

ORDINANCE NO. 2019-15

AN EMERGENCY ORDINANCE OF THE CITY OF FRUITA, COLORADO, ESTABLISHING THE PROCEDURE FOR LOCATION AND EXTENT REVIEW OF PROPOSED DEVELOPMENT PROJECTS BY PUBLIC ENTITIES AND SPECIAL DISTRICTS.

WHEREAS, Title 17 of the City of Fruita (the “City”) Municipal Code (the “Code) sets forth the application and review procedures for private development but does not address review of projects proposed by public entities and special districts; and

WHEREAS, in order for the City to better understand development projects proposed by public entities and special districts, including schools and political subdivisions, staff has suggested regulations, commonly referred to as “location and extent review,” that clarify the submittal requirements and review authority of the City; and

WHEREAS, adding Section 17.48 to the Municipal Code is necessary to fully adopt the procedure for location and extent review of proposed developments by public entities and special districts; and

WHEREAS, City Council finds that the proposed Code additions are in the best interest of the health, safety and welfare of the citizens of the City; and

WHEREAS, the City Council finds that the proposed Code addition is consistent with the City’s Comprehensive Plan, other adopted City plans, the Code, and the City’s goals and policies; and

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO, THAT:

Section 1. Declaration of Emergency. In accordance with Section 2.14 of the Fruita City Charter, the City Council finds and determines that it is necessary and appropriate to adopt this emergency Ordinance to meet a public emergency affecting life, health, property or the public peace and that an emergency exists because the City needs to put in place a process for better understanding development projects proposed by public entities and to be accomplished through the location and extent process. Therefore, this Ordinance shall become effective upon its adoption and shall automatically stand repealed on the 61st day following the date of adoption unless this Ordinance is reenacted in accordance with the provisions set forth in Section 2.13 of the Fruita City Charter.

Section 2. Incorporation of Recitals. The foregoing Recitals are hereby affirmed and incorporated herein by this reference as findings of City Council.

Section 3. Addition of Section 17.48. Title 17 of the City’s Municipal Code is hereby amended by adding Section 17.48 as provided for on **Exhibit A** attached hereto.

Section 4. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this Ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, sentence, clause, phrase, or a portion thereof, despite the fact that any one or more sections, sentences, clauses, phrases or portions would be declared invalid or unconstitutional.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL AS AN
EMERGENCY ORDINANCE THIS 16TH DAY OF APRIL, 2019.**

CITY FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

Exhibit A

Chapter 17.48

Public Purpose Development – Location and Extent Review

Sections:

17.48.010	Purpose
17.48.020	Applicability
17.48.030	Required Submittal Documents
17.48.040	Review Process
17.48.050	Final Plat

17.48.010 PURPOSE. The purpose of this Section is to provide the city an opportunity to review and approve or disapprove a project as proposed by a public or quasi-public entity in relation to the applicable policies and goals of the adopted Comprehensive Plan, and to inform any public or quasi-public entity of the city's reasonable expectations for land use and development within the city. Location and Extent Review is mandated by State law, C.R.S. §§ 30-28-110 and 22-32-101 et seq.

17.48.020 APPLICABILITY. A Location and Extent Review is required when projects are proposed by political subdivisions of the state such as charter or public schools, transportation districts or special districts when funding is provided by taxpayers and considered to be political subdivisions of the state and for publically and privately owned utilities.

17.48.030 REQUIRED SUBMITTAL DOCUMENTS. The entity charged with authorizing and financing a public or quasi-public project, or the board of education, shall submit a Location and Extent Plan Application to City staff for review. Such Plan Application shall include the following documents:

- A. A completed land use application.
- B. A narrative describing the proposed facility(s), their purpose and demonstration of compliance with the city's adopted Comprehensive Plan.
- C. A legal description of the land subject to the proposed development. A deed or plat may suffice.
- D. A vicinity map detailing:
 1. One (1) mile setback radius from the proposed development site superimposed thereon. Such vicinity map shall be at a legible scale.
- E. A site plan detailing the following:

1. Existing and proposed access to the site, surfacing and width of all roads, easements, and drainage ways, loading areas, parking, and outdoor storage areas.
2. Existing and proposed topography shown at least two (2) foot contour intervals, or another contour interval approved by the city staff. Existing contour intervals shall be demarcated with dashed lines, and proposed interval contours with solid lines. Where retaining walls are proposed, provide examples of wall materials and demonstrate wall heights.
3. The location and dimension of all existing and proposed structures, the use of each structure, building elevations at the ground floor, and building heights.

F. A statement of the source and availability of water for the site, the method of waste disposal, and plan for connection to utility services, as applicable.

G. A site plan depicting existing and proposed utility lines and appurtenances.

H. An illustrative landscape plan showing all proposed landscape, including materials, fences, walls, planters, art installations, and other landscape features.

17.48.040 REVIEW PROCESS. Location and Extent Plan Applications shall be processed by the city staff.

A. Upon receipt of the application, the city staff shall review the application for completeness. The applicant shall be notified of any incomplete information. If the application is incomplete and cannot be scheduled for a Planning Commission hearing within 30 days, the hearing may be continued with the consent of the applicant.

B. Once the submittal is determined to be complete, staff shall review the application and schedule a hearing before the Planning Commission within thirty (30) days, unless an extension of time is agreed to by the applicant. Staff shall notify the applicant of the date and time of the hearing.

C. The location and extent application shall be reviewed by the Community Development Director and be referred by city staff to the applicable review agencies pursuant to Section 17.05.070(B) of this Title. Their comments shall be forwarded to the applicants and the planning and Planning Commission. The applicant is encouraged to meet with City staff and/or the reviewing agencies to address any concerns.

D. Before being presented to the City Council, the Planning Commission shall hold a public hearing on the application in accordance with Section 17.05.070(C) of this Title for a recommendation to the City Council. The Planning Commission shall evaluate the application in light of the city's Comprehensive Plan, other City plans and policies and input from city staff and the public. The Planning Commission shall recommend approve, approve with conditions, or

deny the application. A record of the Planning Commission's hearing and actions shall be provided to the applicant.

E. After the Planning Commission has made a recommendation, the Community Development Department shall provide to the City Council all information presented to the Planning Commission and include a report containing the Planning Commission's recommendation and whether staff concurs in whole or in part with the Planning Commission's findings and recommendation. At the next City Council meeting following the hearing held by the Planning Commission, the City Council shall hold a public hearing in accordance with Section 17.05.070(D) of this Title to evaluate the application in light of the city's Comprehensive Plan, other City plans and policies and input from city staff and the public. The applicant or the applicant's representative shall be present at the City Council public hearing to represent the application. The City Council shall approve, approve with conditions, or deny the application.

F. In the case of a charter or public school, the Planning Commission may request a public hearing before the Board of Education on the proposed location and extent application.

G. The city, at the public entity's sole cost, shall provide public notice for both the Planning Commission hearing and the City Council hearing in accordance with Section 17.01.130(A).

17.48.050 FINAL PLAT.

A. Within one hundred eighty (180) days of the City Council hearing held pursuant to Section 17.48.040(E), the public entity shall, if a Final Plat for the parcel does not exist, file an application for Final Plat approval. Final Plat applications can be approved administratively.

B. Applications for Final Plat approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.

C. The Final Plat and related documents must be recorded within ninety (90) days of the City Council's hearing unless a time extension has been granted by the Community Development Director. If more than ninety (90) days have elapsed from the date of the City Council's hearing, and if no extension is granted, the approval of the Final Plat shall expire.

D. Additional requirements for Final Plat approval.

1. As part of the Final Plat submittal requirements, once staff has approved the Final Plat application, a peer reviewer shall prepare a letter to the Fruita Community Development Director and the public entity documenting any deficiencies in the Final Plat to be corrected. After all corrections to the Final Plat are made to the satisfaction of the peer reviewer, the public entity shall obtain from the reviewer a signed and sealed certification to the Community Development Department that the Final Plat has been reviewed, and to the best of his or her knowledge, the plat

satisfies the requirements pursuant to Section 38-51-106, C.R.S., as amended, for the recording of the Final Plat in the office of the Mesa County Clerk and Recorder. The public entity shall pay all review fees charged by the peer reviewer, which shall be billed directly to the public entity by the peer reviewer.

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

- a. Title or legal ownership of the land platted nor the title of legal ownership of adjoining;
 - b. Errors and/or omissions, including but not limited to, the omission(s) of rights-of-way and/or easements, whether or not of record;
 - c. Liens and encumbrances, whether or not of record; and
 - d. The qualifications, licensing status and/or any statement(s) or representation(s) made by the surveyor who prepared the above named subdivision plat.
2. The Final Plat shall be approved by certain reviewers as determined by the city with signatures indicating all requirements or changes have been fulfilled.
 3. The Community Development Department staff shall ensure the Final Plat and related documents are recorded with the Mesa County Clerk and Recorder's office.