

## ORDINANCE 2017 - 22

### AN ORDINANCE OF THE FRUITA CITY COUNCIL AMENDING CHAPTER 3, DEFINITIONS, CHAPTER 8, DENSITY BONUSES, AND CHAPTER 9, TRANSFER DEVELOPMENT RIGHTS, OF TITLE 17, FRUITA LAND USE CODE, OF THE FRUITA MUNICIPAL CODE TO ELIMINATE THE TRANSFER DEVELOPMENT RIGHTS PROGRAM

**WHEREAS**, the Fruita City Council entered into the Transfer Development Rights Program through the Transfer Development Rights Agreement adopted August 2, 2005 by the City Council through Resolution #2009-02 on March 3, 2009, and

**WHEREAS**, Title 17 of the Fruita Municipal Code was amended in 2009 to incorporate the Transfer Development Rights Program requirements into the city's development rules, and

**WHEREAS**, Mesa County amended their Land Development Code in 2015 which fundamentally changed the function of the program so that it no longer accomplishes its intended purpose, and

**WHEREAS**, the Fruita City Council sent a letter to Mesa County outlining Fruita's concerns with the changes to the Transfer Development Rights Program and providing the required one-year prior notice that Fruita would be removing itself from the Transfer Development Rights Program, and

**WHEREAS**, the Fruita Planning Commission held a public meeting on October 10, 2017, and recommended approval to the City Council regarding proposed amendments to Fruita's Land Use Code to remove the Transfer Development Rights Program requirements and allowances, and

**WHEREAS**, a public hearing was held before the City Council on January 3, 2017, regarding the proposed amendments to the city's Land Use Code.

**NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:**

(Additions are shown in *italics* and deletions are shown in ~~strikethrough~~.)

**Section 1.** Chapter 3 of Title 17 of the Fruita Municipal Code is hereby amended as follows to delete the language as shown, with all other language in this Chapter remaining unchanged:

**COOPERATIVE PLANNING AREA.** An area defined in an intergovernmental agreement between Mesa County, the City of Fruita, and the City of Grand Junction and generally located between 20 Road and 21 Road from the Bureau of Land Management Lands on the north to State Highway 6 & 50 on the south and extending south to the Colorado National Monument in areas between 18 ½ Road and 21 Road. ~~The Cooperative Planning Area is also shown on the TDR/C Sending Area Map contained within the Transferable Development Rights/Credits Program Manual;~~ also known as the Community Separator and Buffer Zone.

~~**DEVELOPMENT RIGHT/CREDIT.** The ability to build one (1) dwelling unit in a Sending Area, as such ability is created and administered pursuant to an intergovernmental agreement and/or the regulations of the appropriate jurisdiction and Chapter 17.09 of this Title, concerning Transferable Development Rights/Credits. For purposes of its use in this Code, the term Development Right is also known as a Development Credit.~~

~~**RECEIVING AREA.** City zones that allow a density bonus through the Transfer Development Right/Credit Program: Rural Estate (RE); Rural Residential (RR); South Fruita Residential (SFR); and; Community Mixed Use (CMU).~~

~~**RECEIVING SITE.** A property located within the receiving area and participating in the Transferrable Development Rights/Credits (TCR/C) program.~~

~~**SENDING AREA.** An area designated for limited development or to remain undeveloped, such as prime agricultural land, the Cooperative Planning Area (Buffer Zone) and/or an area with significant natural features as shown on the map in the Sending Areas section of the Transfer Development Rights/Credits Manual.~~

~~**SENDING SITE.** An eligible property located within a sending area and participating in the Transferrable Development Rights/Credits (TDR/C) program.~~

~~**TRANSFERABLE DEVELOPMENT RIGHTS/CREDITS (TDR/C).** A development rights/credits which has been severed or extinguished from a sending site by deed restriction, conservation easement, or other legal instrument authorized by law and the recording of that instrument, and which is transferable to a receiving site within a specified receiving area, as further described in Chapter 17.09.~~

~~**TRANSFER DEVELOPMENT RIGHTS/CREDITS CERTIFICATE.** A negotiable certificate issued by Mesa County evidencing the legal right of the holder thereof to use such certificate to obtain bonus density on a receiving site subject to, and in accordance, with this Land Use Code.~~

~~**TRANSFER RATIO.** The value of one (1) TDR/C relative to its use on a receiving site.~~

**Section 2:** Section 17.08.020 of Chapter 8 of Title 17 of the Fruita Municipal Code is hereby amended as follows:

**17.08.020 APPLICABILITY.** The provisions of Chapter 17.08 apply only when an applicant has requested a density bonus and only where the zone in which a project is located specifically authorizes residential densities exceeding the base density of the zone. ~~Density bonuses granted under Chapter 17.08 may be combined with density transfers granted under Chapter 17.09, subject to the limitations of Chapter 17.09 (maximum transfer of one (1) dwelling unit per gross acre).~~

**Section 3:** Section 17.08.030.C of Chapter 8 of Title 17 of the Fruita Municipal Code is hereby amended as follows:

- C. Projects utilizing the provisions of this Chapter are not necessarily required to be processed as a Planned Unit Development; ~~nor are they required to obtain development rights under Chapter 17.09 Transfer of Development Rights/Credits, except as provided in Section 17.08.040.~~

**Section 4:** Section 17.08.050.E. of Chapter 8 of Title 17 of the Fruita Municipal Code is hereby amended as follows:

**E. Location and Linkages (2 points possible)**

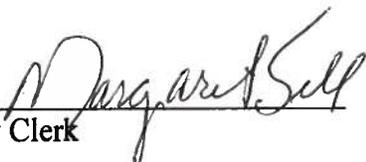
A total of two (2) points are possible selecting from the following options:

1. Floodplain avoidance. One (1) point possible for not developing in the one hundred (100) year floodplain.
2. ~~Agricultural land conservation. One (1) point possible where project involves purchase of development rights/credits under Chapter 17.09; the density bonus point is in addition to any development credit/right transferred to the subject site under Chapter 17.09.~~
23. School proximity. One (1) point possible for project that places at least fifty (50) percent of its dwellings within one-quarter (1/4) mile of an existing or planned public school; measured as shortest distance following existing and planned public streets and trails.
34. Habitat or wetlands conservation/restoration. One (1) point is possible for a project that conserves and/or restores a wetland or other habitat for native plant or animal species, as recommended by the Colorado Division of Wildlife.

**Section 5:** Chapter 9 of Title 17 of the Fruita Municipal Code is hereby deleted entirely.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS  
5<sup>TH</sup> DAY OF DECEMBER, 2017.**

ATTEST:

  
\_\_\_\_\_  
City Clerk

City of Fruita

  
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Lori Buck, Mayor