

LAND USE TABLE – FUEL SALES

The proposed amendment shows a change from Fuel Sales as an Allowed land use to a Conditionally Allowed Use in the DMU zone. This means that if a Fuel Sales business is proposed in the DMU zone, a Conditional Use Permit would be required.

This amendment is proposed for Section 17.05.090

Additions shown in *italics*

Deletions shown in strikethroughs

Table 17.05.090 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
COMMERCIAL												
Retail Sales & Service												
Fuel Sales, Automotive/Appliance (not including Drive-Up/Drive-Through uses)	*	*	*	*	*	AC	A	A	A	*	*	*
Fuel Sales, Heavy Vehicle (not including Drive-Up/Drive-Through uses)	*	*	*	*	*	AC	A	A	A	*	*	*

CALL-UP PROVISIONS

This code language needs to be relocated from Section 17.21.030(2) to Section 17.07.040 (G). The reason for relocating the language from the Subdivisions chapter to the Standard Review Procedures chapter is because the language now includes Site Design Review as a project subject to call up.

These call-up provisions will allow the Community Development Director to decide whether a project or application should be called up. The call-up provisions would likely not be used for every single project.

Additions shown in *italics*

Deletions shown in ~~strikethroughs~~

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- G. Call Up Provisions. All Preliminary Plan ~~approvals for Subdivisions~~ *and Site Design Review applications* are subject to the City of Fruita's Call Up procedures ~~for Subdivisions~~, which shall be completed according to the following procedures.
1. Notice to City Council. *The Community Development Director may decide to notify the City Council* ~~Following the administrative approval of a Preliminary Plan for a Subdivision or a Site Design Review.~~ *;* *If the Community Development Director decides in the affirmative to notify the City Council,* the City Council shall be promptly notified of the action to allow the City Council an opportunity to avail itself of the call-up procedure outlined herein. Notification shall consist of the Community Development Director providing a written description and associated mapping or graphics to illustrate the location and characteristics of the subdivision. The notification shall be included on a work session agenda within thirty (30) days of approval, or as soon thereafter as is practical under the circumstances. This notification shall be included in a City Council work session (not a public hearing) to enable the Council to review and discuss if they would like to formally review the Community Development Director's decision in a public hearing, as outlined in subsection €3. A simple majority vote shall determine if the Preliminary Plan *or Site Design Review* shall be called up, and the decision to do so is at the sole discretion of City Council.
 2. Call-up. The City Council may order call-up of the Preliminary Plan *or Site Design Review application* approval within thirty (30) days of the written notification. Consequently, applications for Final Plat may not be accepted by the City and no associated reviews or permits shall be completed or issued during the notice and call-up period. If City Council exercises this call-up provision, no applications for Final Plat or any associated reviews or permits shall be accepted or approved until City Council takes action as described in subsection €3. If the City Council does not call-up the Preliminary Plan *or Site Design Review* within the call-up period, the Community Development Director's approval shall be the final decision on the matter.

3. Required actions upon call-up. If City Council decides to call-up the Preliminary Plan or Site Design Review approval, the matter shall be referred to the Planning Commission within thirty (30) days, or as soon as is practicable, and shall be reviewed in a public hearing, pursuant to Public Notice requirements outline in section 17.07.040. The Planning Commission shall be a recommending body to City Council. Within thirty (30) days, or as soon as is practicable, the matter shall be scheduled at a regular City Council meeting for a public hearing, with notice provided pursuant to section 17.07.040. The City Council decision shall be final and conclude the call up procedure.
 - a. All reviews completed by the Planning Commission and City Council as part of the call-up shall be *de novo*. The Planning Commission and City Council may, at their sole discretion, consider evidence included in the record, or supplement the record with additional evidence or testimony as they deem necessary. They shall complete their reviews pursuant to the applicable review criteria outlined in ~~section 17.21.030 (1) (C)~~ the *Fruita Land Use Code*. The Council may impose conditions on any approval granted.
 - b. If the City Council approves the Preliminary Plan, the applicant may proceed to Final Plat. Any conditions imposed by Council for Final Plat shall be met.

APPEALS

The proposed changes will ensure that if an application for appeal of a decision that the application is not reheard, but otherwise, is appealed based on whether or not a decision or determination shall not be reversed or modified unless there is a finding that there was a denial of due process or the administrative body has acted arbitrarily and capriciously, exceeded its jurisdiction or abused its discretion.

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CHAPTER 17.25 **APPEALS**

SECTIONS:

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

17.25.010 – PURPOSE.

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

17.25.020. - AUTHORITY.

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

17.25.030. - APPLICABILITY.

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

Development Department including information on how to appeal that decision.

17.25.040. - APPEAL PROCEDURES.

- A. Appeal Application Submittal. *A Notice of Appeals* ~~are~~ is required to be filed in writing with the Community Development Department within *fourteen (14)* ~~thirty (30)~~ days of the decision that is being appealed. The Community Development Director may prescribe a specific form that is required for an application for an Appeal. The appeal shall state the specific grounds upon which the appeal is based and shall have attached to it any documentary evidence.
- B. Burden of Proof on Appellant. The party making the appeal (the appellant) shall have the burden of proving ~~the necessary facts to warrant reversal or amendment of the decision being appealed~~ *that the decision being appealed should be reversed based upon the standard of review set forth herein below. Such proof shall include applicable specific section references within this Code and shall be provided with the application.* The ~~application~~ *appeal* shall be based solely on the record established in the decision-making process.
- ~~C. Staff Review and Action. The Director shall review the appeal application and prepare a staff report.~~
- ~~1. Staff review of the appeal shall confirm that the application is complete and that the appeal is heard by the appropriate authority.~~
 - ~~2. Staff review of the appeal shall confirm that the application is complete based on the record that has been established.~~
 - ~~3. The staff report shall summarize the information included in the record and may include a recommendation.~~
- ~~D.C.~~ D. Scheduling and Notice of Public Hearings. The appeal shall be scheduled for a public ~~hearing~~ *meeting* before the appropriate appellate body within forty-five (45) days of the date of the filing of the appeal. Public notice shall be provided in accordance with Subsection 17.07.040.E.
- D. *Standard of review. Unless otherwise specifically stated in this Title, the decision-making body authorized to hear the appeal shall decide the appeal based solely upon the record established by the body from which the appeal is taken. A decision or determination shall not be reversed or modified unless there is a finding that there was a denial of due process or the administrative body has acted arbitrarily and capriciously, exceeded its jurisdiction or abused its discretion.*
- E. *Action by the decision-making body hearing the appeal. The decision-making body hearing the appeal may reverse, affirm or modify the decision or determination appealed from and, if the decision is modified, shall be deemed to have all the powers of the officer, board or commission from whom the appeal is taken, including the power to impose reasonable conditions to be complied with by the appellant applicant of the original application. The decision-making body may also elect to remand an appeal to the body that originally heard the matter for further proceedings consistent with that body's jurisdiction and directions*

given, if any, by the body hearing the appeal. The decision shall be approved by written resolution. All appeals shall be public meetings.

~~E. Review and Decision.~~

- ~~1. The appropriate appellate body shall consider the following in determining whether to affirm, reverse or amend a decision or interpretation made by the decision-making body:
 - ~~i) The facts stated in the application, as presented by the appellant;~~
 - ~~ii) The requirements and intent of the applicable standards from this Code compared to the decision that is being appealed;~~
 - ~~iii) Evidence related to how the applicable standards from this Code have been administered or interpreted in the past; and~~
 - ~~iv) Consistency with the Comprehensive Plan.~~~~
- ~~2. The appellate body may reverse a previous decision in whole or in part, or may modify the order, requirement, decision, or determination appealed from.~~
- ~~3. The appellate body may attach conditions of approval on any appeal to ensure the health, safety, and welfare of the City.~~

F. Post-Decision Actions and Limitations. Any further appeals *of a decision of* ~~from~~ City Council shall be made to the courts in accordance with state law.

SIGN CODE – YARD SIGNS

The proposed amendments to the Sign Code are directly related to supreme court rulings regarding compliance with the First Amendment to the United States Constitution regarding municipal regulation of signs across the nation. With this ruling, municipalities are not allowed to regulate signage based on what the sign says. However, municipalities still can regulate signage location, size, height, brightness, and quantity.

The proposed changes are to Section 17.15.040 Exempt Signs section of the Land Use Code. The Exempt Sign regulations explain the types of signage which do not require a Sign Permit.

Additions shown in *italics*

Deletions shown in ~~strikethroughs~~

~~P. Political Signs. Political signs displayed on private property in accordance with an official election or signs erected on behalf of candidates for public office and ballot issues provided:~~

- ~~1. The total area of all such signs on a lot does not exceed thirty two (32) square feet;~~
- ~~2. All such signs may be erected no sooner than sixty (60) days in advance of the election for which they were made;~~
- ~~3.1. The signs are removed within seven (7) days after the election for which they were made; and~~
- ~~4.2. The property owner upon whose land the sign is placed shall give written permission for the placement of said signs and will be responsible for violations.~~

~~K. Flags. Flags, crests or banners of nations, or organizations of nations, or states and cities, or professional fraternal, religious, civic organizations, or generally accepted military service related flags (i.e. POWs) except when displayed in connection with commercial promotion.~~

~~Q. Religious Symbols. Religious symbols located on a building or lot used for organized religious purposes.~~

Y. Temporary Yard Signs. Yard signs are allowed without a sign permit pursuant to the following:

- 1. In Residential Zoning Districts*

- a. *Total square footage of all yard signs shall not exceed 24 square feet total on any property;*
 - b. *Shall not exceed a height of 42 inches; and*
 - c. *Shall not be located in the public right-of-way.;*
- 2. *In All Other Zoning Districts*
 - a. *Total square footage of all yard signs shall not exceed 24 square feet total on any property;*
 - b. *Shall not exceed a height of six feet, or 42 inches if placed within a sight distance triangle; and*
 - c. *Shall not be located in the public right-of-way.*