

ORDINANCE NO. 2023-11

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE FRUITA LAND USE CODE REGARDING THE SUBDIVISION REVIEW PROCESS

WHEREAS, Title 17 of the City of Fruita (the “City”) Municipal Code (the “Code”) sets forth standards, regulations and procedures for planning, evaluation, approval and implementation land uses and development within the City;

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 amendments to the Land Use Code regarding the process of reviewing subdivision applications; and

WHEREAS, the Planning Commission reviewed the proposed amendments at their June 13, 2023, public hearing and recommended approval to the City Council by a vote of 5-0; and

WHEREAS, this Ordinance was introduced at first reading on June 20, 2023, pursuant to Section 2.13(B) of the City Charter; and

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

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. Chapter 17.21 of the Fruita Land Use Code is hereby repealed and replaced to read as follows as shown in Exhibit A.

Section 3. Chapter 17.07 of the Fruita Land Use Code is hereby repealed and replaced to read as follows as shown in Exhibit B.

Section 4. Chapter 17.09 of the Fruita Land Use Code is hereby repealed and replaced to read as follows as shown in Exhibit C.

Section 5. Codification of Amendments. The codifier of the City’s Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the 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. Such corrections may also include naming references as well as references to studies.

Section 6. 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 7. Effective Date. This Ordinance shall take effect thirty (30) days after final adoption in accordance with Section 2.13(G) of the Fruita Home Rule Charter.

Section 8. 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 9. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F) of the Code.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
18TH DAY OF JULY 2023.**

CITY OF FRUITA

Matthew Breman, Mayor Pro Tem

ATTEST:

Margaret Sell, City Clerk

Exhibit A

Chapter 17.21 SUBDIVISIONS

SECTIONS:

- 17.21.010 Purpose and Authority; Jurisdiction; Enforcement
- 17.21.020 Applicability
- 17.21.030 Review Process –Subdivisions
- 17.21.040 Consequences for No Action
- 17.21.050 Phased Subdivisions and Subdivision Filings
- 17.21.060 Approval to Begin Site Development
- 17.21.070 Withdrawal of Approval
- 17.21.080 Corrections to Recorded Plats
- 17.21.090 Required Subdivision Improvements
- 17.21.100 Related Costs – Public and Other Required Subdivision Improvements
- 17.21.110 Public Improvements to be the Property of the City
- 17.21.120 Guarantee of Improvements
- 17.21.130 Subdivision Improvements Required prior to Issuance of Planning Clearances
- 17.21.140 Recapture Agreements
- 17.21.150 Time Extensions

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.

Exhibit B

Chapter 17.07
STANDARD REVIEW PROCEDURES

SECTIONS:

- 17.07.010 Purpose**
- 17.07.020 Summary of Procedures**
- 17.07.030 Planning Clearance**
- 17.07.040 Common Development Review Procedures**
- 17.07.050 Required Land Development Applications**
- 17.07.060 Amendments to Approved Land Development Applications**
- 17.07.070 Expiration and Extensions of Approval**
- 17.07.080 Temporary Postponement of Improvements**
- 17.07.090 Certificate of Occupancy Required**

17.07.010 PURPOSE

The purpose of this chapter is to describe the procedures for review of applications for land use and development activity in the City of Fruita. This chapter is intended to ensure consistency and efficiency in the administration of the City’s land use regulations.

17.07.020 SUMMARY OF PROCEDURES

- A. The following table summarizes the major procedures for review of applications for land use and development activity in the City of Fruita. Not all procedures addressed in this chapter are summarized in this table; see the subsequent sections of this chapter for additional details on each procedure.

Table 17.07.020, Summary of Review Procedures						
Application Review Procedure (Does not include all application types)	Pre-Application Meeting	Neighborhood Meeting	Staff Review	Planning Commission	Board of Adjustment	City Council
	M = Mandatory O = Optional		R = Recommendation D = Decision			
Land Development Applications						
Annexation	M	M	R	R	-	D
Concept Plan Review	M	O	R	R	-	R
Conditional Use Permit	M	O/M	R	D	-	-
Density Bonus	M	M	D		-	
Design Guideline Review	M	O	D	-	-	-
Home Occupation Permit	O	O	D	-	-	-
Mobile Vendor Court	M	O	D			
Sign Permit	O	O	D	-	-	-
Site Design Review	M	O	D	-	-	-

Short Term Rental Permit	O	O	D	-	-	-
Subdivision – Preliminary PUD Plan	M	M	R	R	-	D
Subdivision - Preliminary Plan	M	M	D	-	-	-
Subdivision - Final Plat	M	O	D	-	-	-
Temporary Use Permit	O	O	D	-	-	-
Vacation of ROW	M	O	D	-	-	-
Vested Rights Extension	M	O	R	-	-	D
Amendments						
Change in Use	O	O	D	-	-	-
General Rezoning	M	M	R	R	-	D
PUD Rezoning	M	M	R	R	-	D
Text Amendments	M	O	R	R	-	D
Relief Procedures						
Variance	M	O	R	-	D	-
Administrative Adjustments	O	O	D	-	-	-
Appeals	O/M*	O	-	-	D*	D
Sign Variances	M	O	R	-	-	D

*A Pre-Application Conference shall be required for an appeal of a decision made by the Planning Commission, Historic Preservation Board, or Board of Adjustment. The Board of Adjustment has the authority to hear and decide appeals related to the denial of an administrative adjustments only. All other appeals are heard and decided by City Council.

- B. The following deadlines for submittal processing and review of a multi-step development approval shall apply.
1. For land development applications deemed to be complete which require a public hearing before both the Planning Commission and City Council, with the exception of annexations, the following decision deadlines apply:
 - a. Planning Commission - 75 days
 - b. City Council - 110 days

 2. For annexation applications deemed to be complete, the following decision deadlines apply:
 - a. Setting the City Council hearing date to find the property eligible for annexation – 75 days
 - b. City Council hearing to find the property eligible – 120 days
 - c. Setting the hearing date to annex the property shall coincide with the accompanying land use final approval (Subdivision, Site Design Review, Conditional Use Permit, etc.). If an annexation agreement is to be used instead, the decision deadlines to annex property shall be 75 days for the

Planning Commission and 110 days for the City Council.

3. For Variance applications deemed to be complete, the Board of Adjustment shall render a decision within 75 days.
4. For applications deemed to be complete which require no public hearings and can be administratively approved by staff, the following decision deadlines apply:
 - a. Planning Clearances – 5 days
 - b. Administrative Modifications – 70 days
 - c. Site Design Review – 70 days
 - d. Final Plats – 70 days
 - e. Sign Permits – 5 days
 - f. Temporary Use Permits – 5 days
 - g. Home Occupation Permits – 5 days
 - h. Short Term Rental Permits – 30 days
 - i. Subdivisions – 70 days
 - j. Planned Unit Developments (PUD) – 70 days

17.07.030 PLANNING CLEARANCE

- A. A Planning Clearance is required for any development requiring a building permit and any of the following, whether a building permit is required or not:
 1. changes in land use or development, including but not limited to new or replacement structures;
 2. significant exterior remodels of existing structures; changes to vehicle access or circulation; landscaping (except single-family residential land uses);
 3. parking, or lighting of the same; changes in building use;
 4. changes in occupancy type, as defined in applicable building codes;
 5. temporary uses;
 6. fences;
 7. sheds and any other accessory building or structure covering more than eighty (80) square feet of land area;
 8. canopies exceeding eight (8) feet in height and other accessory structures covering over eighty (80) square feet of land area, whether permanent or temporary;
 9. fireplaces and wood burning stoves (including replacement of the same);
 10. grading, excavation, or fill of more than fifty (50) cubic yards of material; and
 11. similar changes as determined by the Community Development Director.
- B. Procedure. The Community Development Director can administratively approve Planning Clearances.
- C. Approval Criteria. Planning Clearances shall be approved only if the application meets

or can meet all applicable requirements of this Title and other Titles of the Municipal Code. Planning Clearances shall be contingent upon completing the project in accordance with the city’s approval and conditions thereof.

D. Expiration. Planning Clearances expire automatically if:

1. Within one (1) year after the issuance of such permit, the use or development authorized by such permit has not commenced; or
2. Within one (1) year after the issuance of such permit, less than ten (10) percent of the total cost of all construction, alteration, excavation, demolition or similar work on any development authorized by such permit has been completed on the site. With respect to phased development this provision shall apply only to the phase under construction; or
3. After some physical alteration to land or structures begins to take place, such work is discontinued for a period of three (3) years.

17.07.040 COMMON DEVELOPMENT REVIEW PROCEDURES

The common development review procedures in this Section shall apply to all types of development applications in this Title; unless an exception to the common procedures is expressly identified in subsequent sections of this chapter, or in the applicable process section.

A. Pre-Application Meeting

1. Purpose. To help minimize development-planning costs, avoid misunderstandings or misinterpretation of city requirements, and ensure compliance with the requirements of this Title, a pre-application meeting between the applicant and the Community Development Department and other staff is encouraged or required as provided in this Title. The Director or authorized staff may provide recommendations and/or inform the applicant of any potential issues that might be presented to the applicable decision-making body.
2. Applicability.
 - a. Required Pre-Application Meeting. A pre-application meeting is required prior to the following types of applications:

Review Procedures	
Land Development Applications	
Annexation	M
Concept Plan Review	M
Conditional Use Permit	M
Density Bonus	M
Design Guideline Review	M
Site Design Review	M
Subdivision – Preliminary PUD Plan	M

Subdivision – Preliminary Plan	M
Subdivision - Final Plat	M
Vacation of ROW	M
Vested Rights Extension	M
Amendments	
General Rezoning	M
PUD Rezoning	M
Text Amendments	M
Relief Procedures	
Variance	M
Sign Variances	M

- b. **Optional Pre-Application Meeting.** A pre-application meeting is optional, upon the request of the applicant, prior to submission of all other applications under this Code not listed above.

Review Procedures	
Land Development Applications	
Home Occupation Permit	O
Sign Permit	O
Short Term Rental Permit	O
Temporary Use Permit	O
Relief Procedures	
Administrative Modifications	O
Appeals	O/M

3. **Pre-Application Conference Content.** The pre-application meeting is intended to be informational; staff will review the applicant’s preliminary proposal and provide informal feedback on applicable city codes and requirements. The intent is to promote efficiency and two-way communication early in the development review process between applicants and the city.

Pre-application meetings may not adequately address all city requirements or requirements of outside agencies (e.g., CDOT, Health Department, Mesa County). Applicants are encouraged to seek information on permit requirements from other agencies, as applicable.

4. **Pre-Application Conference Process.**
- a. The applicant shall request in writing a pre-application meeting with the Director. The applicant shall provide the required information as determined necessary by the Director to provide an informal evaluation and any recommendations. The applicant shall provide requested materials to the Director at least fifteen business days in advance of a pre-application meeting.

- b. The Director shall schedule a pre-application conference after receipt of a proper request.
 - c. Prospective applicants are strongly encouraged to contact adjacent property owners for the purpose of soliciting neighborhood input prior to formally submitting an application.
 - d. Following the pre-application conference, once the applicant has fully prepared its application for a permit or approval, the applicant is encouraged to schedule and hold a pre-submittal meeting with Community Development Department staff prior to submittal of the development application to help ensure the application will be correct and complete when submitted. For applications in which a pre-application meeting is required, a pre-submittal meeting will not be held unless a pre-application meeting has been held.
 - e. Pre-application meetings are valid for a period of six (6) months from the date of the meeting, after which a new pre-application meeting may be required.
 - f. Pre-application meetings may not adequately address all city requirements or requirements of outside agencies (e.g., CDOT, Health Department, Mesa County). Applicants are encouraged to seek information on permit requirements from other agencies, as applicable.
5. Waiver. The Director may waive the pre-application conference requirement for applications if s/he finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.

B. Application Submittal

1. Application Form and Materials. The Director shall compile the requirements for application contents, forms, and fees and make such materials available to the public. Applications for land development approvals shall be submitted in the form and numbers as determined by the Community Development Director and accompanied by the requisite application fee(s) adopted by the City Council. An application shall not be processed or scheduled for public hearing until the Community Development Director deems it complete. The Director may amend and update the application materials from time to time.
 - a. An applicant for a land development application approval, including planning clearances, sign permits, conditional use permits, annexation petitions, subdivisions, planned unit developments, zoning amendments, variances, and other land development applications, shall pay the required fees as established by the City Council.

2. Authority to Submit Applications.
 - a. Unless otherwise specified in this Code, applications for review and approval may be initiated by:
 - i. The owner of the property that is the subject of the application;
 - ii. The owner's authorized representative; or
 - iii. Any review or decision-making body for the City of Fruita.
 - b. When an authorized representative files an application under this Code on behalf of the property owner, the representative shall provide the City with written documentation that the owner has authorized the filing of said application.
 - c. When a review or decision-making body initiates action under this Code, it does so without prejudice toward the outcome.
 3. Concurrent Review of Applications. Where a project involves more than one application under this Title, the Community Development Director may require that all relevant applications for the project to be submitted together for concurrent processing and review; except that variance applications shall be reviewed separately by the Board of Adjustment or the City Council as applicable.
 4. Review of Multiple Applications when Subject to Different Review Procedures. Where a project involves multiple applications with different review procedures (e.g., public hearing review of a "major" application or administrative review of a "minor" application as specified herein), the Community Development Director may process the subject applications individually under the respective review procedures, or where the Community Development Director deems it in the public interest, he or she may refer all applications for the project to the applicable hearing body for concurrent review.
 5. Waivers. The Director may waive certain submittal requirements in order to eliminate redundancy, reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements where s/he finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development clearly, in his or her opinion, support such waiver.
- C. Determination of Completeness and Review by the Community Development Director.
1. Determination of Completeness. After a development application has been received, the Director shall make a determination of application completeness within fifteen (15) business days of application filing. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Code.
 - a. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the application packet, and is accompanied by the applicable fee.
 - b. If the application is determined to be incomplete, the Director shall provide

notice to the applicant that includes an explanation of the application deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a resubmittal.

- c. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed void and a new application must be submitted together with payment of applicable development review fees.
 - d. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this Title, or other applicable codes, and it shall not preclude a request for additional information or materials in the future to complete the review of the application.
2. Application Review and Recommendation by Community Development Director.
- a. Referral Comments. Following a determination that an application is complete, the Director shall circulate the application to staff and appropriate referral entities for review and comment. The Director shall compile all comments and recommendations from appropriate City staff persons, departments and referral agencies, which shall be provided to the applicant prior to any decision or public hearing.
 - i. The Director may request a meeting with the applicant to discuss the application and any written comments. Based on the written comments, the applicant may request an opportunity to revise the application prior to further processing. Additional submittals and reviews may be subject to additional fees as determined by the Director.
 - b. Report and Recommendation. Once written comments have been adequately addressed according to the Director, the Director shall prepare a Staff Report and recommendation to the appropriate decision-making body on the development application. The written report and recommendation shall state whether the application complies with the applicable review standards, and whether the application should be continued, approved, approved with conditions, or denied. If the Staff Report finds that the application fails to comply with applicable requirements of this Title, it shall identify the requirements in question and specifically state supporting reasons for the proposed findings. The Staff Report shall be available for prior to the scheduled hearing. The Community Development Department shall provide copies of the application, review comments, public comments and other applicable information to the Planning Commission or the Board of Adjustment, as applicable.
 - c. The burden of persuasion on the issue of whether the development or use applied for, if completed as proposed, will comply with the requirements of this Title and should be approved remains, at all times, on the applicant. The Community Development Director may request additional information from the applicant during the course of reviewing the application if, based on professional expertise or relevant input provided by the Planning

Commission or City Council, the Director believes that such information would be helpful in evaluating the application for compliance with the requirements of this Land Use Code.

- d. Administrative Decisions. If the application is subject to an administrative review, the Director shall complete a notice of approval once all applicable review standards have been deemed met or met with conditions.
 - i. Subdivisions, except Planned Unit Developments, and Site Design Review shall require public notice prior to the administrative decision the same as the public hearing decision requirements stated in subsection E of this section.
 - ii. Planning Clearances, Sign Permits, Temporary Use Permits, Home Occupation Permits and Final Plats require no public notice.

D. Neighborhood Meeting. In order to facilitate citizen participation early in the development review process, the City requires certain development applications to complete a neighborhood meeting to inform neighbors and interested members of the public about the project.

1. The Neighborhood. At a minimum all properties any part of which is located within the public notice boundary as required in Section 17.07.040 (E) of any portion of the project are considered “the neighborhood.”
2. The Director may, as part of the pre-application meeting, suggest certain forms that would be most appropriate for the development application.
3. Meeting Time and Procedure. The applicant must provide for a physical or virtual meeting and must conduct the meeting. Meetings must be held on a weekday evening that is not a holiday beginning between 5:30 p.m. and 8:00 p.m. The meeting date, time and format must be approved by the Director no less than 14 days in advance of the meeting date. A required neighborhood meeting must be held not more than 180 days before the application is submitted.
4. Meeting Content and Conduct. At the meeting the applicant shall present the overall plan, describe project impacts, describe ways to mitigate impacts, and facilitate a discussion and answer questions during the meeting. The overall plan shall, at a minimum, delineate access to the site, internal circulation, the range of density of the entire property or the mix of housing types. The meeting shall be conducted so that participants have an opportunity to ask questions and provide comments. City staff should gather information and explain the rules and requirements. City staff shall provide information regarding the project’s compliance with the Comprehensive Plan and any applicable adopted plan or ordinance. Included with the application submittal, the applicant must give the Director a written list of names and addresses of those given notice, how notice was provided, and those participating in the meeting attending, along with a written summary of the meeting including any public comment received.
5. Notice. The applicant shall provide written notice of the date, time, place if an in-person meeting is conducted or the web location/host, together with any and all information required to access the meeting if conducted virtually and subject of the

meeting to every owner and group in the neighborhood, as well as the Community Development Department. The notice must be approved by the Director no less than 14 days in advance of the meeting date and shall be, at a minimum, delivered by U.S. mail. The notice must be made no later than 10 calendar days prior to the meeting date.

- E. Public Notice. The Director shall establish a place and time certain for a hearing, if required by this Title, on the development application.
1. For every public hearing required by this Title, unless otherwise required by law or this Title, the city shall notify the public of such hearing by:
 - a. Publication once in a newspaper of general circulation within the city, at least fifteen (15) days prior to the public hearing; and
 - b. Posting notice at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, at least five (5) days prior to the hearing; and
 - c. Sign(s) shall be posted on or near the subject property, and shall be sufficiently conspicuous in terms of size, location and content to provide reasonably adequate notice to potentially interested persons of the land use action at a specified date and time. Such notice(s) shall be posted at least fifteen (15) days prior to the public hearing; and
 - d. Written notice shall be mailed to property owners, as recorded at the office of the Mesa County Assessor, of property within three hundred and fifty (350) feet of the subject property, or more until a minimum of twenty (20) unique property owners are provided notice. Notice shall be provided at least fifteen (15) days prior to the public hearing. This requirement does not apply to applications that are not property specific such as Land Use Code or Master Plan amendments.
 2. All notices for public hearings shall include the following information:
 - a. The date, time, and place of the hearing;
 - b. The address or description of the subject property (in any);
 - c. The purpose of the hearing, including the scope and nature of the proposed action;
 - d. The applicable review board holding the hearing;
 - e. The right of interested persons to appear and make public comments; and How to obtain additional information on the application and applicable review.
 3. When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

4. Major Activity Notice. When a subdivision or commercial or industrial activity is proposed which will cover five (5) or more acres of land, the City of Fruita shall send notice to the Colorado Land Use Commission, the State Geologist, and the Board of County Commissioners of the proposal prior to approval of any zoning change, subdivision or planning clearance for a building permit application associated with such a proposed activity.
 5. Notice to Mineral Estate Owners. In addition to the notices described above, and in accordance with Section 24-65.5-103, C.R.S., not less than thirty (30) days before the date scheduled for the first (1st) public hearing on an application for a subdivision creating more than one additional buildable lot, the applicant shall provide notice to mineral estate owners, as defined in Section 24-65.5-102(5), C.R.S. The notice shall be sent and shall contain all of the information required by Section 24-65.5-103, C.R.S. Proof of the giving of such notice shall be submitted by the applicant to the Community Development Department, on forms provided by the Community Development Department, prior to commencement of the hearing.
 6. Proof of Notice. Proof of giving notice by mail, personal delivery, posting of a sign, or publication in a newspaper may be established by affidavits of the person with personal knowledge of the giving of notice. The affidavit shall be prima facie evidence of its contents and shall be a part of the record at the subject hearing.
- F. Actions by Decision-Making Bodies. All decision-making bodies shall act in accordance with the time limits established in this Title and the City of Fruita. The city shall make every reasonable effort to process review applications as expeditiously as possible, consistent with the need to ensure that the application conforms to the requirements of this Title.
1. Criteria for Approval. Reviews of all applications under the Land Use Code shall be based on the applicable provisions of the Code and other applicable regulations. The burden shall be on the applicant to demonstrate conformity with the applicable regulations. Upon city approval, the applicant shall address all of the conditions imposed by the city decision-making body.
 2. Public Hearings. All public hearings with the Planning Commission, Board of Adjustment, Historic Preservation Board, or City Council be conducted in accordance with the following:
 - a. The applicant, or the applicant's representative, shall be present at the public hearing to represent the application.
 - b. The Community Development Department shall provide to the review body the application information, a Staff Report, review comments, any applicable recommendation from a City review body, written public comments and other related documents.
 - c. At the public hearing, the review body shall accept oral and written testimony from staff, the applicant and members of the public. For the record, Community Development Department staff shall be provided a copy

- of all new written or graphic information provided by the applicant or the public at the public hearing.
- d. The review body shall consider whether the application complies with all of the applicable requirements of this Title. At the close of the public hearing, the review body shall make a decision, as outlined in section 3, below.
3. Decision. After consideration of the application, the staff report, comments received from other reviewers (if applicable), and the evidence from the public hearing (if applicable), the review body shall make a recommendation or make a decision, depending on their review role for the application.
 - a. For review bodies making a recommendation to City Council or another board or commission, they shall take one of the following actions:
 - i. Continue the hearing to gather more information; or
 - ii. Recommend that the application be approved, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
 - iii. Recommend denial of the application, stating the specific reasons for recommending denial.
 - iv. The recommendation for approval, approval with conditions or denial of the application shall include specific findings, based upon the evidence submitted, justifying such a recommendation.
 - b. For review bodies making a decision on the application, they shall take one of the following actions:
 - i. Continue the hearing to gather more information; or
 - ii. Approve the application, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
 - iii. Deny the application, stating the specific reasons for denial.
 - iv. The decision approving, approving with conditions or denying, the application shall include specific findings, based upon the evidence submitted, justifying such a conclusion.
 4. Conditions of Approval. A decision-making body may place reasonable conditions on an application to bring the proposal into compliance with this Title or other applicable regulations, or to mitigate the impacts of that development on the surrounding properties or streets. Any condition of approval shall be based on standards adopted by the City, or be reasonably related to the anticipated impacts of the proposed use or development.
 - a. During its consideration, the decision-making body may consider alternative potential conditions, and no discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate the federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body unless and until the decision-making body takes

formal action to attach that condition to a development approval.

- b. Applicant Representations. Any representations of an applicant in submittal materials or during a public hearing shall be considered binding as conditions of approval.
5. Recording of Decisions. Once an application is approved, the approving documentation shall be filed with the Town Clerk and, if required, recorded in the Office of the Mesa County Clerk and Recorder.
6. Effect of a Denial. Whenever City Council denies an application, such action may not be reconsidered by the City for one (1) year unless the applicant clearly demonstrates that circumstances affecting the subject property have substantially changed, or new information is available that could not with reasonable diligence have been presented at the previous hearing.
 - a. Nothing contained in this Section shall preclude the submission of a substantially new application as determined by the Community Development Director or the City Engineer.

17.07.050 REQUIRED LAND DEVELOPMENT APPLICATIONS.

- A. Land development applications are approved under this Title only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Title, if completed as proposed, including any conditions of approval. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in this Title, all developments shall occur strictly in accordance with such approved plans, applications, and conditions of approval, as applicable.
- B. Physical improvements to land subject to land development application requirements may be approved by the city staff to allow expedited construction of certain specific improvements prior to permit and approval issuance in unique and special circumstances where delays would cause unacceptable impacts to city projects or activities. Such approval requires an administrative order or letter signed by the Public Works Director, City Engineer, or Community Development Director stating the reason for the approval.
- C. Land development application approvals issued under this Title shall be issued in the name of the applicant or the applicant's agent (authorized representative), as applicable. Land development application approvals made under this Title shall identify the property involved and the proposed use, shall incorporate by reference, the plans submitted and shall contain any special conditions or requirements lawfully imposed by the permit issuing authority.
- D. Approval of a land development application authorizes the recipient to commence the activity resulting in a change of use of the land or; to obtain a building permit, if required pursuant to the Fruita Municipal Code, to commence work to construct, erect, move, place, or substantially alter buildings or other structures or; to make necessary improvements to a subdivision. However, except as otherwise permitted in this Title, the

intended use may not be commenced, and no building may be occupied, until all of the requirements of this Title and all additional requirements imposed pursuant to the issuance of a permit or approval have been complied with.

17.07.060 AMENDMENTS TO APPROVED LAND DEVELOPMENT APPLICATIONS

- A. The Community Development Director may authorize minor deviations from the original approved application, including approvals by the City Council. The Community Development Director shall determine whether amendments to and modifications of approved land development applications are minor or major.
- B. Major deviations shall be subject to review and approval by the city decision-making body that approved the original application, provided an application that was approved by City Council may be referred to the Planning Commission first for a recommendation. A major deviation is one that exceeds one or more of the following thresholds:
 - 1. Increase in the number of residential lots or dwelling units;
 - 2. Reduction in the area of open space by more than ten (10) percent, or a reduction in the quality of open space, as determined by the Community Development Director;
 - 3. Increase in permitted floor area by more than ten (10) percent for any single nonresidential building;
 - 4. Modification to any site design or lot development standard in this Title;
 - 5. Any change to a requirement imposed through conditions of approval;
 - 6. Modifications to street standards or other public improvement requirements shall be subject to approval by the City Engineer, pursuant to the City of Fruita Engineering Design Criteria and Construction Specifications. Where a modification potentially affects a project's compliance with this Title, or any condition of approval related to this Title imposed through the original approval, the request shall be subject to review and approval by the Community Development Director. The Community Development Director may refer the request to the Planning Commission and City Council.

17.07.070 EXPIRATION AND EXTENTIONS OF APPROVAL

- A. An approval may expire if timelines, as outlined in this Title or in a Site Specific Development Plan Approval are not met. Unless otherwise outlined in this Title, those timeframes may be extended only when the following conditions are met:
 - 1. A request for an extension shall be filed prior to the applicable deadline;
 - 2. The request for an extension shall be made in writing and include justification; and
 - 3. Any applicable requirements of the approval must have been met.
 - 4. If the expiration of approval is not noted in a specific process, the expiration period shall be three (3) years from the date of approval. Unless otherwise noted, authority to grant extensions of time shall rest with the decision-making body that granted the original approval.

17.07.080 TEMPORARY POSTPONEMENT OF IMPROVEMENTS

It shall be within the administrative discretion of the Community Development Director to approve a temporary postponement of certain required improvements so long as the public health, safety, and welfare are preserved and the recipient provides a performance bond or other security satisfactory to the city to ensure that all to of the requirements of this Title will be fulfilled within a reasonable period. At a minimum, a request for postponing improvements must be submitted in writing explaining what improvements are requested to be postponed, why the postponement is necessary and when the improvements will be completed. At the Community Development Director's discretion, a request to postpone improvements may be sent to the City Council for a decision.

17.07.090 CERTIFICATE OF OCCUPANCY REQUIRED.

- A. No building or structure shall be occupied, and no change in existing occupancy classification of a building or structure or portion thereof shall be made until the city has authorized the issuance of a Certificate of Occupancy. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of provisions of this Title or other titles of the Municipal Code.

- B. The city may suspend or revoke a Certificate of Occupancy or completion issued under the provision of this Title where ever the Certificate was issued in error, or on the basis or incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Title.

Exhibit C

Chapter 17.09 SPECIFIC REVIEW PROCEDURES

SECTIONS:

- 17.09.010 Purpose
- 17.09.020 Site Design Review
- 17.09.030 Conditional Uses
- 17.09.040 Change in Use
- 17.09.050 Density Bonus
- 17.09.060 Short Term Rentals
- 17.09.070 Amendment to Official Zoning Map (Rezoning)
- 17.09.080 Amendment to the Land Use Code
- 17.09.090 Vacation of Public Right-of-Way
- 17.09.100 Vacation of Public Easement
- 17.09.110 Mobile Food Vendor and Mobile Vendor Court

17.09.010 PURPOSE

The purpose of this Chapter is to outline specific review procedures applicable to development in the City of Fruita.

17.09.020 SITE DESIGN REVIEW.

- A. Applicability. Site Design Review is required for the following developments with the exception of subdivisions, detached single family residential, and duplex residential land uses:
 - 1. Changes in land use or remodels that result in an increase in floor area, lot coverage, or parking spaces by more than 40%; or
 - 2. Any change in land use or remodel that requires an Adjustment; or
 - 3. Any development that requires construction of public improvements.
- B. Procedure. Two types of Site Design Review are authorized, Administrative Site Design Review and Site Design Review with adjustment, as follows:
 - 1. Administrative Site Design Review. Developments subject to Site Design Review that do not require an Adjustment to any regulation under this Title by more than ten (10) percent (dimensional standards only) are reviewed and acted upon by the Community Development Director.
 - 2. Site Design Review With Adjustment. Developments subject to Site Design Review that require an Adjustment to one or more regulations under this Title by more than ten (10) percent are reviewed through the public hearing process in accordance with Section 17.07.040.

- C. Approval Criteria. The city decision-making body may approve a Site Design Review application only upon finding that it meets the applicable requirements of this Title and other applicable regulations.

17.09.030 CONDITIONAL USES.

- A. Applicability. A Conditional Use Permit is required for any use identified as a conditional use on the Land Use Table in Section 17.05.090 of this Title.
- B. Procedure. Conditional Use Permit applications shall be processed and reviewed through the public hearing process in accordance with Section 17.07.040.
- C. Approval Criteria for Conditional Use Permits. A Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:
 - 1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Comprehensive Plan;
 - 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.05.080.C;
 - 3. The proposed use will not materially endanger the public health or safety; and
 - 4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.
- D. Expiration. A use requiring a Conditional Use Permit must commence within three (3) years of approval or the Conditional Use Permit approval will expire. Conditional uses that have ceased for more than one (1) year cannot be re-established without re-approval of the Conditional Use Permit.

17.09.040 CHANGE IN USE.

- A. Applicability. A change in use occurs when there is any change in the occupancy of a building that would change the code requirements that apply to the site, or the Land Use Category as outlined in Chapter 17.05. These changes must be reviewed to ensure that the site can accommodate the type of use that is proposed and that the building meets all requirements for public safety.
 - 1. If there is a change from one principal use of a building or land to another principal use of a building or land, but there is no increase in the size of the existing building or extent of the use of the land and none of the above factors outlined below apply, a

change of use shall not have occurred

- B. Procedure. Change in Use applications shall be processed and reviewed administratively in accordance with Section 17.07.040. The Community Development Director may choose to refer the application to City Council for decision.
- C. Approval Criteria for Change in Use Applications. A Change in Use Application may be granted for a use in a particular zone provided the following factors are present and confirmed for the new use:
 - 1. The new use has an off-street parking requirement under this Title which is greater than parking available and necessary for the previous use; or
 - 2. The number of vehicle trips generated by the new use is or will be greater than the number of vehicle trips generated by the previous use as determined by the Institute of Transportation Engineers Trip Generation, latest edition; or
 - 3. The amount of stormwater runoff or impervious (to drainage) surface area will be increased with the new use.
 - 4. The amount of wastewater generated by the use will be greater than the previous use.

17.09.050 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 17.03.
- C. Process. Density bonus applications shall be processed at the same time and using the same procedure as required for a Subdivision, Planned Unit Development, or Site Design Review, as applicable. The Community Development Director/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 (in accordance with the review procedures described in Section 17.07.040). The Community Development Director may approve, deny, or approve with conditions, density bonus

applications filed in accordance with this Title subject to applicable review procedures contained in this Title.

- D. Criteria. The Community Development Director is authorized to grant density bonuses up to the maximum dwelling units per acre in accordance with the following:

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

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.

17.09.60 SHORT TERM RENTALS

A. Purpose. The purpose of this section is to establish procedures and standards to allow Short-Term Rentals in certain zone districts in the City pursuant to a permit and to provide regulations to assist in protecting the health, safety, and welfare of property owners, neighbors, and occupants. It is the City’s intent to establish Short-Term Rental regulations that promote opportunities to support the local economy and protect the long term residential character of Fruita’s neighborhoods.

B. Applicability and Prohibitions.

1. A Short-Term Rental application is required for any Short-Term Rental located in the City of Fruita, as permitted based on the Land Use/Zoning Table in Section 17.05.090 of this Title. A Short Term Rental Permit is required for each individual dwelling unit.
2. Private covenants running with the land may restrict or prohibit Short-Term Rentals or similar types of uses. It is the responsibility of the property owner, not the City, to ensure compliance with restrictive covenants.
3. It shall be unlawful for any person, whether a principal or agent, clerk or employee, either for him or herself, or for any other person for anybody, corporation or otherwise, to lease or operate a Short-Term Rental without first obtaining a Short Term Rental Permit in accordance with the provisions and procedures of this Section.
4. Short-Term Rentals are not allowed in bed and breakfasts, hotels or lodges or

motels as defined in the Fruita Municipal Code, as amended.

C. Short-Term Rental Permit Required.

1. The Community Development Department shall issue permits in accordance with the provisions of this chapter.
2. No person or entity shall sell lodging to temporary occupant(s) of a dwelling unit for fewer than 30 consecutive days without first having obtained a Short-Term Rental permit issued by the City and complying with any conditions or restrictions thereof. A separate Short-Term Rental permit is required for each Short-Term Rental unit. A Short-Term Rental permit may be issued only to the owner of the property used for Short-Term Rental.
3. A Short-Term Rental Permit attaches only to the property for which it is issued and the property owner to which it is issued. The permit is nontransferable upon sale or other transfer of ownership of the property. Upon such transfer of ownership, the new owner of the property shall apply for a new Short-Term Rental Permit if it wishes to continue the use of the property as a vacation rental.

D. Local Point of Contact.

1. The property owner shall designate one or more person(s) who will be the Local Point of Contact and will be available and responsible for immediately responding to complaints within a reasonable amount of time about or violations of any permit terms or any public nuisance regulations.
2. The term local as used herein means having a permanent address within a 25-mile radius from the Short-Term Rental. The local point of contact may be the property owner only if the local criteria is met.
3. The Local Point of Contact must be authorized by the property owner to permit inspection of the premises by the City and/or its agent or employee to ensure compliance with applicable fire and building codes and with the requirements for and/or of the short-term rental permit. Additionally the local contact must have physical access to the property and shall be authorized to make decisions regarding the vacation rental property on behalf of the owner.

E. General Requirements. Prior to a Short-Term Rental Permit being issued pursuant to Section C herein, the property owner of the proposed Short-Term Rental shall:

1. Obtain a sales and lodgers tax license as well as a business license and comply with all applicable local, State and federal taxes;
2. Demonstrate and certify that the unit contains the following on the premises at all times:

- a. A smoke detector in good working order.
 - b. A carbon monoxide detector in good working order.
 - c. Adequate and functional building egress from each sleeping room in the dwelling unit.
 - d. Posted notice in the Short-Term Rental for guests providing, in detail, the following information in a highly visible location and readily accessible form:
 - i. Location of building exits and fire extinguishers;
 - ii. Contact information for the Local Point of Contact;
 - iii. Short-Term Rental application number;
 - iv. Noise restrictions and quiet hours;
 - v. Parking Restrictions;
 - vi. Trash disposal, storage and collection schedule;
 - vii. Relevant water restrictions.
3. Provide with the application a sketch or drawing of the unit that depicts all rooms, doors and windows, including dimensions, and shows on-site areas available for guest parking;
 4. If the Short-Term Rental unit is accessed by a shared driveway, provide the City with a copy of a written instrument authorizing use of the driveway for short-term rental purposes;
 5. Permit inspection of the premises by the City or its agent or employee during the pendency of the permit application, and thereafter upon reasonable notice;
 6. Provide the name, address and phone number of the Local Point of Contact to the City, and update such information within ten (10) days with the City whenever it changes;
 7. Register annually with the City, certifying that the permit terms and requirements are still being met and updating any material changes to the unit or property;
 8. Kitchen facilities may only serve the property owner and the guests;
 9. Short-Term Rentals are required to be rented for a minimum of 45 days in a calendar year. Failure to rent the property will cause the property to be ineligible for renewal in the subsequent year.
 10. Signs advertising Short-Term Rentals, whether on or off premise are prohibited.
 11. Digital advertisement shall include the Short-Term Rental application number assigned by the Planning Clearance. The failure to prominently display the Planning Clearance number in any advertisement of accommodation shall be a violation of this Chapter. Advertising shall include any written, oral or video communication or publication disseminated by signage, mailing, print, internet listing, e-mail publication, social media, other electronic means, telephone or other means which is intended to directly or indirectly induce a person to use or

possess the accommodation for consideration.

F. Revocation, Suspension, Expiration and Appeal.

1. A Short-Term Rental Permit may be suspended or revoked for any of the following reasons:
 - a. The owner or designated responsible party has failed to comply with any requirement of Section 17.09.060 of this Title.
 - b. The owner or designated responsible party has failed to comply with a condition of or restriction set forth in the Short-Term Rental Permit.
 - c. The owner has failed to collect or remit lodging or sales taxes or otherwise comply with local, State and/or federal tax requirements.
 - d. Materially false or misleading information has been provided to the City by the applicant, owner or designated responsible party on an application.
 - e. The City has received excessive and substantial complaints by neighbors or affected persons, which complaints were not adequately and timely addressed by the owner or Local Point of Contact as determined solely by the City.
2. Notice of revocation shall be provided to the owner, who shall then be given an opportunity to respond within ten (10) days. The Community Development Director shall issue any decision to revoke or suspend a permit within ten (10) days of the response date.
3. Any aggrieved person may appeal the issuance, denial, suspension, or revocation of a Short-Term Rental Permit to the Fruita City Council within 10 days of the issuance of the decision.

G. Violations.

1. Violations of this Chapter shall be enforced pursuant to Chapter 1.28 of the Fruita Municipal Code.
2. A violation of this Chapter may also be punishable by denial of a license for a Short-Term Rental Permit for the property or property owner that has offended such limitation for a period of two (2) years from the City's date of revocation.
3. All amounts due and owing to the City in connection with any violation of this Chapter shall constitute a first priority lien on the Short-Term Rental property and may be collected by any means provided under the Code.

H. Issuance; Renewal.

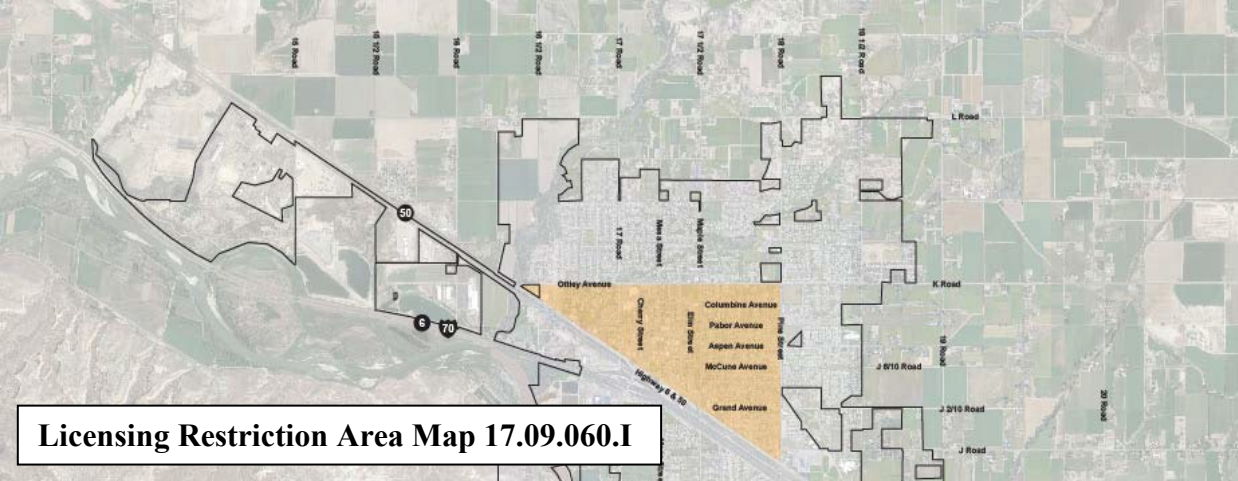
1. After considering the criteria set forth in this Chapter, and within sixty (60) days of receiving a complete application and application fee, the Community Development Director may issue a Short-Term Rental Permit to the property owner. Such permit may contain conditions and restrictions.
2. A permit shall not be issued or renewed until the Short-Term Rental Permit fee

has been paid by the property owner. Such fee shall be set by the Fruita Council annually.

3. Permits shall be valid for a single calendar year, and shall expire on December 31st of each year, unless a request for renewal is made. Each permit is only good for a single calendar year, regardless of when it was originally approved. For instance, a permit that is issued in July shall expire on December 31st of that calendar year. Subject to the requirements of this Chapter, a permit shall be renewed annually, extending the term for one additional calendar year. All permits in compliance with this Title may apply for renewal and are not subject to the random drawing provisions contained herein.
4. A renewal application shall be submitted by December 1st of each year.
5. After considering the criteria set forth in this Chapter, and prior to the expiration of the then-existing Short-Term Rental Permit, the Community Development Director may issue renewal Short-Term Rental Permit to the property owner. Such renewed permit may contain new or modified conditions and restrictions.

I. Temporary Limitation on Issuances of Short-Term Rental Permit

1. Notwithstanding anything in this Chapter, there shall not be more than sixty-five (65) active and valid Short Term Rental Permits within the Licensing Restriction Area Map 17.09.060.I shown below (the “Licensing Restriction”). Once the Licensing Restriction has been reached, the City shall continue to accept applications for Short Term Rentals which shall be approved or denied in the order received by the City if the Licensing Restriction has been increased or eliminated. In calculating the Licensing Restriction, the City shall include Conditional Use Permits for Bed and Breakfasts issued prior to the enactment of this Section; provided, however, the Licensing Restriction shall not include Accessory Dwelling Units or units currently occupied by the property owner.



17.09.070 AMENDMENT TO OFFICIAL ZONING MAP (REZONING).

- A. Applicability and Procedures. The City Council may amend the number, shape, or boundaries of any zone, removing any property from one zone and adding it to another zone, only after recommendation of the Planning Commission. An amendment to the Official Zoning Map may be initiated by the owner of any property for which a rezoning is sought, or upon application of City Council.

- B. Approval Criteria. The Official Zoning Map may be amended when the following findings are made:
 - 1. The proposed rezone is compatible with surrounding land uses, pursuant to Section 17.05.080.C, and is consistent with the city's goals, policies and Comprehensive Plan; and
 - 2. The land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Comprehensive Plan; or
 - 3. The area for which the rezone is requested has changed substantially such that the proposed zoning better meets the needs of the community; or
 - 4. The rezone is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions; or
 - 5. The rezone is incidental to the annexation of the subject property.

- C. Additional Requirements. In addition to the procedures for public hearings under Section 17.07.040, if the zoning amendment is approved by the City Council, it shall enact an ordinance to such effect and the amendment to the Official Zoning Map shall become effective thirty (30) days after publication of said ordinance.

17.09.080 AMENDMENT TO THE LAND USE CODE.

- A. Applicability and Procedures. City Council may, after the recommendation of the Planning Commission, amend language in this Title, which amendment may be initiated by any citizen or group of citizens, firm or corporation residing or owning property within the city, or by the Community Development Director, or by the Planning Commission, or by the City Council.

- B. Approval Criteria. Amendment to this Title may be made upon a finding that the amendment is consistent with the city's goals, policies and Comprehensive Plan.

17.09.090 VACATION OF PUBLIC RIGHT-OF-WAY.

- A. The Community Development Director may approve the vacation of a public right-of-

way, upon finding that the vacation will not:

1. Create any landlocked parcels;
 2. Negatively impact adjacent properties;
 3. Reduce the quality of public services to any parcel of land; and
 4. Be inconsistent with the City's Comprehensive Plan.
- B. A right-of-way vacation may be approved through the Subdivision platting process as long as the above criteria are met in addition to the following:
1. The right-of-way to be vacated was previously dedicated to the public;
 2. The right-of-way to be vacated is entirely within the plat being created; and
 3. Existing and proposed utilities are accommodated with sufficient easements.

17.09.100 VACATION OF PUBLIC EASEMENT. The City Council may approve the vacation of a public easement, after recommendation from the Planning Commission, upon finding that there is no longer a public interest in retaining said easement and no utility provider objects to the easement vacation.

17.09.110 MOBILE FOOD VENDOR AND MOBILE VENDOR COURT

- A. Purpose. The purpose of this regulation is to allow mobile vendors to operate on private property in certain zone districts in the City.
- B. Applicability. These regulations apply to all mobile food vendors and mobile vendor courts operating on private property, except when a mobile food vendor or mobile vendor is operating as a temporary use under the provisions of Section 17.05.100 (E).
- C. Signage. The total allowable square footage of signage for a mobile vendor shall be 32 square feet, excluding signage fixed to an operable motor vehicle.
- D. Landscaping, Screening and Buffering. Mobile food vendors operating as a temporary use are exempt from the landscaping requirements of the Land Use Code. Mobile vendor courts are subject to the landscaping, screening and buffering provisions of Section 17.13 of the Land Use Code.
- E. Parking. Off-street parking shall be provided according to the provisions of Section 17.37 of the Land Use Code. Alternatively, required parking may be met through the provision of a written parking agreement with the owner of a property within 500 feet of the mobile vendor, as measured from the line of the property whereon the mobile vendor is located to the line of the property whereon parking is located. Mobile food vendors operating as temporary uses under the standards of Section 17.05.100(E) shall be exempt from this requirement.

- F. Sanitary Facilities. Any mobile food vendor or mobile vendor court shall provide and maintain a sanitary facility on site or shall provide and maintain a written agreement with a property and/or business owner allowing mobile vendor employees and customers to share the use of that property's existing sanitary facilities. The structure containing shared sanitary facilities must be located within 750 feet from location of the mobile vendor as identified on the approved site sketch. No shared sanitary facility may be shared with a residential land use. Mobile food vendors operating as temporary uses under the standards of Section 17.05.100(E) shall be exempt from this requirement.
- G. Utilities. Permanent hookups to utilities shall not be provided for mobile vendors which are operating as a temporary use under the standards of Section 17.05.100(E) but may be provided for mobile vendor courts.
- H. Wastewater Discharge. Wastewater produced by mobile vendors shall be discharged only at a facility with an approved industrial pretreatment system or by a licensed waste hauler.