Chapter 17.47
VESTED PROPERTY RIGHTS

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17.47.010 PURPOSE. The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, which Article establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site specific development plan.

17.47.020 DEFINITIONS. Unless modified in this Section, the terms used in this Chapter shall have the same meaning as set forth in Section 24-68-102, C.R.S. As used in this Chapter, unless the context otherwise requires:

A. A "site specific development plan" means a plan that has been submitted to the City by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right. The following shall be considered "site specific development plans":

DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
1. Site plan review for commercial, business, industrial, and institutional developments pursuant to Section 17.13.020	Site plan as approved by City Council
2. Conditional use review pursuant to Section 17.13.030	Conditional use permit as approved by City Council

3. Administrative subdivisions pursuant to Section 17.15.060	Subdivision final plat as approved by Community Development Department Director and City Council
4. Major and minor subdivisions pursuant to Chapter 17.15	Subdivision final plat and applicable subdivision improvements agreement as approved by the City Council
5. Planned Unit Development review, not accompanied by subdivision of land pursuant to Chapter 17.17	Final P.U.D. development plan and any applicable P.U.D. control guide and development improvements agreement, as approved by City Council
6. Planned Unit Development review pursuant to Chapter 17.17, accompanied by subdivision of land pursuant to Chapter 17.15	Subdivision final plat together with final P.U.D. development plan, P.U.D. control guide and any applicable development or subdivision improvements agreement, as approved by City Council

If not indicated above, a "site specific" development plan" shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to a planning clearance application for a building permit.

Provided, however, the City Council may by agreement with the applicant designate an approval step other than those indicated above, or the final approval step, to serve as the "site specific development plan" approval for a specific project.

The following are specifically excluded from, and shall not constitute, a "site specific development plan": variances issued by the Board of Adjustment, subdivision sketch plans, subdivision preliminary plans, P.U.D. concept plans, P.U.D. preliminary development plans, business licenses, flood way or floodplain permits, franchises, temporary use permits, any Master Plan element, creation of improvement districts, zoning, rezoning other than Planned Unit Developments, final architectural plans, or final construction drawings and related documents specifying materials and methods for construction of improvements.

B. "Vested property right" means the right to undertake and complete development and use of property under the terms and conditions of a "site specific development plan."

17.47.030 APPLICATIONS; APPROVAL BY THE CITY.

A. Except as otherwise provided in this Section, an application for approval of a "site specific development plan" as well as the approval, conditional approval, or denial of approval of a plan shall be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the City. For purposes of this Section, "laws and regulations" includes any zoning, development, or land use law of general applicability adopted by the City as well as any zoning, development or land use regulations that have previously been

adopted for the particular parcel described in the plan and that remain in effect at the time of application for approval of the plan. In the event the application for a "site specific development plan" requires review and approval in multiple stages, "application" means the original application submitted at the first stage in any multi-stage process that may culminate in the ultimate approval of a "site specific development plan."

B. Notwithstanding the limitations contained in subsection (A) above, the City may adopt a new or amended law or regulation when necessary for the immediate preservation of public health and safety and may enforce such law or regulation in relation to applications for "site specific development plans" pending at the time such law or regulation is adopted.

17.47.040 ALTERNATIVE CREATION OF VESTED PROPERTY RIGHTS. If any applicant desires an approval step, other than as defined in subsection 17.47.020(A) above, to constitute an approval of a "site specific development plan" with the effect of creating vested property rights pursuant to this Chapter and Article 68 of Title 24, C.R.S., the applicant must so request at least thirty (30) days prior to the date of the public hearing on said approval step by the City Council or Planning Commission, as applicable, is to be considered. Failure to do so renders the approval by the City Council or Planning Commission, as the case may be, to not constitute an approval of a "site specific development plan" and no vested property right shall be deemed to have been created by such approval, except in the case of an approval as set forth in subsection 17.47.020(A) above.

17.47.050 ESTABLISHMENT OF VESTED PROPERTY RIGHTS; PUBLIC NOTICE AND HEARING REQUIRED. A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a "site specific development plan", following notice and public hearing, by the City. A vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the "site specific development plan", as approved, including any amendments thereto. A "site specific development plan" shall be deemed approved upon the effective date of the City's legal action, resolution or ordinance relating thereto. Such approval shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a newspaper of general circulation within the City, of a notice advising the general public of the "site specific development plan" approval and creation of a vested property right pursuant to this Chapter and Article 68 of Title 24, C.R.S. Such publication shall occur no later than fourteen (14) days following approval. (See Appendix “L” to Fruita Land Use Code for form of notices.)

17.47.060 APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN; CONDITIONS.

A. The City may approve a "site specific development plan" upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions, at the option of the City Council following a public

hearing, shall result in the forfeiture of vested property rights. This subsection shall be strictly construed.

B. Terms and conditions imposed or agreed upon may include, without limitation:

1. Future approvals by the City not inconsistent with the original approval;

2. Approvals by other agencies or other governments;

3. Satisfactory inspections;

4. Completion of all or certain phases or filings of a project by certain dates;

5. Waivers of certain rights;

6. Completion and satisfactory review of studies and reports;

7. Payment of fees to the City or other governmental or quasi- governmental agencies as they become due and payable;

8. Payment of costs and expenses incurred by the City relating to the review and approval;

9. Continuing review and supervision of the plan and its implementation and development;

10. Obtaining and paying for planning clearances, building permits, water plant investment fees (taps) and wastewater plant investment fees (taps);

11. Compliance with other codes and laws, including building codes, of general applicability;

12. Construction of on-site or off-site improvements or facilities for the use of future inhabitants or the public at large;

13. Payment of any applicable impact fees; and

14. Dedication or conveyance of public site or park land, trails, school land, common area or open space, with provision for its maintenance; or payment of a fee in lieu thereof, and dedication of necessary easements and rights-of-way.

17.47.070 DURATION AND TERMINATION OF VESTED PROPERTY RIGHTS.

A. A property right which has been vested pursuant to this Chapter and Article 68 of Title 24, C.R.S., shall remain vested for a period of three (3) years. This vesting period shall not be extended by any amendments to a "site specific development plan" unless expressly authorized by the City Council.

B. Notwithstanding the provisions of subsection (A) above, the City Council is authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three (3) years where warranted in the light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Such development agreements shall be adopted as legislative acts subject to referendum.

C. Following approval or conditional approval of a "site specific development plan", nothing contained in this Chapter or Article 68 of Title 24, C.R.S. shall exempt such a plan from subsequent reviews and approvals by the City to insure compliance with the terms and conditions of the original approval, if such further reviews and approvals are not inconsistent with said original approval.

17.47.080 WAIVER OF VESTED PROPERTY RIGHTS. An applicant may waive a vested property right by separate written agreement, which shall be recorded in the office of the Mesa County Clerk and Recorder. Unless otherwise agreed to by the City Council, any landowner requesting annexation to the City of Fruita shall waive in writing any pre-existing vested property rights as a condition of such annexation.

17.47.090 SUBSEQUENT REGULATION PROHIBITED; EXCEPTIONS.

A. A vested property right, once established as provided in this Chapter and Article 68 of Title 24, C.R.S., precludes any zoning or other land use action by the City or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in an approved “site specific development plan,” except:

1. With the consent of the affected landowner;

2. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of "site specific development plan" approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or

3. To the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner after approval by the City, including, but not limited to, costs incurred in preparing the site for development consistent with the "site specific development plan", all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property which is caused by such action.

B. Establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City of Fruita, including, but not limited to, building, fire, plumbing, electrical, housing, mechanical, and dangerous building codes.

17.47.100 PAYMENT OF COSTS. In addition to any and all other fees and charges imposed by this Title, the applicant for approval of a "site specific development plan" shall pay all costs incurred by the City as a result of the "site specific development plan" review and approval, including publication of notices, public hearing and review costs, when such costs are incurred apart and in addition to costs otherwise incurred by the City or applicant for a public hearing relative to the subject property.

17.47.110 OTHER PROVISIONS UNAFFECTED. Approval of a "site specific development plan" shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to the development and use of property.

17.47.120 LIMITATIONS. Nothing in this Chapter is intended to create any vested property right, but only to implement Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or judicial determination that said Article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective.