

**Chapter 17.05**  
**LAND DEVELOPMENT APPLICATIONS - GENERAL PROVISIONS**

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**17.05.010 DESIGNATION OF REQUIRED LAND DEVELOPMENT APPLICATIONS.**

- A. The use made of property may not be substantially changed; substantial clearing, grading, or excavating may not be commenced; and buildings, fences, or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with the requirements of this Title.
- B. 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.
- C. Physical improvements to land to be subdivided may not be commenced except in accordance with approval by the City Council or after the completion of all requirements as certified by the Community Development Director and City Engineer.
- D. 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.
- E. 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.

**17.05.020 NO USE OR OCCUPANCY UNTIL REQUIREMENTS FULFILLED.** 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.

**17.05.030 CERTIFICATE OF OCCUPANCY REQUIRED.** 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.

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.

**17.05.040 TEMPORARY POSTPONEMENT OF IMPROVEMENTS** It shall be within the administrative discretion of the City Manager 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 City Manager's discretion, a request to postpone improvements may be sent to the City Council for a decision.

**17.05.050 APPLICATION REQUIREMENTS AND LIMITATIONS.**

- A. 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.

- B. Applications for land development application approvals required under this Title will be accepted only from parties in interest who are owners of record or their authorized representative.
- C. 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. 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. 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. 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.
- D. After 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 application to help ensure the application will be correct and complete when submitted.
- E. All applications for land development approvals required under this Title must be complete before the permit issuing authority is required to consider the application. A notice of completeness or incompleteness shall be issued by the Community Development Department within fifteen (15) days of the receipt of an application. Upon a determination that an application for a permit or approval is complete, the Community Development Department shall issue a notice of completeness to the applicant and place the application on the agenda of the Planning Commission, City Council, or Board of Adjustment if review by such body is required under this Title. If such review is not required, the Community Development Director shall act on the application pursuant to this Land Use Code.
- F. 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.
- G. 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.

**17.05.060 APPEALS OF ADMINISTRATIVE DECISIONS.**

- A. Any person aggrieved by a decision of the City Manager under the provisions of this Title may appeal such decision to the City Council within thirty (30) days of the decision from which the appeal is taken. The letter of appeal shall state the specific grounds upon which the appeal is based and shall have attached to it any documentary evidence. The City Council shall then hold a public hearing on such appeal at a regular meeting within forty-five (45) days of the date of the filing of the appeal. Public notice shall be given as required as per Section 17.01.130 of this Title. Following such hearing the City Council shall affirm the decision of the City Manager, or reverse, or modify such decision.
- B. Any person who has provided a written comment to the Community Development Department regarding a land development application that is permitted to be approved administratively will be provided with a copy of the decision by the Community Development Department including information on how to appeal that decision.

**17.05.070 PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS REQUIRING A PUBLIC HEARING.**

- A. Pre-Application Meeting. A pre-application meeting with the Community Development Department is required prior to submitting an application for any proposal that requires a public hearing under this Title. The purpose of the pre-application meeting is 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. Prospective applicants are strongly encouraged to contact adjacent property owners for the purpose of soliciting neighborhood input prior to formally submitting an application.
- B. Staff Review. The Community Development Director shall review the application with appropriate staff and other agencies and shall prepare a Staff Report setting forth the staff's findings concerning the application's compliance with the requirements of this Title and a staff recommendation including any conditions of approval, if applicable. The Community Development Director is responsible for reviewing comments and recommendations of other city departments and review agencies and shall incorporate their comments into one consolidated and reconciled Staff Report. 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 public review at least seven (7) days 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. Planning Commission Review. Before being presented to the City Council, the Planning Commission shall hold a public hearing on the application for a recommendation to the City Council. The applicant, or the applicant's representative, shall be present at the Planning Commission public hearing to represent the application. The Community Development Department shall provide to the Planning Commission application information, a Staff Report, review comments, written public comments and other related documents. At the Planning Commission public hearing, the Planning Commission 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. The Planning Commission shall consider whether the application complies with all of the applicable requirements of this Title. At the close of the public hearing, the Planning Commission shall take one of the following actions:

1. Recommend to the City Council 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
2. Recommend denial of the application, stating the specific reasons for recommending denial.

D. City Council Review. After the Planning Commission has made a recommendation, the Community Development Department shall provide to the City Council all information presented to the Planning Commission and include a report containing the Planning Commission's recommendation and whether staff concurs in whole or in part with the Planning Commission's findings and recommendation. The City Council shall hold a public hearing to consider whether the application complies with all of the applicable requirements of this Title. The applicant or the applicant's representative shall be present at the City Council public hearing to represent the application.

At the City Council public hearing, the City Council 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.

If the City Council finds that an application does comply with the requirements of this Title, it shall approve the application.

If the City Council finds that the application does not meet all of the applicable requirements of this Title, it shall specify the reasons why the application fails to comply with applicable requirements and include them in its motion to deny the application.

If the City Council concludes that the application fails to comply with one or more requirements of this Title, but the application can be made to comply with all requirements of this Title through the imposition of conditions of approval, the City Council may approve the application subject to conditions of approval.

The City Council's decision approving, approving with conditions or denying, the application shall include specific findings, based upon the evidence submitted, justifying such a conclusion.

E. Board of Adjustment Review. The Board of Adjustment shall hold a public hearing on land development applications requiring a decision by the Board of Adjustment. The applicant, or the applicant's representative, shall be present at the Board of Adjustment public hearing to represent the application. The Community Development Department shall provide to the Board of Adjustment application information, a Staff Report, review comments, written public comments and other related documents. At the Board of Adjustment public hearing, the Board of Adjustment 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. The Board of Adjustment shall consider whether the application complies with all of the applicable requirements of this Title including variance approval criteria of Section 17.13.050. At the close of the public hearing, the Board of Adjustment shall take one of the following actions:

1. 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
2. Recommend denial of the application, stating the specific reasons for denial.

**17.05.080 RECONSIDERATION BY CITY COUNCIL OR BOARD OF ADJUSTMENT.**

City Council or Board of Adjustment decisions on land use applications, whether approval or denial, may not be reconsidered by the City Council or Board of Adjustment for one (1) year unless it is clearly demonstrated that:

- A. Circumstances affecting the property that is the subject of the application have substantially changed, or;
- B. New information is available that could not, with reasonable diligence, have been

presented at a previous hearing. A request to be heard on this basis must be filed with the Community Development Director within thirty (30) days of the original decision, or;

- C. Nothing contained in this Section shall preclude the submission of a substantially new application as determined by the Community Development Director and the City Engineer.

**17.05.090 AMENDMENT TO APPROVED LAND DEVELOPMENT APPLICATIONS.**

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. Major deviation 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 pursuant to Section 17.05.070. A major deviation is one that exceeds one or more of the following thresholds:

- A. Increase in the number of residential lots or dwelling units;
- B. 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;
- C. Increase in permitted floor area by more than ten (10) percent for any single non-residential building;
- D. Modification to any site design or lot development standard in this Title;
- E. Any change to a requirement imposed through conditions of approval;
- F. 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.