

ORDINANCE NO. 2021-06

AN ORDINANCE AMENDING SECTION 17.07 OF THE FRUITA LAND USE CODE TO ALIGN ZONE DISTRICT USES AND DESCRIPTIONS WITH THE CITY OF FRUITA'S COMPREHENSIVE PLAN

WHEREAS, pursuant to C.R.S. §31-15-103 and §31-15-104, and pursuant to the home rule powers of the City of Fruita ("City"), the City Council has the power to make and publish ordinances necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of its inhabitants; and

WHEREAS, the City Council approved Resolution 2020-09 on February 4, 2020, thereby adopting the City of Fruita Comprehensive Plan Fruita In Motion: Plan Like a Local 2020 (the "Comprehensive Plan"); and

WHEREAS, the Comprehensive Plan summarized those actions intended to implement the goals and policies found throughout the Comprehensive Plan; and

WHEREAS, amendments to Chapter 17 (the "Land Use Code") of the Fruita Municipal Code (the "Municipal Code") are necessary to implement certain action items identified within the Comprehensive Plan; and

WHEREAS, the Land Use Code has been established for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community;

WHEREAS, City staff has proposed additional amendments to the Land Use Code for consideration; and

WHEREAS, the Planning Commission reviewed the amendments contained here in on February 9, 2021 and formalized their recommendation regarding those amendments with a vote of 6-0 of those members present recommending approval of the proposed amendments; and

WHEREAS, the ordinance was introduced at first reading on February 16, 2021 pursuant to Section 2.13(B) of the City Charter; and

WHEREAS, pursuant Section 2.13(C) of the City Charter and Section 17.01.130 of the Municipal Code, a notice of public hearing was published in the Grand Junction Sentinel on January 20, 2021 and a notice was posted a Fruita City Hall on January 18, 2021 for the City Council meeting on February 16, 2021 to consider City staff and Planning Commission recommendations and receive public comments; and

WHEREAS, the City Council finds that passage of Ordinance 2021-06 will promote the health, safety and general welfare of the Fruita community;

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the requirement of Section 2.13(B) of the City Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence and that approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, has determined to take final action on this Ordinance prior to concluding the public hearing on second reading.

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

Section 1. **Recitals Incorporated.** The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council.

Section 2. **Repealed and Re-enacted.** Section 17.07 of the Fruita Municipal Code is hereby repealed and re-enacted to read as shown in Exhibit A.

Section 3. **Severability.** If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 4. **Effective Date.** This Ordinance shall take effect thirty days after the date of final passage in accordance with Section 2.13(G) of the City Charter.

Section 5. **Safety Clause.** The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. **No Existing Violation Affected.** Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or

declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 7. Codification of Amendments. The codifier of the City’s Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Municipal Code. The City Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 8. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F)(1) of the Fruita Municipal Code.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
16TH DAY OF MARCH 2021.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

TITLE 17 LAND USE CODE

CHAPTER 17.07

ZONING DISTRICTS

- 17.07.010** **Generally**
- 17.07.011** **Zone Districts Established**
- 17.07.012** **Official Zone District Map**
- 17.07.013** **Application of Zone District Regulations**
- 17.07.014** **Residential Zone Districts**
- 17.07.015** **Commercial and Mixed-Use Zone Districts**
- 17.07.016** **Industrial Zone Districts**
- 17.07.017** **Government Zone Districts**
- 17.07.018** **Overlay Zone Districts**
- 17.07.019** **Planned Unit Developments**
- 17.07.020** **Future Land Use Districts**
- 17.07.021** **Land Uses**
- 17.07.022** **Supplemental Zoning Regulations and Standards**
- 17.07.023** **Land Use Compatibility Criteria**
- 17.07.024** **Legal Non-Conforming Uses, Structures, and Lots**

17.07.010 GENERALLY. In order to ensure that all development is consistent with the goals and objectives of the Fruita Comprehensive Plan and this Chapter, it is necessary and proper to establish a series of Zone Districts to ensure that each permitted and conditional use is compatible with surrounding land uses, is served by adequate public facilities and is consistent with the natural environment and natural resources surrounding the city.

- A. Unless expressly exempted, all regulations in this Chapter is subject to provisions of other applicable city, county, or state laws and regulations, and where the provisions of this Chapter impose a greater restriction than required by other land use regulations, the provisions of this Title shall govern.
- B. In their application and interpretation, the provisions of this Chapter shall be considered minimum requirements. Nothing herein shall impair the obligations of or interfere with private agreements or covenants in excess of the minimum requirements. Where this Title imposes a greater restriction than that imposed by existing contract, covenant or deed, the provisions of this Title shall control.
- C. District graphics depicting basic dimensional requirements shall be used for reference only. Dimensions shall be measured as defined in text of this Title, including exceptions, development standards, and definitions for terms of measurement (height, setbacks, lot, etc.).

17.07.011 ZONE DISTRICTS ESTABLISHED. The City of Fruita is hereby divided into several zones.

- A. **Base Zone Districts.** Base zone districts are established initially by the adoption of the City’s Official Zone District Map and subsequently approved through a rezoning (see Section 17.13). Such approval authorizes the full range of development allowed by the standards applicable to the base zone district.
 - a. Within certain base zone districts, there are illustrations to articulate the different dimensional allowances. Illustrations are intended only to show general characteristics of the dimensional requirements in a zone district, and do not show specific requirements related to locations or buildings. If a standard shown in an illustration is inconsistent with the respective table of dimensional standards, the standards in the table shall govern.

- B. Overlay Zone Districts.** Overlay zone districts are established initially by the adoption of the City's Official Zone District Map and subsequently approved through a rezoning (see Section 17.13). These zones are superimposed over one or more underlying Base Zone Districts or Planned Unit Development Zone Districts.
- C. Planned Unit Development Districts.** Planned Unit Development (PUD) districts are established by the City's approval of a PUD rezoning (see Section 17.17). Development in a PUD district is subject to the standards included in or referenced in an approved PUD Plan.
- D. Future Land Use Districts.** Future Land Use Districts are intended for lands not currently within City limits, but will be used to coordinate planning activities with the County and for annexations.

17.07.012 OFFICIAL ZONE DISTRICT MAP. The location and boundaries of the zones established by this Chapter are shown on the "Official Zone District Map" of the City of Fruita. Said Official Zoning Map, together with all data shown thereon and all amendments thereto, is, by reference, hereby incorporated into this Chapter. Changes in zones shall be made according to the requirements of this Title.

- A. Zone District Boundaries.** Except where otherwise indicated, zoning boundaries shall follow municipal corporation limits, section lines, lot lines, centerlines of watercourses, and right-of-way centerlines or extensions thereof.
1. In unsubdivided land or where a zoning boundary divides a lot or parcel, the location of such boundary, unless indicated by dimensions, shall be determined by scale of the Official Zoning Map.
 2. Where a zoning boundary coincides with a right-of-way line and said right-of-way is subsequently abandoned, the zoning boundary shall then follow the zoning of the property to which the vacated right-of-way is connected.
 3. Land not part of public rights-of-way and which is not indicated as being in any zoning boundary shall be considered to be included in the most restrictive abutting zone, even when such zone is separated from the land in question by a public right-of-way.
 4. When any parcel of land contains more than one Base Zone District, the more restrictive requirements shall apply.
- B. Boundary Clarifications.** When there is a discrepancy on the Map or the Map does not reflect recent changes, the Director shall determine the zone district boundary. Any appeal of the Director's determination of a zone district boundary shall be heard by the City Council per Section 17.05.

17.07.013 APPLICATION OF ZONE DISTRICT REGULATIONS. Except as hereinafter provided, within the municipal boundaries of the City of Fruita:

- A.** No building or structure shall be erected or placed and no existing building or structure shall be moved, removed, altered or extended, nor shall any land, building or structure be used for any purpose or in any manner other than as provided among the uses listed in Section 17.02.021 (Land Use/Zoning Table) and the zoning requirements and regulations for the zone in which such land, building or structure is located.
- B.** No building or structure shall be erected or placed nor shall any existing building or structure be moved, removed, altered, replaced or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner except in conformity with the lot area, lot coverage, setback and height provisions set forth in the zone in which such land, building or structure is located.

- C. No lot area, frontage, yard or other open space or parking space provided around any building or structure for purposes of compliance with provisions of this Title shall be considered as providing lot area, frontage, yard or other open space for any other building or structure on the same lot or on any other lot.
- D. Wastewater Access
2. Connection to the city's wastewater collection and treatment system is required for all single-family residential lots smaller than three (3) acres in size. Larger lots may be required for multi-family and non-residential developments that do not connect to the city's wastewater collection and treatment system. All uses with existing individual sewage disposal systems that require repair or replacement, or are part of a larger development plan and are within four hundred (400) feet of the existing city wastewater collection system, as measured to the closest property line, shall connect to the city system. All property to be annexed with existing land uses using individual sewage disposal systems must connect to the city wastewater collection system if they are within four hundred (400) feet or will be within four hundred (400) feet of a city wastewater collection system once the development to be annexed is completed. For developments without access to the city's sanitary sewer system (farther than four hundred [400] feet away), the minimum lot size is required to be no less than three (3) acres. Larger lots may be required for certain non-residential landuses. There may be no more than one (1) septic system on any single parcel.
- E. Schedule of Density/Height/Bulk/Location Requirements in Zones.
1. Maximum density may not be achievable on every lot or parcel, as the development must conform to applicable setbacks, coverage, parking, drainage, public improvements, landscaping and other code requirements including density bonus requirements.
 2. Standards containing a slash (x/y) indicate standards for primary buildings (x) and accessory buildings (y).
 3. Accessory buildings can be up to the maximum height limit for the zone when located within the primary building setbacks.
 4. Lot coverage requirements do not apply to townhouses or condominiums, which instead are determined through the subdivision process.
 5. All lots shall have access from the street.
 6. Structures, lots, and land uses lawfully established prior to the effective date of this Code may continue pursuant to Section 17.07.090.

17.07.014 RESIDENTIAL ZONE DISTRICTS.

Residential zone districts are established to provide for a variety of neighborhoods in a range of densities to accommodate the different character areas of the City. These are considered Base Zone Districts.

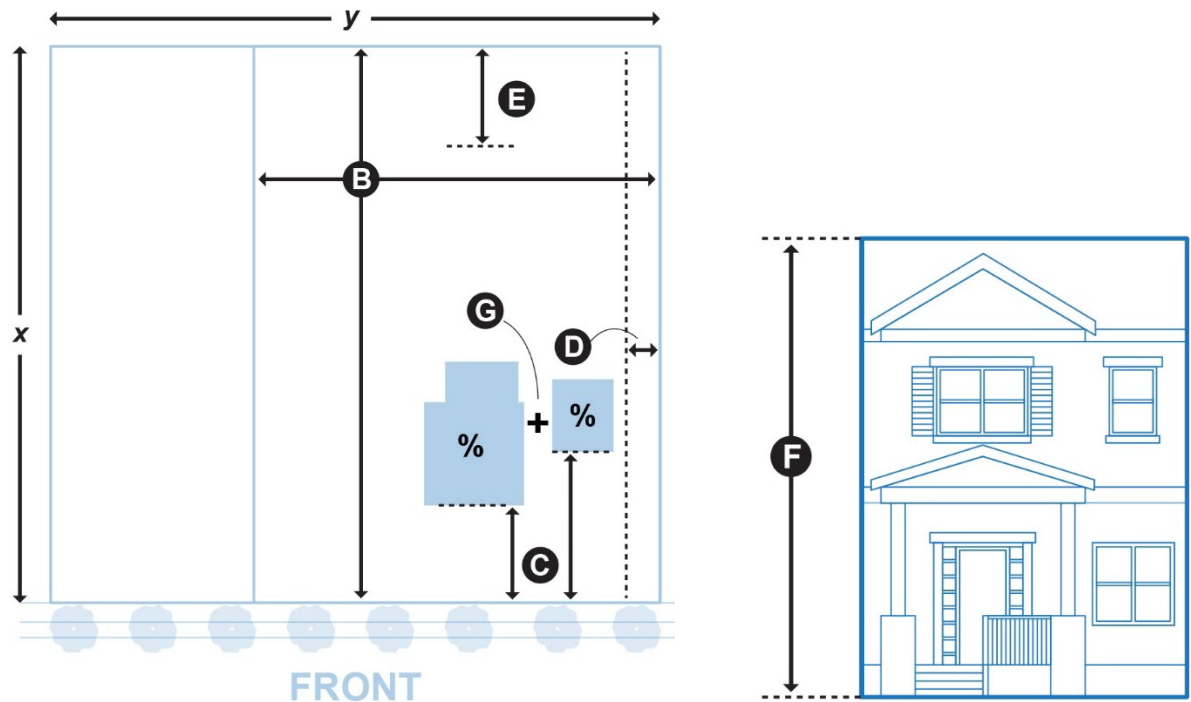
- A. Rural Estate (RE). The purpose of the RE zone is to allow low density residential uses compatible with rural areas. Areas in this zone district serve as a transition between open and resource lands and increased development in the City. Cluster developments are not encouraged in this zone district, and city sewer is not typically provided due to the low density nature of the development.
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Rural Estate (RE)	1 DU/3 acres	2 acres	30 feet	10 feet	30 feet	35 feet	20%

2. Illustrations

A 1 SF HOUSE ON 3 ACRES = 1 DU/3 AC
 $x * y = 3 AC$



3. On properties that are used mainly for agricultural uses in the Rural Estate (RE) zone any structures used mainly for agricultural purposes (e.g., silos and barns) are exempt from the height limits for structures.

B. Community Residential (CR). The purpose of the CR zone is to allow for moderate density detached single-family residential neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g. apartments and townhouses). Innovative neighborhood design is encouraged in this zone district to provide opportunities for housing diversity. This area is served by public utility infrastructure and is appropriate for density of 4-8 du per acre.

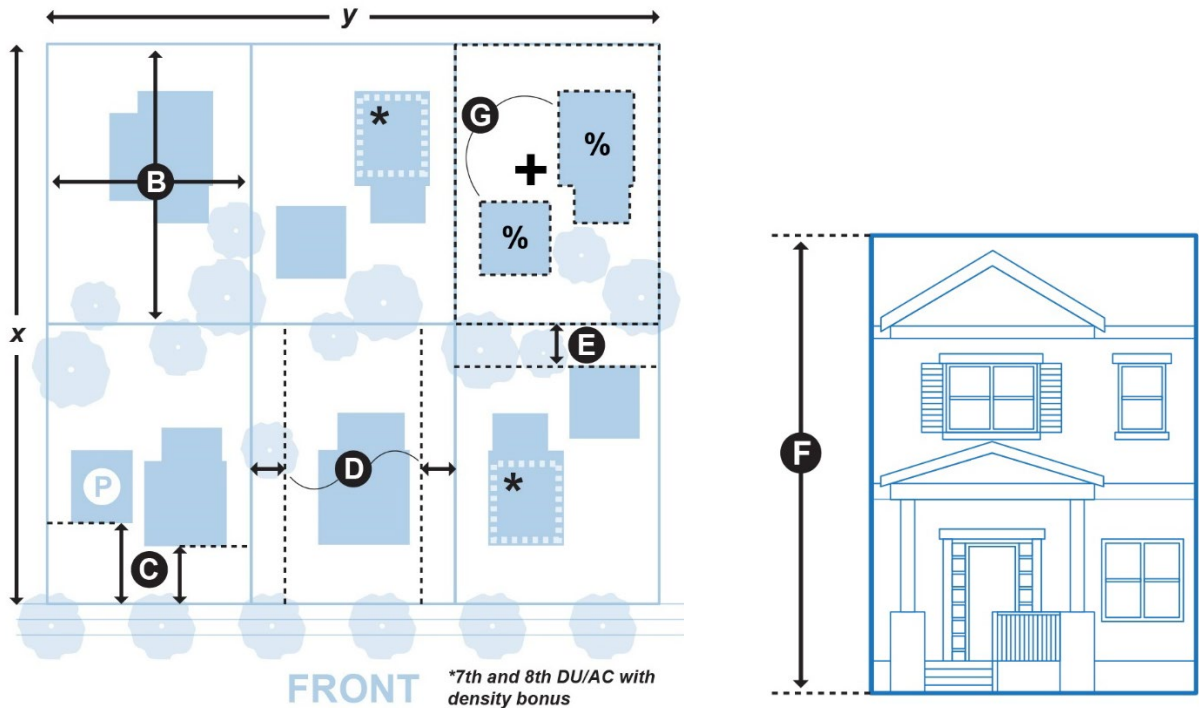
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Community Residential (CR)**	6 DU/acre by right 8 DU/acre thru Density Bonus	For properties with up to 6 DU/acre: 7,000 sq ft For properties with 7 to 8 DU/acre: 3,500 sq ft	15 feet for properties with alley loaded garages 25 feet for all facades with a garage opening facing the street 20 feet for elevations other than garage opening	16 feet total 5 feet for primary structures 3 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	15 feet for primary structures 3 feet for accessory structures	35 feet for primary structures 16 feet for accessory structures	60%

2. Illustrations

A 6 SF HOUSES ON 1 ACRE = 6 DU/AC
 $x * y = 1 \text{ AC}$



C. Large Lot Residential (LLR). The purpose of the LLR zone is to allow larger lot developments in the same areas as the CR zone and other areas as appropriate. Areas in this zone district are typically served by public utility infrastructure, and a density of 2-4 du per acre is appropriate.

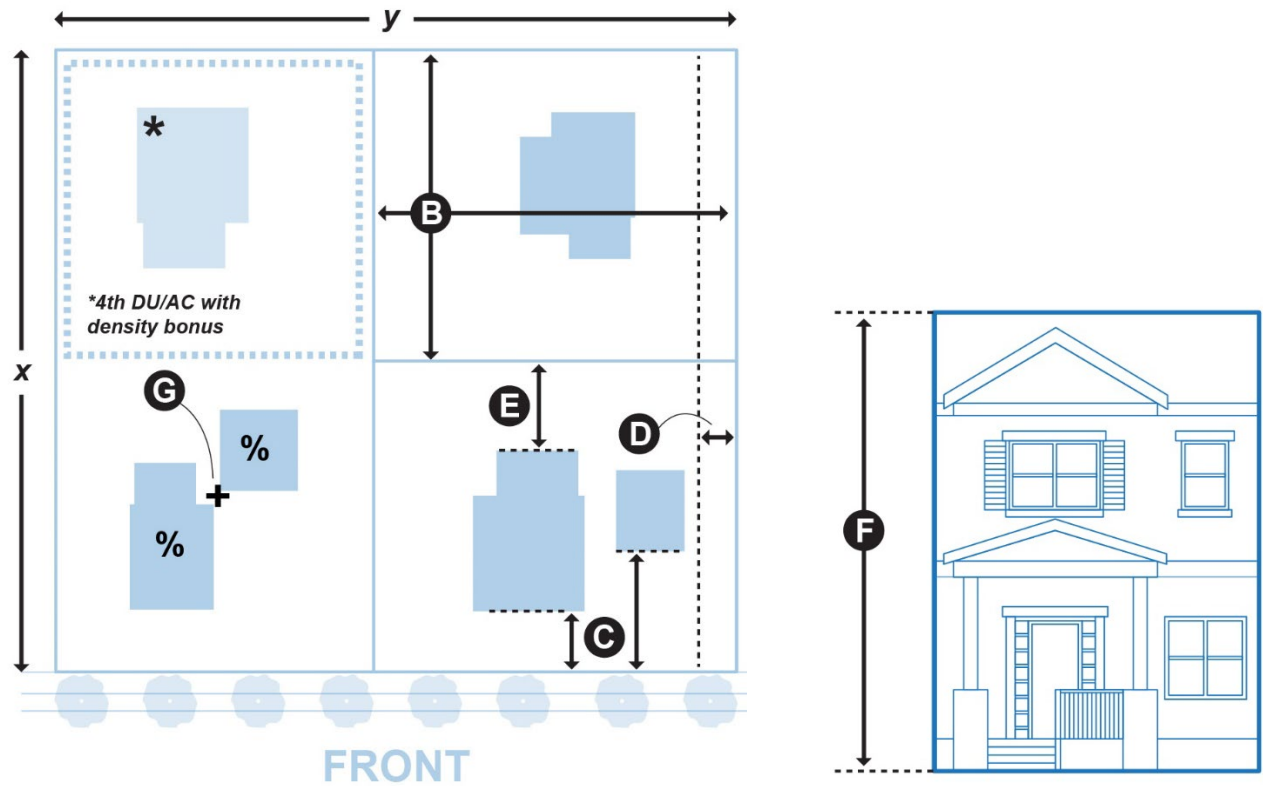
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Large Lot Residential (LLR)	3 DU/acre by right 4 DU/acre thru Density Bonus	10,000 sf	25 feet	10 feet for primary structures 5 feet for accessory structures	15 feet for primary structures 3 feet for accessory structures	35 feet for primary structures 16 feet for accessory structures	40%

2. Illustrations

A 3 SF HOUSE ON 1 ACRE = 3 DU/AC
 $x * y = 1 \text{ AC}$



D. South FrUITa Residential (SFR). The purpose of the SFR zone is to allow a variety of low to moderate density residential areas compatible with existing low density development, the Colorado National Monument and the Colorado River. Due to its location near the Colorado River and in the 100-year flood plain, the area is most suitable to a density of 2-5 du per acre.

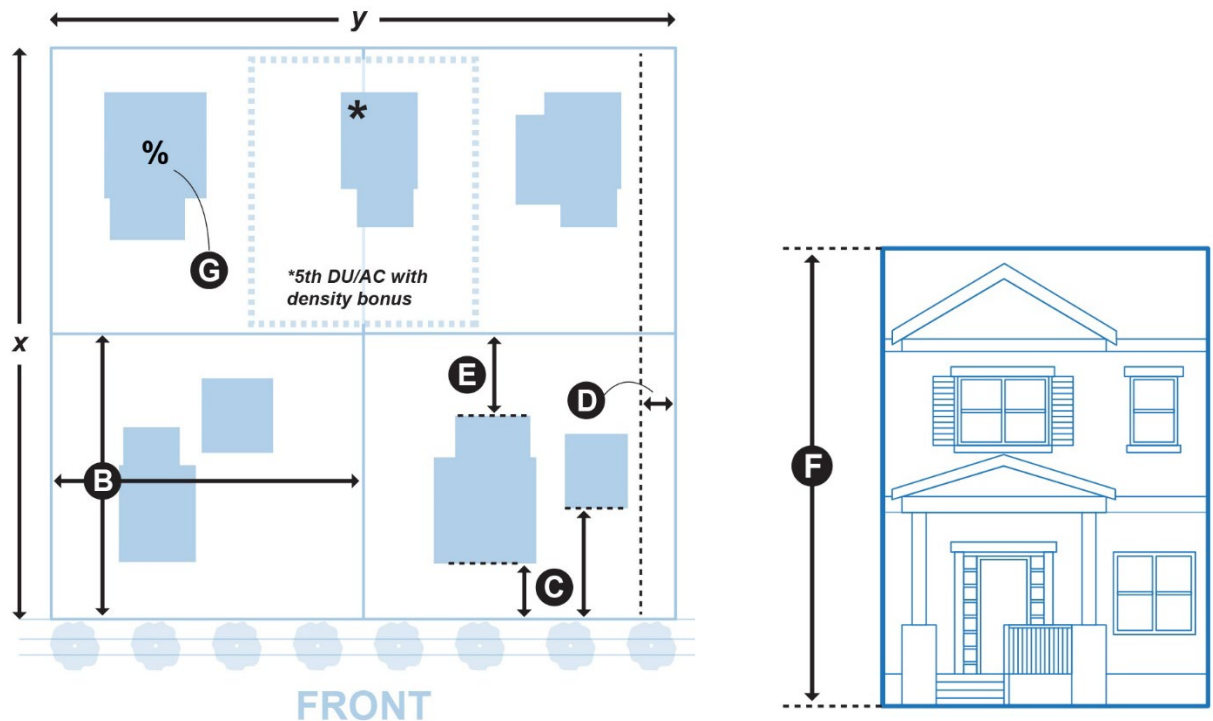
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
South Fruita Residential (SFR)	4 DU/acre by right 5 DU/acre thru Density Bonus	7,000 sf	25 feet	10 feet for primary structures 5 feet for accessory structures	15 feet for primary structures 5 feet for accessory structures	35 feet for primary structures 16 feet for accessory structures	50%

2. Illustrations

A 4 SF HOUSE ON 1 ACRE = 3 DU/AC
 $x * y = 1 AC$



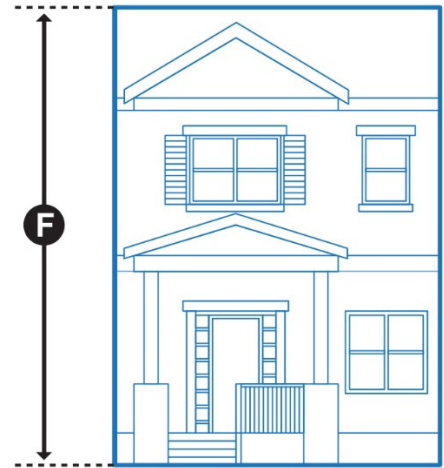
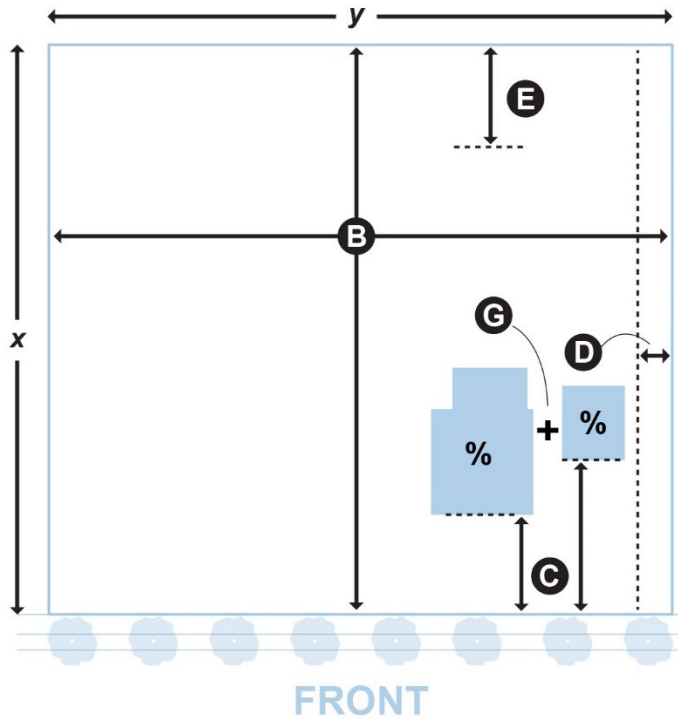
E. Monument Preservation (MP). The MP zone is intended to provide a recreational and environmental buffer between the Colorado National Monument and Bureau of Land Management lands, and urban development with low intensity uses that preserve open space quality. This zone district should be limited to areas immediately adjacent to the Colorado National Monument. Environmentally constrained lands are not appropriate for this zone district.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Monument Preservation (MP)	1 DU/2 acres	2 acres	25 feet	50 feet	20 feet for primary structures 10 feet for accessory structures	35 feet for primary structures 25 feet for accessory structures	20%

2. Illustrations

A 1 SF HOUSE ON 2 ACRES = 1 DU/2 AC
 $x * y = 2 AC$



17.07.015 COMMERCIAL AND MIXED-USE ZONE DISTRICTS.

Commercial and Mixed-Use zone districts are established to provide for a variety of commercial areas suited to the difference neighborhoods and commercial needs if the city. The intent of these zones is to consolidate complimentary commercial uses in areas or nodes that are served by roads and sidewalks. These are considered Base Zone Districts.

- A. Downtown Mixed Use (DMU). The purpose of the DMU zone is to maintain and enhance downtown as a vibrant, pedestrian-oriented commercial and residential area and as the civic heart of the community. Mixed-use development, such as commercial on the ground floor and residential above the ground floor is encouraged within this zone. The intent of this zone with regard to housing is to allow existing residential uses and provide housing options within walking distance of commercial and civic uses without compromising the integrity of the downtown commercial core.

1. Dimensional and Other Standards

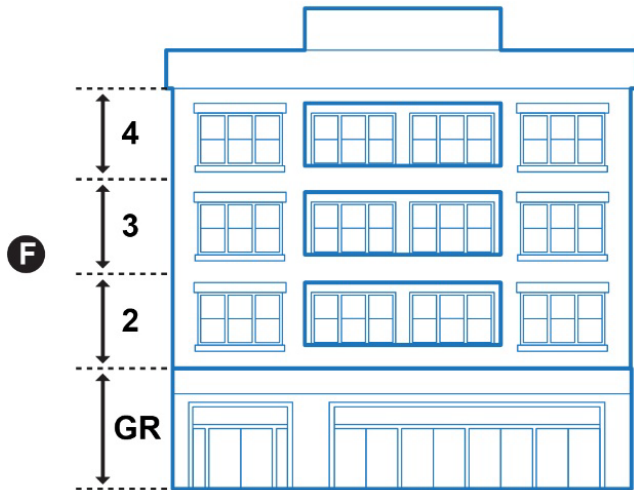
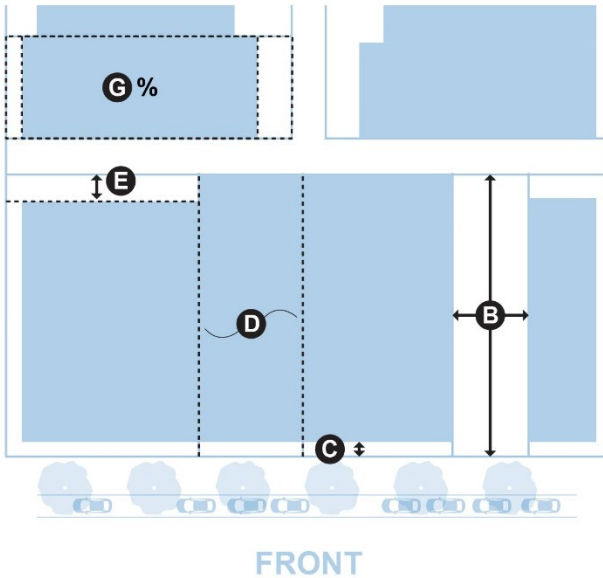
DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MIN/MAX LOT COVERAG E (G)
Downtown Mixed Use (DMU) – Core (as designated in the Fruita Community Plan - south of Pabor Avenue and west of Elm Street)****	N/A	2,500 sq ft	0 feet, or as required per building code	0 feet, or as required per building code	0 feet, or as required per building code	Primary Structures: 4 stories; At least 2 upper stories must be residential; Ground story floor-to-ceiling heights shall not exceed 15 feet. All stories above the ground story shall not exceed a floor-to-ceiling height of 11 feet. Accessory Structures: 25 feet	50% minimum 90% maximum

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MIN/MAX LOT COVERAG E (G)
Downtown Mixed Use (DMU) – Outside Core	12 DU/acre by right	5,000 sq ft, except 6,000 sq ft for a corner lot; 7,500 sq ft for a duplex; 10,000 sq ft multi-family; 2,500 sq ft per each townhouse unit	25 feet for garage openings; 20 feet for elevations other than garage openings; except 0' for non-residential or mixed-use buildings, 15 feet for buildings with alley access only, and 15 feet for buildings with unenclosed front porches covering at least 30% of front elevation with a 6 foot minimum depth with the garage or parking area on the rear half of the lot	15 feet total 5 feet for primary structures 3 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	15 feet for primary structures 3 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	Primary Structures: 3 stories; At least 1 upper stories must be residential; Ground story floor-to-ceiling heights shall not exceed 15 feet. All stories above the ground story shall not exceed a floor-to-ceiling height of 11 feet. Accessory Structures: 16 feet	Maximum 35%; or 60% for mixed use buildings and lots with parking on rear half of lot and front porches on at least 30% of front elevation with a 6 foot minimum depth

2. Illustrations

A NO MAX. RESIDENTIAL DENSITY



- B. Commercial-1 (C-1). The C-1 zone is intended for land uses that are compatible with the future vision for the State Highway 6/50 Corridor. The area is appropriate for local-serving businesses such as restaurants, retail stores, and services. Multi-family residential uses are encouraged in this zone. Development should have appropriate access, landscaping, frontage improvements, setbacks, screening and multi-modal access and connectivity.

1. Dimensional and Other Standards

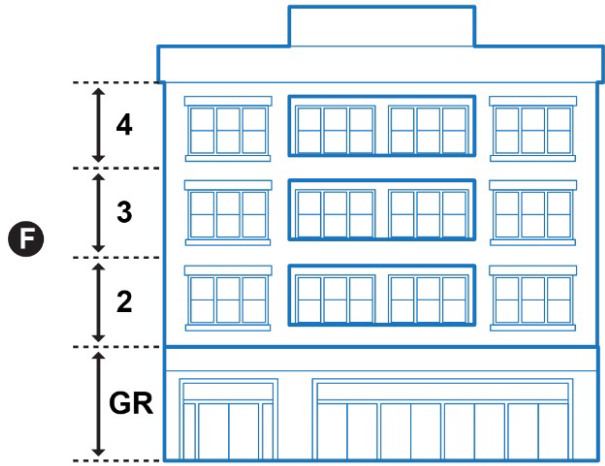
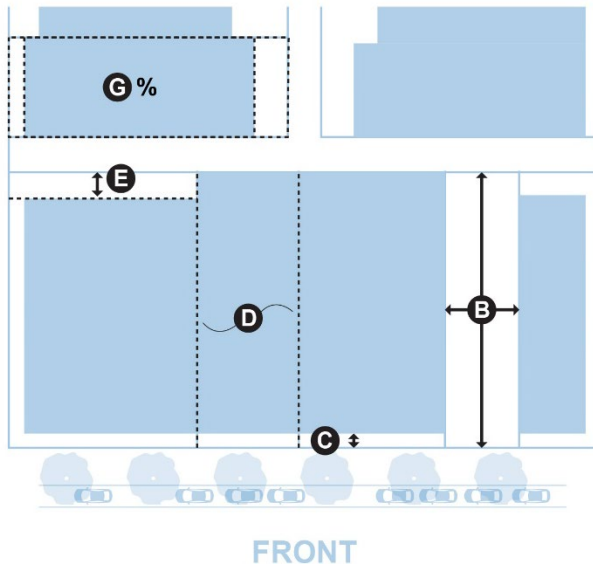
DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS) (A)	MIN LOT AREA (B)	MIN FRONT/ STREET YARD (C)	MIN SIDE YARD (D)	MIN REAR YARD (E)	MAX STRUCTURE HEIGHT (F)	MAX LOT COVERAGE (G)
Commercial-1 (C-1) Non-residential development	Not Applicable	5,000 sq ft	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	90%
Commercial-1 (C-1) Multi-family residential development	12 DU/acre Minimum Unit Size: 500 sf	5,000 sq ft per dwelling unit	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 for primary and accessory structures except 0 feet where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	80%

Commercial-2 (C-2) Non-residential development	Not Applicable	5,000 sq ft	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 feet for primary structures 5 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	80%
Commercial-2 (C-2) Multi-family residential development	12 DU/acre Minimum Unit Size: 500 sf	5,000 sq ft per dwelling unit	0 feet	10 feet for primary structures 5 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 for primary and accessory structures except 0 feet where common wall or zero-lot line dev. allowed	35 feet for primary structures 25 feet for accessory structures	80%

2. Illustrations

A 12 DU/AC MAX. RESIDENTIAL DENSITY



17.07.016 INDUSTRIAL ZONE DISTRICTS.

The Industrial zone district is established to encourage non-polluting industrial and research and development activities designed to meet acceptable state and locally established standards for noise, dust, effluent (e.g., sewage pre-treatment), odor, and other impacts typically associated with industrial uses. These are considered Base Zone Districts.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT	MAX LOT COVER AGE
Industrial (I)	Not Applicable	10,000 sq ft	20 feet	20 feet for primary structures 10 feet for accessory structures except 0 feet where common wall or zero-lot line dev. allowed	20 feet for primary structures 10 feet for accessory structures except 0' where common wall or zero-lot line dev. allowed	50'/70'	80%

17.07.017 GOVERNMENT ZONE DISTRICTS.

Special zone districts provide opportunities for community facilities as well as preservation of critical open spaces and habitats. These are considered Base Zone Districts.

- A. Community Services and Recreation (CSR). The purpose of the CSR zone is to provide public and private recreational land, facilities, schools, fire stations, libraries, fairgrounds and other public and quasi-public lands and buildings. The zone includes open space areas, which are set aside to prevent environmental damage to sensitive areas and to limit development in areas that are unsuitable for development due to flooding or geologic hazards. The CSR zone may be applied to parks, outdoor recreation facilities, open space corridors, environmental areas, trails, recreational facilities, and similar areas. The CSR zone helps implement the open space, trails and parks policies of the city’s Master Plan.

1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT	MAX LOT COVER AGE
Community Services Recreational (CSR)	No Specific Standards						

17.07.018 OVERLAY ZONE DISTRICTS.

Overlay zone districts are superimposed over portions of one or more underlying base zone districts or PUD districts in order to supplement that regulations with additional standards that address area-specific conditions, features, or plans.

17.07.019 PLANNED UNIT DEVELOPMENTS

Planned Unit Developments (PUDs) are created to allow maximum flexibility in uses and dimensions in exchange for community benefits by designing quality developments that could not be achieved by strict adherence to the requirements of this Title. PUDs shall be approved pursuant to the requirements in Section 17.17.

A. Modification of Development Standards.

1. At the time of zoning a PUD, the City Council may modify the specifications, standards, or requirements of this Title. The PUD approval shall indicate which standards are being modified, and any standard not listed as being modified shall be assumed to use that of the Base Zone District or Overlay Zone District.
2. At the time of zoning a PUD, the City Council may modify the permitted and prohibited uses. If uses are not modified, the uses in a PUD shall comply with those of the Base Zone District and Overlay Zone District.

17.07.020 FUTURE LAND USE DISTRICTS

Future Land Use Districts are created established as a planning tool to address the City’s three-mile planning area.

- A. Future Land Use (FLU).** The purpose of the FLU zone is to enable planning for future annexations and to coordinate development pressures and planning needs with Mesa County. Development parameters are intended to support large lots and agricultural uses. allow low density residential uses compatible with rural areas.
1. Dimensional and Other Standards

DENSITY AND DIMENSIONAL STANDARDS TABLE							
ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT	MAX LOT COVERAGE
Future Land Use (FLU)	1 DU/4 acres	4 acres	30 feet	10 feet	30 feet	35 feet	20%

3. On properties that are used mainly for agricultural uses in, any structures used mainly for agricultural purposes (e.g., silos and barns) are exempt from the height limits for structures.

17.07.021 LAND USES

This section identifies the land uses allowed in the City of Fruita. All uses are subject to the dimensional standards in each zone district, any regulations established by the zone district, and regulations applicable to the use, and the development standards.

- A.** All combinations of allowed uses and development standards may not be appropriate at a

particular location within a zone, even if a use is designated as an allowed use in this Section. Any proposed land use must be compatible with the uses and site design of surrounding properties and meet the design standards set forth in this Title.

- B. Unlisted Uses.** The list of permitted uses is broad and comprehensive. However, it is impossible to contemplate every possible use or new use that may exist in the future. To ensure the fair administration of this Chapter as it relates to uses that are not listed in the Use Table, this subsection outlines the procedure to determine if the use is permitted, requires a Conditional Use approval, or is not allowed. When a use is not listed in the Use Table or the Use Table does not reflect recent changes, the Director shall determine if the proposed use is permitted, conditional, or not allowed. The Director shall use a nationally accepted land use classification manual, such as the North American Industry Classification System (“NAICS”), American Planning Association or Land-Based Classification Standards LBCS Tables. Any appeal of the Director’s determination of a zone district boundary shall be heard by the City Council per Section 17.05.

The use may be deemed an Allowed Use or a Conditional Use upon the finding of the following:

- a. Such use is appropriate to the physiographic and general environmental character of the zone to which it is added;
 - b. Such use does not create any more hazards to, or alteration of, the natural environment than the minimum amount normally resulting from the other permitted uses, or uses conditionally allowed, in the zone to which it is added, as applicable;
 - c. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the zone to which it is added;
 - d. Such use is generally consistent with the uses existing and permitted in the zone to which it is added; and
 - e. Such use is in conformance with the goals, policies and Comprehensive Plan of the city and the purposes of this Title.
- C. Schedule of Allowed Uses.** The Land Use/Zone Table in subsection F below indicates Allowed Uses and Conditional Uses. Definitions and examples of those uses are contained in Chapters 17.03 and 17.04. Tables specifying allowable development densities and the requirements for minimum lot area, minimum setbacks, maximum building height and maximum lot coverage in each of the zones is listed in the individual zone district tables earlier in this Chapter.
- D. Key to Allowed Uses.** Uses may be allowed outright, allowed conditionally, or allowed subject to special use standards, as follows:

* - Means not allowed

A - Means allowed outright in the indicated zone, subject to compatibility with surrounding properties, per Section 17.07.023, and special and supplementary zoning regulations and standards.

C - Allowed by Conditional Use Permit only. (See Conditional Use Permit Section 17.13.040).

E. Key to Zones:

RE	Rural Estate	C-1	Commercial - 1
LLR	Large Lot Residential	C-2	Commercial - 2
CR	Community Residential	I	Industrial
DMU	Downtown Mixed Use	CSR	Community Services and Recreation
SFR	South Fruita Residential	NCO	Neighborhood Commercial Overlay
MP	Monument Preservation	FLU	Future Land Use

Section 17.07.021 - LAND USE TABLE

	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
RESIDENTIAL												
Household Living												
Business Residence	*	*	C	*	*	A	A	A	A	*	A	*
Dwelling, Single-Family Attached	C	A	A ²	A	*	A	*	*	*	*	A	A
Dwelling, Single-Family Detached	A	A	A	A	A	A	*	*	*	*	A	A
Duplex	C	*	A ²	*	*	A	*	*	*	*	A	C
Dwelling, Multi-Family	*	*	A ²	*	*	A	A	A	*	*	A	*
Manufactured Housing Park (See Chapters 23 & 25)	*	*	C	*	*	*	*	*	*	*	*	*
Mobile Home Park (See Chapters 23 & 25)	*	*	C	*	*	*	*	*	*	*	*	*
Manufactured Home (See Chapter 23)	A	A	A	C	C	C	*	*	*	*	*	*
Mobile Home (See Chapter 23)	A	A	A	C	C	C	*	*	*	*	*	*
Accessory Dwelling Unit (See Section 17.07.070.C)	A	A	A	A	A	A	A	*	*	*	A	A
Dwelling, Caretaker	*	*	*	*	*	*	A	A	A	*	A	A

Short Term Rental (See Section 17.13.100)	A	A	A	A	*	A	A	A	*	*	A	A
Home Occupation	Home Occupations are permitted as accessory to any permitted residential use, subject to the Home Occupation standards in Section 17.07.070 (B)											
Cultivation of Medical Marijuana by Patients and Caregivers in Residential Dwelling Units.	Medical Marijuana cultivation is permitted as accessory to any permitted residential use, subject to the supplemental standards of Section 17.07.070 (X)(1)											
Child Care Home, Daycare Home	A	A	A	A	A	A	A	A	A	*	A	*
Group Living												
Small Group Homes	C	A	A	A	C	A	A	A	*	*	A	*
Large Group Homes	*	*	C	*	*	C	C	C	*	*	C	*
INSTITUTIONAL & CIVIC												
Community Service & Government Offices												
Public Building Uses	C	C	C	C	C	A	A	A	A	A	A	*
Museum, Art Galleries, Opera Houses	C	C	C	C	C	A	A	A	C	A	A	*
Public Safety and Emergency Response Services	C	C	C	C	C	C	C	C	C	A	A	*
Other Community Services	C	C	C	C	C	A	A	A	C	C	A	*
Daycare/Child Care												
Daycare Center	C	C	C	C	C	A	A	A	*	*	A	*
Child Care Center	C	C	C	C	C	A	A	A	*	*	A	*

Section 17.07.021 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
Detention Facilities												
Jails, Honor Camps, Reformatories, Detention Center	*	*	*	*	*	*	C	C	C	C	*	*
Community Corrections Facility	*	*	*	*	*	*	C	C	C	C	*	*
INSTITUTIONAL & CIVIC												
Medical Centers												
Medical and Dental Clinics	*	*	*	*	*	A	A	A	A	C	A	*
Counseling Centers (nonresidential)	*	*	*	*	*	A	A	A	A	C	C	*
Hospital/Mental Hospital	*	*	*	*	*	C	C	C	C	C	*	*
Physical and Mental Rehabilitation (resident)	*	*	*	*	*	C	C	C	C	C	*	*
All Other	*	*	*	*	*	C	C	C	C	*	*	*
Parks & Open Space Areas												
Cemetery	A	A	A	A	A	A	A	A	A	A	C	*
Golf Course or Golf Driving Range	C	C	C	C	C	*	A	A	A	A	*	*

Campground, Primitive (See Chapter 27)	*	*	*	*	C	*	C	C	*	C	*	*
Parks, Lakes, Reservoirs, Greenways, Trails	A	A	A	A	A	A	A	A	A	A	A	*
Other	C	C	C	C	C	C	C	C	C	A	C	*
Religious Institutions/Places of Worship												
All	A	A	A	A	A	A	A	A	A	A	A	*
Schools												
Boarding Schools	C	C	C	C	C	C	C	C	*	C	C	*
Elementary Schools	A	A	A	A	A	A	A	A	*	A	A	*
Secondary Schools	A	A	A	A	A	A	A	A	*	A	A	*
Utility, Basic												
Utility Service Facilities, (Underground)	A	A	A	A	A	A	A	A	A	A	A	*
Utility Treatment, Production or Service Facility	*	*	*	*	*	C	C	C	C	C	*	*
All Other Utility, Basic	C	C	C	C	C	C	C	C	C	A	C	*
Utility Corridors												
Transmission Lines (above ground)	C	C	C	C	C	C	C	C	C	A	C	*
Transmission Lines (underground)	C	C	C	C	C	C	C	C	C	A	C	*
All Other	C	C	C	C	C	C	C	C	C	C	C	*

Section 17. 07.021 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
COMMERCIAL												
College, Trade & Vocational Schools												
Colleges and Universities	*	*	C	C	*	C	C	C	C	C	C	*
Vocational, Technical & Trade	*	*	C	C	*	A	A	A	A	C	C	*
All Other Education Institutions	*	*	C	C	*	A	A	A	A	C	C	*
Entertainment Event, Major												
Indoor Facilities	*	*	*	*	C	A	A	A	C	C	C	*
Outdoor Facilities	*	*	*	*	C	A	A	A	C	C	C	*
COMMERCIAL												
Office												
General Offices	*	*	*	*	*	A	A	A	A	*	A	*
Office with Drive-in Facilities	*	*	*	*	*	C	A	A	A	*	C	*
Parking, Commercial												

All, when not accessory to a permitted use	*	*	*	*	*	C	A	A	A	A	C	*
Recreation & Entertainment, Outdoor												
Campgrounds & Recreational Vehicle Parks (See Chapter 27)	*	*	*	*	C	*	C	C	C	C	*	*
Swimming Pools, Community	C	C	C	C	C	C	C	C	C	A	C	*
Shooting Ranges, Outdoor	*	*	*	*	*	*	*	*	C	C	*	*
Amusement Park	*	*	*	*	*	*	C	C	*	C	*	*
Drive-in Theater	*	*	*	*	*	*	C	C	*	C	*	*
Miniature Golf	*	*	*	*	C	A	A	A	*	A	*	*
Riding Academy, Roping or Equestrian Area	C	C	C	C	C	*	C	C	*	C	*	*
Zoo	*	*	*	*	C	*	C	C	*	C	*	*
All other Outdoor Commercial Recreation	C	C	*	C	C	C	A	A	A	A	C	*
Recreation & Entertainment, Indoor												
Health Club	*	*	C	*	*	A	A	A	A	A	C	*
Movie Theater	*	*	*	*	*	A	A	A	A	*	*	*
Skating Rink	*	*	*	*	*	A	A	A	A	A	*	*
Arcade	*	*	*	*	*	A	A	A	A	*	*	*
Shooting Ranges, Indoor	*	*	*	*	*	*	C	C	A	C	*	*
All Other Indoor Recreation	*	*	*	*	*	A	A	A	A	A	C	*

Section 17.07.021 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
COMMERCIAL												
Retail Sales & Service												
Alcohol Sales, Retail	*	*	*	*	*	A	A	A	A	*	C	*
Animal Clinic/Hospital/Boarding/Sales, Indoor (See Chapter 6.28 of the Municipal Code)	C	*	*	*	C	A	A	A	A	*	C	*
Animal Clinic/Hospital/Boarding/Sales, Outdoor (See Chapter 6.28 of the Municipal Code)	C	*	*	*	C	C	C	C	C	*	C	*
Bar/Nightclub	*	*	*	*	*	A	A	A	A	*	C	*
Bed and Breakfast (1-4 guest rooms) See Section 17.07.070 (A)	C	C	C	C	C	A	A	A	*	*	A	*
Bed and Breakfast (4+ Guest rooms)	*	*	*	*	C	A	A	A	A	*	C	*
Delivery and Dispatch Services (Vehicles on-site)	*	*	*	*	*	C	A	A	A	*	*	*

Drive-Up/Drive-Through Facilities (with permitted use)	*	*	*	*	*	C	A	A	A	*	*	*
Drive-Up/Drive-Through Facilities (not in conjunction with a permitted use; freestanding)	*	*	*	*	*	C	A	A	A	*	*	*
Food Service, Catering	*	*	*	*	*	A	A	A	A	*	A	*
Food Service, Restaurant (including alcohol sales)	*	*	*	*	*	A	A	A	A	*	A	*
Food Service, Restaurant (Not including alcohol sales)	*	*	*	*	*	A	A	A	A	*	A	*
Farm Implement/Equipment Sales/Service	*	*	*	*	*	A	A	A	A	*	*	*
Flea Market/Farmer's Market	*	*	*	*	*	C	C	C	C	A	*	*
Feed Store	*	*	*	*	*	C	A	A	A	*	*	*
Fuel Sales, Automotive/Appliance (not including Drive-Up/Drive-Through uses)	*	*	*	*	*	A	A	A	A	*	*	*
Fuel Sales, Heavy Vehicle (not including Drive-Up/Drive-Through uses)	*	*	*	*	*	A	A	A	A	*	*	*
Funeral Homes/Mortuaries/Crematories	*	*	*	*	*	C	C	C	C	*	*	*
General Retail Sales, Indoor Operations, Display and Storage	*	*	*	*	*	A	A	A	A	*	A	*
General Retail Sales, Outdoor Operations, Display or Storage	*	*	*	*	*	A	A	A	A	*	A	*
Hotels and Motels	*	*	*	*	*	A	A	A	A	*	*	*

Section 17. 07.021 - LAND USE TABLE

	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
COMMERCIAL												
Retail Sales & Service (Continued)												
Nursery/Greenhouse, Retail (not Agriculture)	*	*	*	*	*	A	A	A	A	*	*	*
Manufactured Building Sales and Service	*	*	*	*	*	C	A	A	A	*	*	*
Pawn Shops (See Chapter 5.30 of the Municipal Code)	*	*	*	*	*	A	A	A	A	*	*	*
Rental, Home Oriented, Indoor Display/Storage	*	*	*	*	*	A	A	A	A	*	C	*
Rental, Heavy Equipment, Outdoor Display/Storage	*	*	*	*	*	A	A	A	A	*	*	*
Repair, Small Appliance/Small Engine	*	*	*	*	*	A	A	A	A	*	*	*
Repair, Large Appliance	*	*	*	*	*	A	A	A	A	*	*	*

Sexually Oriented Businesses (See Chapter 35 of the Land Use Code and 5.40 of the Municipal Code)	*	*	*	*	*	*	C	C	C	*	*	*
Personal Services	*	*	*	*	*	A	A	A	A	*	A	*
Medical Marijuana Centers See Section 17.07.070(U)(3)	*	*	*	*	*	*	*	*	*	*	*	*
Medical Marijuana Cultivation by Patients and Primary Caregivers in Non-Residential Units See Section 17.07.070(U)(2)	*	*	*	*	*	*	C	C	C	*	*	*
Medical Marijuana Optional Premises Cultivation Operations See Section 17.07.070(U)(3)	*	*	*	*	*	*	*	*	*	*	*	*
All Other Retail Sales and Service	*	*	*	*	*	A	A	A	A	*	C	*
Storage/Self Service Storage												
Mini Warehouse/Self Service Storage Facility	*	*	*	*	*	*	A	A	A	*	*	*
Outdoor Storage (Vehicles, Equip. Etc.)	*	*	*	*	*	*	A	A	A	*	*	*
Vehicle Repair, Except Quick Vehicle Servicing												
Auto and Light Truck Mechanical Repair Shop	*	*	*	*	*	C	A	A	A	*	*	*
Body Shop	*	*	*	*	*	*	A	A	A	*	*	*
Truck Stop/Travel Plaza/Truck Parking Area	*	*	*	*	*	*	C	C	C	*	*	*
Tire Recapping and Storage	*	*	*	*	*	*	C	C	C	*	*	*
All Other Vehicle Repair, Limited	*	*	*	*	*	C	A	A	A	*	*	*

Section 17. 07.021 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
Vehicle Service, Limited: Quick Vehicle Servicing												
Car Wash	*	*	*	*	*	C	A	A	A	*	*	*
Gasoline Service Station	*	*	*	*	*	C	A	A	A	*	*	*
Quick Lube	*	*	*	*	*	C	A	A	A	*	*	*
All Other Vehicle Service, Limited	*	*	*	*	*	C	A	A	A	*	*	*
INDUSTRIAL												
Indoor Operations or Storage												
Industrial Service	*	*	*	*	*	*	A	A	A	*	*	*
Assembly	*	*	*	*	*	*	A	A	A	*	*	*
Food Products	*	*	*	*	*	*	A	A	A	*	*	*
Manufacturing/Processing	*	*	*	*	*	*	A	A	A	*	*	*
All Other	*	*	*	*	*	*	C	C	A	*	*	*
Outdoor Operations or Storage												
Industrial Service	*	*	*	*	*	*	C	C	A	*	*	*
Assembly	*	*	*	*	*	*	C	C	A	*	*	*

Food Products	*	*	*	*	*	*	C	C	A	*	*	*
Manufacturing/Processing	*	*	*	*	*	*	C	C	A	*	*	*
All Other	*	*	*	*	*	*	C	C	C	*	*	*
INDUSTRIAL												
Junk Yard												
Junk Yard (See Municipal Code Chapter 5.24)	*	*	*	*	*	*	*	*	C	*	*	*
Impound Lot												
Impound Lot	*	*	*	*	*	*	C	C	A	*	*	*
Warehouse, Freight Movement & Distribution												
Indoor Operations, Storage and Loading	*	*	*	*	*	C	A	A	A	*	*	*
Indoor Storage with Outdoor Loading Docks	*	*	*	*	*	C	A	A	A	*	*	*
Outside Storage or Loading	*	*	*	*	*	*	C	C	A	*	*	*
Gas or Petroleum Storage	*	*	*	*	*	*	C	C	C	*	*	*
Sand or Gravel Storage	*	*	*	*	*	*	C	C	A	*	*	*
All Others	*	*	*	*	*	*	C	C	C	*	*	*
Waste Related Uses												
Non-Hazardous Waste Transfer	*	*	*	*	*	*	C	C	C	*	*	*
Medical/Hazardous Waste Transfer Station	*	*	*	*	*	*	C	C	C	*	*	*
Solid Waste Disposal Sites	*	*	*	*	*	*	*	*	C	*	*	*
Recycling Collection Points	*	*	*	*	*	*	C	C	C	C	*	*
All Other Waste Related/Recycling Center	*	*	*	*	*	*	*	*	C	C	*	*

Section 17. 07.021 - LAND USE TABLE												
	RE	LLR	CR	SFR	MP	DMU	C-1	C-2	I	CSR	NCO	FLU
Wholesale Sales												
Wholesale Business (No highly flammable materials/liquids)	*	*	*	*	*	C	A	A	A	*	*	*
Agri Business Wholesaling	C	C	*	*	*	C	C	C	C	*	*	A
All Other Wholesale Uses	*	*	*	*	*	C	C	C	C	*	*	*
Agricultural												
Animals Agricultural; Confinement	C	*	*	*	*	*	*	*	C	C	*	A
Dairy	C	*	*	*	*	*	*	*	C	C	*	A
Winery	C	*	*	*	C	C	C	C	A	C	*	A
Confined Animal Feeding Operation, Feedlot	C	*	*	*	*	*	*	*	C	*	*	A
Forestry/Silviculture, Commercial	C	*	*	*	*	*	C	C	A	*	*	A
Pasture, Commercial	A	*	*	*	C	*	A	A	A	A	*	A
All Other Agriculture	A	*	*	*	A	*	*	*	A	A	*	A

INDUSTRIAL												
Aviation or Surface Passenger												
Airports/Heliports	*	*	*	*	*	*	C	C	C	C	*	*
Bus/Commuter Stops	A	A	A	A	A	A	A	A	A	A	A	*
Bus/Railroad Depot	*	*	*	*	*	C	A	A	A	A	C	*
Helipads	*	*	*	*	*	*	C	C	C	C	*	*
All Other Aviation or Surface Passenger Terminal	*	*	*	*	*	C	C	C	C	C	C	*
Mining (See Chapter 31)												
Oil or Gas Drilling	*	*	*	*	C	*	*	*	C	*	*	*
Sand or Gravel Extraction or Processing	*	*	*	*	C	*	C	C	C	*	*	*
All Other Mining, Extraction	*	*	*	*	C	*	C	C	C	*	*	*
Telecommunications Facilities												
Telecommunications Facilities, Towers and Support Structures	C	C	C	C	C	C	C	C	C	C	C	C

17.07.022 SUPPLEMENTAL ZONING REGULATIONS AND STANDARDS

In addition to regulations contained elsewhere in this Title, the use of land and buildings in all zones shall be governed by the following:

- A. Bed and Breakfast. Where bed and breakfast uses are allowed, they must meet the following conditions and standards:
 - a. Where the applicable zoning district allows bed and breakfast uses as a conditional use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;
 - b. Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;
 - c. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;
 - d. In residential zones (including residential developments in the DMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.41;
 - e. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;

- f. The bed and breakfast facility shall comply with all Building Codes adopted by the city;
- g. It shall be the responsibility of the applicant to demonstrate that any declarations, covenants, conditions or restrictions on the property allow for a bed and breakfast use; and
- h. Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.
- i. Bed and Breakfasts shall not operate as Short-Term Rentals.

B. Home Occupations. A Home Occupation is a commercial or business use within a dwelling unit by the residents thereof, which is incidental or secondary to the principle use of the dwelling for residential purposes. The purpose of this Section is to allow commercial ventures, which by the nature of the venture are appropriate in scale and intensity of use to be operated within a dwelling. Short-Term Rentals are not considered Home occupations. Home occupations require a City of Fruita Business License and any other local, state or federal permits that may be required. Two types of home occupations are authorized by this Code: 1) Home Occupations meeting the standards of this Section, as provided below, are permitted outright; and 2) Home Occupations exceeding the criteria or standards of this Section may be permitted subject to approval of a Conditional Use Permit.

a. Outdoor Storage and Display:

- a. All materials, vehicles, inventory, products, equipment, fixtures, and activities associated with the home occupation (i.e., that exceed what is customary for a single-family residence) shall be fully enclosed in a structure that complies with applicable building and land use codes. The owner is responsible for verifying building code compliance when no Planning Clearance is required. Oversized vehicles or equipment on properties over two acres in size are exempt from this requirement but must meet the requirements of Section 17.07.022.J.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable materials) beyond those normally incidental to residential use is prohibited.

b. Vehicles, Parking and Traffic:

- a. The home occupation site shall not be used as a dispatch for employees or vehicles to other locations beyond that which is customary for a residential use.

- b. There shall be no commercial vehicle deliveries to the home occupation during the hours of 9:00 p.m. to 7:00 a.m.
 - c. There shall be no more than one (1) client or customer vehicle at any one time and no more than eight (8) per day at the home occupation site.
 - d. The home occupation shall not adversely affect traffic flow and parking in the neighborhood.
- c. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7:00 a.m. to 9:00 p.m. only, Monday through Friday.
- d. Prohibited Home Occupation Uses:
- a. There shall be no advertising display, signage, or other indication of the home occupation on the premises other than that which is allowed by the applicable zone for residential uses as provided for in the Sign Code in Chapter 17.41.
 - b. Any activity that produces radio, TV, or other electronic interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.
 - c. Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited; except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, produce or crafts produced on-site, and similar incidental items for sale by home business is allowed pursuant to this Section.
 - d. Any activity that may produce wastes not typically associated with residential use of the property.
 - e. The following uses are specifically excluded as permitted home occupations: sexually oriented businesses; car, truck or heavy equipment repair; medical, dental, tattoo, body piercing, or other similar personal service that creates biohazard wastes as a typical part of the service provided.
- e. Enforcement. The Community Development Director or designee may visit and inspect the site of a home occupation in accordance with this chapter periodically to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice.

- C. Accessory Dwelling Units. Accessory dwelling units are permitted on all lots containing a single family detached dwelling unit in: the Rural Estate (RE), Large Lot Residential (LLR), Community Residential (CR), South Fruita Residential (SFR), Monument Preservation (MP), Neighborhood Commercial Overlay, and in the Downtown Mixed Use (DMU), and Commercial-1 (C-1) zones.

Accessory dwelling units must be located on a lot that contains a principle single family dwelling unit and cannot exceed one thousand (1,000) square feet of heated floor area, or fifty (50) percent of the size of the principle single family dwelling; whichever is less. Accessory dwelling units can be attached or detached from the principal dwelling. If the unit is attached, it must be able to function separately from the principal home. Only one accessory dwelling unit is permitted per lot or parcel. The Community Development Director may grant an administrative square foot adjustment of up to 10% at Planning Clearance. On-site improvements shall be evaluated on a case-by-case basis based on the site's conditions as part of the Planning Clearance.

- D. Accessory Buildings (Except Accessory Dwelling Units). An accessory building shall not protrude beyond the front plane of the principal building.

- E. Design Standards And Specifications. The following standards and regulations are applicable to all projects requiring approval under the provisions of this Title:

- a. Street, Road and Bridge Standards. The publication entitled "City of Fruita Design Criteria and Construction Specifications" (latest edition) shall apply to developments in all zones, except that standards and specifications published by the Colorado Department of Transportation shall apply to all State highways in all zones.
- b. Drainage and Storm Water Management. The publications entitled, "Mesa County Storm Water Management Manual" (latest edition), "City of Fruita Design Criteria and Construction Specifications" (latest edition), and all building codes adopted pursuant to Title 15 of the Fruita Municipal Code shall apply to developments in all zones.

Each business, commercial, or industrial development is required to meet or exceed the standards of the City of Fruita, Colorado Department of Public Health and Environment and the U.S. Department of Environmental Protection Agency with regard to water pollution control, stormwater control, and storm water management. It is the property owner's or applicant's responsibility, as applicable, to ensure compliance with state and federal regulations.

- c. Wastewater. Industrial pretreatment may be required for industries with certain liquid wastes as defined by the City of Fruita, Colorado Department of Public Health and Environment, and the US Environmental Protection Agency. All businesses and industries shall meet or exceed the requirements of the Fruita Municipal Code.

- d. Buildings and Structures. All buildings and structures in all zones shall comply with all building codes adopted pursuant to Title 15 of the Fruita Municipal Code.
 - e. Other Design Standards and Construction Specifications. All other development in all zones shall comply with the publication entitled “City of Fruita Design Criteria and Construction Specifications” (latest edition), and all building codes adopted by the city.
 - f. Conflicting Provisions. When conflicts exist between adopted codes and standards, or between adopted codes and standards and project-specific “approved for construction” drawings and specifications, the most restrictive provision shall apply. Where the City of Fruita has approved construction drawings for a project, unless superseded by state or federal law, the project-specific “approved for construction” drawings and specifications shall control, followed by written criteria, or specifications published by other entities. Where local City of Fruita documents are silent, the most stringent external standard or specification shall apply.
- F. Exceptions to Lot Area and Dimensional Standards. Lot area and dimensions shall conform to the Schedule of Density and Dimensional Standards Tables per zone district, except as amended by the design standards of Chapter 11 of this Title, PUD zoning as per Chapter 17 of this Title, and as follows:
- 1. Minimum frontage. All residential lots, including cul-de-sac lots where vehicle access is provided from the abutting street, shall have a minimum street frontage width of twenty-eight (28) feet excluding areas set aside for utility pedestal installations. Flag lots and or lots with shared driveways are permitted to have less than twenty-eight (28) feet of street frontage as determined through the subdivision review process and as per Section 17.43 of this Title.
 - 2. Utility Facilities. Electric substations, telephone switching facilities, irrigation structures, and similar limited impact facilities shall be permitted to occupy a lot area smaller than that provided for in these regulations provided such facilities are properly screened and buffered from surrounding properties and the street.
- G. Height Exceptions and Permitted Setback Encroachments.
- a. Height limits do not apply to any: chimney; spire; bulkhead;,- elevator; water collection, recirculation, or storage system; geothermal heating system; solar photovoltaic equipment; wind turbine; belfry; cupola; windmill; antenna; or any similar structure or necessary mechanical appurtenance not designed for occupancy extending above the roof line, provided such structure does not extend more than ten (10) feet above the highest roof line and does not exceed more than ten (10) percent of the area of the roof where it projects more than four (4) feet above the highest roof plane. Light poles, flag poles, and similar structures not attached to a building are permitted to be no taller than the maximum height in the zone in which it is located.

- b. Building setback encroachment of up to three (3) feet is permitted for chimneys, roof eaves, bay windows and similar features that do not contain inhabitable floor space, stairways not to exceed six (6) feet in height or raised decks not to exceed three (3) feet in height, provided that minimum clearance of three (3) feet is maintained between the structure encroachment and all property lines and provided adequate space is reserved to comply with storm water drainage requirements.

H. Fences. The purpose of this Section is to ensure fences erected within the city do not impede traffic safety, do not conflict with applicable codes, and impose no deleterious effect on any neighborhood. A Planning Clearance shall be required before erecting, moving or altering a fence in the city. Fences shall conform to the following requirements:

- a. No fence shall be erected in such location upon any lot or property in a manner constituting a traffic hazard because of obstruction of view. The City of Fruita Design Criteria and Construction Specifications Manual and the City of Fruita Land Use Code shall be used as the criteria for determining compliance. No fence shall be constructed to within four (4) feet of or prevent access to any fire hydrant, utility pedestal, vault, cabinet, or similar feature.
- b. Fences shall be constructed of durable materials, which may include but are not limited to, wire (e.g., chain link), vinyl-coated wire, wrought iron, wood, extruded plastic (e.g., from fence manufacturer), and other materials similar in appearance and durability. Unacceptable materials that are visible to the public include: glass, tires, razor wire, barbed wire and/or concertina wire, junk, and any material that presents a public health or safety hazard. The prohibition on razor wire, barbed wire, concertina wire and similar wire fences does not apply to the Industrial zone provided that not more than three (3) strands of barbed wire atop a fence is allowed and are not counted in the height calculation. Electric and barbed wire fencing is allowed in zones which allow large animals (such as horses, cows and sheep) only when properly installed and necessary to contain large animals.
- c. There shall be no fence or wall erected which exceeds six (6) feet in height (except as permitted in subsection 7 below), as measured from the natural grade, except where the city has approved construction of a retaining wall; the height of the retaining wall shall not be included in the height of the fence. An increase of up to two (2) inches is allowed when spacing for drainage under a fence is needed. The Community Development Director may approve an increase in fence or wall height where a unique feature of the property or a permitted use warrants such an increase and the increase is not detrimental to surrounding public or private properties.
- d. Except as allowed for corner lots, fences in the required front yard setback shall not exceed thirty-six (36) inches in height; such fences may be increased to forty-eight (48) inches maximum height if the fence material is at a ratio of not less than half open space to half closed space for every square foot for that part of the fence extending above thirty-six (36) inches in height. Examples of fence types that would

typically comply include: chain link, picket, split rail, and similar fences.

- e. On corner lots, solid fences up to six (6) feet in height within a street side setback may be permitted only on the frontage that does not contain a driveway, and provided the fence conforms to the required clear sight triangle.
- f. Fences in excess of six (6) feet shall comply with applicable building codes and all required setbacks for primary buildings, as applicable. Fences in Industrial zones may exceed six (6) feet as provided for in subsection 3 above.
- g. Fences in zones which permit a zero building setback must meet design standard requirements of Chapter 11 of this Title.
- h. Where a fence is proposed in conjunction with a development or change in use, the location, height, materials, and detailing of the fence may be subject to other requirements or limitations to ensure consistency with the purposes of this Title.
- i. All fences shall be properly maintained by the owner so as to not become a public nuisance or hazard.

I. Landscaping Requirements.

- a. For single-family and duplex dwelling units with a front yard, at least one (1) tree in the front yard is required to be planted and maintained within six (6) months of issuance of a Certificate of Occupancy.

(1) Except for development subject to Level One Design Standards of Chapter 11 of this Title, no less than ten (10) percent of a lot or parcel developed for multi-family or non-residential land uses must be landscaped. At least half of this landscape must be provided on the front half (street sides) of the development unless the front setback is permitted to be, and will be, fifteen (15) feet or less, in which case the required landscaping may be located anywhere on the property provided all other requirements are met. Landscaping must include at least one (1) small tree for every five hundred (500) square feet, one (1) medium tree for every one thousand (1,000) square feet, or one (1) large tree for every 1,500 square feet of landscaped area along with two (2) shrubs for every tree and appropriate groundcover. Landscaping, in addition to the minimum ten (10) percent may be required for parking lots containing more than fifteen (15) car parking spaces and/or for buffering and screening purposes as deemed necessary to comply with compatibility requirements of Section 17.07.080 and/or parking lot landscape requirements of Section 17.39.070.G of this Title.

- b. For large industrial land uses with significant amounts of outdoor storage and/or operations, the outdoor storage/operation area(s) are not required to be used in the calculation of the minimum 10% landscaping required.

- c. Landscape improvements must follow the landscaping requirements of the Appendix of the Fruita Land Use Code including quality, size, type, planting, and location considerations. Landscaping required to be installed to meet the minimum requirements of this Title (including conditions of approval on a land development application) must be maintained to continue to meet the minimum requirements of this Title.
- d. The types of trees and other vegetation to be planted within public right-of-ways will be determined by the decision-making body (Community Development Director or City Council) based on the requirements of the Appendix of the Land Use Code.

J. Storage of Vehicles and Similar Equipment on Residential or Agricultural Property.

- a. For the purposes of this section, "vehicle" is defined as any automobile, truck, tractor, or other machinery of any kind, including every device in, on, or by which any person or property is or may be transported or drawn upon a public highway, road or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks.
- b. Trailers, airplanes, boats, recreational vehicles, travel trailers, campers and similar items may be stored on property used mainly for residential purposes as long as the storage is at least ten (10) feet from public right-of-way, excluding alleys. Storage, as used in this subsection, means the location of the above-mentioned items for more than forty-eight (48) hours during any seven (7) day period.
- c. It shall be unlawful to store or otherwise have, maintain or allow on a single parcel of land in the City of Fruita more than one (1) non-farm vehicle not having current Colorado license plates or registration unless the vehicle is in an approved junkyard or other similar use where such vehicle storage is permitted. Such vehicle must be stored within an enclosed building or stored behind the front plane of the house or other primary building on the property.
- d. There shall be no limit on the number of active or serviceable agricultural vehicles on a parcel of land, regardless of whether such vehicles have current registration or license plates; however, the restrictions of one (1) vehicle per parcel of land shall apply to agricultural vehicles which are clearly abandoned or which are not in their present condition suitable for active agricultural use.
- e. Work vehicles exceeding one-ton capacity, other heavy-duty vehicles or heavy equipment not typically associated with a residential use shall not be stored on property under two acres in size and used or zoned primarily for residential purposes except for deliveries or for construction or maintenance work to be done at the site. The number of such oversized vehicles stored on the property is limited to two per lot and must be stored behind the front plane of the house and meet primary building setbacks. Storage, as used in this subsection, means the location of the above-

mentioned items for more than forty-eight (48) hours during any seven (7) day period.

K. Temporary Uses. Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. A land use that occurs on a specific property for more than 6 months in a calendar year is not permitted as a temporary use. Short-Term Rentals are not permitted as a temporary use. Temporary uses include, but are not limited to: construction trailers, leasing offices, garage sales, temporary carnivals and fairs, parking lot or sidewalk sales, mobile food vendors, seasonal sales such as Christmas tree sales, produce stands, and similar uses. Special Events such as city-wide festivals or carnivals conducted on school sites are exempt from these provisions (but a Special Event Permit may be required). Temporary uses must comply with the criteria listed below. The city may require a temporary use to cease at any time, if it is found to be in violation of any of these criteria.

- a. The following criteria and standards apply to all temporary uses:
 - a. The applicant has the property owner's permission to place the use on the specified property.
 - b. Permanent changes to the site are prohibited.
 - c. The temporary use regulations do not exempt an applicant or operator from any other required permits; such as, health department permits.
 - d. The use does not interfere with travel on public ways (including pedestrian and vehicle travel) and does not interfere with access to another property.
 - e. Ingress and egress are safe and adequate when combined with the other uses of the property.
 - f. Temporary use sign(s) shall be permitted in compliance with the requirements of Chapter 41.
 - g. All businesses are required to have a current city business license.
 - h. A Temporary Use Permit is required for any use that exceeds three (3) consecutive days, occurs more than four times in a calendar year, or occupies more than 10,000 square feet of land. The Temporary Use Permit application will be required to address the following additional requirements at a minimum:
 - 1) The proposed site is adequate in size, shape and location to accommodate the temporary use;
 - 2) Adequate parking is available to accommodate the traffic expected to be generated by the temporary use;

- 3) The temporary use will not jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare;
 - 4) Adequate sanitation facilities and solid waste collection facilities are provided as necessary; and
 - 5) Adequate on-site security measures are provided as necessary.
- b. Temporary Uses for a Period Greater Than Ninety (90) Days. For uses that occur for a period longer than ninety (90) days in a calendar year, all of the following criteria must be met. Uses occurring for longer periods of time are considered permanent uses and must follow all requirements regarding permanent uses.
- a. The criteria for all temporary uses identified in subsection 1 above are met.
 - b. The proposed temporary use is permitted as an allowed use in the zone designated for the subject property according to the Land Use Table in Section 17.07.060 and does not violate any conditions of approval for the existing use of the subject property. If the principal use of a property is classified as a Conditional Use by the zone, and a proposed temporary use is not designated as allowed outright in the zone or is not specified as a permitted use by the existing Conditional Use Permit, an amended Conditional Use Permit is required.
 - c. The use does not require use of more than ten (10) percent of the off-street parking needed to comply with the minimum parking requirement under Chapter 17.39 for an existing, permanent use of the property.
 - d. The use complies with the applicable setback requirements and other standards of the zone in which it is located.
 - e. The use does not create adverse off-site impacts, including vehicle traffic, noise, odors, vibrations, glare or lights, over and above the impacts that might be created by other uses permitted outright in the applicable zone.
 - f. The use is adequately served by public facilities or provides acceptable temporary/portable facilities, as approved by the city.
 - g. Conditions may be imposed regarding temporary utility connections, sanitary facilities, security and other requirements as necessary to protect public health, safety, or welfare.
- c. Temporary Sales Office, Construction Office or Model House. A temporary sales office, temporary construction office or model house may be allowed in any zone based on compliance with the following criteria:

- a. The temporary sales office, construction office, or model house shall be located within the boundaries of the subdivision or parcel of land in which the real property is to be sold and comply with applicable regulations;
- b. The property to be used for a temporary sales office or construction office shall not be permanently improved for that purpose;
- c. Conditions may be imposed regarding temporary utility connections, as necessary to protect public health, safety, or welfare; and
- d. A temporary sales office, construction office, or model house may not be used as a dwelling unit. A model house may be used as a dwelling unit when the development in which it is located is permitted to obtain Planning Clearances for dwelling unit construction.
- e. A temporary sales office, construction office or model house cannot be established before approval to begin site work has been obtained. A temporary sales office or a model house use must be removed within one week after the sale of the last unit in the development. A temporary construction office must be removed within one week of issuance of a Certificate of Occupancy or Certificate of Completion for the construction, or acceptance of the public improvements in a subdivision.

L. Wood Burning Stoves, Fireplaces, Gas Log Fireplaces and Pellet Stoves.

- a. Purpose: Air pollution in the Fruita area has become an issue of concern and has been documented by the Mesa County Health Department and the Mesa County Air Quality Planning Committee. It has been found that a major contributor to the air pollution problem in the Grand Valley is the widespread use of wood stoves and fireplaces that do not have air pollution control devices.
- b. Devices Prohibited: New dwellings and remodeled portions of existing structures shall not contain wood burning stoves, fireplaces, coal burning or similar heating devices not approved by the U.S. Environmental Protection Agency (EPA).
- c. Devices Allowed: Only EPA approved natural gas fireplaces, EPA approved pellet stoves, and EPA approved wood burning stoves and fireplaces shall be allowed in new or remodeled structures.

M. Outdoor Storage, HVAC Equipment and Other Service Functions. Outdoor storage, HVAC equipment and other service functions must be incorporated into the overall design of the building and landscaping plan. Views of these areas shall be screened from visibility from abutting public rights-of-way and the ground floor of abutting residential land uses. These requirements do not apply to single family or duplex dwelling developments.

- N.** Waste Storage. Every use shall provide for enclosed solid waste storage, sorting, and recycling facilities, as applicable. Such facilities shall be oriented away from building entrances, setback at least ten (10) feet from any public right-of-way and screened from view of all public rights-of-way (with the exception of alleys) and abutting land uses by locating them inside buildings (as practical), or by placing them behind a sight obscuring fence, wall, landscaping, or combination thereof. The storage of oils, chemicals, wastewater and other liquid contaminants must be stored and contained in structures approved by the U.S. Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment to prevent them from leaking.
- O.** Repair, Painting and Similar Uses. For non-residential land uses, all repair, painting, bodywork, and similar activities, including the storage of refuse and vehicle parts, must take place within an enclosed structure (surrounded by walls and a roof). Residential land uses must meet all other city requirements regarding such uses.
- P.** Dust, Noise, Odor. Each business, commercial, or industrial development is required to meet or exceed the standards for dust, noise and odor, as adopted by the City of Fruita, Mesa County Health Department, state law, the Colorado Department of Public Health and Environment and the U.S. Environmental Protection Agency.
- Q.** New Outdoor Lighting.
- a. Street lighting shall be required for all new developments. All intersections shall be illuminated. If there is more than six hundred (600) feet between intersections, additional lighting shall be installed between intersections. Where a new street intersects with an existing street that is not illuminated, the developer will be responsible for the cost of illuminating such intersection. The local electric service provider and the City of Fruita must approve street lighting plans.
 - b. The following regulations shall apply to all new outdoor lighting on private land:
 - a. All fixtures shall be fully shielded. For purposes of this subsection, fully shielded shall mean fixtures constructed so that light rays emitted are projected below, and not above, the horizontal plane of the fixture.
 - b. Lighting shall be downcast and so placed as to prevent the light rays or illumination from being cast beyond property lines.
 - c. The maximum height of pole lights shall not exceed thirty-five (35) feet in height. The maximum height of lights attached to a building shall not exceed twenty (20) feet in height. Lights required by other government agencies for safety purposes, such as Federal Aviation Administration requirements for lights on certain tall structures, are exempt from these standards.
 - d. Total outdoor light output shall not exceed the limits set in the table below. Lighting District 1 refers to urban and downtown areas, and commercial and

industrial activity centers. Lighting District 2 refers to residential areas, and commercial and industrial activity primarily surrounded by residential land uses. Lighting District 3 refers to rural and agricultural areas, and small commercial or industrial activities primarily surrounded by rural or agricultural areas.

Maximum Total Lumen Output Standards			
	LD1	LD2	LD3
Commercial and Industrial Zoning (per acre)	300,000	200,000	100,000
Residential Zoning (per lot)	30,000	20,000	10,000

- e. Gas fired fixtures and lights used for holiday decorations are exempt from the requirements of this subsection.

- R. Irrigation water. Irrigation water must be provided to new developments when landscaping is required and must be used for required landscape areas where irrigation water is legally and physically available. A minimum of one and one half (1 ½) to two (2) shares of irrigation water per irrigated acre is required to be provided. See the City of Fruita Design Criteria and Construction Specifications Manual for more information.

- S. Medical Marijuana. Definitions of terms specifically related to Medical Marijuana are contained in Chapter 5.15 of the Fruita Municipal Code.
 - a. Cultivation of Medical Marijuana by Patients and Primary Caregivers in Residential Dwelling Units. The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, shall be allowed in residential dwelling units subject to the following conditions:
 - a. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 12-43.3-101, *et. seq.*, C.R.S., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.
 - b. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than four (4) ounces of a useable form of marijuana unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution and no more than twelve (12) marijuana plants, with six (6) or fewer being mature, flowering plants that are producing a useable form of marijuana shall be cultivated or permitted within a primary residence by a patient or a primary caregiver.
 - c. Cultivation of medical marijuana in a residential unit that is not a primary residence is not permitted.
 - d. For the purposes of this subsection, the term “primary residence” means

the place that a person, by custom and practice, makes his or her principal domicile and address to which the person intends to return, following any temporary absence, such as a vacation. Residence is evidenced by actual daily physical presence, use and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and partaking in meals, vehicle and voter registration, or credit, water and utility billing. A person may only have one (1) primary residence. A primary residence shall not include accessory buildings.

- e. Such cultivation, production or possession of marijuana plants shall be limited to the following space limitations within a residential unit:
 - i. Within a single family dwelling unit (Group R-3 as defined by the International Building Code, as adopted in Chapter 15.04 of the Fruita Municipal Code) a secure defined, contiguous area not exceeding 150 square feet within the residence of the patient or primary caregiver.
 - ii. Within a multi-family dwelling unit (Group R-2 as defined by the International Building Code, as adopted in Chapter 15.04 of the Fruita Municipal Code) a secure, defined, contiguous area not exceeding 100 square feet within the residence of the patient or primary caregiver.
- f. For the purpose of this subsection, a “secure” area means an area within the primary residence accessible only to the patient or primary caregiver. Secure premises shall be locked or partitioned off to prevent access by children, visitors, or anyone not licensed and authorized to possess medical marijuana.
- g. Marijuana plants shall not be grown in the common area of a multi- family residential structure.
- h. If a patient or primary caregiver elects to cultivate quantities of marijuana in excess of the amounts permitted under subsection (b.) above, as permitted in Article XVIII, Section 14(4)(b) of the Colorado Constitution, such patient must be in full compliance with the Colorado Medical Marijuana Program as provided in Section 25-1.5- 106(10), C.R.S. and may grow medical marijuana for personal use as a patient or as a primary caregiver for patients as a conditional use within non- residential units or structures in the General Commercial (GC), and the Industrial (I) zones only. See subsection (2) below.
- i. The cultivation of medical marijuana plants in a primary residence shall meet the requirements of all adopted city building, electrical, mechanical and safety

codes. Any patient or primary caregiver cultivating medical marijuana in a primary residence shall have an initial building and safety inspection conducted by the city, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter.

- j. The cultivation of medical marijuana plants shall not be permitted on the exterior portions of a residential dwelling unit. The cultivation, production or possession of marijuana plants in a residential unit must not be perceptible from the exterior of the residential dwelling unit and shall comply with the following:
 - i. Any form of signage shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare, or brightness resulting from grow lamps that disturbs adjacent residents shall be prohibited; and excessive noise from ventilation fans shall be prohibited.
 - ii. Marijuana plants shall be used or consumed exclusively by a patient for the patient's personal use and solely to address a debilitating medical condition.
- k. Any primary caregiver cultivating medical marijuana for patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the city pursuant to Chapter 5.04 of the Fruita Municipal Code. Any primary caregiver transferring medical marijuana to a patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.12 of the Fruita Municipal Code concerning collection and payment of municipal sales tax. Any patient obtaining medical marijuana from a primary caregiver for consideration shall pay a medical marijuana excise tax in accordance with Chapter 3.19 of the Fruita Municipal Code which shall be collected by the primary caregiver and remitted to the city.
- b. Cultivation of Medical Marijuana by Patients and Primary Caregivers in Non-Residential Zones. The cultivation, production, or possession of marijuana plants for medical use by a patient or primary caregiver, as such terms are defined by Article XVIII, Section 14 of the Colorado Constitution, may be allowed as a conditional use in non-residential buildings in the General Commercial (GC), and the Industrial (I) zones only subject to the following conditions:
 - a. The cultivation, production or possession of marijuana plants shall be in full compliance with all applicable provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Code, Sections 12-43.3-101, *et. seq.*, C.R.S., and the Medical Marijuana Program, Section 25-1.5-106, C.R.S.

- b. Marijuana plants that are cultivated, produced or possessed shall not exceed the presumptive limits of no more than two (2) ounces of a useable form of marijuana per patient and no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants that are producing a useable form of marijuana per patient, unless otherwise permitted under Article XVIII, Section 14 of the Colorado Constitution, shall be cultivated. A caregiver may cultivate medical marijuana for no more than five (5) licensed patients. Two (2) or more primary caregivers shall not join together for the purpose of cultivating medical marijuana within any non-residential unit located in the General Commercial (GC) and the Industrial (I) zones.
 - c. Marijuana plants shall not be grown in the common area of any commercial or industrial building.
 - d. The cultivation of medical marijuana plants in any building shall meet the requirements of all adopted city building, electrical, mechanical and safety codes. Any patient or primary caregiver cultivating medical marijuana shall have an initial building and safety inspection conducted by the city, shall comply with any conditions of said inspection, and shall submit to an annual building and safety code inspection thereafter.
 - e. The cultivation of medical marijuana plants shall not be permitted on exterior portions of a building. The cultivation, production or possession of marijuana plants within a building or unit must not be perceptible from the exterior of the building or unit.
 - f. Any form of signage, except for identification signs and courtesysigns, shall be prohibited; unusual odors, smells, fragrances or other olfactory stimulants shall be prohibited; light pollution, glare or brightness resulting from grow lamps that disturbs adjacent property shall be prohibited; and excessive noise from ventilation fans shall be prohibited.
 - g. Any primary caregiver cultivating medical marijuana for patients and providing said marijuana to patients for consideration such as a monetary sum shall obtain a business license from the city pursuant to Chapter 5.04 of the Fruita Municipal Code. Any primary caregiver transferring medical marijuana to a patient for consideration shall also obtain a sales tax license and shall comply with the requirements of Chapter 3.12 of the Fruita Municipal Code concerning the collection and payment of municipal sales taxes. Any patient obtaining medical marijuana from a primary caregiver for consideration shall pay a medical marijuana excise tax in accordance with Chapter 3.19 of the Fruita Municipal Code which shall be collected by the primary caregiver and remitted to the city.
- c. Medical Marijuana Businesses. The cultivation, production or possession of

marijuana plants by a medical marijuana center and a medical marijuana optional premises cultivation operation is prohibited. In the event that the voter approved ban on medical marijuana businesses as set forth in Section 5.15.025 of this Code is overturned or declared unconstitutional by legislative action, future voter approval or by applicable court rulings, the city desires to keep in place legislation regarding the regulation and licensing of said medical marijuana businesses. To that end, the following provisions are applicable in the event said ban is overturned.

The cultivation, production or possession of marijuana plants by a medical marijuana center and a medical marijuana optional premises cultivation operation may be allowed as a conditional use in non-residential buildings in the General Commercial (GC), and the Industrial (I) zones only subject to the requirements contained in Chapter 5.15 of the Fruita Municipal Code and the following provisions;

- a. If the City of Fruita's population is less than 20,000 persons, only one (1) medical marijuana center and one (1) optional premises cultivation operation related to a medical marijuana center shall be approved as a conditional use. If the city's population is between 20,000 persons and 30,000 persons, the City of Fruita may grant two (2) conditional use permits for medical marijuana centers and two (2) conditional use permits for optional premises cultivation operations related to medical marijuana centers. Populations shall be determined by the most recent data available from the U.S. Census Bureau and the State of Colorado Demography office. In the event more than one (1) application for a conditional use permit for a medical marijuana business of the same classification are submitted to the city within a period of thirty (30) days, the applications comply with all the requirements of the Fruita Land Use Code, Chapter 5.15 of the Fruita Municipal Code and the Colorado Medical Marijuana Code, but the city is not permitted to approve all of the applications because of the limitations set forth in this subsection, the city shall approve the application that the City Council finds and determines will best promote the intent and purposes of the Fruita Land Use Code, Chapter 5.15 of the Fruita Municipal Code and the Colorado Medical Marijuana Code.
- b. The city shall not receive or act upon an application for a conditional use permit if the building in which the medical marijuana business is to be located is within one thousand feet (1,000') of the following:
 - i. A State licensed public or primary preschool or a State licensed public or private elementary school, middle, junior high or high school;
 - ii. A State licensed residential child care facility;
 - iii. An alcohol or drug treatment facility; or

- iv. A principal campus of a college, university, or seminary.

The distance shall be computed by direct measurement from the nearest property line of the land used for the above uses to the nearest portion of the building in which the medical marijuana business is to be located.

- c. The city shall not receive or act upon an application for the issuance of a conditional use permit if the building in which the medical marijuana business is to be located is within five hundred feet (500') of the following:

- i. Any residential land use;
- ii. Any public park or other publicly owned or maintained building open for use by the general public; or
- iii. Any religious institution or place of worship.

The distance shall be computed by direct measurement from the nearest property line of the land used for the above uses to the nearest portion of the building in which the medical marijuana business is to be located.

- d. The city shall not receive or act upon an application for the issuance of a conditional use permit if the application concerns a particular location that is the same as or within one thousand feet (1,000') of a location for which, within the two (2) years immediately preceding the date of the application, the city denied an application for a special use permit for a medical marijuana business due the nature of the use or other concerns related to the specific location.
- e. Marijuana plants, products, accessories, and associated paraphernalia contained in a medical marijuana business shall not be visible to members of the public from a public sidewalk, public street or right-of-way, any other public place, or any portions of the building in which the medical marijuana business is located not restricted to access by patients and employees only.
- f. All signage related to a medical marijuana Business shall meet the standards established in the Fruita Land Use Code. In addition, signs shall be restricted to a total of sixteen square feet, including all temporary signs. No signs associated with a medical marijuana business shall use the words "marijuana", "cannabis", or other any word or phrase commonly understood to refer to marijuana unless such word or phrase is immediately preceded by the word "medical" or the message of such sign includes the words "for medical use" or "for medicinal purposes" in letters that are no smaller than the largest letter on the sign. No depiction of marijuana plants or leaves shall appear on any exterior sign of a medical marijuana business.

- g. Parking requirements for a medical marijuana center shall be based on parking requirements for high volume retail sales.
- h. The medical marijuana business shall be operated in a manner that does not cause any substantial harm to the public health, safety and welfare.
- i. Any conditional use permit granted for a medical marijuana business confers only a limited and conditional privilege subject to the requirements, conditions and limitations of Chapter 5.15 of the Fruita Municipal Code and State law. Any license granted for a medical marijuana business pursuant to Chapter 5.15 may be further regulated, limited or completely extinguished at the discretion of the City Council or the electors of the city, without any compensation to the licensee.
- j. A conditional use permit for a medical marijuana business may be subject to conditions that are reasonably necessary to protect the public health, safety or welfare, including but not limited to the following:
 - i. Limits and requirements on parking and traffic flows;
 - ii. Limits on noise inside the medical marijuana business or on adjacent grounds;
 - iii. Prohibitions on certain conduct in the medical marijuana business;
 - iv. A limitation on the square footage that can be utilized by the medical marijuana business; and
 - v. Any other conditions reasonably necessary to protect the public health, safety and welfare and fulfill the intent and purposes of the Fruita Land Use Code and Chapter 5.15 of the Fruita Municipal Code.”

17.07.023 LAND USE COMPATIBILITY CRITERIA.

The purpose of this Section is to provide a fair and consistent manner in which to consider compatibility within the overall context of the Fruita Master Plan, existing adjacent land uses, applicable zoning district requirements, and other city codes and regulations. Nothing in this Section shall prevent the City of Fruita from denying a land use application based on relevant Code requirements or taking enforcement action against a property owner where a nuisance or other Code violation occurs.

For all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the

other use(s). The city decision-making body may consider other uses existing and approved and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between uses.

17.07.024 LEGAL NON-CONFORMING USES, STRUCTURES, AND LOTS.

A. Generally. The purpose of this chapter is to regulate and restrict uses, structures, lots, and site improvements that were established legally at the time of adoption of this Title or any subsequent amendment hereto, which is not in conformance with the provisions of this Title or amendment. All such situations shall be referred to as “nonconformities.” Any nonconformity that lawfully existed as of the effective date of this Title and subsequent amendments, may continue in existence pursuant to the provisions of this section.

1. Determination of Nonconforming Status. It shall be the responsibility of the owner, not the City, to establish the existence of a lawful non-conformity.
2. Applicability of Other Modifications. Where a variance or minor modification has been granted that results in a development standard or feature that does not otherwise conform to the requirements of this Title, that development standard or feature shall be deemed conforming and this chapter shall not apply.
3. Maintenance of Nonconformities. Minor repairs or maintenance of nonconformities are permitted, provided they do not increase the extent of the nonconformity, taking all dimensional and use requirements into consideration.
4. Abandonment or Discontinuance. Whenever a legal non-conforming use of land, structure, sign, or a building has been discontinued for a continuous period of one (1) year, future use of the land, structure, sign, or building shall be in conformance with all applicable city regulations.
5. Annexation. Non-conformities should be brought into compliance with all city regulations before annexation and those non-conformities that are to be permitted to continue as legal non-conformities must be identified in the Ordinance annexing the property.

B. Non-Conforming Uses

1. A legal non-conforming use may be extended throughout the same building, provided no structural alteration of such building is made for the purpose of such extension. A legal non-conforming use of property not contained within a building shall not be expanded.
2. A legal non-conforming use shall not be changed to any other use except a conforming use.
3. A use that was legally established without a Conditional Use Permit shall not be deemed non-conforming solely because a Conditional Use Permit is now required

for the use. Any expansion or other significant changes to the land use which requires the Conditional Use Permit will require approval of a new Conditional Use Permit before the expansion or other significant change.

C. Non-Conforming Structures and Site Improvements

1. A structure, building or sign which does not meet the setback, height, size, or other site requirements of this Chapter may be repaired, maintained, or extended, provided any such repair, maintenance, or extension is in full compliance with all applicable city regulations.
2. A non-conforming structure, building or sign which has been damaged to an extent not exceeding fifty (50) percent of its assumed market value on the day before the damage occurred may be restored in conformance with the city's building codes, provided such work is commenced within one (1) year of the date of damage. If the structure, sign, or building is damaged to the extent of more than fifty (50) percent of assumed market value, the non-conforming structure, building, or sign must be discontinued. Assumed market value for a building shall be determined by multiplying the most recent assessed value of the damaged building by four (4). This section shall not apply to single-family dwellings. Legal non-conforming single-family dwellings may be rebuilt in compliance with the current building codes.

D. Non-Conforming Lots

1. An individual lot which was legally created but does not meet the minimum lot area or other dimensional requirement for the zone in which it is located shall be considered a legal non-conforming lot. Such legal non-conforming lot may be used provided all zoning and other applicable city regulations, including but not limited to setbacks, are met.
2. Mobile and manufactured homes shall be subject to the provisions of this Code on the date they are removed from their pad or foundation; however, if a mobile or manufactured home was legally established as a single-family residential dwelling unit, the mobile or manufactured home can be replaced on the same site even if single-family residential land uses are not permitted, nor does the replacement require a Conditional Use Permit, but all other standards apply.