

Ordinance 2012-07

**AN ORDINANCE AMENDING CHAPTERS 3 - DEFINITIONS AND BASIC INTERPRETATIONS, CHAPTER 13 - ZONING REVIEW AND AMENDMENT PROCEDURES, CHAPTER 15 - SUBDIVISIONS, AND CHAPTER 47 - VESTED PROPERTY RIGHTS TO STREAMLINE THE LAND DEVELOPMENT PROCESS BY REDEFINING CLASSIFICATIONS OF MINOR SUBDIVISIONS, REDEFINING REQUIREMENTS FOR PLANNING CLEARANCE AND SITE DESIGN REVIEW, AND REQUIRING VESTED PROPERTY RIGHTS TO BE REQUESTED INSTEAD OF AUTOMATICALLY APPROVED, AS WELL AS GENERAL CLARIFICATIONS OF THE LAND USE CODE REGULATIONS
(APPLICATION #2012-1)**

WHEREAS, staff has been reviewing the Land Use Code to identify unnecessary regulations in order to streamline the land development process, and

WHEREAS, there is a need to clarify certain other aspects of the Land Use Code, and

WHEREAS, the Fruita Planning Commission held a public hearing on February 10, 2012, and recommended approval to the Fruita City Council with the condition that the grammar issues in Section 17.15.040.A be resolved before the City Council meetings, and

WHEREAS, a public hearing was held before the City Council on February 21, 2012, and March 20, 2012, regarding these proposed amendments to the Land Use Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO THAT:

Section 1: Chapter 3 of the Land Use Code is amended to read as follows: See attached

Section 2: Chapter 13 of the Land Use Code is amended to read as follows: See attached

Section 3: Chapter 15 of the Land Use Code is amended to read as follows: See attached

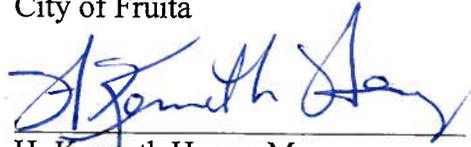
Section 4: Chapter 47 of the Land Use Code is amended to read as follows: See attached

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS
20th DAY OF March, 2012.**

ATTEST:


City Clerk

City of Fruita


H. Kenneth Henry, Mayor

Chapter 17.03
BASIC DEFINITIONS ~~AND INTERPRETATION~~

Words contained in this Chapter are those having a special meaning relative to the purposes of this Title. Words not listed in this Chapter shall be defined by reference to a published standardized dictionary. Words used in the singular include the plural and words used in the plural include the singular.

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PERSON. The word "person" shall also include association, firm, partnership, or corporation.

PETITIONER. See Applicant.

PHARMACY. ~~A building, or part of a building, used for the dispensing of medicines or medical supplies only.~~

PHASE. A portion of an approved ~~site-specific~~ development plan for which an approved plat or approved site plan often exists.

PLANNED UNIT DEVELOPMENT (PUD). A zone which allows for modification of the normal use, density, size or other zoning restrictions for the development of residential, business, commercial, industrial or other areas as part of a unified planned development for the entire property for purposes identified in Section 17.17.010 of this Title.

PLANNED UNIT DEVELOPMENT (PUD) GUIDE. Documents submitted that describe, with written and graphic materials, the provisions for a Planned Unit Development zone. The PUD Guide serves as the primary reference for the zoning standards of a PUD and describes the purposes of the PUD, its land uses, development standards, and construction phasing and other pertinent information.

PLANNING CLEARANCE. A permit issued by the City of Fruita that allows development to proceed, a use to be made or maintained or improvements, including structures, to be built or placed in accordance with this Title and with the requirements of the Mesa County Building Department.

PLANNING COMMISSION. The City of Fruita Planning Commission.

PLANT INVESTMENT FEE (TAP FEE). A charge applied for connecting to the city wastewater collection and treatment system. The fee is dedicated for the improvement and expansion of the city's wastewater treatment plant and lines.

PLAT. A map of surveyed and legally described land, which may have appropriate dedications and/or restrictions, which is an instrument for recording of real estate interests with the Mesa County Clerk and Recorder's office.

...

Proposed changes are shown as **red letters** for additions and **red-strikeout** for deletions. Red letters in **[brackets]** are commentary to help explain why a certain change is proposed and are not intended to be part of the code language.

Chapter 17.13
ZONING REVIEW AND AMENDMENT PROCEDURES

Sections:

| | |
|-----------|--|
| 17.13.010 | General Requirements |
| 17.13.020 | Planning Clearances |
| 17.13.030 | Site Design Review |
| 17.13.040 | Conditional Uses |
| 17.13.050 | Variances |
| 17.13.060 | Amendment to Official Zoning Map (Rezone) |
| 17.13.070 | Amendment to the Land Use Code |
| 17.13.080 | Vacation of Public Right-of-Way |
| 17.13.090 | Vacation of Public Easement |

- A. 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.**
- B. 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.
- C. 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. Planning Clearances and the issuance of Certificates of Occupancy shall be contingent upon completing the project in accordance with the city’s approval and conditions thereof.
- D. Appeals. Any person aggrieved by a decision of the Community Development Department Director, under the provisions of this Title may appeal such decision as per Section

17.05.060 of this Title.

17.13.020 PLANNING CLEARANCES.

- A. **Applicability.** 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: changes in land use or development, including but not limited to new or replacement structures; significant exterior remodels of existing structures; changes to vehicle access or circulation; landscaping (except single-family residential land uses); parking, or lighting of the same; changes in building use; changes in occupancy type, as defined in applicable building codes; temporary uses; fences; sheds and any other accessory building or structure covering more than eighty (80) square feet of land area; canopies exceeding eight (8) feet in height and other accessory structures covering over eighty (80) square feet of land area, whether permanent or temporary; fireplaces and wood burning stoves (including replacement of the same); grading, excavation, or fill of more than fifty (50) cubic yards of material; and 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.
- 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.

17.13.030 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.

~~all developments and exterior remodels that result in an increase in floor area, height, lot coverage, or parking. However, Site Design Review is not required for subdivisions, single family or duplex residential dwellings.~~

B. Procedure. Two types of Site Design Review are authorized, ~~Minor Administrative Site Design Review~~ and ~~Major 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 ~~A~~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 17.05.070.

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.

17.13.040 CONDITIONAL USES.

- A. Applicability. A Conditional Use Permit is required for any use identified as a conditional use on the Land Use/Zoning Table in Section 17.07.060.F of this Title.
- B. Procedure. Conditional Use Permit applications shall be processed and reviewed through the public hearing process in accordance with Section 17.05.070.
- 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 Master 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 17.07.080;

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 years of approval or the Conditional Use Permit approval will expire. Conditional uses that have ceased for more than one year cannot be re-established without re-approval of the Conditional Use Permit.

17.13.050 VARIANCES.

- A. Applicability. A variance is an exception from the numerical requirements of this Title excluding the numerical standards contained in Chapter 11 and Chapter 41. Use variances are not permitted.
- B. Procedure. Variances are reviewed and acted upon at a public hearing before the Board of Adjustment **with the exception of variances for signs which are reviewed and acted upon at a public hearing before the City Council as per Chapter 41.**
- C. Approval Criteria. The Board of Adjustment may approve a variance request upon finding that the variance application meets or can meet the following approval criteria:
1. ~~That~~ the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of this Title and the Master Plan, including the specific regulation in question;
 2. By reason of exceptional narrowness, shallowness, depth, or shape of a legal lot of record at the time of enactment of this Title, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such property, the strict application of the subject regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property;
 3. A variance from such strict application is reasonable and necessary so as to relieve such difficulties or hardships, and the variance will not injure the land value or use of, or prevent the access of light and air to, the adjacent properties or to the area in general or will not be detrimental to the health, safety and welfare of the public;
 4. ~~That~~ the circumstances found to constitute a hardship are not due to the result or general conditions throughout the zone, was not induced by any action of the applicant, and cannot be practically corrected, and;

5. ~~That~~ the variance granted is the minimum necessary to alleviate the exceptional difficulty or hardship.
- D. Final Decision. Any decision of the Board of Adjustment shall be final, from which an appeal may be taken to a court of competent jurisdiction, as provided in accordance with Section 31-23-307, C.R.S.
- E. Reconsideration of Denial of Variance. Whenever the Board of Adjustment denies an application for a variance, such action may not be reconsidered by the Board 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.

17.13.060 AMENDMENT TO OFFICIAL ZONING MAP (REZONE).

- 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 rezone 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. ~~That~~ the proposed **rezone amendment** is compatible with surrounding land uses, pursuant to Section 17.07.080, and is consistent with the city's goals, policies and Master Plan; and
 2. ~~That~~ the land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Master Plan; or
 3. ~~That~~ the area for which the **rezone amendment** is requested has changed substantially such that the proposed zoning better meets the needs of the community; or
 4. ~~That~~ the **rezone amendment** is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions ~~and is consistent with the city's goals, policies and Master Plan;~~ or
 5. ~~That~~ the **rezone zoning amendment** is incidental to the annexation of the subject property ~~and the proposed zoning is consistent with the city's goals, policies, and Master Plan.~~
- C. Protests. In case of a protest against an amendment to the Official Zoning Map which is submitted to the City Clerk at least twenty-four (24) hours prior to the City Council's vote on

a proposed amendment to the Official Zoning Map, and which is signed by the owners of fifty (50) percent or more of either the area included in the proposed rezoning or of the land extending a radius of two hundred and fifty (250) feet from the land included in the proposed rezoning, then such rezoning shall not become effective except upon a favorable vote of three fourths (3/4) of the entire membership of the City Council, whether present or not.

- D. Additional Requirements. In addition to the procedures for public hearings under Section 17.05.070, 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.

17.13.070 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 Planning Commission, or by the City Council.
- B. Approval Criteria. Amendment to ~~the language in~~ this Title may be made upon a finding that the amendment is consistent with the city's goals, policies and Master Plan.

17.13.080 VACATION OF PUBLIC RIGHT-OF-WAY.

- A. The City Council may approve the vacation of a public right-of-way, after recommendation by the Planning Commission, 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 Master Plan any transportation plan adopted by the city.~~
- B. A right-of-way vacation may be approved through the Major 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.

17.13.090 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.

Proposed changes are shown as **red letters** for additions and **red-strikeout** for deletions. Red letters in **[brackets]** are commentary to help explain why a certain change is proposed and are not intended to be part of the code language.

Chapter 17.15 SUBDIVISIONS

Sections:

- 17.15.010 Authority; Jurisdiction; Enforcement
- 17.15.020 Scope
- 17.15.030 Purposes
- 17.15.040 Classification of Subdivisions and General Procedures
- 17.15.050 Pre-Application ~~and Pre-Submittal~~ Conferences
- 17.15.060 Sketch Plan Submittal, Processing and Review
- 17.15.070 Preliminary Plan Submittal, Processing and Review
- 17.15.080 Final Plat Submittal, Processing and Review
- 17.15.090 Phased Subdivisions and Subdivision Filings
- 17.15.100 Approval to Begin Site Development
- 17.15.110 Withdrawal of Approval
- 17.15.120 Corrections to Recorded Plats
- 17.15.130 Time Extensions for Minor Subdivisions, Preliminary Plans ~~or~~ and Final Plats
- 17.15.140 Public and Other Subdivision Improvements- General Requirements
- 17.15.150 Related Costs - Public and Other Required Subdivision Improvements
- 17.15.160 Public Improvements to be the Property of the City
- 17.15.170 Guarantee of Improvements
- 17.15.180 Subdivision Improvements Required prior to Issuance of Planning Clearances
- 17.15.190 Recapture Agreements

17.15.010 AUTHORITY; JURISDICTION; ENFORCEMENT

- A. 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.
- B. Any subdivider or agent of a subdivider who transfers or sells subdivided land before a final plat for such land has been approved by the City Council and recorded in the office of the Mesa County Clerk and Recorder shall be subject to penalties and remedies as provided by 31-23-216, C.R.S., as amended and by Section 17.01.100.

17.15.020 SCOPE. No plat of a subdivision creating a new parcel shall be approved unless it conforms to the provisions of this Title.

17.15.030 PURPOSES. The purposes of this Chapter are to:

- A. Assist orderly, efficient and integrated development of the city, consistent with the Fruita Community Plan;
- B. Promote the health, safety, and general welfare of the residents of the city;
- C. Ensure conformance of land subdivision plans with the public improvement plans of the city;
- D. Ensure coordination of intergovernmental public improvement plans and programs;
- E. Encourage well planned subdivisions by establishing adequate standards for design and improvement;
- F. Improve land survey monuments and records by establishing standards for surveys and plats;
- G. Safeguard the interests of the public, homeowners and subdividers from fire, flood and other dangers;
- H. Facilitate adequate provision of transportation, water, irrigation, wastewater collection, schools, parks and recreation, and other public services and utilities;
- I. Secure equitable handling of all subdivision plans by providing uniform procedures and standards;
- J. Preserve natural vegetation and cover and promote the natural beauty of the city;
- K. Prevent and control erosion, sedimentation and other pollution of surface and subsurface water;
- L. Prevent flood damage to persons and properties and minimize expenditure for flood relief and flood control projects;
- M. Restrict building on flood lands, shore lands, areas covered by poor soils, such as bentonite, or in areas poorly suited for building or construction;
- N. Provide adequate space for future development of schools and parks to serve the population;
- O. Lessen the congestion in streets while reducing the waste of excessive amounts of streets;

- P. Protection of the city's tax base;
- Q. Provide adequate light and air;
- R. Protect both existing urban and non-urban development and preserve the value of property;
- S. Secure economy in governmental expenditures; and
- T. Prevent the overcrowding of land and avoid the undue concentration of population.

17.15.040 CLASSIFICATION OF SUBDIVISIONS AND GENERAL PROCEDURES.

A. Minor Subdivisions. ~~Minor Subdivisions are required to be completed in one phase and no density bonus is permitted through the Minor Subdivision review process.~~

1. The following subdivisions are classified as Minor subdivisions:

- a. Subdivisions creating five (5) or fewer additional building lots ~~all of which are adjacent to a dedicated and accepted public street~~ for which all required public improvements are already in existence and available to serve each lot ~~and the subdivision will be completed in one phase and no density bonus is requested.~~
- b. Conveyances of real property to the city for public dedication purposes, ~~unless submitted as a part of another subdivision.~~
- c. Consolidation plats combining no more than three (3) lots.
- d. Correction plats. (Section 17.15.120)
- e. Lot ~~line~~ or ~~boundary~~ ~~line~~ ~~adjustments~~ which do not create additional lots. ~~provided that the following conditions are met:~~
 - 1) ~~No lot or parcel shall be created, nor shall any line be adjusted, resulting in less than the minimum land area required by this Title or other applicable regulations;~~
 - 2) ~~Easements affecting more than the subject properties are not changed;~~
 - 3) ~~Street and right of way locations are not changed; and~~
 - 4) ~~The previously recorded plat shall not be altered in any way, which will adversely affect the previously recorded plat or compatibility with adjacent properties, pursuant to Section 17.07.080.~~

[I took the above sections out because: it seems obvious that you can't change lot/parcel lines and

violate the code with lot sizes or any other violations of the laws; changing easements should not trigger a major subdivision process; street and right-of-way location changes most likely means that the existing public street is not a dedicated and accepted public street, and; regarding item #4 above, this seems redundant and somewhat subjective. We still require compatibility to be considered as per many other sections of the Code. Not sure how "adversely affect" would be defined if the subdivision meets all the provisions of the Land Use Code and Master Plan.]

- f. Subdivisions dividing existing multi-family buildings into no more than six (6) townhouse or condominium lots.

2. Minor Subdivisions shall be processed as follows:

- a. A pre-application meeting with the Community Development Department is required pursuant to Section 17.15.050, below;
- b. The application must be submitted in the form and quantities required by the Community Development Director. The application shall be reviewed for compliance with the requirements of this Title including, but not limited to, the standards of the applicable zone and the compatibility criteria of Section 17.07.080;
- c. The Community Development Department shall review the application with appropriate staff and other agencies, as applicable; and
- d. After comments from city **staff** and other reviewers are considered, the Community Development Director shall make a decision to approve, deny, or approve the application with conditions based on the applicable requirements of this Title.
- e. Any person aggrieved by a decision of the Community Development Director, or his or her designee, under the procedures set forth above, may appeal such decision to the City Council pursuant to Section 17.05.060;
- f. Upon expiration of the appeal period in Section 17.05.060 the Minor Subdivision approval shall become final and the owner shall have one hundred eighty (180) days from the date of the approval to comply with any required conditions of approval and record the **Final Plat**. Time extensions may be granted pursuant to section 17.15.130.

B. Major Subdivisions.

1. The following subdivisions are classified as Major **s**Subdivisions:
 - a. Subdivisions creating six (6) or more additional building lots, and
 - b. Subdivisions not otherwise conforming to the criteria for Minor Subdivisions under

subsection 17.15.040(A), above.

2. Major Subdivisions shall be processed as follows:
 - a. Pre-application conferences are required pursuant to Section 17.15.050, below.
 - b. Sketch Plan. An application for Sketch Plan is optional and approval shall be reviewed for compliance with this Title, other requirements of the city, and requirements of other agencies, as applicable. Applications for Sketch Plan approval shall be reviewed through the public hearing process in accordance with Section 17.05.070.
 - c. Preliminary Plan. An application for Preliminary Plan approval shall be reviewed for conformity to the requirements of this Title, and other applicable regulations. Applications for Preliminary Plan approval shall be reviewed through the public hearing process in accordance with Section 17.05.070.
 - d. Final Plat. An application for Final Plat approval shall be reviewed for conformity to the approved Preliminary Plan, including any conditions of approval, the requirements of this Title, and any other applicable regulations. Final Plat applications can be approved administratively with the related subdivision improvements agreement requiring approval by the City Council at a public hearing.
 - e. Sketch Plan, Preliminary Plan and Final Plat applications must be submitted in the form and quantities required by the Community Development Director.

17.15.050 PRE-APPLICATION ~~AND PRE-SUBMITTAL~~ CONFERENCES.

Prior to any submittal of an application under Chapter 17.15, a pre-application conference shall be held with the Community Development Department staff. 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 between applicants and the city early in the land development review process. Prospective applicants are encouraged to contact adjacent property owners for the purpose of soliciting their input prior to formally submitting an application.

17.15.060 SKETCH PLAN SUBMITTAL, PROCESSING AND REVIEW. If an applicant chooses to submit a Sketch Plan application for approval, the following submittal, processing and review procedures apply:

- A. Applications for Sketch Plan approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.

- B. The Community Development Department shall provide all review comments to the Planning Commission along with written recommendations regarding the Sketch Plan application.
- C. At a public hearing in accordance with Section 17.05.070, the Planning Commission shall evaluate the Sketch Plan application according to the following criteria:
 1. Conformance to the City of Fruita's Master 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 17.07.080;
 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.
- D. The Planning Commission shall provide a recommendation to the City Council regarding the Sketch Plan application.
- E. Following the Planning Commission public hearing, the City Council shall evaluate the Sketch Plan application according to the same criteria and make a final decision for approval, approval with conditions or denial of the Sketch Plan application.
- F. The Sketch Plan application may be continued or withdrawn by the applicant at any time in writing to the Community Development Department. The applicant may be responsible for paying for the cost of an additional public notice if public notice for the public hearing has already been sent out.
- G. Preliminary Plan applications must be submitted within 180 days of City Council approval of the Sketch Plan unless a time extension has been granted pursuant to Section 17.15.130. If more than 180 days have elapsed from the date of the City Council's approval of the Sketch Plan application, and if no extension is granted, the Sketch Plan approval shall expire.

17.15.070 PRELIMINARY PLAN SUBMITTAL, PROCESSING AND REVIEW.

- A. Applications for Preliminary Plan approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.

- B. The Community Development Department shall provide review comments to the Planning Commission along with written recommendations regarding the Preliminary Plan application.
- C. At a public hearing in accordance with Section 17.05.070, the Planning Commission shall evaluate the Preliminary Plan application according to the Sketch Plan criteria in Section 17.15.060(C) and also the following criteria:
 - 1. Adequate resolution of all review comments; and
 - 2. Compliance with conditions of approval on the Sketch Plan, if any.
- D. The Planning Commission shall provide a recommendation to the City Council regarding the Preliminary Plan application.
- E. Following the Planning Commission public hearing, the City Council shall evaluate the Preliminary Plan application according to the same criteria and make a final decision for approval, approval with conditions or denial of the Preliminary Plan application.
- F. The Preliminary Plan application may be continued or withdrawn by the applicant at any time in writing to the Community Development Department. The applicant may be responsible for paying for the cost of an additional public notice if public notice for the public hearing has already been sent out.
- G. Final Plat applications must be submitted within 180 days of City Council approval of the Preliminary Plan unless a time extension has been granted pursuant to Section 17.15.130. If more than 180 days have elapsed from the date of the City Council's approval of the Preliminary Plan application, and if no extension is granted, the Preliminary Plan approval shall expire. ~~The Community Development Director shall determine if the project must be resubmitted at the Sketch Plan stage or the Preliminary Plan stage of the land development review process.~~ [Sketch Plans and Concept Plans are optional, so it is up to the applicant to decide what they will resubmit.]

17.15.080 FINAL PLAT SUBMITTAL, PROCESSING AND REVIEW.

- A. Applications for Final Plat approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.
- B. 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.

- C. The Final Plat application may be withdrawn by the applicant at any time in writing to the Community Development Department.
- D. Final Plats may be administratively approved by staff, however, if a subdivision improvements agreement (SIA) is required for the subdivision, the SIA must be approved by the City Council at a public hearing.
- E. Final Plats for Major Subdivisions must be recorded within two years of Preliminary Plan approval by the City Council unless a time extension has been granted pursuant to Section 17.15.130. 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.
- F. The Final Plat and related documents must be recorded within ninety (90) days of the City Council's approval of the SIA unless a time extension has been granted pursuant to Section 17.15.130. If more than ninety (90) days have elapsed from the date of the City Council's approval of the SIA, and if no extension is granted, the approval of the Final Plat, SIA and related documents shall expire. ~~The Community Development Director shall determine if the project must be resubmitted at the Sketch Plan stage or the Preliminary Plan stage of the development review process.~~
- G. In accordance with Chapter 17.47 of this Title, in the event development within the subdivision has not commenced within three (3) years of the recording date of the Final Plat, unless such period is otherwise extended by the City Council, the City Council may, following a public hearing, vacate its approval of the subdivision which shall then be deemed null and void. For purposes of this subsection, start of development shall mean either the commencement of construction of the public and other required improvements within the subdivision, or the sale of an individual lot or unit within the development, or issuance of the first building permit for construction within the subdivision, whichever event first occurs.
- H. Additional requirements for Final Plat approval.
 - 1. As part of the Final Plat submittal requirements, once staff has approved the Final Plat application, a peer reviewer 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:

- a. Title or legal ownership of the land platted nor the title of legal ownership of adjoining;
 - b. Errors and/or omissions, including but not limited to, the omission(s) of rights-of-way and/or easements, whether or not of record;
 - c. Liens and encumbrances, whether or not of record; and
 - d. 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 subdivision improvements agreement; delivery of the performance guarantee required by Section 17.15.160; 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.

17.15.090 PHASED SUBDIVISIONS AND SUBDIVISION FILINGS. ~~Phased subdivisions are differentiated from subdivisions constructed in filings primarily by the scope and timing of Final Plat submittals and the scope and timing of approvals for construction. In a phased subdivision, the entire subdivision is platted after approval of the Final Plat. For a subdivision done in filings, only a portion of the subdivision is recorded after approval of that portion of the Final Plat. Subsequent Final Plat submittals are required to be approved for subsequent filings. Individual construction phases or filings and associated construction drawings and submittals are reviewed and approved administratively, with the subdivision improvements agreement specific to a phase or filing of the development approved by the City Council at a public hearing. [I took out the above stuff because it seems redundant and conflicting with the definitions. This isn't changing what we are doing, it is just for clarification purposes.] A schedule of phasings or filings is required to be submitted with the Preliminary Plan and Final Plat applications. No such schedule may exceed five years without re-approval by the City Council after the five-year period. Lots in future phases cannot be sold until all required public and other subdivision improvements have been completed and accepted by the City or a subdivision improvements 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.~~

17.15.100 APPROVAL TO BEGIN SITE DEVELOPMENT

- A. No excavation, trenching, or other site development work shall begin until the following minimum requirements have been met:
1. The subdivision improvements agreement has been recorded along with the required performance guarantee;
 2. Approved for construction drawings have been signed by the City Engineer;
 3. All fees, including review fees, permit fees and impact fees have been paid;
 4. A pre-construction meeting has been held with the City Engineer and/or Public Works Director, and a signed copy of the inspection/approval form for the development has been received by the subdivider;
 5. Copies of permits issued by other governmental entities. Specifically, but not by way of limitation, a Construction Site Storm Water Discharge Permit issued by the Colorado Department of Public Health and Environment. Also 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. Such work tasks shall be limited to the following:
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.

17.15.110 WITHDRAWAL OF APPROVAL. The city decision-making body may withdraw its approval of a plan or plat if and when it is determined that information provided by the subdivider, upon which such decision was based, was false or inaccurate.

17.15.120 CORRECTIONS TO RECORDED PLATS. If it is discovered that there is a minor survey or drafting error in a recorded **Final Plat**, the applicant shall be required to file the **Final 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 shall be subject to the full approval procedures for **Final Plats subdivisions** contained in this Chapter and the recording of the corrected plat.

**17.15.130 TIME EXTENSIONS FOR MINOR SUBDIVISIONS, PRELIMINARY PLANS
OR GRAND FINAL PLATS.**

- A. The City Council 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. **A public hearing before the City Council is required on any request for a time extension for Preliminary Plan, Final Plat, and Final Plan applications, and recording the final plat for Final Plat applications. For Minor Subdivisions, time extensions may be granted without a public hearing by the Community Development Director for Minor Subdivisions. A public hearing before the City Council is required on any request for a time extension for a Major Subdivision. 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 **eaffect** the proposed subdivision,
 2. There have been no changes to the city's rules, regulations and policies including changes to the city's Master 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.
- B. In the event an approved **Final Plat** is not recorded by the deadlines **required by this Chapter set out herein,** and no extension has been granted, the approval shall **be revoked pursuant to Section 17.01.100 of this Title automatically expire.** In accordance with Chapter 47 of this Title, in the event development within the subdivision has not commenced within three (3)

years of the recording date of the ~~final~~ plat, the City Council may, following a public hearing, vacate its approval of the subdivision ~~within~~ which shall then be deemed null and void. For purposed of this section, "commence development" shall mean either the commencement of construction of the public and other required improvements within the subdivision, or the sale of an individual lot or unit within the development, or issuance of the first building permit for construction with the subdivision, whichever first occurs.

17.15.140 PUBLIC AND OTHER SUBDIVISION IMPROVEMENTS - GENERAL REQUIREMENTS.

The following public and other necessary subdivision improvements shall be constructed at the sole expense of the subdivider as set forth in the subdivision or development approval which are 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 grading and surfacing and all related improvements of all internal streets within the subdivision.
- B. 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, September, 2002.) Consistent with Chapter 17.19, the city may require a site specific traffic impact study performed by a registered professional engineer, at the sole cost of the subdivider, when the proposed subdivision is expected to generate at least five hundred (500) daily trip ends or fifty (50) peak hour trip ends in order to determine the traffic impacts generated by the proposed subdivision and the related street improvements needed to accommodate such additional traffic.

In the event 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. The City Council may, as a condition of approval of the subdivision: (1) require the subdivider to construct all such improvements including the full width of any expanded roadway surface; (2) require 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; (3) may require the subdivider to participate in a street improvement district which shall be responsible for constructing such improvements; (4) require payment of a transportation impact fee consistent with Section 17.19.130 of this Title; or (5) any combination of the above.

Provided, however, in the event the City Council 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 be responsible for the costs of the improvements necessary to adequately service the subject property without the proposed subdivision. The subdivider shall be responsible for all remaining costs necessitated by development of the subdivision. In the event the City Council 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 City Council, the city shall enter into recapture agreements pursuant to Section 17.15.1~~890~~ 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. Such contribution or recapture amount shall be calculated by the city and shall be roughly proportional to the traffic impacts generated by such other developments or subdivisions.

- C. Curbs, gutters and sidewalks, bicycle and pedestrian paths and trails.
- D. Wastewater laterals, and mains.
- E. Storm drainage system, as required.
- F. ~~Potable w~~Water distribution system.
- G. Fire hydrants.
- H. Required street signs and other traffic control devices.
- I. Permanent reference monuments and monument boxes.
- J. Street lights.
- K. 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 ~~fully functional, non-potable~~ irrigation system ~~capable of servicing the subdivision~~ and shall convey required irrigation water rights, the irrigation system, all real property and associated easements necessary for operation and maintenance of the irrigation system to the ~~home~~property owners association before conveying any lots in the subdivision. [This language in red came straight out of our SIAs.]
- L. Natural gas lines and related facilities necessary to service the subdivision.
- M. Cable television lines and related facilities necessary to service the subdivision.

- N. Telephone and other telecommunication lines and related facilities necessary to service the subdivision.
- O. Electrical distribution lines and related facilities. All newly constructed electrical distribution lines shall be placed underground to serve new residential subdivision areas. Exceptions to the undergrounding requirements for Minor Subdivisions may be allowed pursuant to the following conditions:
 - 1. Upon the request of the developer of a Minor Subdivision, the Community Development Director may permit said lines be constructed overhead provided that the Minor Subdivision is in compliance with all other provisions of this Title and the following conditions are met:
 - a. The electrical distribution lines proposed to be placed overhead shall not exceed a maximum distance of one (1) block or seven hundred fifty (750) feet, whichever is less;
 - b. It will not result in any endangerment of the public health or safety;
 - c. It will not substantially injure the value of adjoining or abutting property;
 - d. It will be in harmony with the area in which it is located; and
 - e. It will be in general conformity with applicable city policies and regulations.
- P. Erosion control and storm water management facilities, both temporary and permanent, including obtaining state required permits.
- Q. Relocation and/or replacement of existing facilities of the types listed above, as required for the installation of other specified improvements.
- R. Public or private park, trail, public site, open space and recreation facilities.
- S. Other facilities as may be specified in this Title or required by the City Council.

17.15.150 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.

17.15.160 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. Acceptance of said conveyance shall be made by the city only by a majority vote of the City Council. Approval of a subdivision shall not constitute acceptance by the city for maintenance of wastewater system facilities, parks, streets, alleyways or other public improvements required under a subdivision improvements agreement. The acceptance of such facilities for maintenance shall be by specific action of the City Council upon completion in accordance with the subdivision improvements agreement and/or adopted standards.

17.15.170 GUARANTEE OF IMPROVEMENTS. In order 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. **Subdivision Improvements Agreement.** Furnish the city with a performance guarantee satisfactory to the city, as set forth in a subdivision improvements agreement along with other required documents before recording the final plat. (See also, Chapter 17.21.)
- B. **Final Plat Hold.** Complete all required improvements according to the subdivision approval and approved for construction drawings the same as would be required for a recorded Final Plat with a subdivision improvements agreement, pursuant to Chapter 21 of this Title. A subdivision improvements 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 by staff, and accepted by the City Council 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 subdivision improvements agreements in Chapter 21 of this Title.

17.15.180 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 home 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 Certificate of Occupancy for the building can be issued if all other requirements have been met.

The city may approve an exception to this provision for a model house to be constructed, provided that the house shall not be occupied as a residence until Planning Clearances have been released for the subdivision and a Certificate of Occupancy has been issued.

Improvements required to be completed before release of a Planning Clearance may include but are not limited to the following:

- 1A.** Permanent survey monuments referenced to the North American Vertical Datum of 1988 (NAVD)88 per the Mesa County Survey Monument (MCSM) standards;
- 2B.** Wastewater lines and laterals to each lot;
- 3C.** Water mains and laterals to each lot;
- 4D.** Fire hydrants;
- 5E.** Storm drainage structures and conveyances, including associated erosion control measures as needed to prevent siltation of new or existing storm drainage facilities;
- 6F.** Grading and base construction of streets and alleys;
- 7G.** Soil stabilizing structures;
- 8H.** Dry utilities, including telecommunications, cable television, electrical service, and natural gas service shall be installed and operational;
- 9I.** Concrete curb, gutter, sidewalks, cross pans and handicap ramps;
- 10J.** Asphalt and/or concrete street paving as required;
- 11K.** Street signage, pavement markings and required traffic control devices;
- 12L.** Overlot grading of all areas to facilitate proper drainage, including grading completed on all lots to match finished grade elevations at all property corners;
- 13M.** Street lighting;
- 14N.** Trails and bikeways;
- 15O.** Permanent soil stabilization and revegetation measures;
- 16P.** Landscaping of common open spaces, parks and recreation areas whether dedicated to the City or to a homeowners association;
- 17Q.** Developer installed fencing as shown on the construction drawings pursuant to the applicable subdivision improvements agreement;
- 18R.** Non-potable irrigation system;

19S. All other required public or private improvements pursuant to the applicable subdivision improvements agreement and this Title;

20T. As built drawings accepted by the City Engineer; and

21U. Any other documentation required by the City.

17.15.190 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. It is the subdivider's sole responsibility to request a recapture agreement, and said request shall be made 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.

Proposed changes are shown as **red letters** for additions and ~~red-strikeout~~ for deletions. Red letters in **[brackets]** are commentary to help explain why a certain change is proposed and are not intended to be part of the code language.

Chapter 17.47 VESTED PROPERTY RIGHTS

Sections:

| | |
|-----------|--|
| 17.47.010 | Purpose |
| 17.47.020 | Definitions |
| 17.47.030 | Applications; Approval by the City |
| 17.47.040 | Alternative Creation of Vested Property Rights |
| 17.47.050 | Establishment of Vested Property Rights; Public Notice and Hearing Required |
| 17.47.060 | Approval of Site Specific Development Plan; Conditions |
| 17.47.070 | Duration and Termination of Vested Property Rights |
| 17.47.080 | Waiver of Vested Property Rights |
| 17.47.090 | Subsequent Regulation Prohibited; Exceptions |
| 17.47.100 | Payment of Costs |
| 17.47.110 | Other Provisions Unaffected |
| 17.47.120 | Limitations |

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. The following definitions are for the purposes of administration of this Chapter only and do not apply to other sections of this Code. 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 **if the landowner wishes said approval to have the effect of creating vested rights pursuant to Sections 24-68-101, et. seq., C.R.S.** The landowner must request vested rights approval in writing at the time a land development application is submitted. Failure to request vested rights renders the approval not a "site specific development plan" and no vested rights shall be deemed to have been created. The following shall be considered "site specific development plans" if a landowner wishes to have a "site specific development plan" approved:

| DEVELOPMENT REVIEW PROCEDURE | SITE SPECIFIC DEVELOPMENT PLAN |
|---|--|
| 1. Site Design R review for residential, commercial, industrial, and institutional developments pursuant to Section 17.13.020 | Site Design Review Plan as approved by City Council or the Community Development Director |
| 2. Conditional Use Permit review pursuant to Section 17.13.040 | Conditional Use Permit as approved by City Council |
| 3. Minor S ubdivisions pursuant to Chapter 17.15. | Subdivision F final P plat as approved by the City Council Community Development Department Director |
| 4. Major S ubdivisions pursuant to Chapter 17.15 | Subdivision F final P plat as approved by the City Council Community Development Department AND the applicable subdivision improvements agreement as approved by the City Council |
| 5. Planned Unit Development (PUD) review , not accompanied by subdivision of land pursuant to Chapter 17.17 | Final PUD Plan, and any applicable PUD Guide and AND the applicable development improvements agreement, as approved by City Council |
| 6. Planned Unit Development (PUD) review pursuant to Chapter 17.17, accompanied by subdivision of land pursuant to Chapter 17.15 | Subdivision F final P plat together with Final PUD Plan, PUD Guide and 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, PUD Concept Plans, Preliminary PUD Plans, business licenses, floodway 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~~**Community Development Director**, as applicable, is to be considered. Failure to do so renders the approval by the City Council or ~~Planning Commission~~**Community Development Director**, 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 eCity Council. 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.

17.47.60 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 parkland, trails, school land, common area or open spaces, 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.