MEMBERSHIP.

- A. In accordance with the City Charter, there shall be a Board of Adjustment and appeals for the City consisting of five (5) regular members and two (2) alternates. Members shall reside within Fruita and shall serve without compensation.
- B. Board of Adjustment regular members and alternates shall be appointed by the Mayor, with approval of the City Council, for three (3) year overlapping terms, but both regular members and alternates may continue to serve until their successors have been appointed.
- C. All vacancies shall be filled by the City Council. Members may be reappointed by the City Council to successive terms without limitation.
- D. Regular members of the Board of Adjustment may be removed by the City Council at any time for failure to attend two (2) unexcused consecutive meetings or for failure to attend thirty percent (30%) or more of the meetings within any twelve (12) month period, or for any other good cause related to performance of their duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request by the member proposed for removal, the City Council shall hold a hearing on such removal before it becomes effective.
- E. Chapter 2.70 of the Fruita Municipal Code, concerning the Code of Ethics for City Officials, and Sections 24-18-101, *et. seq.*, C.R.S. shall apply to all members of the Board of Adjustment.

2.40.020 MEETINGS OF THE BOARD OF ADJUSTMENT.

- A. The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with the requirements of the City's Land Use Code, Title 17 of the Fruita Municipal Code.
- B. The Board shall conduct its meetings in accordance with quasi-judicial procedures set forth in Chapter 2.60 of the Fruita Municipal Code.

- C. Whenever the Board of Adjustment is required to hold a public hearing pursuant to the City's Land Use Code, Title 17 of the Fruita Municipal Code, the Community Development Department shall notify the public of the date, time and place of such hearing in accordance with Section 17.01.130 of the Fruita Municipal Code.
- D. All meetings of the Board of Adjustment shall comply with the Colorado Open Meetings Law, Section 24-6-401, *et. seq.*, C.R.S. Whenever feasible, an agenda for each Board of Adjustment meeting shall be made available to the public in advance of such meeting.

2.40.030 QUORUM.

- A. A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths (4/5) of the regular Board membership, excluding vacant positions. A quorum shall be necessary for the Board to take any official action.
- B. A member who has withdrawn from a meeting without being excused shall be counted as present for purposes of determining whether a quorum is present.

2.40.040 VOTING.

- A. The concurring vote of four-fifths (4/5) of the regular Board membership, excluding vacant positions, shall be necessary to reverse any order, requirement, decision, or determination of the administration; to decide in favor of an applicant on any matter upon which it is required to render a decision under the Fruita Municipal Code; or to grant any variance. All other actions of the Board shall be taken by majority vote, a quorum being present. In the event there is a tied vote, this shall constitute a failed motion and shall not be considered an action. The no action shall have occurred, and the matter shall be considered active until a motion receives a majority vote.
- B. Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (C) or has been allowed to withdraw from the meeting in accordance with subsection (D).
- C. A member shall be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - 1. The member has direct financial interest in the outcome of the matter at issue, or
 - 2.—The matter at issue involves the members own official conduct, or
 - 2.—

Participation in the matter might violate the letter or spirit of the City's Code of Ethics for City Officials, Chapter 4

3. of the Fruita Municipal Code, or the Standards of Conduct for Local Government Officials, Sections 24-18-101, *et. seq.*, C.R.S., or
 4. ~~5.~~ A member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound objective judgment in the public interest.
- D. A member may be allowed to withdraw from the entire remainder of a meeting by a majority vote of the remaining members present for any good and sufficient reason, other than the member's desire to avoid voting on matters to be considered at that meeting.
- E. A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- F. A roll call vote shall be taken upon the request of any member.

2.40.050 BOARD OF ADJUSTMENT OFFICERS.

- A. At its first regular meeting in April, the Board of Adjustment shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chair~~man~~ who shall preside over the Board's meetings, and one (1) member to serve as vice-chair~~man~~. The person so designated shall serve in such capacity for a term of one (1) year. A vacancy may be filled for an unexpired term only by majority vote of the Board's membership, excluding vacant positions.
- B. The chair~~man~~ or any member temporarily acting as chair~~man~~ may administer oaths to witnesses coming before the Board.
- C. The chair~~man~~ and vice-chair~~man~~ may take part in all deliberations and vote on all matters.

2.40.060 POWER AND DUTIES OF BOARD OF ADJUSTMENT.

- A. The Board of Adjustment shall hear and decide:
1. Appeals from any order, decision, requirement or interpretation made by the Community Development Director, building official, or any other zoning, building or code enforcement officer.

2. Applications for variances in accordance with the standards set forth in Title 17 of the Fruita Municipal Code.
 3. Questions involving interpretations of the City's Official Zoning Map, including disputed district boundary lines and lot lines.
 4. All other matters referred to it under the provisions of Titles 15 and 17 of the Fruita Municipal Code, or other ordinances of the City, or any Codes adopted by reference by the City.
- B. The Board may adopt bylaws, rules and regulations governing its procedures and meetings not inconsistent with any provisions of the Fruita Municipal Code.

|

Chapter 2.43

HISTORIC PRESERVATION BOARD

Sections

2.43.010 Creation; Membership

2.43.020 Meetings of the Historic Preservation Board

2.43.030 Quorum and Voting

2.43.40 Historic Preservation Board Officers

2.43.050 Powers and Duties of Historic Preservation Board

2.43.010 CREATION; MEMBERSHIP.

- A. There is hereby established an Historic Preservation Board, which shall have principal responsibility for matters of historic preservation.
- ~~A.B.~~ The Board shall consist of a minimum of five (5) members and not more than seven (7) members providing a balanced, community- wide representation. The Director of the Community Development Department and/or appointed department representatives shall serve as staff to the Board. There shall be one (1) member representative of the downtown merchants. Members shall reside within the City and shall serve without compensation.
- C. Historic Preservation Board members shall be appointed by the City Council for three (3) year staggered terms from the date of appointment. Members may continue to serve until their successors have been appointed. Appointments to fill vacancies on the Board shall be made by the City Council. Members may be appointed to successive terms without any limitation.
- D. ~~Members of the Board may be removed by the City Council without cause being stated.~~ Historic Preservation Board members may be removed by the City Council at any time for failure to attend two (2) unexcused consecutive meetings or for the failure to attend thirty percent (30%) or more of the meetings within any twelve (12) month period, or for any other good cause related to performance of duties. Upon request by the member proposed for removal, the City Council shall hold a hearing on the proposed removal before it becomes effective.
- ~~B. The Director of the Community Development Department and/or appointed department representatives shall serve as staff to the Board.~~
- E. Chapter 2.70 of the Fruita Municipal Code concerning the Code of Ethics for City Officials and Sections 24-18-101 et. seq. C.R.S. shall apply to all members of the Historic Preservation Board.

2.43.020 MEETINGS OF THE HISTORIC PRESERVATION BOARD

- A. The Historic Preservation Board shall establish a regular meeting schedule and shall meet as frequently as necessary to perform its duties in conformance with Title 17 of the Fruita Municipal Code.
- B. Minutes shall be kept of all Historic Preservation Board proceedings.
- C. ~~The Board shall conduct its business in accordance with the State's Public Meetings Act, Open Records Act and other laws applicable to local public bodies.~~ All Board meetings shall be subject to the Colorado Open Meetings Law, Sections 24-6-401, et. seq., C.R.S.
- D. Whenever the Historic Preservation Board is required to hold a public hearing pursuant to the City's Land Use Code, Title 17 of the Fruita Municipal Code, the Community Development Department shall notify the public of the date, time and place of such hearing in accordance with Section 17.01.130 of the Fruita Municipal Code. The quasijudicial procedures set forth in Chapter 2.60 of the Fruita Municipal Code shall apply to all land use hearings.

2.43.030 QUORUM AND VOTING.

- A. Quorum for the Historic Preservation Board shall consist of a majority of the Board membership, excluding vacant positions. A quorum shall be necessary for the Board to take official action.
- B. All official actions of the Historic Preservation Board shall be taken by a majority vote, requiring a quorum being present. A simple majority vote is required for all official actions. In the event there is a tied vote, this shall constitute a failed motion and shall not be considered an action. The no action shall have occurred, and the matter shall be considered active until a motion receives a majority vote.
- C. A roll call vote shall be taken upon the request of any member.

2.43.40 HISTORIC PRESERVATION BOARD OFFICERS.

- A. In its first meeting in April of each year, the Historic Preservation Board shall, by majority vote of its membership, excluding vacant positions, elect one (1) of its members to serve as chair~~man~~ who shall preside over the Board's meetings, and one (1) member to serve as vice chair~~man~~. The persons so designated shall serve in such capacities for a term of one (1) year. A vacancy in these offices may be filled for the unexpired term by a majority vote of the Board membership, excluding vacant positions.
- B. The chair~~man~~ and vice-chair~~man~~ may take part in all deliberations of the Historic Preservation Board and vote on all matters.

2.43.50 POWERS AND DUTIES OF THE HISTORIC PRESERVATION BOARD.

A. The Historic Preservation Board may

- 1. ~~The Board shall propose to the City Council for approval bylaws as the Board deems necessary. The Board may adopt bylaws, rules and procedures for the conduct of Historic Preservation Board business, not inconsistent with any provisions of the Fruita Municipal Code.~~**

B. The Historic Preservation Board shall:

- 1. ~~after solicitation of public comment and at a properly noticed public meeting~~Conduct public hearings and make recommendations to the City Council concerning land use applications in accordance with the requirements of the City's Land Use Code Title 17 of the Fruita Municipal Code. This shall include the ability to:÷**

- i. Recommend eligibility criteria for the designation of historic resources and for review of proposals to alter designated resources.
- ii. Review and determine qualifications of properties nominated for designation as either an historic structure, site or district and recommend to City Council approval or denial of a designation.
- iii. Review and make recommendations to the owner(s) on proposed alterations or demolitions to a designated historic structure, site or district.
- iv. Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the City Register, the State Register and the National Register of Historic Places.
- v. Develop and assist in public education programs including, but not limited to, walking tours, brochures, a marker program for historic properties, lectures, exhibits and conferences.
- vi. Conduct surveys of historic sites, properties, and areas for the purpose of defining those of historic significance, and prioritizing the importance of identified historic areas. The Board may create a list of structures of historical or archeological merit, which have not been designated.
- vii. Advise the City Council on matters related to preserving the historic character and substance of the City and recommend easements, covenants, licenses and other methods which would implement the completion of purposes of this Chapter.

viii. Actively pursue financial assistance for preservation-related programs.

- 2. Perform such additional duties as assigned by the City Council.**

Chapter *** Administration / Common Development Review Procedures

SECTIONS:

- 17.XX.010 Purpose**
- 17.XX.020 Summary of Procedures**
- 17.XX.030 Planning Clearance**
- 17.XX.040 Common Development Review Procedures**
- 17.XX.050 Amendments to Approved Land Development Applications**
- 17.XX.060 Expiration and Extensions of Approval**

17..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..020 SUMMARY OF PROCEDURES**

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.

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	D	-	-	-
Subdivision - Minor	M	O	D	-	-	-
Subdivision - Final Plat	M	O	D	-	-	-

Temporary Use Permit	O	O	D	-	-	-
Vacation of ROW	M	O	R	-	-	D
Vested Rights Extension	M	O	R	-	-	D
Amendments						
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	O	-	D	-	D
Sign Variances	M	O	R	-	-	D

17..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..040 COMMON DEVELOPMENT REVIEW PROCEDURES**

The common development review procedures in this Section shall apply to all types of development applications in this Chapter 17.02; 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 Adjustments	O
Appeals	O

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.
 - 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 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 public review at least seven (7) days 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 shall be responsible for scheduling and coordinating the meeting. The applicant must conduct minimum level mailing of notice, as outlined in section 17.**.030.E.1.d, to ensure neighbors are aware of the meeting. Proof of notice shall be required, pursuant to 17.**.030.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 minimum level mailing of notice, as outlined in section 17.**.030.E.1.d, to ensure neighbors are aware of the meeting. Proof of notice shall be required, pursuant to 17.**.030.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 and applicant 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 (300) feet of the subject property 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. The applicant shall be responsible for obtaining the list of owners and making the mailing. The applicant shall provide the required list of owners to the Director prior to the public hearing.
 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.
 7. Responsibility for Notice. The appellant, applicant, or other person seeking the public hearing shall be responsible for the accuracy of and proper publication, mailing, and posting of notice of the public hearing, and such persons shall bear all costs incurred in connection with giving notice of the public 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 2, 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 Garfield County Clerk and Recorder.

17..050 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 pursuant to Section 17.05.070. 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..060 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.

Chapter *** Administration / Common Development Review Procedures

Commented [JG1]: This section is new – any track changes are to show what current language got moved here and then updated.

SECTIONS:

[17.XX.010 Purpose](#)

[17.XX.020 Summary of Procedures](#)

[17.XX.030 Planning Clearance](#)

[17.XX.040 Common Development Review Procedures](#)

[17.XX.050 Amendments to Approved Land Development Applications](#)

[17.XX.060 Expiration and Extensions of Approval](#)

17.**.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.**.020 SUMMARY OF PROCEDURES

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.

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	D	-	-	-
Subdivision - Minor	M	O	D	-	-	-
Subdivision - Final Plat	M	O	D	-	-	-

Temporary Use Permit	O	O	D	-	-	-
Vacation of ROW	M	O	R	-	-	D
Vested Rights Extension	M	O	R	-	-	D
Amendments						
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	O	-	D	-	D
Sign Variances	M	O	R	-	-	D

17..030 PLANNING CLEARANCE**

- A. Applicability. 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..040 COMMON DEVELOPMENT REVIEW PROCEDURES**

The common development review procedures in this Section shall apply to all types of development applications in this [Chapter 17.02](#), 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

<u>Annexation</u>	<u>M</u>
<u>Concept Plan Review</u>	<u>M</u>
<u>Conditional Use Permit</u>	<u>M</u>
<u>Density Bonus</u>	<u>M</u>
<u>Design Guideline Review</u>	<u>M</u>
<u>Site Design Review</u>	<u>M</u>
<u>Subdivision - Major</u>	<u>M</u>
<u>Subdivision - Minor</u>	<u>M</u>
<u>Subdivision - Final Plat</u>	<u>M</u>

<u>Vacation of ROW</u>	<u>M</u>
<u>Vested Rights Extension</u>	<u>M</u>
<u>Amendments</u>	
<u>General Rezoning</u>	<u>M</u>
<u>PUD Rezoning</u>	<u>M</u>
<u>Text Amendments</u>	<u>M</u>
<u>Relief Procedures</u>	
<u>Variance</u>	<u>M</u>
<u>Sign Variances</u>	<u>M</u>

- 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.

<u>Review Procedures</u>	
<u>Land Development Applications</u>	
<u>Home Occupation Permit</u>	<u>O</u>
<u>Sign Permit</u>	<u>O</u>
<u>Short Term Rental Permit</u>	<u>O</u>
<u>Temporary Use Permit</u>	<u>O</u>
<u>Relief Procedures</u>	
<u>Administrative Adjustments</u>	<u>O</u>
<u>Appeals</u>	<u>O</u>

3. Pre-Application Conference Content. ~~Pre-Application Meeting. A pre-application meeting with the Community Development Department is required prior to submitting an application for any proposal that requires a public hearing under this Title. The purpose of 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~~After 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 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 public review at least seven (7) days 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 DA 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 shall be responsible for scheduling and coordinating the meeting. The applicant must conduct minimum level mailing of notice, as outlined in section 17.**.030.E.1.d, to ensure neighbors are aware of the meeting. Proof of notice shall be required, pursuant to 17.**.030.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 minimum level mailing of notice, as outlined in section 17.**.030.E.1.d, to ensure neighbors are aware of the meeting. Proof of notice shall be required, pursuant to 17.**.030.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. ~~Review Hearings~~Public Notice. Decisions Requiring a Public Hearing.-The Director shall establish a place and time certain for a hearing, if required by this Title, on the development application.

5.1For every public hearing required by this Title, ~~with the exception of time extensions and subdivision and development improvement agreements, and~~ unless otherwise required by law or this Title, the city and applicant shall notify the public ~~of the date, time and place 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. ~~One or more notices that are~~ 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) (300)~~ feet of the subject property ~~or more until a minimum of twenty (20) unique property owners are provided notice~~ 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. The applicant shall be responsible for obtaining the list of owners and making the mailing. The applicant shall provide the required list of owners to the Director prior to the public hearing.

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
- d. How to obtain additional information on the application and applicable review.

D.A. ~~Administrative Decisions.~~

1. ~~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 A of this section.~~

~~Planning Clearances, Sign Permits, Temporary Use Permits, Home Occupation Permits and Final Plats require no public notice.~~

~~2.3.~~ 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.

~~3.4.~~ 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.

~~4.7.~~ Responsibility for Notice. The appellant, applicant, or other person seeking the public hearing shall be responsible for the accuracy of and proper publication, mailing, and posting of notice of the public hearing, and such persons shall bear all costs incurred in connection with giving notice of the public hearing.

~~E.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.~~ ~~Before being presented to the City Council, the Planning Commission shall hold a public hearing on the application for a recommendation to the City Council.~~ The applicant, or the applicant's representative, shall be present at the ~~Planning Commission~~ public hearing to represent the application.

- ~~a-b.~~ The Community Development Department shall provide to the ~~Planning Commission~~ 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 ~~Planning Commission~~ public hearing, the ~~Planning Commission~~ 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.

- ~~b-d.~~ The ~~Planning Commission~~ 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 ~~Planning Commission~~ review body shall make a decision, as outlined in section 2, below. ~~take one of the following actions:~~

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

- ~~i-ii.~~ ~~Recommend to the City Council~~ 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 ~~City Council's decision~~ ~~recommendation for approving~~, ~~approving~~ with conditions or ~~denying~~ ~~denial of~~, the application shall include specific findings, based upon the evidence submitted, justifying such a ~~conclusion~~ 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 ~~City Council's~~ decision approving, approving with conditions or denying, the application shall include specific findings, based upon the evidence submitted, justifying such a conclusion.

3.4 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.

4.5 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 Garfield County Clerk and Recorder.

17..050 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.

A.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 pursuant to Section 17.05.070. 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..060 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.

Chapter 17.03

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.

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 Chapter 17.17. 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 17.13.040 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 17.21 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. (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 Section 17.07.060 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. (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 17.25)

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 17.25)

MASTER PLAN. Collectively, the City of Fruita Comprehensive Plan (2020); the Parks, Open Space, and Trails 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. (See Hotel and Lodge)

MUDEFLOW. 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 publicright-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 17.19 and 17.29)

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 Section 17.17.010 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 **Chapter 2.60** 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 17.01.130 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 also 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 17.27)

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 17.27)

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 dwelling unit that may be rented or leased for a short-term period, which is typically occupied by residents for periods of thirty (30) days or less.

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 signs 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 (115 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 Council, or other owner.

VACATION OF RIGHT-OF-WAY. A formal abandonment of a public right-of-way by the City Council or Board of County Commissioners 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 11. 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.

Chapter 17.03

~~BASIC~~ 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 as](#) 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.

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, ~~which~~ [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 ~~near-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 Chapter 17.17. This typically includes a 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 17.13.040 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 ~~such as~~ 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 IMPROVEMENTS AGREEMENTS (DIA). 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 17.21 of this Title.

DEVELOPMENT SCHEDULE/PHASING SCHEDULE/FILING SCHEDULE. A schedule ~~approved by the City Council~~ 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 ~~Community Comprehensive~~ Plan as Downtown ~~Mixed Use~~.

~~**DOWNTOWN CORE.**~~ The area designated on the Fruita Community Plan as Downtown Mixed Use south of Pabor Avenue. This area extends from Pabor Avenue south to the railroad tracks and from Little Salt Wash to Elm Street.

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.

~~**DUPLEX.**~~ A building containing two (2) dwelling units totally separated from each other by an unpierced wall extending from ground to roof located on a single lot and all under the same ownership.

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 extending from ground to roof located on a single lot and all under the same ownership.

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 ~~and all under the same ownership~~.

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 or the centerline of walls separating two (2) abutting buildings. The measurement, includesing 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 ~~frontage of a parcel of land is considered that~~ 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.).

GREENHOUSE. [See Nursery Greenhouse.](#)

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. [\(see Lodge and Motel\)](#)

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 Section 17.07.060 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. [\(See Hotel and Motel\)](#)

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 Ffrontage.](#))

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 17.25)

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 17.25)

MASTER PLAN. Collectively, the City of Fruita ~~Community-Comprehensive~~ Plan (~~2008~~2020); the Parks, Open Space, and Trails Plan (~~2009~~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. ([See Hotel and Lodge](#))

MUDEFLOW. 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.](#)

~~**NODES.** An identifiable grouping of uses subsidiary and dependent to a larger urban grouping of similar or related uses.~~

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) motorvehicle, exclusive of access drives, and not on a publicright-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 [2-8two \(2\) 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 17.19 and 17.29)

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 ~~uncovered~~ 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 Section 17.17.010 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 thing-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

Chapter 2.60 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 17.01.130 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 17.27)

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 17.27)

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.

ROOF PLANE. ~~See Roof Line.~~

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 dwelling unit that may be rented or leased for a short-term period, which is typically occupied by residents for periods of thirty \(30\) days or less.](#)

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 tucks, 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.

~~**SKETCH PLAN.** Map(s) of a proposed subdivision and supporting documents submitted to evaluate concept, feasibility and design characteristics at an early stage in the planning of a subdivision.~~

~~**SMALL HOUSING TYPES.** Dwelling units (including multi-family dwellings) that individually contain less than 1,750 square feet in floor area including garages or covered parking areas.~~

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.

SUBDIVISION IMPROVEMENTS AGREEMENT (SIA). ~~An agreement between the city and a property owner and developer which provides for the construction, installation and development~~

~~of improvements associated with a subdivision and includes a performance guarantee and various exactions required by the city, as further described in Chapter 17.21 of this Title.~~

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.

~~**TRANSIENT HOUSING.** Housing or accommodations which are typically occupied by residents for periods of thirty (30) days or less, including, but not limited to hotels, motels, and lodges.~~

TRANSMISSION LINES. Electric lines (115 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 Council, or other owner.

VACATION OF RIGHT-OF-WAY. A formal abandonment of a public right-of-way by the City Council or Board of County Commissioners 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~~ing~~ the numerical standards contained in Chapter 11. -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.

WOONERF. 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.

ZERO LOT LINE. ~~The location of a building on a lot in such a manner that one (1) or more of the buildings sides rests directly on a lot 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.

CHAPTER 17.37 HISTORIC PRESERVATION

SECTIONS:

17.37.010	Purpose
17.37.020	City Registry Established and Applicability
17.37.030	Definitions
17.37.040	Designation of Historic Structures, Sites and Districts
17.37.050	Procedures For Designating Historic Structures, Sites and Districts For Preservation
17.37.060	Criteria For Designation
17.37.070	Alteration, Relocation, or Demolition of Listed Properties and Districts
17.37.080	Revocation of Designation

17.37.010 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.

17.37.020 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.

17.37.030 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 2.

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.

17.37.040 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.

17.37.050 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 no more than thirty (30) days after the filing of the application.
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 no more than thirty (30) days 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 no more than thirty (30) days 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.

17.37.060 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 (I) 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;
 - 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.

17.37.070 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.

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.

17.37.080 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.

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 17.37 HISTORIC PRESERVATION

SECTIONS:

17.37.010 Purpose

~~17.37.020 Board Established~~

17.37.0230 City Registry Established and Applicability

17.37.0320 Definitions

17.37.040 Designation of Historic Structures, Sites and Districts

17.37.050 Procedures For Designating Historic Structures, Sites and Districts For Preservation

17.37.060 Criteria For Designation

17.37.070 ~~Review of Alterations and Demolition~~ Alteration, Relocation, or Demolition of Listed Properties and Districts

17.37.080 Revocation of Designation

17.37.010 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. ~~The p~~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. ~~The e~~Establishment of a City Register listing designated structures, sites and districts; ~~and~~
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 ~~The provision of~~ 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.

17.37.020 BOARD ESTABLISHED. ~~An Historic Preservation Board, hereinafter in this Chapter referred to as the "Board," which shall have principal responsibility for matters of historic preservation, is hereby established.~~

A. ~~Membership. The Board shall consist of a minimum of five (5) members and not more than seven (7) members providing a balanced, community wide representation. The Director of the Community Development Department and/or appointed department representatives shall serve as staff to the Board. There shall be one (1) member representative of the downtown merchants.~~

B. ~~Appointments and Terms of Office. Members of the Board shall be appointed by the City Council and shall serve three (3) year staggered terms from the date of appointment.~~

~~Members may continue to serve until their successors have been appointed. Appointments to fill vacancies on the Board shall be made by the City Council. All members of the Board shall serve without compensation except for such amounts determined appropriate, in advance, by the City Council to offset expenses incurred in the performance of their duties. Members of the Board may be removed by the City Council without cause being stated.~~

C. ~~Powers and Duties The Board shall after solicitation of public comment and at a properly noticed public meeting:~~

- ~~1. Recommend eligibility criteria for the designation of historic resources and for review of proposals to alter designated resources;~~
- ~~2. Review and determine qualifications of properties nominated for designation as either an historic structure, site or district and recommend to City Council approval or denial of a designation;~~
- ~~3. Review and make recommendations to the owner(s) on proposed alterations or demolitions to a designated historic structure, site or district;~~
- ~~4. Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the City Register, the State Register and the National Register of Historic Places;~~
- ~~5. Develop and assist in public education programs including, but not limited to, walking tours, brochures, a marker program for historic properties, lectures, exhibits and conferences;~~
- ~~6. Conduct surveys of historic sites, properties, and areas for the purpose of defining those of historic significance, and prioritizing the importance of identified historic areas. The Board may create a list of structures of~~

historical or archeological merit, which have not been designated;

7. ~~Advise the City Council on matters related to preserving the historic character and substance of the City and recommend easements, covenants, licenses and other methods which would implement the completion of purposes of this Chapter; and~~
 8. ~~Actively pursue financial assistance for preservation related programs.~~
- D. ~~Compliance with Laws. The Board shall conduct its business in accordance with the State's Public Meetings Act, Open Records Act and other laws applicable to local public bodies.~~
- E. ~~Bylaws. The Board shall propose to the City Council for approval bylaws as the Board deems necessary.~~

17.37.0230 -CITY -REGISTRY -ESTABLISHED- AND APPLICABILITY-

- A. ~~The -Fruita- City -Council -hereby establishes the City of Fruita Re-gister 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.

17.37.030 HISTORIC PRESERVATION DEFINITIONS

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

Alteration. ~~"alteration" shall mean a~~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 2.

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.

17.37.040 DESIGNATION OF HISTORIC STRUCTURES, SITES AND DISTRICTS.

A. Authority

Pursuant to the procedures set forth in this Chapter, the City Council may, by ~~resolution~~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. ~~The p~~Purpose and effect of designation ~~is:~~

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
- 3.
4. To make all properties listed on the City Registry eligible for such incentive programs as may be developed.

D.

- ~~1. To make all properties listed on the City Registry eligible for such incentive programs as may be developed.~~

17.37.050 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.

A. Historic Preservation

B. Board Review-

1. Public hearing.

2. The Board shall hold a public meeting on the designation application no more than thirty (30) days after the filing of the application.

1.

3. Action.

4. The Board shall review the application for conformance with the established criteria for designation and with the purposes of this Chapter.

5.

2. 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.

2. The Planning Commission shall hold a public hearing on the designation

application no more than thirty (30) days after receipt of the Historic Preservation Board's recommendation.

1.

3. Action.

2. The Planning Commission shall review the application for conformance with the established criteria for designation ~~and set forth in~~ with the purposes of 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 or disapprove the proposal;~~ or

a-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 no more than thirty (30) days after receipt of the Planning Commission's recommendation.

1. Action.

2. ~~The City Council shall hold a public hearing on the designation application no more than thirty (30) days after the receipt of the Planning Commission recommendation.~~

2. The City Council shall review the application for conformance with the established criteria for designation set forth in ~~and, with the purposes of 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.

17.37.060 CRITERIA FOR DESIGNATION

The Historic Preservation Board, ~~and~~ 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 (I) 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.

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.
1. ~~The owner is required to consult with the Board before making any alteration or any demolition of a structure listed on the City Register. The Board shall determine if the alteration is compatible with the designation.~~ 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.

~~2.—~~

~~For the purposes of this Section, the term "alteration" shall mean 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.~~

B. Criteria to-for Review Alterations—

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 ~~also~~ 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. ~~For the purposes of this Section, the term "compatible" shall mean 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.~~¹

~~mean 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.~~

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.

17.37.080 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.
- ~~B. 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.~~

~~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 17.17
PLANNED UNIT
DEVELOPMENTS

Sections:

- 17.17.010 General Purposes**
- 17.17.020 Planned Unit Developments – General Procedures**
- 17.17.030 Criteria For Review and Decisions**
- 17.17.040 Planned Unit Development Applications; Submittal, Processing and Review**
- 17.17.050 Planned Unit Development Improvements**
- 17.17.060 Amendments to Final Planned Unit Development Plan or Planned
Unit Development Guide**

17.17.010 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.

17.17.020 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 decisions concerning a proposed Planned Unit Development shall be based upon the criteria in **Section 17.17.*****. 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. (Chapter citation) Approval criteria for Planned Unit Developments must be considered in addition to the approval criteria required to be considered for subdivisions, pursuant to Chapter 17.15.
- 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 17.13, except the Site Design Review for the Planned Unit Development shall be reviewed through the public hearing process in accordance with Section *** (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 17.13.

17.17.030 PUD REVIEW Processes.

All PUDs shall be processed in accordance with the Procedures outlined in Section 17.***.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 17.15) and/or Site Design Review (Chapter 17.13), 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 17.11, unless approved as an Adjustment pursuant to the Adjustment criteria set forth in Section 17.11.020(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 17.15.130**. 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 and Zoning 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.***.040**, the Planning Commission and City Council shall evaluate the Preliminary Plan application according to the Concept Plan criteria in Section **17.17.030(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 17.15) and/or Site Design Review (Chapter 17.13), 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 17.11, unless approved as an Adjustment pursuant to the **Adjustment criteria set forth in Section 17.11.020(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**

17.15.130. 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 17.15.080**. 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.

17.17.050 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 17.15 and in accordance with a development or subdivision improvements agreement entered into by the City Council and the developer pursuant to Chapter 17.21 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.

17.17.060 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.

17.15.130 TIME EXTENSIONS FOR MINOR SUBDIVISIONS, PRELIMINARY PLANS AND FINAL PLATS.

- 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 17.17
PLANNED UNIT DEVELOPMENTS

Sections:

- 17.17.010 General Purposes
- 17.17.020 Planned Unit Developments – General Procedures
- 17.17.030 Criteria For Review and Decisions
- 17.17.040 Planned Unit Development Applications; Submittal, Processing and Review
- 17.17.050 Planned Unit Development Improvements
- 17.17.060 Amendments to Final Planned Unit Development Plan or Planned Unit Development Guide

17.17.010 GENERAL PURPOSES.

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 Planned Unit Developments allows for modification of the normal use, density, size or other zoning restrictions, for the development to accomplish the following purposes:

Formatted: No underline

- A. 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;
- B.A. 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;
- C.A. 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;
- D.A. To conserve and make available open space;
- E.A. To provide greater flexibility for the achievement of these purposes than would otherwise be available under conventional zoning restrictions;
- F.A. 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;
- G.A. 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, and;

~~H.A. To encourage integrated planning in order to achieve the above purposes.~~

17.17.020 PLANNED UNIT DEVELOPMENTS—GENERAL PROCEDURES**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 of the Planning Commission to the City Council and decisions by the City Council concerning a proposed Planned Unit Development shall be based upon the following criteria in Section 17.17.***. 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.~~

~~A.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. (Chapter citation) Sketch Plan application for the subdivision shall be reviewed as the Concept Plan for the Planned Unit Development application. Concept Plans like Sketch Plans are optional. The Preliminary Plan application shall be reviewed as the Preliminary Planned Unit Development Plan.~~ Approval criteria for Planned Unit Developments must be considered in addition to the approval criteria required to be considered for subdivisions, pursuant to **Chapter 17.15.**

B.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 17.13, except the Site Design Review for the Planned Unit Development shall be reviewed through the public hearing process in accordance with Section 17.05.070*** (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 17.13.

17.17.030 CRITERIA FOR PUD REVIEW AND DECISIONS Processes.

All PUDs shall be processed in accordance with the Procedures outlined in Section 17.***.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.

~~Recommendations of the Planning Commission to the City Council and decisions by the City Council concerning a proposed Planned Unit Development shall be based upon the following criteria. 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.~~

1. The Planning Commission and City Council shall evaluate the Concept Plan application according to the following approval criteria shall be considered by the Planning Commission and City Council in its review of a proposed Planned Unit Development and 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:
 - a. Conformance to the ~~Fruita Master Plan~~; 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: the purposes

~~as set out in Section 17.17.010, above;~~

- 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, and;

To encourage integrated planning in order to achieve the above purposes.

- c. Conformance to the approval criteria for Subdivisions (Chapter 17.15) and/or Site Design Review (Chapter 17.13), 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 17.11, unless approved as an Adjustment pursuant to ~~Where the applicant proposes one or more Adjustments to the standards of this Title, consistency with the Adjustment criteria set forth in Section 17.11.020(B), is required.~~
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.

- ~~a-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.

~~17.17.040 — PLANNED UNIT DEVELOPMENT APPLICATIONS —~~
~~SUBMITTAL, PROCESSING AND REVIEW.~~

- ~~2. Planned Unit Development Concept Plan. Upon completing a pre-application conference, a Concept Plan application may be submitted to the Community Development Department.~~
- ~~3. —~~
- 4. Preliminary Planned Unit Development Plan. An application for a Preliminary Planned Unit Development Plan applications must shall 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 17.15.130, by the City Council. Failure to file a complete Preliminary Planned Unit Development Plan application in a timely manner will result in reconsideration of the Planned Unit Development Concept Plan approval by the Council. 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.

~~A. Preliminary Planned Unit Development Plan.~~

B. 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 and Zoning 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.***.040, the Planning Commission and City Council shall evaluate the Preliminary Plan application according to the Concept Plan criteria in Section 17.17.030(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 17.15) and/or Site Design Review (Chapter 17.13), 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 17.11, unless approved as an Adjustment pursuant to the Adjustment

criteria set forth in Section 17.11.020(B).

e. Compliance with conditions of approval on the Concept Plan, if any.

2. As part of the Preliminary ~~Upon approval of the Final~~ 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 17.15.130**. 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 ~~Plan/Plat application~~ shall conform to the previously approved Preliminary Planned Unit Development Plan, including all conditions of approval, ~~and the requirements of Section 17.17.030~~ 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, ~~and~~ 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. ~~Upon approval of the Final Planned Unit Development Plan/Plat the City Council shall enact an ordinance zoning the subject property as a Planned Unit Development.~~ The Final Planned Unit Development Plan/Plat shall ~~then~~ 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 17.15.080**. 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.

17.17.050 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 17.15 and in accordance with a development or subdivision improvements agreement entered into by the City Council and the developer pursuant to Chapter 17.21 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.

17.17.060 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.

17.15.130 TIME EXTENSIONS FOR MINOR SUBDIVISIONS, PRELIMINARY PLANS AND FINAL PLATS.

- 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 XX.XX

VARIANCES AND MODIFICATIONS

Section:

X.X.010 Variances

X.X.020 Administrative Modifications

X.X.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 11 and Chapter 41**. Use variances 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 41**.
1. Variances shall be processed in accordance with the Procedures outlined in Section **17.XX.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.

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.

X.X.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 xx: 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 xx** 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 XX.XX

VARIANCES AND MODIFICATIONS

Section:

X.X.010 Variances

X.X.020 Administrative Modifications

X.X.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 11 and Chapter 41**. Use variances 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 41**.
1. Variances shall be processed in accordance with the Procedures outlined in Section 17.XX.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.

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 Master 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.

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

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 xx 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. ~~Where the concurrently reviewed application requires review and approval by the Director, the~~ 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.