

**TITLE 17**  
**LAND USE CODE**

**Chapter 17.01**  
**GENERAL PROVISIONS**

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**17.01.010 SHORT TITLE.** This Title 17 of the Fruita Municipal Code shall be known and may be cited as the Fruita Land Use Code, as amended.

**17.01.020 AUTHORITY.**

- A. This Title is adopted pursuant to the authority contained in Sections 31-23-101 et. seq., C.R.S. (Planning and Zoning), Sections 29-20-101 et. seq., C.R.S.(Land Use Control and Conservation), Sections 24-65-101 et. seq., C.R.S.(Colorado Land Use Act), Sections 24-67-101 et. seq., C.R.S.( Planned Unit Development Act), Title 29, Article 20, C.R.S. (Local Government Control Act of 1974), Section 31-2-107, C.R.S., (Adoption of Home Rule Charter) and the Fruita City Charter.
  
- B. Whenever any provision of this Title refers to or cites a section of the Colorado Statutes and that section is later amended or superseded, this Title shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

### **17.01.030 PURPOSES.**

This Title is adopted in accordance with the City of Fruita Master Plan and is designed for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community, including:

- A. Lessening congestion in streets, avoiding an excessive amount of streets, facilitating traffic circulation, and minimizing conflicts between vehicular, bicycle and pedestrian traffic;
- B. Securing safety from fire, flood and other dangers;
- C. Providing adequate light and air;
- D. Protection and enhancement of the city's tax base;
- E. Securing economy in governmental expenditures;
- F. Fostering business and economic development;
- G. Protecting both urban and non-urban development and conserving the value of property;
- H. Preventing the overcrowding of land and avoiding undue concentration of population;
- I. Separating incompatible uses and densities so as to avoid negative impacts of uses on each other;
- J. Providing for a variety of housing and neighborhood types and densities and a range of housing costs;
- K. Facilitating adequate provision of transportation, water, wastewater, schools, parks, recreation and other public services and utilities;
- L. Avoiding the effects of public nuisances; such as, noxious odors, fumes, air pollution, visibility impairment, noise and potential hazards such as fire, explosion, irradiation, chemical and nuclear pollution;
- M. Insuring that new growth and development does not result in an economic burden to existing residents and taxpayers;
- N. Insuring that the negative impacts resulting from new development, both onsite and offsite, are appropriately mitigated; and

- O. Insuring that adequate provisions are made for infrastructure and services to new development including, but not limited to the following:
1. Water service
  2. Wastewater service
  3. Natural gas service
  4. Electric service
  5. Communications service
  6. Cable service
  7. Parks and recreation
  8. Open space
  9. Irrigation

**17.01.040 JURISDICTION.**

- A. This Title shall be applicable within the corporate boundaries of the city.
- B. In addition to other locations required by law, a copy of a map showing the boundaries of the city shall be available for public inspection in the Community Development Department.

**17.01.050 EFFECTIVE DATE.** The provisions of this Title were originally adopted and became effective on March 27, 1995. This amended Title was adopted on March 3, 2009, and became effective on April 3, 2009.

**17.01.060 RELATIONSHIP TO OTHER LAWS.**

- A. To the extent that the provisions of this Title are the same in substance as previously adopted provisions in the city's zoning, subdivision, or flood control ordinances replaced by this Title, the provisions of this Title shall be considered as continuations thereof and as new enactments unless otherwise specifically provided. In particular, if a land use did not constitute a lawful nonconforming use under a previously adopted zoning ordinance, such use does not achieve lawful nonconforming status under this Title merely by the repeal of the previous zoning ordinance.

- B. This Title is not intended to repeal, abrogate, annul or in any way impair or interfere with existing laws or ordinances when there is no conflict between this ordinance and existing laws and ordinances. This Title is not intended to repeal, abrogate, annul or in any way impair or interfere with restrictive covenants running with any land to which the city is a party. In those situations where this Title imposes a greater restriction upon land, building or structure than is imposed or required by existing provisions of law, ordinance, contract or deed, the provisions of this Title shall control.

**17.01.070 RELATIONSHIP TO CITY MASTER PLAN.** It is the intention of the city that this Title implement the planning policies adopted by the City Council in the components of the Fruita Master Plan, and other planning documents. While the City Council reaffirms its commitment that this Title and any amendments thereto be in general conformity with adopted plans and other planning studies, the City Council hereby expresses its intent that neither this Title nor any amendment thereto may be challenged on the basis of any alleged nonconformity with any planning document, unless otherwise provided by law.

**17.01.080 APPLICABILITY.**

- A. Except as otherwise specifically provided, the provisions and requirements of this Land Use Code shall become effective on the effective date hereof, and shall be applicable to all developments, subdivisions or uses of land commenced within the city after said date. Any ordinance amending this Title shall become effective thirty (30) days following publication, unless otherwise specified in said ordinance, and shall be applicable to all developments, subdivisions or other uses of land commenced within the city after said date.
- B. Any development, subdivision or use of land for which an application has been filed and application fees have been paid prior to the effective date of this Land Use Code may follow this Title as of the date of filing such application or, at the option of the applicant, may follow this Title, in whole, as amended.
- C. Any land which has been subdivided prior to the effective date of this Land Use Code and for which there has been no Planning Clearance, Site Design Review, Conditional Use Permit, or other lot specific land use review or other review substantially similar to the development review required by this Title shall be subject to those provisions of this Title applicable to such development review.
- D. Except as otherwise provided herein, the provisions and requirements of this Land Use Code shall be deemed minimum requirements and stricter provisions may be imposed when the Planning Commission or City Council find such provisions to be necessary to promote the purposes and provisions of this Title.

- E. Upon submittal of a land development application as provided in this Land Use Code, the applicant expressly accepts the time schedules for review as set forth herein and waives any right to any other time schedule for review.
- F. If any provision of this Land Use Code conflicts with other provisions of the Fruita Municipal Code, the provisions of this Title shall control and take precedence.

**17.01.090 ADMINISTRATION OF LAND USE CODE.**

- A. Except as otherwise specifically provided, primary responsibility for administering and enforcing this Title may be assigned by the City Manager to one or more individuals. Final authority is maintained by the City Manager.
- B. The Community Development Director shall serve as the administrative head of the Community Development Department. The City Manager and Mayor are authorized to sign plats indicating approval of Major and Minor Subdivision final plats.

**17.01.100 ENFORCEMENT AND PENALTY; DEADLINES.**

- A. After the effective date of this Title, any person who knowingly erects, constructs, reconstructs, uses or alters any building, structure or land or who knowingly subdivides or uses any land in violation of this Title commits a Class B municipal offense. Any person who violates any provision of this Title shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Title are committed, continued or permitted. Nothing in this Section shall be construed to prevent the city from pursuing any other remedies it may have for violations of this Title.
- B. In case any building or structure is proposed to be erected, constructed, reconstructed, altered, moved, or used or any land is proposed to be subdivided or used in violation of this Title, the city, in addition to other remedies provided by law, may institute an appropriate action to prevent, enjoin, abate, or remove the violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act or use.
- C. In addition to the other enforcement provisions in this Title, the city may exercise any and all enforcement powers granted to it by State Law, including without limitation to Section 31-23-308 C.R.S., (Enforcement of Zoning Ordinance), Section 24-67-106 C.R.S., (Enforcement of Planned Unit Development Plan), and Section 31-23-215 C.R.S. (Subdivision Enforcement).
- D. Any land development permit granted under this Title may be revoked, following public hearing, upon the determination that one (1) or more of any conditions or requirements contained in the land development permit, including any conditions set forth pursuant to subsection 17.01.080(D) has been violated. In the event the Community Development

Director has reasonable cause to believe that one (1) or more conditions or requirements of the land development permit has been violated, the Community Development Director shall serve the record owner of the property subject to the land development permit and the holder of such permit if other than the owner, in person or by certified mail, return receipt requested, a notice to show cause why the land development permit should not be revoked and any vested property rights related thereto forfeited. Such notice shall state the date, time and place for a public hearing at which the City Council will consider whether the land development permit should be revoked. The notice shall also set forth a concise statement of the grounds for revocation. The notice shall be served at least fifteen (15) days prior to the date of the hearing. The public hearing shall be conducted by the City Council, pursuant to Chapter 2.60 of the Fruita Municipal Code. Following such hearing, the City Council shall issue a written decision either revoking the subject land development permit or finding insufficient evidence exists to revoke the permit.

E. Suspensions.

1. If, in the process of inspecting improvements being constructed pursuant to this Title and for which a valid land development permit has been issued, a defect, design flaw or an unforeseen condition is discovered or work is being performed which has not been approved by the city which, if uncorrected, would create a non-conforming use or structure, or would violate other provisions of this Chapter, or state law or applicable design and construction standards, the City Engineer or Community Development Director may administratively suspend existing approved land development permits, and suspend the issuance of new land development application approvals, pending correction of the flaw, defect or unforeseen condition. Suspensions may include partial suspension of specific tasks, or complete stop work orders.
2. The applicant is responsible for correcting said flaw, defect or unforeseen condition, including any necessary design or engineering work, information submitted for city approval, and the cost of construction.
3. Any suspensions so issued by the city, and any subsequent releases of a suspension, shall be done in writing and be transmitted to the project representative.
4. Any permit or approval that remains suspended for sixty (60) days automatically can be considered to be revoked, requiring re-submittal of a permit application or request for approval and payment of applicable fees.
5. Specific to subdivisions, if an applicant elects not to correct said flaw, defect or unforeseen condition to the satisfaction of the city, the Community Development Director may also initiate actions to terminate the subdivision improvements agreement following the procedure described in Section 17.21.120.

6. Specific to the issuance of a permit or approval under this Title, the city imposes a specific requirement on the applicant for the permit or approval to remedy any impacts to city infrastructure caused by the construction. This includes but is not limited to repair or replacement of damaged sidewalk and streets, cleaning and sweeping of streets to remove dirt and debris, removal of construction debris, and cleaning and jetting of storm drains. The city retains the right to suspend the issuance of a Certificate of Occupancy or other land development applications until remedial actions are performed to the satisfaction of the city.
- F. The following deadlines for submittal processing and review of a multi-step development approval shall apply. The procedure set forth in subsection (D) hereof may be followed for revocation of any development approval, which has expired prior to the following applicable deadlines:
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. Site Design Review – 70 days
    - c. Final Plats – 70 days
    - d. Sign Permits – 5 days

- e. Temporary Use Permits – 5 days
  - f. Home Occupation Permits – 5 days
  - g. Minor Subdivisions – 70 days
- G. Nothing in this Title shall prohibit the continuation of previous enforcement practices undertaken by the Community Development Department pursuant to City Council action or applicable law.

**17.01.110 REVIEW AND INSPECTION FEES.**

- 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.
- B. Application fees shall be paid at the time of project submittal. The city will bill the developer additionally for processing fees that exceed the initial fee. These fees shall be paid within thirty (30) days of billing by the city. The city reserves the right to not process land development applications for which the applicable fees have not been paid, and reserves the right to not schedule public hearings on such applications until the required fees have been paid. No final approval of a land development application shall be granted and no recording of applicable development plans, plats and supporting documents shall occur until all required fees have been paid by the applicant. If an application, plan, plats or other documents submitted by the applicant under the provisions of this Title are incomplete or are modified so as to require additional checking and review, or if the applicant requests a continuance of a project for which public notice has already been provided, the city reserves the right to require the payment of additional fees.
- C. Prior to approval and acceptance of the construction and installation of public and private development or subdivision improvements, the subdivider or developer shall pay to the city the actual cost, including the reasonable value of city employees' time, of all inspections of such improvements, including but not limited to, streets, curbs, gutters, street signs, street lighting facilities, water distribution system, wastewater collection system, storm management system, irrigation system, park, and landscaping improvements, made or conducted at the direction of the Community Development Department Director or the City Engineer. The amount of the fees charged for such inspections shall be established by resolution of the City Council. In the event extraordinary inspections are necessary, the city reserves the right to assess, in addition to established fees, extraordinary inspection costs.
- D. In addition to the fee schedule established by resolution of the City Council, a developer is also responsible for payment to the city for all extraordinary review and inspection costs performed by or contracted for by the city, including but not limited to drainage

studies, traffic studies, geotechnical investigations, reviews and inspections requiring specialized equipment and/or the services of consultants. These additional fees shall be paid to the city before the final inspection is performed by the city and the first partial release of the performance guarantee is authorized by the city.

**17.01.120 COMPUTATION OF TIME**

- A. Unless otherwise specifically provided, the time within which an act is to be done shall be based on calendar days and shall be computed by excluding the first and including the last day.
- B. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is delivered by mail, three (3) days shall be added to the prescribed period.

**17.01.130 PUBLIC NOTICES.**

- A. Decisions Requiring a Public Hearing. For every public hearing required by this Title, with the exception of time extensions and subdivision and development improvement agreements, and unless otherwise required by law, the city shall notify the public of the date, time and place of such hearing by:
  - 1. Publication once in a newspaper of general circulation within the city, at least 15 days prior to the public hearing; and
  - 2. Posting notice at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, at least five (5) days prior to the hearing; and
  - 3. Sign(s) posted on or near the subject property. One or more notices that are 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
  - 4. Written notice mailed to property owners 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 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.

B. Administrative Decisions.

1. Minor Subdivisions and Site Design Review shall require public notice prior to the administrative decision the same as the public hearing decision requirements stated in subsection A of this section.
2. Planning Clearances, Sign Permits, Temporary Use Permits, Home Occupation Permits and Final Plats require no public notice.

C. 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.

D. 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.

E. 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 (1<sup>st</sup>) 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.

**17.01.140 SEVERABILITY.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, or phrases of this Title are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Title since the same would have been enacted without the incorporation into this Title of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.