

Ordinance 2012 – 15

**AN EMERGENCY ORDINANCE OF THE CITY OF FRUITA, COLORADO AMENDING
CHAPTER 17.06 OF THE FRUITA MUNICIPAL CODE CONCERNING THE PROCEDURES FOR
THE DISCONNECTION OF TERRITORY FROM THE CITY OF FRUITA.**

BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:

Section 1. Declaration of Emergency. In accordance with Section 2.14 of the Fruita City Charter, the City Council hereby finds and determines that an emergency exists because language contained in the Fruita Land Use Code concerning procedures to be followed for the disconnection of property annexed to the City is unclear and confusing and has resulted in litigation between a property owner and the City. This emergency has resulted in the expenditure of funds by the City of Fruita and a property owner for litigation costs. Therefore, the City Council, in order to protect health, safety and property of persons, desires to amend Chapter 17.06 of the Fruita Municipal Code to clarify how property annexed to the City can be disconnected (de-annexed) upon the request of a property owner.

Section 2. That Section 17.06.010 of the Fruita Municipal Code is hereby repealed and re-enacted to read as follows:

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

Section 3. Subsection (B) of Section 17.06.040 of the Fruita Municipal Code is hereby repealed and re-enacted to read as follows:

B. Decision. The Community Development Director shall make recommendations to the Planning Commission and the City Council on any petition for annexation not requiring an election. Following public hearings as required by law, the City Council shall approve, conditionally approve or disapprove all petitions for annexation not requiring an election. The city retains complete discretion and authority to approve or deny an annexation petition for any reason or to require an annexation agreement as a condition of approval of any annexation.

Section 4. That Chapter 17.06 of the Fruita Municipal Code is hereby amended to include the following additional Section:

17.06.045 DISCONNECTION OF TERRITORY. In accordance with Section 31-12-501, C.R.S., when the owner of a tract of land within and adjacent to the boundary of the City of Fruita desires to have such land disconnected from the City of Fruita, such owner may file an application for disconnection

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

Disconnection of land annexed to the City of Fruita by court decree shall not be permitted.

Section 5. In accordance with Section 2.14 of Fruita City Charter, this Ordinance shall become effective upon adoption and shall automatically stand repealed on the sixty first (61st) day following the date on which it was adopted. This shall not prevent reenactment of the ordinance in accordance with the provisions set forth in Section 13 of Article II of the Fruita City Charter.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS 2nd DAY OF JULY, 2012.

ATTEST:

City Clerk

City of Fruita, Colorado

BY: _____
Lori Buck, Mayor