

Chapter 17.21
SUBDIVISIONS

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17.21.010 PURPOSE AND AUTHORITY; JURISDICTION; ENFORCEMENT.

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

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

17.21.020 APPLICABILITY.

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

A. Subdivision Approval Required

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

B. Effect on Existing Subdivisions

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

17.21.030 REVIEW PROCESS –SUBDIVISIONS.

1. Preliminary Plan

- A. Applicability. The preliminary subdivision plan provides general graphic information and text indicating property boundaries, easements, land use, streets, utilities, drainage, open space, parks and other information required to evaluate a proposed subdivision. A preliminary subdivision plan shall be required for every subdivision except as otherwise provided for herein.
- B. Subdivisions shall be processed in accordance with the Procedures outlined in Section 17.07.040, Common Development Review Procedures.

C. Subdivisions are reviewed Administratively by the Community Development Director based on the following criteria:

1. Conformance to the City of Fruita's Comprehensive Plan, Land Use Code, Design Criteria and Construction Specifications Manual and other city policies and regulations;
2. Compatibility with the area around the subject property in accordance with Section 17.05.080.C;
3. Adequate provision of all required services and facilities (roads, bicycle and pedestrian facilities, parks, police protection, fire protection, domestic water, wastewater services, irrigation water, storm drainage facilities, etc);
4. Preservation of natural features and adequate environmental protection; and
5. Ability to resolve all comments and recommendations from reviewers without a significant redesign of the proposed development.
6. All subdivided lots have perpetual, unobstructed legal vehicular and pedestrian access to a public way. A proposed subdivision shall not eliminate or obstruct legal access from a public way to an adjacent property.
7. All new lots shall conform with the requirements of the zone district, as well as the Land Use Compatibility Criteria in Section 17.05.080.C.
8. The subdivision shall not create or increase a non-conforming use or structure.
9. For Subdivisions requiring off-site improvements, the subdivision will be required to follow Chapter 17.49 of the Fruita Land Use Code.

2. Call Up Provisions. All Preliminary Plan approvals for Subdivision are subject to the City of Fruita's Call Up procedure for Subdivisions, which shall be completed according to the following procedures.
 - A. Notice to City Council. Following the administrative approval of a Preliminary Plan for a Subdivision, 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 C. A simple majority vote shall determine if the Preliminary Plan shall be called up, and the decision to do so is at the sole discretion of City Council.
 - B. Call-up. The City Council may order call-up of the Preliminary Plan 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 C. If the City Council does not call-up the Preliminary Plan within the call-up period, the Community Development Director's approval shall be the final decision on the matter.
 - C. Required actions upon call-up. If City Council decides to call-up the Preliminary Plan 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.
 - i. 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 Council may impose conditions on any approval granted.
 - ii. 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.

3. Final Plat

- A. Final Plat applications must be submitted within 180 days of approval of the Preliminary Plan unless a time extension has been granted pursuant to Section 17.21.160. If more than 180 days have elapsed from the date of the approval of the Preliminary Plan application, and if no extension is granted, the Preliminary Plan approval shall expire.
 - 1. An application for Final Plat approval shall conform to the approved Preliminary Plan, including any conditions of approval, the requirements of this Title, and any other applicable regulations. Final Plat applications are administratively reviewed and approved by the Community Development Director and may be combined with the related Development Agreement. The Community Development Department shall evaluate the Final Plat application for compliance with the approval of the Preliminary Plan including any conditions of approval and all requirements of this Title.
 - a. The applicant may withdraw the Final Plat application at any time in writing to the Community Development Department.
 - b. Final Plats for Subdivisions must be recorded within two years of Preliminary Plan approval unless a time extension is granted pursuant to Section 17.21.160
 - c. The Final Plat and related documents must be recorded within ninety (90) days of the approval of the Development Agreement unless a time extension has been granted pursuant to Section 17.21.160. If more than ninety (90) days have elapsed from the date of the approval of the Development Agreement, and if no extension is granted, the approval of the Final Plat, Development Agreement and related documents shall expire.
 - d. Additional requirements for Final Plat approval.
 - 1. As part of the Final Plat submittal requirements, a licensed professional land surveyor shall prepare a letter to the Fruita Community Development Director and the subdivider documenting any deficiencies in the Final Plat to be corrected. After all corrections to the Final Plat are made to the satisfaction of the peer reviewer, the subdivider shall obtain from the reviewer a signed and sealed certification to the Community Development Department that the Final Plat has been reviewed, and to the best of his or her knowledge, the plat satisfies the requirements pursuant to Section 38-51-106, C.R.S., as amended, for the recording of subdivision plats in the office of the Mesa County Clerk and Recorder. The subdivider shall pay all review fees charged by the peer reviewer, which shall be billed directly to the subdivider by the peer reviewer.

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

- i. Title or legal ownership of the land platted nor the title of legal ownership of adjoiners;
 - ii. Errors and/or omissions, including but not limited to, the omission(s) of rights-of-way and/or easements, whether or not of record;
 - iii. Liens and encumbrances, whether or not of record; and
 - iv. The qualifications, licensing status and/or any statement(s) or representation(s) made by the surveyor who prepared the above named subdivision plat.
2. The Final Plat shall be approved by certain reviewers as determined by the city with signatures indicating all requirements or changes have been fulfilled.
 3. The Community Development Department staff shall ensure the Final Plat and related documents are recorded with the Mesa County Clerk and Recorder's office including, but not limited to, the following: the executed Development Agreement; delivery of the performance guarantee required by Section 17.21.130; powers of attorney; deeds conveying easements; land or rights-of-way not dedicated on the Final Plat; the declaration of covenants; evidence of incorporation of the homeowners association, if applicable; and, homeowner's association bylaws, if applicable.

17.21.040 CONSEQUENCES FOR NO ACTION

- A. This section applies if development within the subdivision has not commenced within three (3) years of the recording date of the Final Plat or within three (3) years of the issuance of approval by the Community Development Director to begin construction.
1. A vacation renders the Plat null and void.
 2. For purposes of this subsection, "commence" means either:
 - a. Starting construction of the public and other required improvements within the subdivision, or
 - b. The sale of an individual lot or unit within the development, or
 - c. Issuance of the first building permit for construction within the subdivision.

17.21.050 PHASED SUBDIVISIONS AND SUBDIVISION FILINGS.

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

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

17.21.060 APPROVAL TO BEGIN SITE DEVELOPMENT.

- A. No excavation, trenching, or other site development work shall begin until the following minimum requirements are met:
 - 1. The Development Agreement has been recorded along with the required performance guarantee;
 - 2. The City Engineer signs approved for construction drawings;
 - 3. All fees, including review fees, permit fees and impact fees are paid;
 - 4. A pre-construction meeting is held with the City Engineer and/or Public Works Director, and the subdivider receives a signed copy of the inspection/approval form for the development;
 - 5. Copies of permits issued by other governmental entities (such as a Construction Site Storm Water Discharge Permit issued by the Colorado Department of Public Health and Environment, and a complete and accurate copy of the final Construction Storm Water Management Plan); and
 - 6. All other documents required by this Chapter.

- B. Exceptions. Specific work tasks may be undertaken prior to compliance with subsection A above, only with the written approval of the city. Work tasks are limited to:
 - 1. Surveying;
 - 2. Installation of erosion control measures;
 - 3. Placement of equipment or construction trailers, including utility hook-ups with a valid Planning Clearance and Building Permit if required;
 - 4. Demolition, under a valid demolition permit;
 - 5. Tree removal, clearing and grubbing;
 - 6. Removal/relocation of irrigation facilities necessary to maintain irrigation service to adjoining properties;
 - 7. Undergrounding of overhead electric or telecommunication lines;

8. Work within a Grand Valley Drainage District easement, with its written permission, and;
9. Other required infrastructure, which in the opinion of the city, is desirable to expedite due to weather or environmental conditions or which require close coordination with critical city-managed infrastructure or utility projects.

17.21.070 WITHDRAWAL OF APPROVAL.

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

17.21.080 CORRECTIONS TO RECORDED PLATS.

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

17.21.090 REQUIRED SUBDIVISION IMPROVEMENTS.

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

- A. Street Improvements.
 1. Street grading and surfacing and all related improvements of all internal streets within the subdivision.
 2. Adjacent streets and related improvements. All adjacent streets and related improvements providing primary or secondary access to the proposed subdivision shall be capable of adequately handling the vehicular traffic generated by the subdivision, at full occupancy, as determined by the city based on generally accepted traffic engineering standards and any applicable city standards. In applying this standard, the minimum acceptable level of service for all streets within the City of Fruita is Level of Service "C", as defined by the Institute of Transportation Engineers (ITE) Trip Generation Manual, latest edition. (See also the Transportation Impact Fee Study prepared by Mesa County, Colorado by Duncan Associates, 2018.) Consistent with Chapter 17.47, the city may require a site specific traffic impact analysis prepared by a qualified firm or party for subdivisions with a projected trip generation at any peak hour of one-hundred (100) vehicles or greater. The city will require a continuation plan for adjoining and/or needed pedestrian/bicycle/curb infrastructure based on projected demand and a parking demand and supply analysis

prepared by a qualified firm or party.

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

- a. the subdivider to construct all such improvements including the full width of any expanded roadway surface;
- b. the subdivider to pay to the city the cost of constructing such improvements in which case the city shall be responsible for constructing the applicable improvements;
- c. the subdivider to participate in a street improvement district which shall be responsible for constructing such improvements;
- d. payment of a transportation impact fee consistent with Chapter 17.47 of this Title; or
- e. any combination of the above.

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

3. Roadway infrastructure, including but not limited to, curbs, gutters and sidewalks, bicycle and pedestrian paths and trails.
 4. Required street signs and other traffic control devices.
 5. Street lights.
- B. Water and Wastewater Improvements.
1. Wastewater laterals, and mains.
 2. Storm drainage system, as required.

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

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

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

17.21.100 RELATED COSTS - PUBLIC AND OTHER REQUIRED SUBDIVISION IMPROVEMENTS.

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

17.21.110 PUBLIC IMPROVEMENTS TO BE THE PROPERTY OF THE CITY.

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

17.21.120 GUARANTEE OF IMPROVEMENTS.

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

- A. Development Agreement. Furnish the city with a performance guarantee satisfactory to the city, as set forth in a Development Agreement along with other required documents before recording the final plat. (See also, Chapter 17.49.)

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

17.21.130 SUBDIVISION IMPROVEMENTS REQUIRED PRIOR TO ISSUANCE OF PLANNING CLEARANCES.

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

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

and a Certificate of Occupancy is issued.

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

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

- S. Any other documentation required by the City.

17.21.140 RECAPTURE AGREEMENTS.

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

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

17.21.150 TIME EXTENSIONS

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