

ORDINANCE NO. 2021-08

AN ORDINANCE AMENDING SECTION 17.08 OF THE FRUITA LAND USE CODE TO CHANGE DENSITY BONUSES TO CORRESPOND TO THE CHANGES IN THE ZONING USES.

WHEREAS, pursuant to C.R.S. §31-15-103 and §31-15-104, and pursuant to the home rule powers of the City of Fruita (“City”), the City Council has the power to make and publish ordinances necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of its inhabitants; and

WHEREAS, the City Council approved Resolution 2020-09 on February 4, 2020, thereby adopting the City of Fruita Comprehensive Plan Fruita In Motion: Plan Like a Local 2020 (the “Comprehensive Plan”); and

WHEREAS, the Comprehensive Plan summarized those actions intended to implement the goals and policies found throughout the Comprehensive Plan; and

WHEREAS, amendments to Chapter 17 (the “Land Use Code”) of the Fruita Municipal Code (the “Municipal Code”) are necessary to implement certain action items identified within the Comprehensive Plan; and

WHEREAS, the Land Use Code has been established for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community;

WHEREAS, City staff has proposed additional amendments to the Land Use Code for consideration; and

WHEREAS, the Planning Commission reviewed the amendments contained here in on February 9, 2021 and formalized their recommendation regarding those amendments with a vote of 6-0 of those members present recommending approval of the proposed amendments; and

WHEREAS, the ordinance was introduced at first reading on February 16, 2021 pursuant to Section 2.13(B) of the City Charter; and

WHEREAS, pursuant Section 2.13(C) of the City Charter and Section 17.01.130 of the Municipal Code, a notice of public hearing was published in the Grand Junction Sentinel on January 20, 2021 and a notice was posted a Fruita City Hall on January 18, 2021 for the City Council meeting on February 16, 2021 to consider City staff and Planning Commission recommendations and receive public comments; and

WHEREAS, the City Council finds that passage of Ordinance 2021-08 will promote the health, safety and general welfare of the Fruita community;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the requirement of Section 2.13(B) of the City Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence

and that approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, has determined to take final action on this Ordinance prior to concluding the public hearing on second reading.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO the following:

Section 1. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council.

Section 2. Repealed and Re-enacted. Section 17.08 of the Fruita Municipal Code is hereby repealed and re-enacted as shown in Exhibit A.

Section 3. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 4. Effective Date. This Ordinance shall take effect thirty days after the date of final passage in accordance with Section 2.13(G) of the City Charter.

Section 5. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 7. Codification of Amendments. The codifier of the City’s Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Municipal Code. The City Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 8. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F)(1) of the Fruita Municipal Code.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
16TH DAY OF MARCH 2021.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

Chapter 17.08

DENSITY BONUSES

17.08.010 Density Bonuses.

- A. Generally. The purpose of this Section is to help implement portions of the Fruita Community Plan by providing for residential density bonuses in designated zones tied to the provision of community benefits. This Chapter is intended to promote compatibility between land uses, as well as predictability and fairness in the approvals process, consistent with the Fruita Comprehensive Plan. This Section provides opportunities for development incentives in response to applicants providing community benefits beyond those described herein as baseline standards, encouraging applicants to deliver those amenities without incurring unreasonable economic costs, or driving up housing or consumer costs.
- B. Applicability. The provisions of this section apply to development in the CR, and SFR zone districts, as well as to any PUD. Projects utilizing the provisions of this Chapter are not necessarily required to be processed as a Planned Unit Development. All densities are based on dwelling units per gross acre, as defined in Chapter 17.02.
- C. Process. Density bonus applications shall be processed at the same time and using the same procedure as required for a Major Subdivision, Planned Unit Development, or Site Design Review, as applicable. City Council may preliminarily approve a density bonus, with final approval contingent upon the owner and city executing an Annexation Agreement, Development Agreement, PUD Guide and/or other binding agreement as necessary to ensure compliance with this Title and other city requirements. City Council may approve, deny, or approve with conditions, density bonus applications filed in accordance with this Title.
- D. Criteria. City Council is authorized to grant density bonuses up to a maximum of eight (8) dwelling units per acre in accordance with the following:

Density Bonus Criteria			
	CR	SFR	PUD
Base Density	6.0 DU/acre	4.0 DU/acre	varies
Maximum Density	8.0 DU/acre	5.0 DU/acre	varies
20% Open Space	1 additional DU/acre	1 additional DU/acre	1 additional DU/acre
Bike and Trail Connections	1 additional DU/acre	1 additional DU/acre	1 additional DU/acre
Alley/shared drive access	1 additional DU/acre	Not applicable	1 additional DU/acre
Mix of housing types	1 additional DU/acre	Not applicable	1 additional DU/acre

- 1. A minimum of twenty (20) percent of the project designated as parks, trails, open space or common area. The open space or common area must be easily accessible to a minimum of fifty (50) percent of the lots, by being located within a ¼ mile walking shed, and providing a safe sidewalk or trail connection to the space. A conservation

easement, or other form acceptable to the City Attorney, shall be required with the first phase or first filling of the subdivision to ensure the space is permanently designated as an open area.

- a. Open space and common areas shall be a functional part of the project design rather than residual land that is “left over” with no recreational, aesthetic or design importance.
 - b. Narrow (less than thirty-five (35) feet in width) linear strips of land should not be counted toward the open space or common area requirement.
 - c. Open space or common areas may be developed or undeveloped, active or passive. Areas may include stormwater detention and retention basins if the design of the basin is integral to the open space or common area, is separately managed by the association, and is at a grade of 15% or less. In addition, washes, streams or other natural features should be included and incorporated into open space or common area.
 - d. Open space or common areas shall be visible from the street and add to the quality of the neighborhood and shall be accessible to all dwelling units within the development. Open space and common area surrounded by dwelling units with no access to an adjacent street is prohibited.
 - e. Open space or common areas may contain private recreation amenities including but not limited to: plazas, courtyards, community garden, basketball/tennis/pickleball courts, clubhouses or community greenhouses.
 - f. Open space or common areas shall be grouped contiguously with open space or common areas from adjacent developments, where possible.
2. The project includes an internal trail network, a continuation of an existing trail network, or the continuation of a bike lane system internal to the project and along adjoining rights-of-way. The bike and trail amenities must be at least 500 feet of linear length to qualify for this bonus. On-site trails and/or sidewalks shall be extended to existing off-site trails, sidewalks or parks if the extension is less than two hundred (200) feet in length. An easement, or other form acceptable to the City Attorney, shall be required with the first phase or first filling of the subdivision to ensure the space is permanently designated as a trail.
- a. Walkways, trails and other forms of pedestrian access shall form an interconnected system serving as access to open space, common area and other pedestrian destinations.
3. Access to required parking and/or garages of a minimum of eighty (80) percent of the proposed dwelling units is by alley or shared drive. For purposes of this Section, a shared drive must serve a minimum of four (4) dwelling units.
4. A mix of housing types are proposed with a minimum of twenty (20) percent

of the dwelling units being single- family attached, duplexes and/or multi- family units. The unit types shall be dispersed within the development, and a site plan shall be recorded to ensure that the final buildout reflects representations in the density bonus review.