



**FRUITA CITY COUNCIL
AUGUST 4, 2020
7:00 P.M.**

Public Link to Meeting

When: August 4, 2020 7:00 PM Mountain Time (US and Canada)

Topic: City Council Meeting – 8/4/2020

The link to join the meeting electronically will be posted on 8/4/20 prior to the meeting at www.fruita.org/covid19 under City Council meetings. You may also contact the City of Fruita at (970) 858-3663 for information to connect to the meeting.

- 1. CALL TO ORDER AND ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. AGENDA - ADOPT/AMEND**
- 4. PROCLAMATIONS AND PRESENTATIONS**
 - A. PROCLAMATION** – Proclaiming August 3 – 9, 2020 as the “3rd Annual Interfaith Awareness Week” in the City of Fruita to be accepted by Grand Valley Interfaith Network (GVIN) President, Reverend Dr. Carla Ryan and Create Real Growth President, Carlene Goldthwaite
- 5. PUBLIC PARTICIPATION**

This section is set aside for the City Council to LISTEN to comments by the public regarding items that do not otherwise appear on this agenda. Generally, the City Council will not discuss the issue and will not take an official action under this section of the agenda. **Please limit comments to a three-minute period.**
- 6. CONSENT AGENDA**

These are items where all conditions or requirements have been agreed to or met prior to the time they come before the Council for final action. These items will be approved by a single motion of the Council. Members of the Council may ask that an item be removed from the consent section and fully discussed. All items not removed from the consent section will then be approved. A member of the Council may vote no on specific items without asking that they be removed from the consent section for full discussion. Any item that is removed from the consent agenda will be placed at the end of the regular agenda.

 - A. MINUTES** - A request to approve the minutes of the July 21, 2020 Regular City Council Virtual Meeting

- B. LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Fermented Malt Beverage (FMB) Liquor License for City Market #13 located at 135 S. Plum St.
- C. LIQUOR LICENSE RENEWAL – A request to approve the renewal of a Beer and Wine – Malt and Vinous Liquor License for Munchies Pizza & Deli, LLC located at 550 Kokopelli Blvd.
- D. ONE RIVERFRONT APPOINTMENTS – A request to approve the appointments of J. Fred Barbero, Rondo Buecheler, Joel Sholtes and Jennifer Reyes to the One Riverfront for three-year terms each to expire in 2023 and the appointment of David DeKeyser to a mid-year term (in the event of a vacancy occurring before a term expires)
- E. RESOLUTION 2020-29 – Approving the Final Release of the Subdivision Improvements Agreement for the Brandon Estates Filing 3, Phase 2D Subdivision

7. PUBLIC HEARINGS

Public hearings are held to obtain input from the public on various items. Public hearings are either Legislative in nature or Quasi-Judicial in nature. **Public Input** is limited to 3 minutes per person. People speaking should step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made. Each is described as follows:

- **LEGISLATIVE** – Legislative public hearings are held when the City Council is considering an item that establishes legislation such as an ordinance amending or establishing laws of the city. Interactions by members of the public with the City Council or individual members is permissible on items of a legislative nature.
- **ORDINANCES** - After introduction of an Ordinance (First Reading), a public hearing date is set and notice of the hearing is published in the newspaper. Staff presents the ordinance on Second Reading and the hearing is opened to the public for public input. After comments from the public, the Mayor will close the hearing and bring the Ordinance back to the City Council for discussion and potential action. The Council will make a motion to approve the Ordinance or take no action. In the event the ordinance is approved, it will become effective 30 days after adoption.
- **QUASI-JUDICIAL** – Quasi-judicial public hearings are held when the City Council is acting in a judicial or judge like manner and a person with a legitimate interest is entitled to an impartial decision made on the basis of information presented and laws in effect. Quasi-judicial hearings are commonly held for land use hearings and liquor license hearings. Since the City Council is acting in a fair and impartial manner, it is NOT permissible for City Council members to have any ex-parte communication (contact between the applicant, members of the public, or among other members of the City Council) outside of the Public Hearings and meetings on the subject application. The City Council must limit its consideration to matters which are placed into evidence and are part of the public record. Quasi-judicial hearings are held in the following manner:
 - 1) **Staff presentation** (15 minutes max) Staff will present the comments and reports received from review agencies and offer a recommendation.
 - 2) **Applicant Presentation** (15 minutes max) The petitioner is asked to present the proposal. Presentations should be brief and to the point and cover all of the main points of the project.
 - 3) **Public Input** (limit of 3 minutes per person) Speakers must step up to the microphone and state their name and address. Speakers should be to the point and try not to repeat the points others have made.
 - 4) **The public hearing is closed to public comments.**
 - 5) **Questions from the Council.** After a Council member is recognized by the Mayor, they may ask questions of the staff, the applicant, or the public.
 - 6) **Make a motion.** A member of the City Council will make a motion on the issue.
 - 7) **Discussion on the motion.** The City Council may discuss the motion.
 - 8) **Vote.** The City Council will then vote on the motion.

A. LEGISLATIVE HEARINGS

- 1) **ORDINANCE 2020-02 – Second Reading – Amending Chapter 28 of Title 2 and Chapter 11 of Title 9 of the Fruita Municipal Code to provide for more efficient enforcement of and monetary penalties related to public nuisance violations – Dan Caris, Community Development Director**

- 2) RESOLUTION 2020-33 – Approving a Supplemental Budget Appropriation for the 2020 Budget to appropriate additional funds for the North Fruita Desert survey work and for COVID-19 pandemic related expenses – *Margaret Sell, Finance Director*

B. QUASI-JUDICIAL HEARINGS

- 1) RESOLUTION 2020-30 – Approving a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential Zone located at 506 E. Pabor Avenue – *Henry Hemphill, City Planner*
- 2) RESOLUTION 2020-31 – Approving a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential Zone located at 221 N. Elm Street – *Henry Hemphill, City Planner*

8. ADMINISTRATIVE AGENDA

9. CITY MANAGER’S REPORT

10. COUNCIL REPORTS AND ACTIONS

- A. RESOLUTION 2020-32 – Adopting a Boards and Commissions Policy to provide general guidance and uniformity for Boards and Commissions of the City – *Margaret Sell, City Clerk/Finance Director*

- B. Council Reports and Actions

11. ADJOURN

Proclamation

*AUGUST 3 – 9, 2020 AS:
3RD ANNUAL INTERFAITH AWARENESS WEEK*

Whereas, the City of Fruita honors and respects all religious beliefs, cultures, creeds, and races and is recognized as an Inclusive City -- defined in the November 20, 2018 "Inclusivity Proclamation"-- and seeks to learn from those who believe that equal spiritual opportunity and human rights belong to every citizen; and

Whereas, various statistical sources calculate that there are between 4,000 and 5,000 different religions in the world and that the city of Fruita and Mesa County are home to a number of such different faith paths; and

Whereas, there are three or more Interfaith organizations currently operating in Fruita and Mesa County and are offering varied programs designed to bring more faith groups into dialogue together to discuss and better practice peace, harmony, cooperation, and understanding among all people; and

Whereas, the Grand Valley Interfaith Network (GVIN) has been networking together to support the constructive activities of local interfaith operations in Mesa County since 1977; and

Whereas, many Fruita faith groups have partnered with GVIN to create a series of activities and events in the days and weeks leading up to Interfaith Awareness Week, to be followed by days of individual reflection on connection and peace, which is open to all people of any faith including those who are not affiliated with any faith; and

Whereas, the ongoing activities of harmony among a diversity of faiths is a vital goal for all people throughout Fruita, North America, and the world; **NOW, THEREFORE,**

BE IT PROCLAIMED, that the City Council for the City of Fruita, on behalf of the citizens of Fruita, proclaims the first week in August 2020 to be "**INTERFAITH AWARENESS WEEK**" in the City of Fruita. **FURTHERMORE,** the City of Fruita hereby intends to annually recognize the importance of all beliefs in the community and to consider, respect, and value the uniqueness and importance of religious diversity in our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official Seal of the City of Fruita this 4th day of August, 2020

Joel Kincaid, Mayor of the City of Fruita



**FRUITA CITY COUNCIL
VIRTUAL MEETING
JULY 21, 2020
5:00 P.M.**

1. INVOCATION AND PLEDGE OF ALLEGIANCE

A moment of silence was observed in lieu of the Invocation and the Pledge of Allegiance was recited.

2. CALL TO ORDER AND ROLL CALL

Mayor Kincaid called the Regular Meeting of the Fruita City Council to order at 7:01 p.m. The meeting was held with virtual access provided through Zoom.

Present via teleconference:

Mayor Joel Kincaid
Mayor Pro Tem Lori Buck
City Councilor Ken Kreie
City Councilor Heather O'Brien
City Councilor Kyle Harvey
City Councilor Matthew Breman
City Councilor Karen Leonhart

Excused Absent:

(None)

Also present via teleconference:

City Manager Mike Bennett
City Clerk/Finance Director Margaret Sell
Deputy City Clerk Deb Woods
Management Analyst Shannon Vassen
Planning & Development Director Dan Caris
Colorado Parks & Wildlife Area Manager Kirk Oldham
Audit Principal Lisa Hemann with Steinkirchner, Davis & Co., P.C.
Members of the public

3. AGENDA – ADOPT/AMEND

Mayor Kincaid asked if there had been any additions or changes to the agenda. Deputy City Clerk Deb Woods confirmed that there had been no additions or changes to the agenda.

- **COUNCILOR LEONHART MOVED TO APPROVE THE AGENDA AS PRESENTED. COUNCILOR O'BRIEN SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

4. PROCLAMATIONS AND PRESENTATIONS

A. PRESENTATION – AN UPDATE FROM COLORADO PARKS & WILDLIFE AREA MANAGER KIRK OLDHAM

Area Manager Kirk Oldham gave a presentation about CPW's management of public lands and wildlife-related recreation resources for the agency.

Over the past decade, CPW has seen significant increases in outdoor recreation on public lands including state wildlife areas. As a result, in April of this year, the Parks & Wildlife Commission adopted a regulation that requires users of state wildlife areas who are over the age of 18 to have a hunting or fishing license effective July 1, 2020.

Mr. Oldham explained that CPW and wildlife conservation in Colorado are primarily funded by hunting and fishing license sales. So far in 2020, the agency has generated around \$17 million from the sales of these licenses. With these revenues, CPW looks at making habitat improvements and acquisitions, either through fee title purchases or conservation easements.

Mr. Oldham specified the Loma boat ramp as an example of a nearby area where the new regulation will apply. CPW is pursuing an exemption for the Horsethief Canyon state wildlife area and Mr. Oldham mentioned the Riverfront Trail's state wildlife parcels (owned by CPW) that will be exempted since Mesa County built and maintains the trail.

City Manager Mike Bennett related that a few residents reached out to him with concerns about being able to take-out or put-in rafts at the Loma boat ramp and the requirement of having a hunting or fishing license to do so.

Mr. Oldham said CPW will continue to work with those users to iron out the issues.

5. PUBLIC PARTICIPATION

Mayor Kincaid gave attendees who had joined the meeting virtually instructions on how to submit public comments. Shannon Vassen confirmed that there were no comments from the public.

6. CONSENT AGENDA

A. MINUTES:

- 1) A REQUEST TO APPROVE THE MINUTES OF THE JULY 6, 2020 SPECIAL CITY COUNCIL MEETING**

**2) A REQUEST TO APPROVE THE MINUTES OF THE JULY 7, 2020
REGULAR CITY COUNCIL MEETING**

- B. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A HOTEL AND RESTAURANT LIQUOR LICENSE FOR DRAGON TREASUE RESTAURANT LOCATED AT 576 KOKOPELLI BLVD.**
- C. LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A BEER AND WINE LIQUOR LICENSE FOR BESTSLOPE COFFEE CO. LOCATED AT 129 N. PEACH ST.**
- D. BOARDS AND COMMISSIONS APPOINTMENT – A REQUEST TO APPROVE THE APPOINTMENT OF KAYLA BROWN TO THE FRUITA TOURISM ADVISORY COUNCIL TO FILL THE DIRECTOR OF THE FRUITA CHAMBER OF COMMERCE POSITION TO FULFILL AN UNEXPIRED TERM TO EXPIRE IN JANUARY OF 2023**
- E. FINANCIAL REPORTS – A REQUEST TO APPROVE THE JUNE 2020 FINANCIAL REPORTS**
- F. ORDINANCE 2020-02 – FIRST READING – AN INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 28 OF TITLE 2 AND CHAPTER 11 OF TITLE 9 OF THE FRUITA MUNICIPAL CODE TO PROVIDE FOR MORE EFFICIENT ENFORCEMENT OF AND MONETARY PENALTIES RELATED TO PUBLIC NUISANCE VIOLATIONS FOR PUBLICATION OF PUBLIC HEARING ON AUGUST 4, 2020**
- G. RESOLUTION 2020-28 – A REQUEST TO APPROVE THE FIRST RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE GARDEN ESTATES SUBDIVISION**

Mayor Kincaid opened the public hearing on the Consent Agenda. Mr. Vassen confirmed that he did not see any members of the public asking to comment. Mayor Kincaid closed the public hearing and invited the Council to ask questions, comment, remove Consent items for further discussion or make a motion to approve.

- COUNCILOR BUCK MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

7. ADMINISTRATIVE AGENDA

- A. 2019 FINANCIAL STATEMENTS – PRESENTATION OF THE 2019 FINANCIAL STATEMENTS AND FISCAL HEALTH ANALYSIS – FINANCE DIRECTOR/CITY CLERK MARGARET SELL**

Finance Director/City Clerk Margaret Sell provided the Council with a PowerPoint presentation of the 2019 Financial Statements and Fiscal Health Analysis. The overview is intended to provide information on the City's financial condition and a framework for upcoming discussions regarding the 2021 budget. A copy of the 2019 Financial Statements is available at: <https://www.fruita.org/administration/page/financial-statements>.

The Fiscal Health Analysis is a set of seven financial ratios developed by the Local Government Audit Division of the Office of the State Auditor to assess financial health. This information can assist the City in identifying areas to focus on for further examination and, if needed, take appropriate action. There is one missed benchmark (Expenditures per Capita) for the three-year analysis of 2017 through 2019. Ms. Sell noted that the City does not have a negative net position, but that it does fluctuate from year to year depending primarily on Capital Projects. A copy of the Fiscal Health Analysis is available at the City Clerk's Office or by emailing msell@fruita.org.

Ms. Sell discussed the year and a half's worth of increases (since 2015) in the City's operating reserves with Councilor Breman. She underscored the significant fluctuations in operating reserves from year to year depending on Capital Projects the City may or may not have in a given year and identified sales tax revenue increases over the last few years as part of the reason for the City's healthy operating reserves at year-end 2019.

This agenda item was for the Council's and Mayor's information and did not require any official action to be taken.

B. 2019 FINANCIAL STATEMENTS – PRESENTATION OF THE AUDITOR'S REPORT OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDING 12/31/2019, LISA HEMANN, AUDIT PRINCIPAL, STEINKIRCHNER, DAVIS & CO., PC

Lisa Hemann with Steinkirchner, Davis & Co., P.C. presented the Independent Auditor's Report. The State of Colorado and the Fruita City Charter require an annual audit of the City's Financial Statements. This ensures that the Financial Statements and financial condition of the City are accurately reported and provides for accountability of the finance functions of the City.

The auditors issued their Audit Report on July 16, 2020 and provided an unmodified opinion on the Financial Statements, meaning they believe that the Financial Statements are fairly presented in accordance with Generally Accepted Accounting Principles.

Ms. Hemann clarified that in the Audit Report, the auditors provide opinions on the largest major funds individually and then they provide an opinion on the smaller funds in the aggregate with a number of different opinions and scopes within the City's audit.

Ms. Hemann described the audit process, noting that this year was much different because the auditors weren't able to conduct their audit in person like they normally do; they did the entire audit remotely. She said staff did a great job getting the auditors the information that they needed and gave them the ability to feel comfortable with performing the audit remotely.

Ms. Hemann further detailed the audit process and concluded that the auditors did not have any negative findings or issues. She noted that there were some standards that were postponed this year due to the COVID-19 pandemic; primarily disclosures in the footnotes related to debt, fiduciary activities and leases.

- **COUNCILOR BREMAN MOVED TO APPROVE THE CITY OF FRUITA 2019 FINANCIAL STATEMENTS AND ACCEPT THE AUDITOR'S REPORT. COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

Councilor Leonhart observed that the Council very much appreciates Margaret Sell and all the amazing things she does. Ms. Hemann echoed the sentiment.

8. CITY MANAGER'S REPORT

City Manager Mike Bennett provided the following updates:

- On July 22nd at 6:00 p.m., the Council's Joint Workshop with the Parks and Recreation Advisory Board will be held concerning the Parks, Health, Recreation, Open Space and Trails (PHROST) Master Plan at the Fruita Community Center (FCC) in person with social distancing and mask requirements. Consultants will present results from the survey that went out to the community as well as feedback obtained from Open Houses that were held prior to the pandemic, an online forum using the digital engagement tool "Bang the Table" and other stakeholder interviews.
- On July 23rd from 5:30 to 7:00 p.m., a community PHROST Open House will be held at the FCC with stations adequately spaced apart and people will be able to walk around, ask questions and provide feedback.
- Staff is working diligently on the "Coronavirus Relief Fund" (CARES Act funding) to perform an extensive review of the City's expenses and which are eligible for funding. Staff has initiated requests for a number of quotes and estimates for several ideas and will update the Council at the next meeting with more concrete numbers. Staff has also been reaching out to other cities and professional associations to see what they are doing as the funding criteria is the same across the nation. Mr. Bennett noted that staff has learned that their ideas are all very similar to those of other cities and organizations.
- Staff is getting pricing on large tents that can be used to create sizable shade areas at future Special Events and is also working with the Fruita Chamber to discuss the possibility of using the tents to create more outdoor seating for local businesses who are struggling due to social distancing requirements.
- Staff is working with the Business Incubator Center on a program that could allow for businesses and non-profits to apply for funding.

- Staff is getting pricing on upgrading technology to prepare for the possibility of more remote working for more staff members moving forward.
- Staff is awaiting quotes on some options for updating the technology in the Council Chambers to allow citizens to more easily participate in Council meetings in general.
- Staff is also requesting quotes to add outside help with the City's communication strategy on sharing COVID information so that it will reach more people in the community.
- Staff will be giving the Council a review of the list of ideas for CARES Act funding at the July 28, 2020 workshop session.
- The Budget process will begin now that the Financial Statements have been wrapped up and several Staff members are already working on it in many ways.
- Staff is combing through the Comprehensive Plan to identify Action Items and Goals and put them in a more professional format to officially bring them to the Council at an upcoming meeting.
- Mike and Management Analyst Shannon Vassen met with the Grand Valley Free Press earlier in the day and were very impressed with the amount of effort that is being put into this digital newspaper.
- Mike reminded the Council that after August 5th, he will be working remotely for the rest of that week.
- Mike requested that prior to going into the Executive Session, the Council take official action to amend his contract to officially change the date of his informal review to occur in July and the formal review to occur in January, which is the opposite of what they currently are. It was not anticipated that the Council would reconvene the regular meeting after the Executive Session for any type of action.

9. COUNCIL REPORTS AND ACTIONS

- **COUNCILOR BUCK MOVED TO APPROVE THE AMENDMENTS TO THE CITY MANAGER'S CONTRACT THAT WERE SUPPLIED IN THE COUNCIL PACKET. COUNCILOR KREIE SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

A. COUNCIL REPORTS AND ACTIONS

COUNCILOR KEN KREIE

Ken reminded all that he would be absent at the Council workshop on July 28th.

COUNCILOR KAREN LEONHART

Karen reported that the Police Commission met on Wednesday, July 15th and board member Don Williams has resigned. Staff may contact Police Chief Krouse to get a written statement of resignation. Commissioner Ed Vigil is also going to be leaving the board when his term expires in October. At the meeting, the Commission discussed car break-ins, which are at the top of the list of concerns for the PD and is mainly due to people leaving their cars unlocked. Karen wondered if there was a good way to communicate to the public (such as in the next issue of the City Link) that they need to lock their cars. The Commission also discussed how Council members could drop in at the station anytime to show their support and how that would be appreciated.

Karen also reported that a Museum of Western Colorado (MWC) Board of Directors meeting would be held the following week and that she had a Livability Commission meeting coming up on Thursday, July 23rd.

Karen added that a small group has gotten together that includes Councilor Kyle Harvey and Fruita Library Branch Services Manager Shanachie Carroll and they have been working on the idea of a community book read. The group has chosen the name "Fruita for Equality" and is trying to get as many more people involved as they can. They aim to start the conversation with an Open House event on Saturday, September 12, 2020 (tentative) from 4:00 to 6:00 p.m. at Civic Center Park where people will be able to share ideas, stories and concerns, have ice cream and potentially pick out a book for the community book read in the future.

"Fruita for Equality" is hoping to get the Fruita Youth Action Council involved as well and Karen said that the Library has really taken the lead by providing resources both financial and otherwise.

The group wants to let people know that the direction in which they are headed is for everyone to listen and learn from each other.

COUNCILOR KYLE HARVEY

Kyle said he was excited to be a part of the community book read project.

Kyle reported that the Arts & Culture Board met and voted Nancy Patterson in as the new Chair to replace Bill Holstein, who left big shoes to fill and is greatly missed by the members.

Kyle noted that he would be about ten minutes late to the Joint Workshop meeting with the Parks and Recreation Advisory Board about the PHROST Plan.

COUNCILOR MATTHEW BREMAN

Matthew stated that the Grand Junction Economic Partnership (GJEP) did not meet in July and their next meeting is scheduled for August 13th.

Matthew also announced that he would be absent at the Joint Workshop with the Parks and Recreation Advisory Board the following evening due to a scheduling conflict.

MAYOR JOEL KINCAID

Joel stated that he had a family commitment and would be late by about 45 to 50 minutes to the Joint (PHROST) Workshop meeting the next evening.

Joel noted that the Tourism Advisory Council would be meeting on Thursday, July 23rd and the Fruita Area Chamber of Commerce is going to put out a joint announcement with the City of Fruita about canceling Fruita Fall Festival, Thursday Night Concerts and the Mike the Headless Chicken Festival.

Karen added that the cancellation of Fruita Fall Festival might make a difference in the date for the “Fruita for Equality” Open House that she had just mentioned in her report.

B. EXECUTIVE SESSION – DISCUSSION AND POSSIBLE ACTION TO CONSIDER A MOTION TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) IN ORDER TO DISCUSS THE CITY MANAGER’S INFORMAL REVIEW

- **COUNCILOR O’BRIEN MOVED TO CONVENE IN EXECUTIVE SESSION REGARDING PERSONNEL ISSUES UNDER C.R.S. SECTION 24-6-402(4)(F) IN ORDER TO DISCUSS THE CITY MANAGER’S INFORMAL REVIEW. COUNCILOR LEONHART SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

The Council convened into Executive Session at 8:35 p.m. and did not reconvene the regular meeting when the Executive Session was over.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: AUGUST 4, 2020

RE: LIQUOR LICENSE RENEWAL – A REQUEST TO APPROVE THE RENEWAL OF A FERMENTED MALT BEVERAGE (FMB) LIQUOR LICENSE (OFF PREMISES) FOR CITY MARKET LOCATED AT 135 S PLUM

BACKGROUND

The Fermented Malt Beverage Liquor License (Off Premises) for The City Market Store located at 135 S Plum is up for renewal. Their current license expires on **September 21, 2020**. The Police Department report indicates that there have not been any violations or incidents reported to them in the last year and there is nothing unusual or of concern that would hinder renewal of the license. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The City Clerk's office has no current TIPS certificate on file; however, employees are trained through City Market.

City Market reports on their renewal form that several other City Market/King Soopers locations had violations in the past for sales to a minor, but none of these locations are in Fruita.

The following information is provided as background on the liquor license renewal process:

Pursuant to State Statutes, the local licensing authority (City Council) may cause a hearing on the application for renewal to be held. No renewal hearing shall be held until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review.

This item is placed on the agenda for the Council to determine if there is any cause for a hearing to be held on the renewal of the liquor license. If there is no cause for a hearing, the City Council should approve the renewal of the existing license. If there is cause for a hearing, the City Council should set a date to hold a quasi-judicial hearing to determine if there are sufficient grounds for suspension or revocation of the liquor license. The City Council may also temporarily suspend any license, without notice, pending any prosecution, investigation or public hearing. No such suspension shall be for a period of more than 15

days.

FISCAL IMPACT

None

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

OPTIONS AVAILABLE TO THE COUNCIL

- 1) Renew the Fermented Malt Beverage Liquor License (Off Premises) for City Market located at 135 S Plum
- 2) Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

RECOMMENDATION

It is the recommendation of staff that the Council move to:

RENEW THE FERMENTED MALT BEVERAGE (FMB) LIQUOR LICENSE (OFF PREMISES) FOR THE CITY MARKET LOCATED AT 135 S PLUM

DR 8400 (07/24/19)
 COLORADO DEPARTMENT OF REVENUE
 Liquor Enforcement Division

Submit to Local Licensing Authority

Fees Due	
Renewal Fee	96.25
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$ 96.25

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name DILLON COMPANIES, LLC		Doing Business As Name (DBA) CITY MARKET #13		
Liquor License # 01-10779-0129	License Type FERMENTED MALT BEVERAGE <small>OFF (CITY)</small>	Sales Tax License # 01107790129	Expiration Date 09/21/2020	Due Date 08/07/2020
Business Address 135 S PLUM FRUITA CO 81521-2524				Phone Number (970) 858-9506
Mailing Address PO BOX 305103 NASHVILLE, TN 37230-5103			Email business.license@kroger.com	
Operating Manager GEORGE CORDOVA	Date of Birth 9/6/1965	Home Address 215 PARK ST. FRUITA CO 81521		Phone Number (970) 683-8104
1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the premises owned or rented? <input checked="" type="checkbox"/> Owned <input type="checkbox"/> Rented* *If rented, expiration date of lease _____				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

DR 8400 (07/24/19)
COLORADO DEPARTMENT OF REVENUE
Liquor Enforcement Division

Affirmation & Consent I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.		
Type or Print Name of Applicant/Authorized Agent of Business CHRISTINE WHEATLEY		Title VICE PRESIDENT & SECRETARY
Signature <i>Christine Wheatley</i>	DocuSigned by: <i>Christine Wheatley</i>	Date 7/9/2020
Report & Approval of City or County Licensing Authority The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules. Therefore this application is approved.		
Local Licensing Authority For <i>The City of Fruita</i>		Date
Signature	Title JOEL KINGAID, MAYOR	Attest

Tax Check Authorization, Waiver, and Request to Release Information

I, KELSI LOVETT - BUSINESS LICENSE ANALYST am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of DILLON COMPANIES, LLC (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) DILLON COMPANIES, LLC		Social Security Number/Tax Identification Number 48-0196590	
Address 135 S PLUM			
City FRUITA		State CO	Zip 81521-2524
Home Phone Number (970) 858-9506		Business/Work Phone Number (615) 232-9557	
Printed name of person signing on behalf of the Applicant/Licensee KELSI LOVETT - BUSINESS LICENSE ANALYST			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed 7/9/2020

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

ATTACHMENT TO DR 8400 – RETAIL LIQUOR OR FMB LICENSE RENEWAL
RE: DILLON COMPANIES LLC

QUESTION #6: *Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation.*

LICENSE LOCATION	DATE OF VIOLATION	DESCRIPTION	DISPOSITION
King Soopers #28 6550 Lookout Road Boulder CO 80301	Jan 2020	Sale to Minor	Pending
City Market #45 165 Country Center Dr Pagosa Springs CO 81147	Feb - Sep 2019	Sale Below Cost [State]	License suspended 9 days; fine paid in lieu of 3 days, 6 days held in abeyance 1 yr
City Market #17 1703 Freemont Canon City CO 81212	Feb 2019	Sale Below Cost [State]	License suspended 6 days; fine paid in lieu of 2 days, 4 days held in abeyance 1 yr
King Soopers #85 15200 W. 64 th Ave Arvada CO 80004	Jan 2019	Sale Below Cost [State]	License suspended 6 days; fine paid in lieu of 2 days, 4 days held in abeyance 1 yr
City Market #51 630 24 Road Grand Junction CO 81505	Jan 2019	Sale Below Cost [State]	License suspended 6 days; fine paid in lieu of 2 days, 4 days held in abeyance 1 yr
City Market #3 128 S. Townsend Ave Montrose CO 81401	Jan 2019	Sale Below Cost [State]	License suspended 6 days; fine paid in lieu of 2 days, 4 days held in abeyance 1 yr
City Market #1 2770 Hwy 50 South Grand Junction CO 81503	Jan 2019	Sale Below Cost [State]	License suspended 6 days; fine paid in lieu of 2 days, 4 days held in abeyance 1 yr
King Soopers #117 6922 10 th St Greeley CO 80634	08/14/2018	Sale to Minor	License suspended 10 days; fine paid in lieu of 3 days, 7 days held in abeyance 1 yr
King Soopers #89 1150 Highway 287 Broomfield CO 80020	09/14/2018	Sale to minor	License suspended 15 days; fine paid in lieu of 7 days, 8 days held in abeyance 1 yr
King Soopers #18 2325 S. College Avenue Fort Collins CO 80525	08/22/2018	Sale to minor [State]	License suspended 10 days; fine paid in lieu of 5 days and 5 days held in abeyance 1 year

Location Name	License Name	License Number	Expiration Date
KING SOOPERS #1	LIQUOR OR 3.2 BEER LICENSE	01107790082	10/12/2020
KING SOOPERS #3	LIQUOR OR 3.2 BEER LICENSE	01107790102	11/04/2020
KING SOOPERS #5	LIQUOR OR 3.2 BEER LICENSE	01107790005	12/27/2020
KING SOOPERS #6	LIQUOR OR 3.2 BEER LICENSE	01107790049	01/03/2021
KING SOOPERS #7	LIQUOR OR 3.2 BEER LICENSE	01107790051	06/25/2020
KING SOOPERS #8	LIQUOR OR 3.2 BEER LICENSE	01107790159	02/19/2021
KING SOOPERS #9	LIQUOR OR 3.2 BEER LICENSE	01107790062	11/03/2020
KING SOOPERS #10	LIQUOR OR 3.2 BEER LICENSE	01107790079	08/24/2020
KING SOOPERS #11	LIQUOR OR 3.2 BEER LICENSE	01107790093	08/27/2020
KING SOOPERS #12	LIQUOR OR 3.2 BEER LICENSE	01107790012	07/29/2020
KING SOOPERS #13	LIQUOR OR 3.2 BEER LICENSE	01107790092	03/24/2021
KING SOOPERS #14	LIQUOR OR 3.2 BEER LICENSE	01107790019	05/30/2020
KING SOOPERS #16	LIQUOR OR 3.2 BEER LICENSE	01107790098	10/28/2020
KING SOOPERS #16	LIQUOR OR 3.2 BEER LICENSE	001107790226	06/06/2020
KING SOOPERS #18	LIQUOR OR 3.2 BEER LICENSE	01107790023	07/13/2020
KING SOOPERS #19	LIQUOR OR 3.2 BEER LICENSE	01107790024	05/08/2021
KING SOOPERS #20	LIQUOR OR 3.2 BEER LICENSE	01107790025	03/17/2021
KING SOOPERS #21	LIQUOR OR 3.2 BEER LICENSE	01107790003	10/10/2020
KING SOOPERS #22	LIQUOR OR 3.2 BEER LICENSE	01107790001	12/30/2020
KING SOOPERS #24	LIQUOR OR 3.2 BEER LICENSE	01107790028	01/23/2021
KING SOOPERS #25	LIQUOR OR 3.2 BEER LICENSE	01107790094	03/24/2021
KING SOOPERS #26	LIQUOR OR 3.2 BEER LICENSE	01107790030	10/16/2020
KING SOOPERS #27	LIQUOR OR 3.2 BEER LICENSE	01107790103	11/24/2020
KING SOOPERS #28	LIQUOR OR 3.2 BEER LICENSE	01107790031	08/24/2020
KING SOOPERS #29	LIQUOR OR 3.2 BEER LICENSE	01107790037	12/01/2020
KING SOOPERS #30	LIQUOR OR 3.2 BEER LICENSE	01107790042	01/11/2021
KING SOOPERS #31	LIQUOR OR 3.2 BEER LICENSE	01107790043	02/21/2021
KING SOOPERS #32	LIQUOR OR 3.2 BEER LICENSE	01107790041	12/27/2020
KING SOOPERS #33	LIQUOR OR 3.2 BEER LICENSE	01107790044	04/29/2020
KING SOOPERS #34	LIQUOR OR 3.2 BEER LICENSE	01107790045	06/28/2020
KING SOOPERS #35	LIQUOR OR 3.2 BEER LICENSE	01107790046	07/08/2020
KING SOOPERS MARKETPLACE #36	LIQUOR OR 3.2 BEER LICENSE	01107790052	12/22/2020
KING SOOPERS #38	LIQUOR OR 3.2 BEER LICENSE	01107790053	04/16/2021
KING SOOPERS #40	LIQUOR OR 3.2 BEER LICENSE	01107790056	01/28/2021
KING SOOPERS #40	LIQUOR OR 3.2 BEER LICENSE	04-01049	12/16/2020
KING SOOPERS #41	LIQUOR OR 3.2 BEER LICENSE	01107790055	02/05/2021
KING SOOPERS #42	LIQUOR OR 3.2 BEER LICENSE	01107790057	05/26/2020
KING SOOPERS #43	LIQUOR OR 3.2 BEER LICENSE	01107790058	09/30/2020
KING SOOPERS #44	LIQUOR OR 3.2 BEER LICENSE	01107790059	10/20/2020
KING SOOPERS #45	LIQUOR OR 3.2 BEER LICENSE	01107790060	11/22/2020
KING SOOPERS #47	LIQUOR OR 3.2 BEER LICENSE	01107790065	09/25/2020
KING SOOPERS #49	LIQUOR OR 3.2 BEER LICENSE	01107790066	01/29/2021
KING SOOPERS #50	LIQUOR OR 3.2 BEER LICENSE	01107790070	06/01/2020
KING SOOPERS #52	LIQUOR OR 3.2 BEER LICENSE	01107790071	06/22/2020
KING SOOPERS #53	LIQUOR OR 3.2 BEER LICENSE	01107790069	04/23/2021
KING SOOPERS #55	LIQUOR OR 3.2 BEER LICENSE	01107790073	11/02/2020
KING SOOPERS #56	LIQUOR OR 3.2 BEER LICENSE	01107790077	09/15/2020
KING SOOPERS #57	LIQUOR OR 3.2 BEER LICENSE	01107790072	12/22/2020
KING SOOPERS #58	3.2 BEER LICENSE	04-00860	08/19/2020
KING SOOPERS #58	LIQUOR OR 3.2 BEER LICENSE	01107790080	12/14/2020
KING SOOPERS #59	LIQUOR OR 3.2 BEER LICENSE	01107790075	04/29/2021
KING SOOPERS #60	LIQUOR OR 3.2 BEER LICENSE	01107790076	08/10/2020
KING SOOPERS #61	LIQUOR OR 3.2 BEER LICENSE	01107790020	06/26/2020
KING SOOPERS #62	LIQUOR OR 3.2 BEER LICENSE	01107790101	09/25/2020
KING SOOPERS #63	LIQUOR OR 3.2 BEER LICENSE	01107790081	10/16/2020
KING SOOPERS #64	3.2 BEER LICENSE	4600899	09/24/2020

KING SOOPERS #64	LIQUOR OR 3.2 BEER LICENSE	01107790083	11/14/2020
KING SOOPERS #65	LIQUOR OR 3.2 BEER LICENSE	01107790086	01/22/2021
KING SOOPERS #68	LIQUOR OR 3.2 BEER LICENSE	01107790087	02/25/2021
KING SOOPERS #69	LIQUOR OR 3.2 BEER LICENSE	01107790090	05/29/2020
KING SOOPERS #72	LIQUOR OR 3.2 BEER LICENSE	01107790100	06/15/2020
KING SOOPERS #73	LIQUOR OR 3.2 BEER LICENSE	01107790107	06/24/2020
KING SOOPERS #74	LIQUOR OR 3.2 BEER LICENSE	01107790117	11/14/2020
KING SOOPERS #75	LIQUOR OR 3.2 BEER LICENSE	01107790110	09/16/2020
KING SOOPERS #76	LIQUOR OR 3.2 BEER LICENSE	01107790115	04/15/2021
KING SOOPERS #77	LIQUOR OR 3.2 BEER LICENSE	01107790112	11/24/2020
KING SOOPERS #78	LIQUOR OR 3.2 BEER LICENSE	01107790118	12/07/2020
KING SOOPERS #80	LIQUOR OR 3.2 BEER LICENSE	01107790109	09/07/2020
KING SOOPERS #81	LIQUOR OR 3.2 BEER LICENSE	01107790119	02/23/2021
KING SOOPERS #82	LIQUOR OR 3.2 BEER LICENSE	01107790048	11/04/2020
KING SOOPERS #83	LIQUOR OR 3.2 BEER LICENSE	01107790172	09/17/2020
KING SOOPERS #84	LIQUOR OR 3.2 BEER LICENSE	01107790114	03/09/2021
KING SOOPERS #85	LIQUOR OR 3.2 BEER LICENSE	01107790166	10/14/2020
KING SOOPERS #86	LIQUOR OR 3.2 BEER LICENSE	01107790108	09/16/2020
KING SOOPERS #87	LIQUOR OR 3.2 BEER LICENSE	01107790193	08/23/2020
KING SOOPERS #87	3.2 BEER LICENSE	00110779.0232	09/13/2020
KING SOOPERS #88	LIQUOR OR 3.2 BEER LICENSE	01107790120	04/17/2021
KING SOOPERS #89	LIQUOR OR 3.2 BEER LICENSE	01107790113	05/17/2021
KING SOOPERS #90	LIQUOR OR 3.2 BEER LICENSE	01107790160	04/02/2021
KING SOOPERS #91	LIQUOR OR 3.2 BEER LICENSE	01107790163	05/12/2021
KING SOOPERS #92	LIQUOR OR 3.2 BEER LICENSE	01107790186	04/26/2021
KING SOOPERS #93	LIQUOR OR 3.2 BEER LICENSE	01107790170	06/04/2020
KING SOOPERS #96	3.2 BEER LICENSE	04-01023	01/07/2021
KING SOOPERS #96	LIQUOR OR 3.2 BEER LICENSE	01107790164	11/12/2020
KING SOOPERS #97	LIQUOR OR 3.2 BEER LICENSE	01107790191	05/15/2021
KING SOOPERS #98	LIQUOR OR 3.2 BEER LICENSE	01107790171	07/20/2020
KING SOOPERS MARKETPLACE #99	LIQUOR OR 3.2 BEER LICENSE	01107790200	05/04/2021
KING SOOPERS #100	LIQUOR OR 3.2 BEER LICENSE	01107790067	03/26/2021
KING SOOPERS #101	LIQUOR OR 3.2 BEER LICENSE	01107790174	09/17/2020
KING SOOPERS #102	LIQUOR OR 3.2 BEER LICENSE	01107790173	10/20/2020
KING SOOPERS #103	LIQUOR OR 3.2 BEER LICENSE	01107790169	05/07/2021
KING SOOPERS #104	LIQUOR OR 3.2 BEER LICENSE	01107790176	09/01/2020
KING SOOPERS #105	LIQUOR OR 3.2 BEER LICENSE	01107790189	09/06/2020
KING SOOPERS #107	ALCOHOL BEVERAGE LICENSE	4600291	12/02/2020
KING SOOPERS #108	LIQUOR OR 3.2 BEER LICENSE	01107790177	09/18/2020
KING SOOPERS #109	LIQUOR OR 3.2 BEER LICENSE	01107790015	01/25/2021
KING SOOPERS #110	LIQUOR OR 3.2 BEER LICENSE	01107790168	01/28/2021
KING SOOPERS #111	ALCOHOL BEVERAGE LICENSE	4600043	11/07/2020
KING SOOPERS #112	LIQUOR OR 3.2 BEER LICENSE	01107790196	08/02/2020
KING SOOPERS MARKETPLACE #114	Liquor Licensed Drug Store	4708781	11/15/2020
KING SOOPERS #115	LIQUOR OR 3.2 BEER LICENSE	0400336	05/20/2021
KING SOOPERS MARKETPLACE #117	LIQUOR OR 3.2 BEER LICENSE	01107790199	12/06/2020
KING SOOPERS #118	LIQUOR OR 3.2 BEER LICENSE	01107790197	03/08/2021
KING SOOPERS #119	LIQUOR OR 3.2 BEER LICENSE	01107790194	05/07/2021
KING SOOPERS #121	LIQUOR OR 3.2 BEER LICENSE	01107790182	02/26/2021
KING SOOPERS #122	LIQUOR OR 3.2 BEER LICENSE	01107790183	03/10/2021
KING SOOPERS #122	3.2 BEER LICENSE	4600801	09/04/2020
KING SOOPERS #123	3.2 BEER LICENSE	4600454	12/27/2020
KING SOOPERS #124	LIQUOR LICENSE	01107790180	05/04/2021
KING SOOPERS #125	Liquor Licensed Drug Store	4709754	04/26/2021
KING SOOPERS #126	Liquor License Drug Store	03-08980	01/16/2021
KING SOOPERS #127	LIQUOR OR 3.2 BEER LICENSE	01107790181	01/21/2021
KING SOOPERS #128	LIQUOR OR 3.2 BEER LICENSE	01107790184	01/06/2021

KING SOOPERS #129	3.2 RETAIL BEER LICENSE	4600531SLIQ	08/10/2020
KING SOOPERS #130	LIQUOR OR 3.2 BEER LICENSE	01107790050	03/18/2021
KING SOOPERS #131	LIQUOR OR 3.2 BEER LICENSE	01107790022	06/29/2020
KING SOOPERS #132	LIQUOR OR 3.2 BEER LICENSE	01107790192	05/23/2021
KING SOOPERS #133	LIQUOR OR 3.2 BEER LICENSE	01107790185	03/21/2021
KING SOOPER MARKETPLACE #134	3.2 BEER LICENSE	001107790216	07/05/2020
KING SOOPERS #135	LIQUOR OR 3.2 BEER LICENSE	01107790187	04/06/2021
KING SOOPERS #136	LIQUOR OR 3.2 BEER LICENSE	001107790205	06/30/2020
KING SOOPERS #137	3.2 BEER LICENSE	4600811	04/17/2021
KING SOOPERS 139	LIQUOR OR 3.2 BEER LICENSE	01107790054	06/15/2020
CITY MARKET #401	LIQUOR OR 3.2 BEER LICENSE	01107790121	09/21/2020
CITY MARKET #403	LIQUOR OR 3.2 BEER LICENSE	01107790122	10/02/2020
CITY MARKET #404	LIQUOR OR 3.2 BEER LICENSE	01107790123	09/17/2020
CITY MARKET #405	LIQUOR OR 3.2 BEER LICENSE	01107790124	10/19/2020
CITY MARKET #406	LIQUOR OR 3.2 BEER LICENSE	01107790125	09/14/2020
CITY MARKET #408	LIQUOR OR 3.2 BEER LICENSE	01107790127	09/05/2020
CITY MARKET #413	LIQUOR OR 3.2 BEER LICENSE	01107790129	09/21/2020
CITY MARKET #414	LIQUOR OR 3.2 BEER LICENSE	01107790130	09/27/2020
CITY MARKET #414	3.2 BEER LICENSE	00110779.0234	08/19/2020
CITY MARKET #415	LIQUOR OR 3.2 BEER LICENSE	01107790131	10/04/2020
CITY MARKET #416	LIQUOR OR 3.2 BEER LICENSE	01107790132	10/19/2020
CITY MARKET #417	LIQUOR OR 3.2 BEER LICENSE	01107790133	10/02/2020
CITY MARKET #419	LIQUOR OR 3.2 BEER LICENSE	01107790135	09/28/2020
CITY MARKET #420	LIQUOR OR 3.2 BEER LICENSE	01107790136	09/27/2020
CITY MARKET #421	LIQUOR OR 3.2 BEER LICENSE	01107790137	09/14/2020
CITY MARKET #422	LIQUOR OR 3.2 BEER LICENSE	01107790138	09/17/2020
CITY MARKET #425	LIQUOR OR 3.2 BEER LICENSE	01107790139	09/05/2020
CITY MARKET #426	LIQUOR OR 3.2 BEER LICENSE	01107790140	10/10/2020
CITY MARKET #429	LIQUOR OR 3.2 BEER LICENSE	01107790142	12/11/2020
CITY MARKET #430	LIQUOR OR 3.2 BEER LICENSE	04-00791	10/04/2020
CITY MARKET #430	3.2 BEER LICENSE	4600791SLIQF	05/29/2020
CITY MARKET #431	LIQUOR OR 3.2 BEER LICENSE	01107790144	09/17/2020
CITY MARKET #433	LIQUOR OR 3.2 BEER LICENSE	01107790146	10/02/2020
CITY MARKET #434	LIQUOR OR 3.2 BEER LICENSE	01107790147	09/18/2020
CITY MARKET #435	LIQUOR OR 3.2 BEER LICENSE	01107790148	10/19/2020
CITY MARKET #437	LIQUOR OR 3.2 BEER LICENSE	01107790150	09/21/2020
CITY MARKET #440	LIQUOR OR 3.2 BEER LICENSE	01107790152	10/02/2020
CITY MARKET #441	LIQUOR OR 3.2 BEER LICENSE	01107790153	10/29/2020
CITY MARKET #443	LIQUOR OR 3.2 BEER LICENSE	01107790175	08/27/2020
CITY MARKET #444	3.2 BEER LICENSE	4600478	01/20/2021
CITY MARKET #445	LIQUOR OR 3.2 BEER LICENSE	01107790154	09/12/2020
CITY MARKET #446	LIQUOR OR 3.2 BEER LICENSE	01107790188	06/22/2020
CITY MARKET #451	LIQUOR OR 3.2 BEER LICENSE	01107790198	08/18/2020

CITY OF FRUITA

TO:	FRUITA POLICE DEPARTMENT
FROM:	DEBRA WOODS, DEPUTY CITY CLERK
DATE:	JULY 20, 2020
RE:	FERMENTED MALT BEVERAGE (FMB) LICENSE RENEWAL

License Information

Licensee:	City Market
Location:	135 S Plum
Type of License:	Fermented Malt Beverage License (Off Premises)
Expiration Date of Current License:	September 21, 2020
City Council Hearing Date:	August 4, 2020
DUE DATE FOR POLICE REPORT:	July 31, 2020

Tips certificates on File

Employee:	Expiration Date:
(none)	

Report of Fruita Police Department

A)	Have there been any reported violation(s) of the Liquor or Beer Code in the last year?	Yes	<input checked="" type="radio"/> No
B)	Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment's control of alcoholic beverages and their patrons?	Yes	<input checked="" type="radio"/> No
C)	Are there other concerns that need to be brought to the attention of the City Council?	Yes	<input checked="" type="radio"/> No

Please attach documentation to support the above noted violation(s), incidents or comments.

Signed Paula Rajewich Date 7-20-20



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: AUGUST 4, 2020

RE: LIQUOR LICENSE RENEWAL - A REQUEST TO APPROVE THE RENEWAL OF A BEER AND WINE – MALT AND VINOUS - LIQUOR LICENSE FOR MUNCHIES PIZZA & DELI, LLC LOCATED AT 550 KOKOPELLI BLVD.

BACKGROUND

The Beer and Wine Liquor License for Munchies Pizza & Deli located at 550 Kokopelli Boulevard is up for renewal. Their current license expires on **September 23, 2020**. The Police Department had nothing to report regarding this establishment. The City Clerk's office has not been advised of any issues or concerns related to the liquor license during the past year. The City Clerk's office has four (4) current TIPS certificates on file for owners and employees of Munchies.

The following information is provided as background on the liquor license renewal process:

Pursuant to State Statutes, the local licensing authority (City Council) may cause a hearing on the application for renewal to be held. No renewal hearing shall be held until a notice of hearing has been conspicuously posted on the licensed premises for a period of ten days and notice of the hearing has been provided the applicant at least ten days prior to the hearing. The licensing authority may refuse to renew any license for good cause, subject to judicial review.

This item is placed on the Consent agenda for the Council to determine if there is any cause for a hearing to be held on the renewal of the liquor license. If there is no cause for a hearing, the City Council should approve the renewal of the existing license. If there is cause for a hearing, the City Council should set a date to hold a quasi-judicial hearing to determine if there are sufficient grounds for suspension or revocation of the liquor license. The City Council may also temporarily suspend any license, without notice, pending any prosecution, investigation or public hearing. No such suspension shall be for a period of more than 15 days.

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

OPTIONS AVAILABLE TO THE COUNCIL

Renew the Beer and Wine Liquor License for Munchies Pizza & Deli, LLC of Fruita.

Schedule a hearing date to determine if there is good cause for the license to be suspended or revoked.

RECOMMENDATION

It is the recommendation of staff that the Council move to:

RENEW THE BEER AND WINE LIQUOR LICENSE FOR MUNCHIES PIZZA & DELI, LLC OF FRUITA LOCATED AT 550 KOKOPELLI BOULEVARD

Submit to Local Licensing Authority

**MUNCHIES PIZZA & DELI
550 KOKOPELLI BOULEVARD
Fruita CO 81521**

Fees Due	
Renewal Fee	351.25
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$ 351.25

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name MUNCHIES PIZZA & DELI LLC		Doing Business As Name (DBA) MUNCHIES PIZZA & DELI		
Liquor License # 03-10493	License Type Beer & Wine (city)	Sales Tax License # 267890510000	Expiration Date 09/23/2020	Due Date 08/09/2020
Business Address 550 KOKOPELLI BOULEVARD Fruita CO 81521				Phone Number 9708580953
Mailing Address 550 KOKOPELLI BOULEVARD Fruita CO 81521			Email	
Operating Manager Michael Searcy	Date of Birth 2-15-1970	Home Address 1571 Powis Ln Fruita, CO 81521		Phone Number 970-261-8980
1. Do you have legal possession of the premises at the street address above? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Are the premises owned or rented? <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Rented* *If rented, expiration date of lease 8/31/2021				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Affirmation & Consent

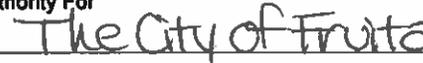
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business	Title
Michael R. Searcy	Owner
Signature	Date
	7/30/2020

Report & Approval of City or County Licensing Authority

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.

Therefore this application is approved.

Local Licensing Authority For	Date
The City of Fruita	
Signature	Title
	JOEL KINCAID, MAYOR
	Attest

Tax Check Authorization, Waiver, and Request to Release Information

I, Michael R Searcy am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of Munchies Pizza + Deli LLC (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101. et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and its duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>Munchies Pizza + Deli LLC</u>		Social Security Number/Tax Identification Number <u>90-0358751</u>	
Address <u>550 Kokopelli Blvd</u>			
City <u>Fruita</u>		State <u>CO</u>	Zip <u>81521</u>
Home Phone Number <u>970-858-3708</u>		Business/Work Phone Number <u>970-858-0953</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Michael R Searcy</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed <u>07/30/2020</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).

**CITY OF FRUITA
MEMORANDUM**

TO: FRUITA POLICE DEPARTMENT
FROM: DEBRA WOODS, DEPUTY CITY CLERK
DATE: JULY 30, 2020
RE: BEER AND WINE LIQUOR LICENSE RENEWAL

License Information

Licensee : Munchies Pizza & Deli, LLC
Location : 550 Kokopelli Blvd
Type of License : Beer and Wine License
Expiration Date of Current License : September 23, 2020
City Council Hearing Date : August 4, 2020
DUE DATE FOR POLICE REPORT: July 31, 2020

Tips certificates on File

Employee:	Expiration Date:
Chrislyn Valencia	12/11/2021
Kimberly Searcy	12/11/2021
Mike Searcy	12/11/2021
James Carbajal	12/11/2021

Report of Fruita Police Department

- A) Have there been any reported violation(s) of the Liquor or Beer Code in the last year? Yes No
- B) Have there been any incidents reported to the Police Dept in the last year that would pertain to the liquor license and the establishment's control of alcoholic beverages and their patrons? Yes No
- C) Are there other concerns that need to be brought to the attention of the City Council? Yes No

Please attach documentation to support the above noted violation(s), incidents or comments.

Signed:

Paula Rajewski

Date: 7-31-20



FRUITA COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK FOR PARKS AND RECREATION DIRECTOR TURE NYCUM

DATE: AUGUST 4, 2020

RE: ONE RIVERFRONT APPOINTMENTS

BACKGROUND

After the April 2020 Municipal Election, the City of Fruita’s Parks and Recreation Director was appointed as the Fruita representative to the One Riverfront as a non-voting member who is allowed to participate in the Interview Committee when members’ terms have expired. The Committee recently met with candidates and recommend the following appointments to the One Riverfront for the terms listed below:

J. Fred Barbero3-year term
 Rondo Buecheler3-year term
 Joel Sholtes.....3-year term
 Jennifer Reyes3-year term
 David DeKeyser Mid-year term

David DeKeyser’s appointment to a “mid-year term” means that he would be automatically appointed to fulfill a vacancy should one occur without having to go through the interview process again.

FISCAL IMPACT

N/A

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Representation of the City on regional boards and commission help to promote the City’s interests and concerns and provides a link between these agencies and the City of Fruita.

OPTIONS AVAILABLE TO THE COUNCIL

1. Accept, deny or amend the recommendations of the selection committee for appointments to the One Riverfront

RECOMMENDATION

It is the recommendation of staff that the Council by motion:

APPROVE THE RECOMMENDATION OF THE ONE RIVERFRONT INTERVIEW COMMITTEE AND APPOINT THE INDIVIDUALS NOTED ABOVE TO THE ONE RIVERFRONT FOR THE TERMS SPECIFIED ABOVE

Debra Woods

From: Juanita Peterson <juanitap@gjcity.org>
Sent: Thursday, July 23, 2020 1:00 PM
To: kristen.cole@mesacounty.us; Debra Woods; Kfrasier@townofpalisade.org
Cc: Wanda Winkelmann; Juanita Peterson
Subject: One Riverfront

The recommendations from the committee for filling the board seats for One Riverfront is:

J. Fred Barbero
Rondo Buecheler
Joel Sholtes
Jennifer Reyes
And David DeKeyser as the mid- year vacancy

Please let the City know when your entity will appoint these members. Any questions, please contact City Clerk Wanda Winkelmann as I only work on Thursdays from 8-5.

Juanita

Juanita Peterson
City Clerk's Office, City of Grand Junction
250 North 5th Street
Grand Junction CO 81501
970.244.1509

Please note that I am only in the office on Thursdays from 8:00 a.m. to 5:00 p.m.
If you need immediate assistance please call the number above or email cityclerk@gjcity.org

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.



FRUITA

COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PLANNING & DEVELOPMENT DEPARTMENT

DATE: AUGUST 4, 2020

RE: RESOLUTION 2020-29, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE BRANDON ESTATES FILING 3, PHASE 2D SUBDIVISION.

BACKGROUND

The Brandon Estates Filing 3, Phase 2D Subdivision was approved in April of 2017 along with the Subdivision Improvements Agreement (reception #2800289). The City Council approved the 1st Release of the SIA (Resolution 2017-46) on November 21, 2017 starting the 2 year warranty period for the improvements.

Since the warranty period has expired for the SIA, a final walk-through of the subdivision was completed by City Staff. The improvements appear to have been completed as required by the subdivision approval and appear to be free of defects in materials and workmanship.

FISCAL IMPACT

The City took over the responsibility of public facilities and began to provide city services when the 1st release of the SIA was approved in 2017. Since the city takes responsibility at the 1st Release of the SIA, there will be no additional fiscal impact on the city than what it currently is with this Final Release.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The process of approving and releasing a Subdivision Improvements Agreement helps ensure that the development is constructed and completed in a way that does not burden the residents and taxpayers to help subsidize development in anyway.

OPTIONS AVAILABLE TO THE COUNCIL:

- Approve Resolution 2020-29
- Deny Resolution 2020-29
- Direct Staff to research any area of the improvements on which Council has concerns or questions.

RECOMMENDATION:

It is the recommendation of Staff that the Council by motion:

APPROVE RESOLUTION 2020-29, A RESOLUTION APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE BRANDON ESTATES FILING 3, PHASE 2D SUBDIVISION.

RESOLUTION 2020-29

A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE BRANDON ESTATES FILING 3, PHASE 2D SUBDIVISION.

WHEREAS, the developer of Brandon Estates Filing 3, Phase 2D Subdivision entered into a subdivision improvements agreement recorded in the records of the Mesa County Clerk and Recorder at Reception # 2800289 to guarantee that required improvements would be completed within a certain time period, and

WHEREAS, the City Council approved the 1st Release of the SIA by Resolution 2017-46 which started the two-year warranty period for the subdivision improvements, and

WHEREAS, the warranty period has expired and the developer has requested the Final Release of the SIA, and

WHEREAS, improvements required by the subdivision improvements agreement for the Brandon Estates Filing 3, Phase 2D Subdivision have been inspected and have been sufficiently completed to allow the Final Release of the SIA, and

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

THAT the required subdivision improvements for the Brandon Estates Filing 3, Phase 2D Subdivision are approved for the Final Release of the Subdivision Improvements Agreement and the 10% of the total cost of improvements for the performance guarantee is hereby released.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO THIS 4th DAY OF AUGUST, 2020.

ATTEST:

City of Fruita

Margaret Sell, City Clerk

Joel Kincaid, Mayor



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DAVID OLIVER, CODE COMPLIANCE OFFICER

DATE: AUGUST 4, 2020

RE: ORDINANCE 2020-02 – 2ND READING – AN ORDINANCE AMENDING CHAPTER 28 OF TITLE 2 AND CHAPTER 11 OF TITLE 9 OF THE FRUITA MUNICIPAL CODE TO PROVIDE FOR MORE EFFICIENT ENFORCEMENT OF AND MONETARY PENALTIES RELATED TO PUBLIC NUISANCE VIOLATIONS.

BACKGROUND

The proposed amendments include changes to Chapter 28 of Title 2 and Chapter 11 of Title 9 within the Municipal Code. Chapter 28 of Title 2 sets forth procedures for noncriminal offenses but currently does not explicitly set forth procedures by which penalties may be assessed for nuisance violations. Additionally, Chapter 11 of Title 9 sets forth remedies for certain nuisances, including abatement and fines, but does not specifically identify a public nuisance as a noncriminal offense subject to the provisions of Chapter 28 of Title 2. Chapter 11 of Title 9. Those provisions only provide for the abatement of public nuisances through filing of a civil action. Currently the Code prohibits over growth of weeds and brush as a matter of public health and safety, but does identify such growth as a public nuisance.

The purpose for these proposed changes is to provide for a more efficient process to address public nuisances and to include excessive growth or weeds and brush as a public nuisance.

FISCAL IMPACT

Staff does not anticipate this amendment to create any negative fiscal impacts on the city. There are funds available in the property clean up budget that will allow work to get completed if necessary.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This amendment will encourage property owners to clean up their properties in a more efficient manner and should protect quality of place.

OPTIONS AVAILABLE TO THE COUNCIL:

- Approve the proposed amendments.

- Approve the proposed amendments with conditions.

RECOMMENDATION:

It is Staff's recommendation the Council by motion:

APPROVE ORDINANCE 2020-02 – 2ND READING – AN ORDINANCE AMENDING CHAPTER 28 OF TITLE 2 AND CHAPTER 11 OF TITLE 9 OF THE FRUITA MUNICIPAL CODE TO PROVIDE FOR MORE EFFICIENT ENFORCEMENT OF AND MONETARY PENALTIES RELATED TO PUBLIC NUISANCE VIOLATIONS.

ORDINANCE NO. 2020-02

**AN ORDINANCE AMENDING CHAPTER 28 OF TITLE 2 AND
CHAPTER 11 OF TITLE 9 OF THE FRUITA MUNICIPAL CODE TO
PROVIDE FOR MORE EFFICIENT ENFORCEMENT OF AND
MONETARY PENALTIES RELATED TO PUBLIC NUISANCE
VIOLATIONS**

WHEREAS, Chapter 28 of Title 2 of the City of Fruita (the “City”) Municipal Code (the “Code”) sets forth procedures for noncriminal offenses; and

WHEREAS, Chapter 28 of Title 2 of the Code does not explicitly set forth procedures by which penalties may be assessed for nuisance violations; and

WHEREAS, Chapter 11 of Title 9 of the Code sets forth remedies for certain nuisances, including abatement and fines, but does not specifically identify a public nuisance as a noncriminal offense subject to the provisions of Chapter 28 of Title 2; and

WHEREAS, Chapter 11 of Title 9 of the Code only provides for abate of public nuisances through filing of a civil action; and

WHEREAS, the Code prohibits overgrowth of weeds and brush as a matter of public health and safety, but does not identify such growth as a public nuisance; and

WHEREAS, to provide for a more efficient process to address public nuisances, and to include excessive growth or weeds and brush as a public nuisance, the City wishes to amend Chapter 28 of Title 2 and Chapter 11 of Title 9.

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

Section 1. Amendment to Chapter 2.28.190. Chapter 28.190 is hereby by amended by the following addition of subsection P:

- P. PURSUANT TO CHAPTER 9.11.110, THE CITY MANAGER OR A OFFICER OF THE CITY IS AUTHORIZED TO ISSUE A PENALTY ASSESSMENT NOTICE AND HAVE SAID PENALTY ASSESSMENT NOTICE PROCESSED BY THE MUNICIPAL COURT IN ACCORDANCE WITH THIS SECTION 2.28.190. THE PENALTY ASSESSMENT NOTICE ISSUED BY THE CITY MANAGER OR A CITING OFFICER SHALL BE A SUMMONS AND COMPLAINT CONTAINING IDENTIFICATION OF THE ALLEGED OFFENDER, SPECIFICATIONS OF THE OFFENSE AND THE APPLICABLE FINE AS SET FORTH IN SECTION 9.11.110, A REQUIREMENT THE OFFENDER PAY THE FINE OR APPEAR TO ANSWER THE CHARGE AS SET FORTH IN THE SUMMONS AND COMPLAINT AND A WAIVER OF THE RIGHT TO A HEARING ON THE OFFENSE SPECIFIED ON THE SUMMONS AND COMPLAINT. IF THE PERSON

ISSUED A PENALTY ASSESSMENT NOTICE HEREUNDER CHOOSES TO ACKNOWLEDGE THEIR GUILT, THEY MAY PAY THE SPECIFIED FINE IN PERSON OR BY MAIL WITH THE CLERK OF THE COURT ON OR BEFORE THE DATE SPECIFIED IN THE PENALTY ASSESSMENT NOTICE. UPON TRIAL, IF THE ALLEGED OFFENDER IS FOUND GUILTY, THE FINE IMPOSED SHALL BE THAT SET FORTH IN THE NOTICE OF THE OFFENSE FOR WHICH THE OFFENDER WAS FOUND GUILTY, BUT ADDITIONAL FEES AND COSTS PROVIDED IN THIS CHAPTER MAY BE ASSESSED IN ADDITION TO THESE FINES.

Section 2. Amendment to Chapter 9.11.030. Chapter 9.11.030 is hereby amended by the following addition of subsection BB”

BB. ALL WEEDS, BRUSH AND RUBBISH PROHIBITED BY CHAPTER 8.04.

Section 3. Amendment to Chapter 9.11.060. Chapter 9.11.060 is hereby amended as follows:

- A. UPON THE DISCOVERY OF ANY NUISANCE ON PUBLIC OR PRIVATE PROPERTY WITHIN THE CITY, THE CITY MANAGER OR A CITING OFFICER OF THE CITY SHALL NOTIFY THE OWNER OR OCCUPANT OF THE PROPERTY TO REMOVE AND ABATE FROM THE PROPERTY THE THING OR THINGS HEREIN DESCRIBED AS A NUISANCE WITHIN THE TIME SPECIFIED IN THE NOTICE.
 - 1. THE TIME FOR ABATEMENT OF A NUISANCE POSING AN IMMINENT DANGER OF DAMAGE OR INJURY TO OR LOSS OF LIFE, LIMB, PROPERTY OR HEALTH OR WHERE THERE IS AN ILLICIT DISCHARGE SHALL NOT EXCEED TWENTY-FOUR (24) HOURS.
 - 2. THE REASONABLE TIME FOR ABATEMENT FOR ALL OTHER NUISANCES SHALL NOT EXCEED SEVEN (7) DAYS UNLESS IT APPEARS FROM THE FACTS AND CIRCUMSTANCES THAT COMPLIANCE COULD NOT REASONABLY BE MADE WITHIN SEVEN (7) DAYS OR THAT A GOOD-FAITH ATTEMPT AT COMPLIANCE IS BEING MADE.
 - 3. IF THE OWNER OR OCCUPANT FAILS TO ABATE THE NUISANCE WITHIN THE TIME STATED IN THE NOTICE, THE CITY MANAGER MAY PROCEED TO HAVE THE NUISANCE REMOVED OR ABATED FROM THE PROPERTY WITHOUT DELAY.
 - 4. IN NO EVENT SHALL THE NOTICE DESCRIBED BY THIS SECTION BE REQUIRED FOR NUISANCES FOUND ON

PUBLIC PROPERTY OR FOR NUISANCES CREATED BY THE PLACEMENT OF EVICTED PROPERTY.

5. THE CITY MAY SERVE WRITTEN NOTICE TO ABATE BY ONE (1) OF THE FOLLOWING METHODS:
 - A. PERSONALLY DELIVERING A COPY OF THE NOTICE TO THE OWNER OF THE PROPERTY DESCRIBED IN THE NOTICE;
 - B. PERSONALLY DELIVERING A COPY OF THE NOTICE TO THE NONOWNER OCCUPANT OR RESIDENT OF THE PROPERTY DESCRIBED IN THE NOTICE AND MAILING A COPY OF THE NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE OWNER AS REFLECTED IN THE COUNTY REAL ESTATE RECORDS; OR
 - C. MAILING ONE (1) COPY OF THE NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND A SECOND COPY OF THE NOTICE BY REGULAR MAIL TO THE LAST KNOWN ADDRESS OF THE OWNER OF THE PROPERTY DESCRIBED IN THE NOTICE AS REFLECTED IN THE COUNTY REAL ESTATE RECORDS. IF THE PROPERTY IS UNOCCUPIED, A COPY OF THE NOTICE SHALL ALSO BE POSTED IN A CONSPICUOUS PLACE AT THE UNOCCUPIED PREMISES.
 - D. PERSONAL SERVICE SHALL BE DEEMED COMPLETE UPON THE DATE OF PERSONAL DELIVERY OR THREE (3) BUSINESS DAYS AFTER THE DATE OF MAILING AS REQUIRED HEREIN.

6. ANY WRITTEN NOTICE ISSUED PURSUANT TO SUBSECTION (B) ABOVE SHALL INCLUDE:
 - a. A DESCRIPTION OF THE NUISANCE;
 - b. A DATE BY WHICH THE NUISANCE MUST BE ABATED;
 - c. A STATEMENT INFORMING THE OWNER OR OCCUPANT THAT, IF THE NUISANCE IS NOT ABATED WITHIN THE TIME SPECIFIED, THE NUISANCE MAY BE ABATED BY THE CITY AND THE INDIVIDUAL MAY BE SUBJECT TO CIVIL ACTION OR PROSECUTION OF A NONCRIMINAL OFFENSE

FOR VIOLATING THE PROVISIONS OF THIS CHAPTER.

- d. A STATEMENT THAT, IF THE CITY ABATES THE NUISANCE, THE CITY IS ENTITLED TO RECOVER THE ACTUAL COST OF ABATEMENT, PLUS AN ADMINISTRATIVE FEE OF FIFTEEN PERCENT (15%) OF THE ABATEMENT COSTS.
- e. A STATEMENT THAT, IF THE COST OF ABATEMENT IS NOT PAID, A LIEN MAY BE PLACED UPON ANY PROPERTY ON WHICH THE ABATEMENT WAS PERFORMED. FAILURE TO SUBSTANTIALLY COMPLY WITH THIS NOTICE SHALL NOT INVALIDATE THE PROCEEDINGS.
- f. A STATEMENT THAT THE OWNER OR OCCUPANT OF THE PROPERTY, WITHIN THE PERIOD OF NOTICE, MAY PROTEST THE FINDINGS OF THE AUTHORIZED INSPECTOR PURSUANT TO SECTION C BELOW.

~~B.A.~~ IF, AFTER WRITTEN NOTICE HAS BEEN PROVIDED, THE OWNER OR OCCUPANT OF THE BUILDING OR PREMISES REFUSES OR FAILS TO ABATE THE NUISANCE IN THE TIME SPECIFIED IN THE NOTICE, AND IF THE CITY MANAGER ELECTS NOT TO SUMMARILY ABATE THE NUISANCE PURSUANT TO SECTION A HEREIN, THE CITY MANAGER MAY INITIATE A CIVIL ACTION IN MUNICIPAL COURT TO HAVE THE NUISANCE DECLARED AS SUCH BY THE COURT AND FOR AN ORDER ENJOINING THE NUISANCE AND AUTHORIZING ITS RESTRAINTS, REMOVAL, TERMINATIONS OR ABATEMENT. EXCEPT AS OTHERWISE MAY BE PROVIDED IN THIS CHAPTER, THE PRACTICE AND PROCEDURE IN AN ACTION TO ABATE A PUBLIC NUISANCE SHALL BE GOVERNED BY THE COLORADO RULES OF CIVIL PROCEDURE. AN ACTION TO ABATE A PUBLIC NUISANCE SHALL BE BROUGHT BY THE CITY ATTORNEY OR HIS DESIGNEE IN THE NAME OF THE STATE OF COLORADO AND THE CITY OF FRUITA. AN ACTION TO ABATE A PUBLIC NUISANCE, AND ANY ACTION IN WHICH A TEMPORARY RESTRAINING ORDER, TEMPORARY WRIT OF INJUNCTION, OR PRELIMINARY INJUNCTION IS REQUESTED, SHALL BE COMMENCED BY THE FILING OF A COMPLAINT, WHICH SHALL BE VERIFIED OR SUPPORTED BY AFFIDAVIT. A SUMMONS SHALL BE ISSUED AND SERVED AS IN CIVIL CASES. ALL COMPLAINTS OF NUISANCES MADE TO THE MESA COUNTY HEALTH DEPARTMENT, OR THE CITY MANAGER OR HIS AUTHORIZED

AGENT SHALL STATE THE NATURE OF SUCH NUISANCE; WHERE IT IS, GIVING STREET NAME AND NUMBER, THE NAME OF THE OWNER, AGENT OR OCCUPANT OF THE BUILDING OR LOT, IF KNOWN, AND THE NAME AND ADDRESS OF THE COMPLAINANT.

- C. THE OWNER, THEIR AGENT OR THE OCCUPANT OF THE PROPERTY SUBJECT TO A NOTICE OF ABATEMENT, WITHIN THE TIME STATED IN SUCH NOTICE FOR REMOVAL OF THE THING OR THINGS OR ABATEMENT OF THE CONDITIONS DESCRIBED THEREIN, MAY PROTEST THE FINDINGS OF THE CITY WITH RESPECT TO ANY MATTER STATED IN THE NOTICE, BY FILING A WRITTEN NOTICE OF PROTEST WITH THE MUNICIPAL COURT. THE MUNICIPAL COURT SHALL DELIVER A COPY OF THE PROTEST TO THE AUTHORIZED INSPECTOR WHO ISSUED THE NOTICE. UPON RECEIPT OF A NOTICE OF PROTEST, THE AUTHORIZED INSPECTOR SHALL FILE WITH THE MUNICIPAL COURT THE NOTICE TO ABATE AND THE WRITTEN NOTICE OF PROTEST. WITHIN TEN (10) DAYS AFTER RECEIPT OF THE PROTEST BY THE CITY, THE MUNICIPAL COURT SHALL SCHEDULE AND CONDUCT A HEARING ON THE PROTEST. AT THE HEARING, THE PROTESTING PARTY AND REPRESENTATIVES OF THE CITY SHALL APPEAR IN PERSON. BOTH PARTIES MAY BE REPRESENTED BY LEGAL COUNSEL. THE PARTIES SHALL HAVE THE RIGHT TO PRESENT EVIDENCE AND ARGUMENTS, TO CONFRONT AND CROSS-EXAMINE ANY WITNESS AND TO OPPOSE ANY TESTIMONY OR STATEMENT RELIED UPON BY AN ADVERSE PARTY. THE MUNICIPAL COURT MAY RECEIVE AND CONSIDER ANY EVIDENCE THAT HAS PROBATIVE VALUE COMMONLY ACCEPTED BY REASONABLE AND PRUDENT PERSONS IN THE CONDUCT OF THEIR AFFAIRS. ONCE THE MUNICIPAL COURT HAS SCHEDULED A HEARING ON THE PROTEST, WRITTEN NOTICE OF SUCH HEARING SHALL BE MAILED TO THE PROTESTING PARTY AND GIVEN TO THE AUTHORIZED INSPECTOR WHO SIGNED THE NOTICE OF ABATEMENT. SUCH NOTICE OF HEARING SHALL BE MAILED TO THE PROTESTING PARTY AND GIVEN TO THE AUTHORIZED INSPECTOR NOT LESS THAN SEVEN (7) DAYS PRIOR TO THE SCHEDULED HEARING. UPON THE FILING OF A WRITTEN PROTEST AS PROVIDED HEREIN, THE PERIOD OF TIME FOR REMOVAL OF THE THING OR THINGS OR ABATEMENT OF THE CONDITION DESCRIBED IN THE ORIGINAL NOTICE OF ABATEMENT SHALL BE EXTENDED UNTIL FINAL DISPOSITION OF THE PROTEST BY THE MUNICIPAL COURT, PLUS THE AMOUNT OF TIME GRANTED IN THE ORIGINAL NOTICE, OR AS OTHERWISE ORDERED BY THE MUNICIPAL COURT.

- ~~A. An action to abate a public nuisance under this Chapter shall be brought in Fruita Municipal Court.~~
- ~~B. Except as otherwise may be provided in this Chapter, the practice and procedure in an action to abate a public nuisance shall be governed by the Colorado Rules of Civil Procedure.~~
- ~~C. An action to abate a public nuisance shall be brought by the City Attorney or his designee in the name of the State of Colorado and the City of Fruita.~~
- ~~D. An action to abate a public nuisance, and any action in which a temporary restraining order, temporary writ of injunction, or preliminary injunction is requested, shall be commenced by the filing of a complaint, which shall be verified or supported by affidavit. A summons shall be issued and served as in civil cases.~~
- ~~E. All complaints of nuisances made to the Mesa County Health Department, or the City Manager or his authorized agent shall state the nature of such nuisance; where it is, giving street name and number, the name of the owner, agent or occupant of the building or lot, if known, and the name and address of the complainant.~~

Section 4. Amendment to Chapter 9.11.110. Chapter 9.11.110 is hereby amended as follows:

- A. For seizing and closing any building or premises as provided in this Chapter, or for performing other duties pursuant to the direction of the Court in accordance with the provisions of this Chapter, the City shall be entitled to a reasonable sum fixed by the Court, in addition to the actual costs incurred or expended.
- B. All fees and costs allowed by the provisions of this Section, the costs of a Court action to abate any public nuisance, and all fines levied by the Court in contempt proceedings incident to any action to abate a public nuisance shall be a first and prior lien upon any real property where the nuisance was located, and the same shall be enforceable and collectible by execution issued by order of the Court, from the property of any person liable therefor.
- C. Nothing contained in this Chapter shall be construed in such a manner as to destroy the validity of a bona fide lien upon real or personal property appearing of record prior to the recording of Court orders involving real estate as authorized under this Chapter.
- ~~D E.~~ In addition to the remedies set forth in ~~paragraphs (A) through (C) above~~ THIS SECTION, the assessment, together with up to fifteen percent (15%) for inspection and other incidental costs in connection therewith, shall be a

lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments. In accordance with Section 31-20-105, C.R.S., such assessment may be certified by the City Manager's designee to the Mesa County Treasurer, to be placed on the tax list for the current year, and collected and paid over in the same manner as provided by law for the collection of taxes. Any amount charged on the tax roll of the succeeding year, and any unpaid balance so carried over shall bear interest at the rate of eighteen percent (18%) per annum, until paid.

F. IN THE EVENT THE CITY MANAGER CHOOSES TO SUMMARILY ABATE A NUISANCE UNDER SECTION 9.11, THE AUTHOR OF THE NUISANCE, THE OWNER OR THE OCCUPANT OF THE PROPERTY SHALL BE LIABLE FOR THE ACTUAL COST OF ABATEMENT, PLUS AN ADMINISTRATIVE FEE EQUALING FIFTEEN PERCENT (15%) OF THE ABATEMENT COST. THE COSTS OF ABATEMENT MAY BE RECOVERED BY (1) A CLAIM FOR RESTITUTION IN A MUNICIPAL COURT PROCEEDING; (2) THE INSTITUTION OF A CIVIL ACTION FOR DAMAGES; OR (3) IF THE COSTS OF ABATEMENT HAVE NOT BEEN OTHERWISE COLLECTED, THE CITY MAY PREPARE A STATEMENT ENUMERATING THE ACTUAL COSTS OF ABATEMENT AND ANY OTHER ADMINISTRATIVE FEE AND COSTS AND FILE A FIRST AND PRIOR LIEN UPON THE PROPERTY RELATING BACK TO THE DATE UPON WHICH THE ABATEMENT WAS PERFORMED.

G. IN ADDITION TO THE ABATEMENT PROCEDURES SET FORTH IN THIS CHAPTER AND THE REMEDIES SET FORTH IN THIS SECTION, A VIOLATION OF THIS CHAPTER 9.11 SHALL CONSTITUTE A NONCRIMINAL OFFENSE SUBJECT TO THE PROCEDURES SET FORTH IN CHAPTER 2.28.190. THE CITY MANAGER OR CITING OFFICER OF THE CITY MAY, AT THEIR SOLE DISCRETION, DETERMINE TO ISSUE A PENALTY ASSESSMENT NOTICE FOR PUBLIC NUISANCES BASED ON THE FOLLOWING FINE SCHEDULE:

1. FIRST VIOLATION: ONE HUNDRED DOLLARS (\$100.00)
2. SECOND VIOLATION: TWO HUNDRED DOLLARS (\$200.00)
3. THIRD VIOLATION: TWO HUNDRED FIFTY DOLLARS (\$250.00)

EACH AND EVERY DAY DURING WHICH ANY NUISANCE CONTINUES SHALL BE DEEMED A SEPARATE OFFENSE AND

SHALL BE PROSECUTABLE AND PUNISHABLE AS A SEPARATE OFFENSE.

Section 5. Codification of Amendments. The codifier of the City’s Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the 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 6. Violations Continue. 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. 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 8. Effective Date. This Ordinance shall take effect thirty (30) days after final adoption in accordance with Section 2.13(G) of the Fruita Home Rule Charter.

Section 9. 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 10. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F) of the Code.

**PASSED AND ADOPTED BY THE Fruita City Council
THIS 4TH DAY OF AUGUST, 2020.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

City Clerk

Henry Hemphill

From: Shannon Vassen
Sent: Tuesday, July 21, 2020 1:04 PM
To: Debra Woods
Subject: FW: In the matter of Ordinance 2020-02, 1st reading

Public comment on Ordinance 20-02.

-----Original Message-----

From: Carla DeKalb <csdekalb@me.com>
Sent: Monday, July 20, 2020 7:23 PM
To: Communications <communications@fruita.org>
Subject: In the matter of Ordinance 2020-02, 1st reading

Greetings,

As a homeowner I am IN FAVOR of this new Ordinance, and as a Home Owner Association Board Member I am very much IN FAVOR of this Ordinance.

Vista Valley has struggled with one problem house for over 4 years with no success. (David Oliver will know the house on Wolf Creek Ct.) We have sent letters, we have paid over \$800 to get the front and back yard cleaned up, and we have filed a Lien, and have no idea if or when we will recover our losses. Meanwhile, the property continues to be overgrown, even attracting vandals damaging the fence.

I feel this is a great way to act quickly on problem properties before they effect the livability of the neighbors. This Ordinance also allows the property owners due process in case there is a reason for the property falling into neglect.

Thank you all for your time and service to this great little city we call Home, Carla DeKalb csdekalb@gmail.com

Carla DeKalb

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, CITY CLERK/FINANCE DIRECTOR

DATE: AUGUST 4, 2020

RE: RESOLUTION 2020-33 – PUBLIC HEARING
APPROVING A SUPPLEMENTAL APPROPRIATION FOR THE 2020
BUDGET TO APPROPRIATE ADDITIONAL FUNDS FOR COVID-19
PANDEMIC RELATED EXPENSES AND THE NORTH FRUITA DESERT
SURVEY WORK

BACKGROUND

This Budget Amendment appropriates funds for the 2020 Budget for the following purposes:

- 1) The City has been awarded a grant from Colorado Parks and Wildlife in the amount of \$20,065 to perform cultural and paleontological survey work in the North Fruita Desert. These funds are matched with \$1,400 from the City in existing budgeted funds, and \$7,200 from the Bureau of Land Management of matching funds for the paleontological survey work (including consultation, field work and final report) for a total project cost of \$28,665.
- 2) The City of Fruita has received a grant administered through the Department of Local Affairs of \$1,162,000 for reimbursement of expenses related to facilitating compliance with COVID-19 related health measures which are necessary expenditures incurred due to the public health emergency with respect to COVID-19, were not accounted for in the budget approved as of March 27, 2020 and expended between March 1 and December 30, 2020. Expenses incurred and anticipated to be spent prior to the end of the year include expenses for
 - a) Additional disinfection, cleaning and other health and safety measures for city operations during the COVID pandemic for the purpose of protecting the health and safety of city employees and the general public.
 - b) Information technology equipment to facilitate remote operations to conduct city business,
 - c) Project expenses. Potential projects include
 - i) assisting local businesses with common areas/community spaces that maintain social distancing for businesses and food services,
 - ii) grant programs to assist with additional expenses incurred due to COVID requirements,
 - iii) assisting schools with social distancing requirements
 - iv) food supplies for members of the public who have been adversely impacted by the pandemic,
 - v) enhanced communications regarding COVID and health and safety measures,

FISCAL IMPACT

This budget amendment will not have a net fiscal impact as revenues are available to offset the additional appropriations and will reimburse additional costs that the City has incurred due to the COVID pandemic.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The Budget is a financial plan developed for the purpose of allocating resources necessary to implement specific policies and strategies to achieve short and long term goals established by the City throughout the year. The COVID-19 pandemic is an emergency situation that was not foreseen at the time the budget was adopted and has had significant adverse impacts on the community. This budget amendment will help mitigate some of those impacts.

OPTIONS AVAILABLE TO COUNCIL

- Approve the budget amendment as presented or with amendments
- Disapprove the budget amendment

RECOMMENDATION

It is the recommendation of staff that the Council by motion:

ADOPT RESOLUTION 2020-33 PROVIDING FOR A SUPPLEMENTAL APPROPRIATION FOR THE 2020 BUDGET TO APPROPRIATE ADDITIONAL FUNDS FOR COVID-19 PANDEMIC RELATED EXPENSES AND THE NORTH FRUITA DESERT SURVEY WORK

RESOLUTION 2020-33

A RESOLUTION FOR SUPPLEMENTAL APPROPRIATION FOR THE 2020 BUDGET TO APPROPRIATE ADDITIONAL FUNDS FOR COVID-19 PANDEMIC RELATED EXPENSES AND THE NORTH FRUITA DESERT SURVEY WORK

WHEREAS, the City of Fruita has received grant funds from the Coronavirus Relief Fund (CVRF) to offset eligible expenses related to facilitating compliance with COVID-19 pandemic related public health measures which are 1) necessary expenditures incurred due to the public health emergency with respect to COVID-19, 2) were not accounted for in the budget most recently approved as of March 27, 2020 and 3) spent after March 1, 2020 and prior to December 30, 2020, and

WHEREAS, the City of Fruita has received grant funds from Colorado Parks and Wildlife for the completion of a cultural and paleontological survey in the North Fruita Desert, and

WHEREAS, pursuant to Article 8.10 of the Fruita City Charter, the City Manager certifies there are sufficient funds available for the supplemental appropriations as noted below.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO AS FOLLOWS:

Section 1: That the 2020 appropriation for the General Fund is hereby increased by \$1,032,100 from \$9,429,150 to \$10,461,250 from the following sources for the following uses:

Source of Funds

Colorado Parks and Wildlife Grant	\$ 20,100
Coronavirus Relief Funds (CARES ACT)	<u>1,012,000</u>
	\$1,032,100

Use of Funds

North Fruita Desert cultural and paleontological survey work	\$ 20,100
COVID-19 Contingency for operational expenses.....	250,000
Administration – IT Equipment.....	85,000
COVID-19 Special Project expenses	<u>677,000</u>
	\$1,032,100

Section 2: That the 2020 appropriation for the Fruita Community Center Fund is hereby increased by \$100,000 from \$3,100,900 to \$3,200,900 from the following sources for the following uses:

Source of Funds

Coronavirus Relief Funds (CARES ACT)	\$100,000
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Use of Funds

COVID-19 Contingency for necessary expenses \$100,000

Section 3: That the 2020 appropriation for the Sewer Fund is hereby increased by \$50,000 from \$5,486,575 TO \$5,536,575 from the following sources for the following uses:

Source of Funds

Coronavirus Relief Funds (CARES ACT) \$50,000

Use of Funds

COVID-19 Contingency for necessary expenses \$50,000

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 4TH DAY OF AUGUST 2020**

ATTEST:

City of Fruita

City Clerk

Joel Kincaid, Mayor



FRUITA

COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PLANNING & DEVELOPMENT DEPARTMENT

DATE: AUGUST 4, 2020

**RE: RESOLUTION 2020-30, A RESOLUTION APPROVING A
CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL
BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL
ZONE LOCATED AT 506 E PABOR AVENUE.**

BACKGROUND

This is Land Development Application #2020-09, 506 E. Pabor Avenue VRBO. The subject property contains an 880 square foot detached single-family dwelling unit on an approximately .14-acre lot located on East Pabor Avenue. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 bathroom. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

At their July 14, 2020 virtual public hearing, the Planning Commission recommended approval of this application to the City Council by a vote of 5-0.

Conditions of approval before the business becomes operational:

1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
2. Maintain a current City of Fruita business license.
3. Limited to 2 bedrooms.
4. All bedrooms shall contain fire and carbon monoxide alarms.
5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
6. Compliance with all laws and regulations as applicable.

FISCAL IMPACT

The proposed CUP should have a positive fiscal impact on the city. The use appears to be

compatible with the surrounding area and should generate sales and lodger's taxes which are used to market and promote the city.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This CUP application meets or can meet all approval criteria and standards of Fruita's Land Use Code. The Land Use Code (along with other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implement the city's goals and policies as outlined in the city's Master Plan including the Fruita Community Plan.

OPTIONS AVAILABLE TO THE COUNCIL:

1. Approve the proposed Conditional Use Permit.
2. Deny the proposed Conditional Use Permit.

RECOMMENDATION:

It is the recommendation of staff that the Council by motion:

APPROVE RESOLUTION 2020-30, A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 506 E PABOR AVENUE.

RESOLUTION 2020-30

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE
A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY
RESIDENTIAL ZONE LOCATED AT 506 E PABOR AVENUE.**

WHEREAS, the property owner at 506 E. Pabor Avenue has submitted an application for a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the City of Fruita requires a Conditional Use Permit to operate a vacation rental by owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the Fruita Planning Commission held a public hearing on July 14, 2020 and recommended approval to the Fruita City Council of the Conditional Use Permit with conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE FRUITA CITY COUNCIL:

- A. The Conditional Use Permit to operate a Vacation Rental by Owner at 506 E. Pabor Avenue is hereby approved subject to the following conditions:
1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
 2. Maintain a current City of Fruita business license.
 3. Limited to 2 bedrooms.
 4. All bedrooms shall contain fire and carbon monoxide alarms.
 5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
 6. Compliance with all laws and regulations as applicable.
- B. The City Clerk shall record this Resolution with the Mesa County Clerk & Recorder's Office.
- C. If the Conditional Use is inactive for a period of 1 year or more the permit will be automatically revoked.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS 4th DAY OF AUGUST, 2020.

ATTEST:

City of Fruita

Margaret Sell, City Clerk

Joel Kincaid, Mayor



**Planning & Development Department
Staff Report
July 14, 2020**

Application #: 2020-09
Application Name: 506 E. Pabor VRBO
Application Type: Conditional Use Permit
Property Owner: JJW Holdings LLC; Jeremiah Windscheffel
Location: 506 E. Pabor Avenue
Zone: Community Residential
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Project Description:

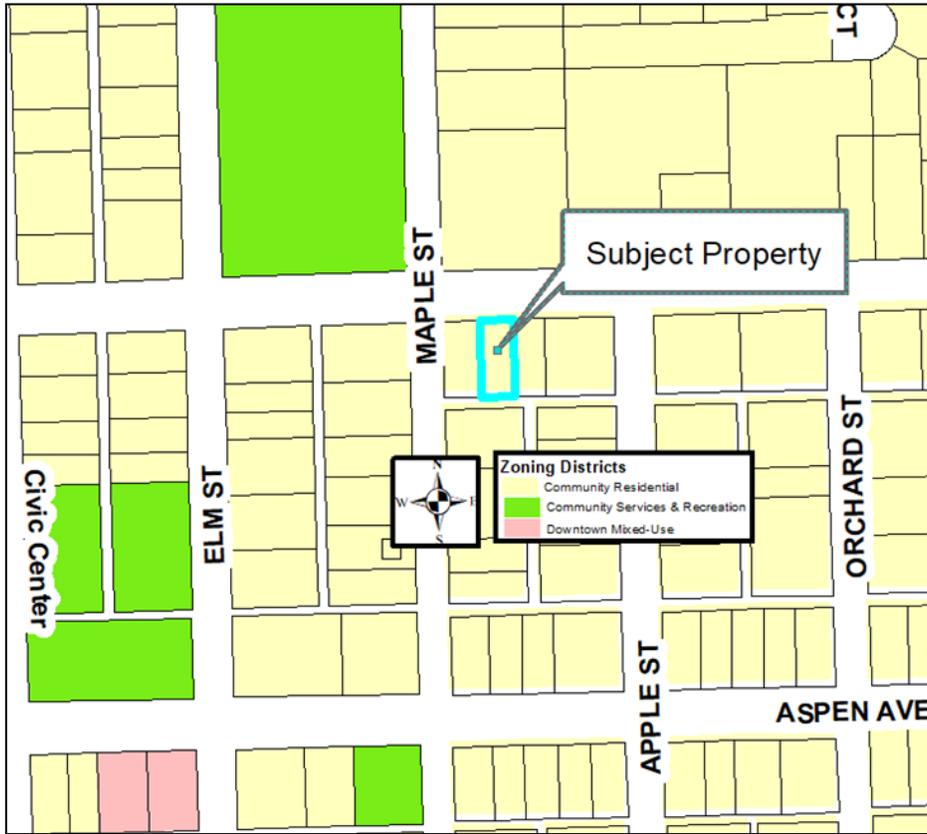
The subject property contains an 880 square foot detached single-family dwelling unit on an approximately .14-acre lot located on East Pabor Avenue. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 bathroom. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

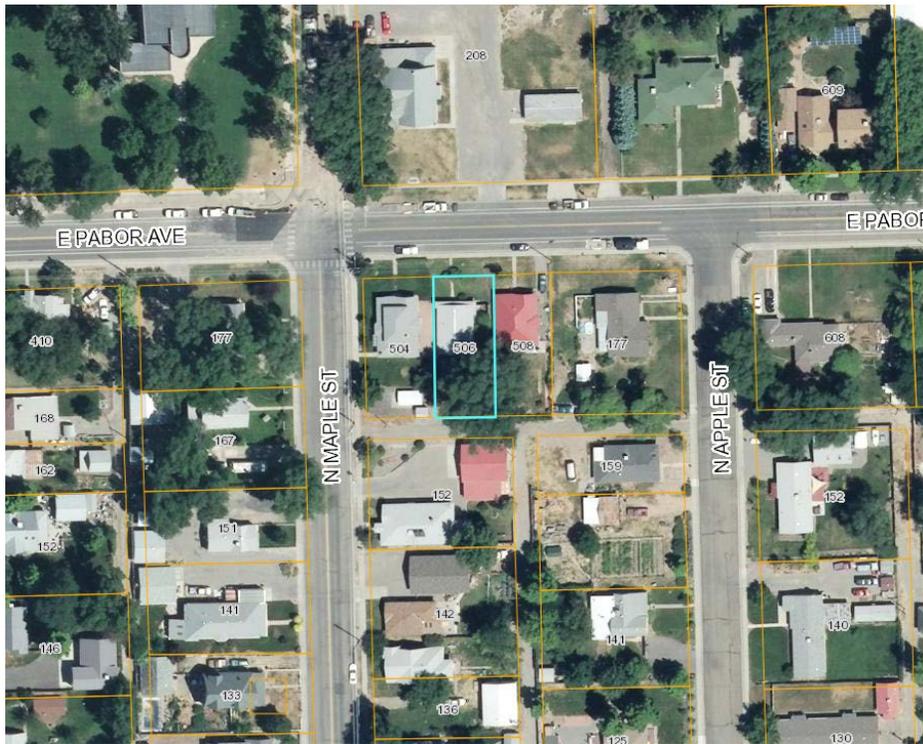
Surrounding Land Uses and Zoning:

Surrounding zoning consists mostly of Community Residential and Community Services & Recreation. Fruita Middle School is to the northwest and the Fruita Civic Center is the southwest of the subject property. Land uses surrounding the subject property include mostly single family detached dwelling units with the Fruita Christian Church and the Fruita Middle School to the north and northwest.

LAND USE/ZONING MAP



2019 AERIAL PHOTOGRAPH



Review of Applicable Land Use Code Requirements:

Table 17.07.060(F) of the Land Use Code requires a Conditional Use Permit (CUP) for Bed & Breakfast type of land use in the Community Residential zone. The Land Use Code defines a Bed & Breakfast as a facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis with no more than four guest rooms. It is not required to be owner occupied.

Section 17.07.070, Supplemental Zoning Regulations and Standards, Section A, identifies conditions and standards that must be met for a Bed & Breakfast use:

- 1. 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;**

The entire dwelling unit is intended to be used as the Bed and Breakfast. According to the Mesa County Assessor, this house contains 2 bedrooms and 1 bathroom. This criteria has been met.

- 2. 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;**

The applicants are aware that the kitchen and dining facilities may only serve the guests. The project narrative addresses this criteria stating “The kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed.” This criterion can be met.

- 3. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;**

This criteria is considered as being met at this time.

- 4. In residential zones (including residential developments in the CMU 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;**

Chapter 17.41 of the Land Use Code permits an Address or Identification Sign, identifying the address and/or the occupants of a dwelling unit or of an establishment, with a maximum size of two square feet and a maximum height of four feet for a sign in this zone. No illumination of this sign is permitted. There are no signs on the subject property at this time.

The Sign Code requires that signs be reviewed in conjunction with the Conditional Use Permit. There was no indication from the applicant in the submittal documents that would indicate a proposed sign. Thus, no signage is being proposed. If a sign were to be proposed, there would need to be an amendment to this Conditional Use Permit. Amendments to CUP's require hearings by both the Planning Commission and City Council. This criteria is not applicable because no sign is being proposed at this time.

5. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;

It appears that this property has at least 2 off street parking spaces. The project narrative says that the subject property has a large parking area with a garage in the back of the home with room for 3 or more vehicles. No screening is recommended by Staff. This criterion has been met.

6. The bed and breakfast facility shall comply with all Building Codes adopted by the city;

The dwelling unit was originally constructed in 1975 according to the Mesa County Assessors website. The subject property does not appear to have any outstanding building permits. This criterion has been met at this time.

7. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and

It doesn't appear that the subject property is subject to any covenants, conditions or restriction (CCR's). This criterion is not applicable.

8. 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.

Staff is unaware of any other existing or intended use of this property other than as a dwelling unit and/or as a short-term rental as proposed by this CUP request.

Based on this information, this CUP request for a Bed & Breakfast meets or can meet the supplemental zoning regulations and standards of the Land Use Code.

Chapter 13 of the Land Use Code identifies the approval criteria that must be considered for Conditional Use Permit (CUP) requests. The Code defines a CUP as a use which, because of its unique or varying characteristics, cannot be properly classified as an

allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of the Land Use Code, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

According to Section 17.13.40.C of the Land Use Code, a Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:

Section 17.13.040, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:

- 1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;**

Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of the Community Residential zone, which is to allow for moderate density single-family neighborhoods. If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion can be met. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan.

- 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;**

Section 17.07.080 requires that a proposed development be compatible with adjacent properties, considering both existing and potential land uses on adjacent properties. 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 a proposed use and existing uses in the vicinity to ensure compatibility.

It appears that this proposed vacation rental can be compatible with surrounding land uses. Compliance with the regulations for vacation rentals should allow this use to coexist with other existing houses in the area without having a disproportionate or severe impact on the neighborhood. This criterion can be met.

3. The proposed use will not materially endanger the public health or safety; and

Use of the single-family dwelling unit for a vacation rental is not expected to endanger the public health or safety. The project narrative states that the home has CO2 detectors, smoke alarms, and fire extinguishers already on site. This criterion can be met.

4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.

Public services and facilities have been available to this property and will continue to be available to this property while it is used as a vacation rental. The impacts are not expected to be any greater than those generated by a single-family residence. This criterion has been met.

Based on this information, this requested Conditional Use Permit meets or can meet all approval criteria for Conditional Use Permits and all supplemental zoning standards.

Legal Notice:

	Y	N	DATE
Postcards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06/24/2020
Paper	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06/24/2020
Property	<input checked="" type="checkbox"/>	<input type="checkbox"/>	06/24/2020

NOTICE OF PUBLIC HEARING

The Fruita Planning Commission will hold a **VIRTUAL** public hearing **Tuesday, July 14, 2020 at 7:00 p.m.** Details on how to access this meeting will be found at www.fruita.org. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on **Tuesday, August 4, 2020 at 7:00 p.m.** We are unsure at this time whether this meeting will follow a virtual or in person format. Please check www.fruita.org for more details. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

Application #	2020-09
Application Name	506 E. Pabor VRBO
Application Type	Conditional Use Permit
Location	506 E. Pabor Avenue
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Physically disadvantaged persons who wish to obtain information or need assistance in attending the Public Hearing, may call (970) 858-0786, the hearing impaired may call Relay Colorado at 1-800-659-2656, or visit our website: www.fruita.org

Review Comments:

- Lower Valley Fire District requested that a fire extinguisher, carbon monoxide detector and smoke detector/fire alarms must be in place.

- Conditions of approval by Staff:
 1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
 2. Maintain a current City of Fruita business license.
 3. Limited to 2 bedrooms.
 4. All bedrooms shall contain fire and carbon monoxide alarms.
 5. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
 6. Compliance with all laws and regulations as applicable.

Public Comments:

No written public comments have been received regarding this application at this time.

Staff Recommendation:

Because all of the approval criteria for Conditional Use Permits and all supplemental zoning standards and regulations either are or can be met, staff recommends approval of the proposed Bed & Breakfast with the condition that all review comments are met before the business becomes operational.

<p><u>Fruita Planning Commission:</u> July 14, 2020</p>
<p><u>Fruita City Council:</u> August 4, 2020</p>



168 N. Mesa St. Fruita, Co. 81521

970-858-3133 970-858-7189 fax

dpippenger@lvdfire.org

Office of the Fire Marshal

June 3, 2020

Fruita Planning Department
325 E. Aspen Avenue
Fruita, CO 81521

Re: Comments for 2020-09-506 E. Pabor VRBO

1. Fire extinguisher, carbon monoxide detector and smoke detector/fire alarms must be in place.

Richard Pippenger
Fire Marshal

Kelli McLean

From: Darrell Bay <darrell.bay@mesacounty.us>
Sent: Friday, June 5, 2020 2:55 PM
To: Kelli McLean
Subject: Re: 2020-09 506 E. Pabor VRBO

MCBD has no objections
Thanks

Darrell Bay
Building Official
970-244-1631

On Fri, May 29, 2020 at 12:26 PM Kelli McLean <kmclean@fruita.org> wrote:

Good Afternoon,

Please send us your review comments for project #2020-09 506 E. Pabor VRBO by Friday, June 19. I have included a link below for your convenience.

<https://www.fruita.org/cd/page/2020-09-506-e-pabor-vrbo>

Thank you!

KELLI MCLEAN

PLANNING TECHNICIAN

CITY OF FRUITA

970-858-0786





LAND DEVELOPMENT APPLICATION

Project Name: VRBO 506 E Pabor
 Project Location: 506 E Pabor
 Current Zoning District: _____ Requested Zone: _____
 Tax Parcel Number(s): 2697-171-05-003 Number of Acres: .14
 Project Type: Vacation Rental - House

Property Owner: JJW Holdings LLC Developer: _____
 Property Owner: Jeremiah Windscheffel Contact: _____
 Address: 1880 L rd. Address: _____
 City/State/Zip: Fruita CO 81521 City/State/Zip: _____
 Phone: 970 234 0673 Fax: _____ Phone: _____ Fax: _____
 E-mail: jeremiah4@alpineclassy.com E-mail: _____

Please designate a representative as the coordinator for this application. The representative should attend all conferences/hearings, will receive all correspondence, and communicate all information to the property owners.

Owner Rep: _____ Engineer: _____
 Contact: _____ Contact: _____
 Address: _____ Address: _____
 City/State/Zip: _____ City/State/Zip: _____
 Phone: _____ Fax: _____ Phone: _____ Fax: _____
 E-mail: _____ E-mail: _____

This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.

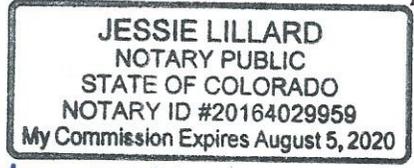
The above information is correct and accurate to the best of my knowledge.

Jeremiah Windscheffel _____ 5/19/2020
 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)



The foregoing instrument was acknowledged before me this 14th day of May, 2020

My Commission expires: August 5, 2020 Notary Public J Lillard

Project Narrative

506 E. Pabor Vacation Rental

Proposed Use: Short term vacation rental

I, Jeremiah Windscheffel am the Managing Member for JJW Holdings LLC and would like to respectfully request approval of a short-term vacation rental conditional use permit for 506 E. Pabor, tax parcel number 2697-171-05-003. This property is just a few blocks from downtown and would be a popular destination for tourists looking to spend time in Fruita.

The home was built in 1975, it is 880 sf with 2 bedrooms and one bath. The Kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed. The home has CO2 detectors, smoke alarms, and fire extinguishers. It sits on .14 acres with a nicely manicured lawn with no debris visible and will continue to be properly maintained. It has a large parking area with a garage in the back of the home with room for 3 or more vehicles. The home is accessed from the alley off N. Maple and has quick access to downtown, Hwy 50, and 1/70. Traffic in this area is consistent with a downtown residential area and we anticipate no additional impact due to the usage change.

This request is in line with the existing neighborhood and Fruita's current development plan. It will offer guests easy access to downtown, restaurants, stores, community events, and local attractions.

Please see the attached site plan and feel free to reach out to me with questions or concerns, 970-234-0673. Thank you in advance for consideration of a conditional use permit.

Sincerely,

Jeremiah Windscheffel

E Pabor Ave

E Pabor Ave

E Pabor Ave

ple St

N Maple St

N Maple St

N Maple St

30'

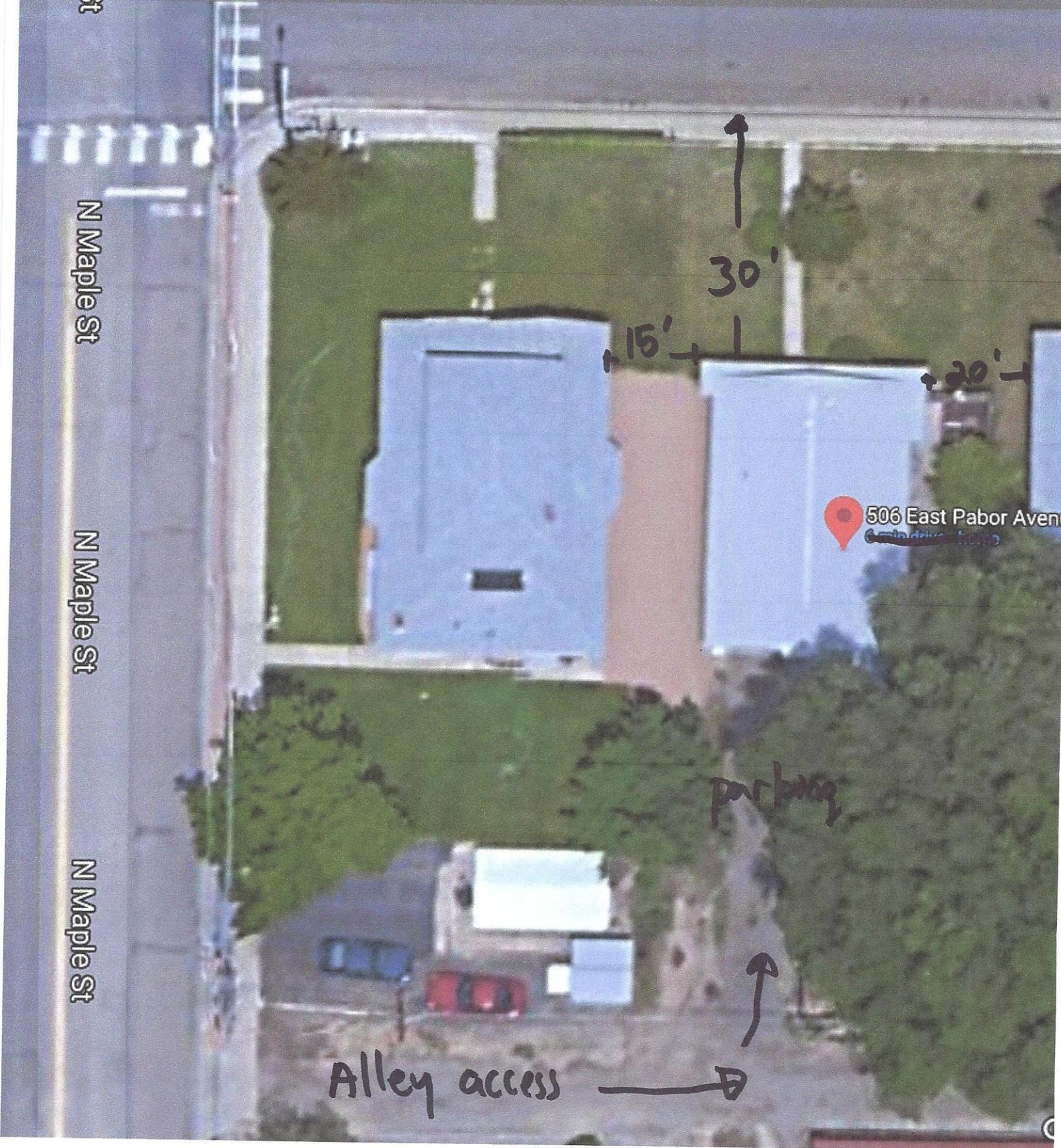
15'

20'

506 East Pabor Avenue
6 min drive home

parking

Alley access



A. CALL TO ORDER

Five Planning Commissioners were in virtual attendance. (Patrick Hummel, Whitney Rink, Jesse Fabula, Mel Mulder, and Justin Gollob were present).

B. PLEDGE OF ALLEGIANCE

Mel Mulder led the Pledge of Allegiance.

C. AMENDMENTS TO THE AGENDA

None.

D. APPROVAL OF THE AGENDA

COMMISSIONER MULDER MOVED TO APPROVE THE AGENDA

COMMISSIONER HUMMEL SECONDED THE MOTION

MOTION PASSED 5-0

E. WITHDRAWN ITEMS

None

F. CONTINUED ITEMS

None

G. CONSENT ITEMS

Application #	2020-09
Application Name	506 E. Pabor VRBO
Application Type	Conditional Use Permit
Location	506 E. Pabor Avenue
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Application #	2020-10
Application Name	221 N. Elm VRBO
Application Type	Conditional Use Permit
Location	221 N. Elm Street
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

APPROVAL OF MINUTES

May 12, 2020 Planning Commission Meeting

COMMISSIONER RINK MADE A MOTION TO APPROVE THE CONSENT AGENDA.

COMMISSIONER MULDER SECONDED THE MOTION

MOTION PASSED 5-0 IN FAVOR TO APPROVE THE CONSENT AGENDA

(COMMISSIONERS RINK AND MULDER ABSTAINED FROM THE MEETING MINUTES BECAUSE THEY WERE NOT IN ATTENDANCE AT THE LAST MEETING)

H. HEARING ITEMS

None

I. OTHER BUSINESS

1. Community Development Activity Reports.
2. Visitors and Guests.
3. Other Business.
 - a. Land Use Code Update
 - i. Chapter 21 Development Agreements
 - ii. Chapter 47 Vested Rights

Mr. Caris gave an update on where they were at with the Land Use Code update and where the consultant was at with the project and what their timeline was. He spoke about the June Working Group meeting and what came out of that was that they were going to move forward with some initial items, sending out drafts of the Zoning chapter in the code and likely Subdivision PUD's and some of the either entitlements procedures as it pertained to a hearing process. He said that they were going to have another discussion with Design Workshop in late August or early September. He spoke about Chapter 21 Development Agreements and Chapter 47 Vested Rights. He said that each amendment will need a recommendation from them. Mr. Caris gave a brief description about how they will be going about process with the Planning Commission.

Mr. Wisor talked about how the Development Improvement Agreements and Vested Rights were internal to the City and to the applicant. He spoke more about Vested Rights and length of them and how it could affect the public. He spoke about having clarity about time length of Vested Rights is important and streamlining some of the issues by making them administrative.

Mr. Caris talked more about the Development Improvement Agreements and how they pertained to specifically to the residential speculation. He gave examples of this. He said that the tool is that they hold security in different forms that if those improvements do not get constructed that they have a financial mechanism to complete the project based off of the phase that it is in. Mr. Caris then spoke more about Vested Rights and when the time started on them.

Mr. Wisor brought up the state statutes about Vested Rights and conditions to extend that time.

Mr. Caris gave some examples on areas in Fruita with regards to Vested Right

Mr. Wisor mentioned that the Development Improvements Agreements are put into place for the City's protection and the community's best interests.

Adjournment 8:08 pm

Respectfully submitted,

Kelli McLean

Planning Technician, City of Fruita

DRAFT



FRUITA

COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PLANNING & DEVELOPMENT DEPARTMENT

DATE: AUGUST 4, 2020

RE: RESOLUTION 2020-31, A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 221 NORTH ELM STREET.

BACKGROUND

This is Land Development Application #2020-10, 221 N. Elm VRBO. The subject property contains a 979 square foot detached single-family dwelling unit on an approximately .14-acre lot located on North Elm Street. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 bathroom. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone. At their July 14, 2020 virtual public hearing, the Planning Commission recommended approval of this application to the City Council by a vote of 5-0.

Conditions of approval before the business becomes operational:

1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
2. Maintain a current City of Fruita business license.
3. Certificate of Occupancy be issued before the business becomes operational.
4. Limited to 2 bedrooms.
5. All bedrooms shall contain fire and carbon monoxide alarms.
6. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
7. Compliance with all laws and regulations as applicable.

FISCAL IMPACT

The proposed CUP should have a positive fiscal impact on the city. The use appears to be

compatible with the surrounding area and should generate sales and lodger's taxes which are used to market and promote the city.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This CUP application meets or can meet all approval criteria and standards of Fruita's Land Use Code. The Land Use Code (along with other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implement the city's goals and policies as outlined in the city's Master Plan including the Fruita Community Plan.

OPTIONS AVAILABLE TO THE COUNCIL:

1. Approve the proposed Conditional Use Permit.
2. Deny the proposed Conditional Use Permit.

RECOMMENDATION:

It is the recommendation of staff that the Council by motion:

APPROVE RESOLUTION 2020-31, A CONDITIONAL USE PERMIT TO OPERATE A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY RESIDENTIAL ZONE LOCATED AT 221 NORTH ELM STREET.

RESOLUTION 2020-31

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO OPERATE
A VACATION RENTAL BY OWNER (BED & BREAKFAST) IN A COMMUNITY
RESIDENTIAL ZONE LOCATED AT 221 NORTH ELM STREET.**

WHEREAS, the property owner at 221 N. Elm Street has submitted an application for a Conditional Use Permit to operate a Vacation Rental by Owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the City of Fruita requires a Conditional Use Permit to operate a vacation rental by owner (Bed & Breakfast) in a Community Residential zone, and

WHEREAS, the Fruita Planning Commission held a public hearing on July 14, 2020 and recommended approval to the Fruita City Council of the Conditional Use Permit with conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE FRUITA CITY COUNCIL:

- A. The Conditional Use Permit to operate a Vacation Rental by Owner at 221 N. Elm Street is hereby approved subject to the following conditions:
1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
 2. Maintain a current City of Fruita business license.
 3. Certificate of Occupancy be issued before the business becomes operational.
 4. Limited to 2 bedrooms.
 5. All bedrooms shall contain fire and carbon monoxide alarms.
 6. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
 7. Compliance with all laws and regulations as applicable.
- B. The City Clerk shall record this Resolution with the Mesa County Clerk & Recorder's Office.
- C. If the Conditional Use is inactive for a period of 1 year or more the permit will be automatically revoked.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS 4th DAY OF AUGUST, 2020.

ATTEST:

City of Fruita

Margaret Sell, City Clerk

Joel Kincaid, Mayor



**Planning & Development Department
Staff Report
July 14, 2020**

Application #: 2020-10
Application Name: 221 N. Elm VRBO
Application Type: Conditional Use Permit
Property Owner: JJW Holdings LLC; Jeremiah Windscheffel
Location: 221 N. Elm Street
Zone: Community Residential
Description: This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast). The Fruita Land Use Code requires a Conditional Use Permit to operate a Bed and Breakfast in a Community Residential zone.

Project Description:

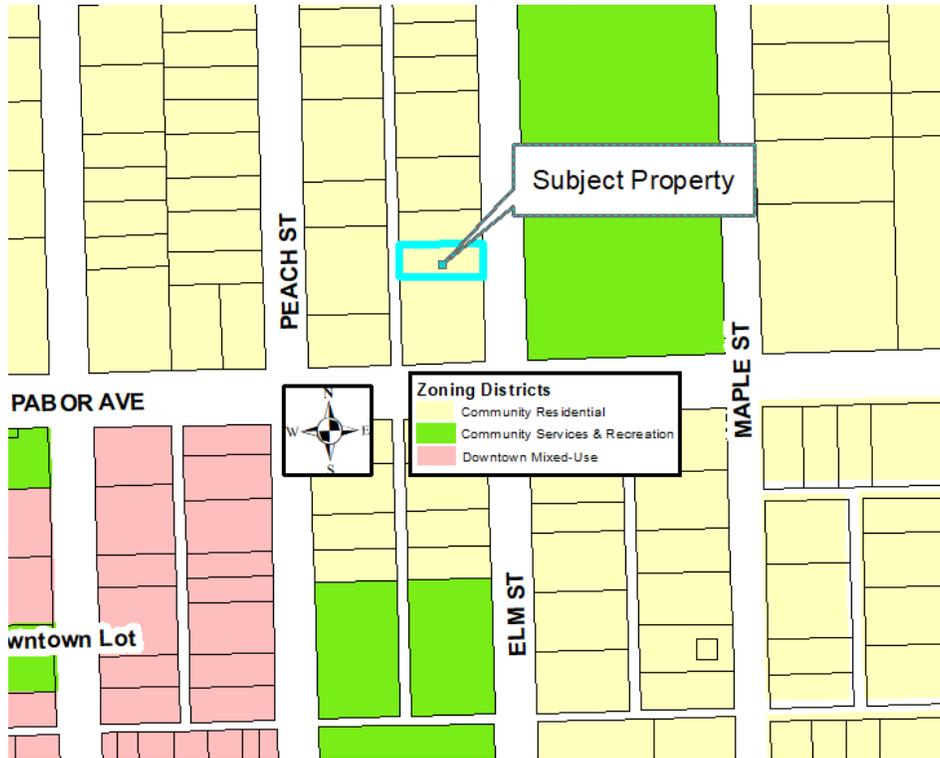
The subject property contains a 979 square foot detached single-family dwelling unit on an approximately .14-acre lot located on North Elm Street. The property owner has requested a Conditional Use Permit (CUP) to use the property for a vacation rental by owner.

The applicant is proposing to rent, on a less than month-to-month basis the entire dwelling unit which is made up of 2 bedrooms and 1 bathroom. The Land Use Code defines this type of use as a Bed & Breakfast which requires a CUP in the Community Residential (CR) zone.

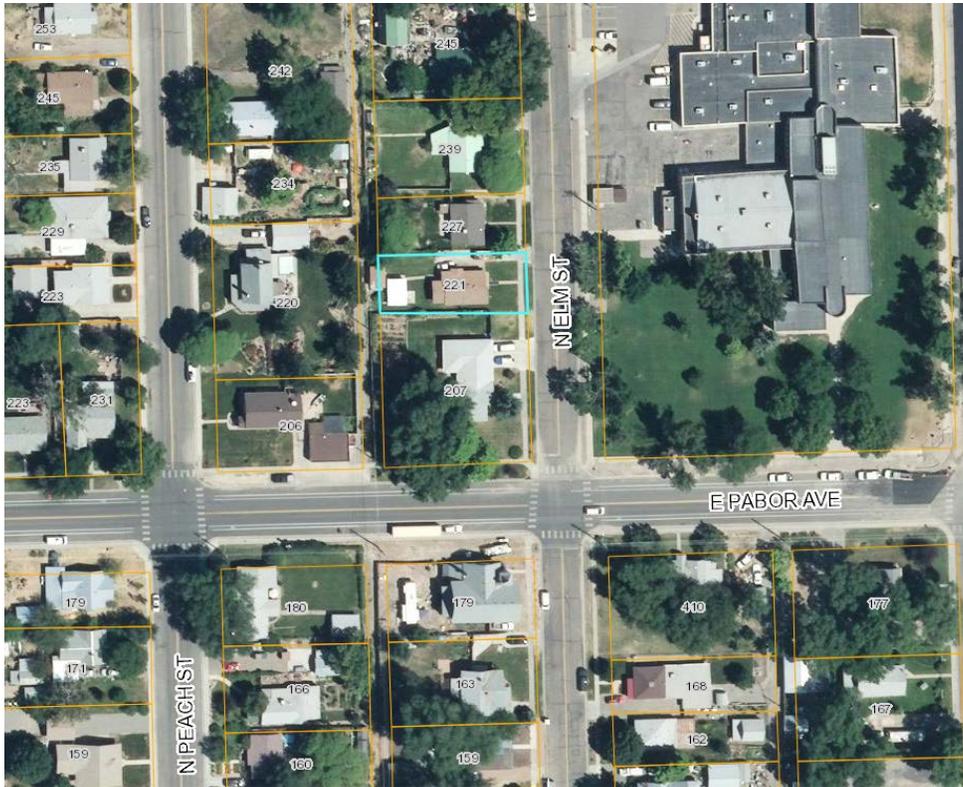
Surrounding Land Uses and Zoning:

Surrounding zoning consists mostly of Community Residential, Downtown Mixed Use and Community Services & Recreation with Fruita Middle School and the Fruita Civic Center close by. Land uses surrounding the subject property include mainly single family detached dwelling units.

LAND USE/ZONING MAP



2019 AERIAL PHOTOGRAPH



Review of Applicable Land Use Code Requirements:

Table 17.07.060(F) of the Land Use Code requires a Conditional Use Permit (CUP) for Bed & Breakfast type of land use in the Community Residential zone. The Land Use Code defines a Bed & Breakfast as a facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis with no more than four guest rooms. It is not required to be owner occupied.

Section 17.07.070, Supplemental Zoning Regulations and Standards, Section A, identifies conditions and standards that must be met for a Bed & Breakfast use:

- 1. 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;**

The entire dwelling unit is intended to be used as the Bed and Breakfast. According to the Mesa County Assessor, this house contains 2 bedrooms and 1 bathroom. This criteria has been met.

- 2. 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;**

The applicant is aware that the kitchen and dining facilities may only serve the guests. The project narrative addresses this criteria stating “The kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed.” This criterion can be met.

- 3. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;**

This criteria is considered as being met at this time.

- 4. In residential zones (including residential developments in the CMU 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;**

Chapter 17.41 of the Land Use Code permits an Address or Identification Sign, identifying the address and/or the occupants of a dwelling unit or of an establishment, with a maximum size of two square feet and a maximum height of four feet for a sign in this zone. No illumination of this sign is permitted. There are no signs on the subject property at this time.

The Sign Code requires that signs be reviewed in conjunction with the Conditional Use Permit. There was no indication from the applicant in the submittal documents that would indicate a proposed sign. Thus, no signage is being proposed. If a sign were to be proposed, there would need to be an amendment to this Conditional Use Permit. Amendments to CUP's require hearings by both the Planning Commission and City Council. This criteria is not applicable because no sign is being proposed at this time.

5. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;

It appears that this property has at least 2 off street parking spaces. The project narrative states that there is a large parking area on the side of the home with room for 3 or more vehicles This criterion has been met.

6. The bed and breakfast facility shall comply with all Building Codes adopted by the city;

The dwelling unit was originally constructed in 1957 according to the Mesa County Assessors website. The property owner has pulled permits to replace the roof, the windows, the HVAC, an electrical upgrade, and interior remodel. The work being completed by the property owner doesn't appear to be completed at this time. Staff recommends that approval of this application be contingent upon receiving a Certificate of Occupancy. This criteria can be met.

7. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and

It doesn't appear that the subject property is subject to any covenants, conditions or restriction (CCR's). This criterion is not applicable.

8. 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.

Staff is unaware of any other existing or intended use of this property other than as a dwelling unit and/or as a short-term rental as proposed by this CUP request.

Based on this information, this CUP request for a Bed & Breakfast meets or can meet the supplemental zoning regulations and standards of the Land Use Code.

Chapter 13 of the Land Use Code identifies the approval criteria that must be considered for Conditional Use Permit (CUP) requests. The Code defines a CUP as a use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of the Land Use Code, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

According to Section 17.13.40.C of the Land Use Code, a Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:

Section 17.13.040, Conditional Uses, of the Land Development Code requires that a conditional use be approved after considering the following:

- 1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;**

Based on this review, the proposed conditional use can be consistent with the provisions and purposes of this Title (the Land Use Code), which is to promote the health, safety and welfare of the present and future inhabitants of the community, and with the purposes of the Community Residential zone, which is to allow for moderate density single-family neighborhoods. If the supplemental zoning regulations and standards (identified above) are met along with the approval criteria for CUPs, this criterion can be met. The Land Use Code is one of the main documents used to implement the goals and policies of the City's Master Plan.

- 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;**

Section 17.07.080 requires that a proposed development be compatible with adjacent properties, considering both existing and potential land uses on adjacent properties. 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 a proposed use and existing uses in the vicinity to ensure compatibility.

It appears that this proposed vacation rental can be compatible with surrounding land uses. Compliance with the regulations for vacation rentals should allow this

use to coexist with other existing houses in the area without having a disproportionate or severe impact on the neighborhood. This criterion can be met.

3. The proposed use will not materially endanger the public health or safety; and

Use of the single-family dwelling unit for a vacation rental is not expected to endanger the public health or safety. Staff recommends that all guest bedrooms contain carbon monoxide and smoke alarms. This criterion can be met.

4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.

Public services and facilities have been available to this property and will continue to be available to this property while it is used as a vacation rental. The impacts are not expected to be any greater than those generated by a single-family residence. This criterion has been met.

Based on this information, this requested Conditional Use Permit meets or can meet all approval criteria for Conditional Use Permits and all supplemental zoning standards.

Legal Notice:

	Y	N	DATE
Postcards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/24/2020
Paper	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/24/2020
Property	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6/24/2020

NOTICE OF PUBLIC HEARING

The Fruita Planning Commission will hold a public hearing **Tuesday, July 14, 2020 at 7:00 p.m.** at the Fruita Civic Center, 2nd Floor Council Chambers, 325 E. Aspen Avenue. The following item will be presented at the public hearings. The Planning Commission will formulate a recommendation, which will be forwarded to the Fruita City Council. If the item listed below is acted on by the Planning Commission, the Fruita City Council will hold a public hearing on this same item on **Tuesday, August 4, 2020 at 7:00 p.m.** at the Fruita Civic Center, 2nd Floor Council Chambers. If you have an interest on the item please call 858-0786 or come to the Planning & Development Department office located at 325 E. Aspen Avenue to review the information in the file. Your appearance at both hearings is encouraged to ensure your concerns are accurately represented or you can write a letter outlining your concerns and submit it to the Planning & Development Department.

Application #	2020-10
Application Name	221 N. Elm VRBO
Application Type	Conditional Use Permit
Location	221 N. Elm Street
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Physically disadvantaged persons who wish to obtain information or need assistance in attending the Public Hearing, may call (970) 858-0786, the hearing impaired may call Relay Colorado at 1-800-659-2656, or visit our website: www.fruita.org

Review Comments:

- Lower Valley Fire District requested that a fire extinguisher, carbon monoxide detector and smoke/fire alarms must be in place.

- Conditions of approval by Staff:
 1. Lodger's tax be paid to the City of Fruita pursuant to Chapter 3.18 of the Fruita Municipal Code.
 2. Maintain a current City of Fruita business license.
 3. Certificate of Occupancy be issued before the business becomes operational.
 4. Limited to 2 bedrooms.
 5. All bedrooms shall contain fire and carbon monoxide alarms.
 6. Annual review of the Conditional Use Permit by the Fruita Code Compliance Officer.
 7. Compliance with all laws and regulations as applicable.

Public Comments:

No written public comments have been received regarding this application at this time.

Staff Recommendation:

Because all of the approval criteria for Conditional Use Permits and all supplemental zoning standards and regulations either are or can be met, staff recommends approval of the proposed Bed & Breakfast with the condition that all review comments are met before the business becomes operational.

<p><u>Fruita Planning Commission:</u> July 14, 2020</p>
--

<p><u>Fruita City Council:</u> August 4, 2020.</p>



168 N. Mesa St. Fruita, Co. 81521

970-858-3133 970-858-7189 fax

dpippenger@lvdfire.org

Office of the Fire Marshal

June 3, 2020

Fruita Planning Department
325 E. Aspen Avenue
Fruita, CO 81521

Re: Comments for 2020-2020---10-221 N. Elm VBRO

1. Fire extinguisher, carbon monoxide detector and smoke detector/fire alarms must be in place.

Richard Pippenger
Fire Marshal

Kelli McLean

From: Darrell Bay <darrell.bay@mesacounty.us>
Sent: Friday, June 5, 2020 2:11 PM
To: Kelli McLean
Subject: Re: 2020-10 221 N. Elm VRBO

Kelli,
MCBD has no objections.
Thanks

Darrell Bay
Building Official
970-244-1631

On Fri, May 29, 2020 at 12:33 PM Kelli McLean <kmclean@fruita.org> wrote:

HELLO,

PLEASE SEND US YOUR REVIEW COMMENTS FOR PROJECT 2020-10 221 N. ELM VRBO NO LATER THAN FRIDAY, JUNE 19. THANK YOU!

<https://www.fruita.org/cd/page/2020-10-221-n-elm-vrbo>

KELLI MCLEAN

PLANNING TECHNICIAN

CITY OF FRUITA

970-858-0786



[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.



LAND DEVELOPMENT APPLICATION

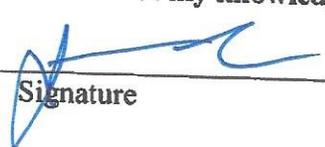
Project Name: 221 N. Elm VR80
 Project Location: 221 N. Elm
 Current Zoning District: _____ Requested Zone: _____
 Tax Parcel Number(s): 2697-172-08-013 Number of Acres: .14
 Project Type: Vacation Rental - Home

Property Owner: JJW Holdings LLC Developer: _____
 Property Owner: Jeremiah Windscheffel Contact: _____
 Address: 1880 E rd. Address: _____
 City/State/Zip: Fruita CO 81521 City/State/Zip: _____
 Phone: 9702340673 Fax: _____ Phone: _____ Fax: _____
 E-mail: jeremiah@alpineglassgj.com E-mail: _____

Please designate a representative as the coordinator for this application. The representative should attend all conferences/hearings, will receive all correspondence, and communicate all information to the property owners.

Owner Rep: _____ Engineer: _____
 Contact: _____ Contact: _____
 Address: _____ Address: _____
 City/State/Zip: _____ City/State/Zip: _____
 Phone: _____ Fax: _____ Phone: _____ Fax: _____
 E-mail: _____ E-mail: _____

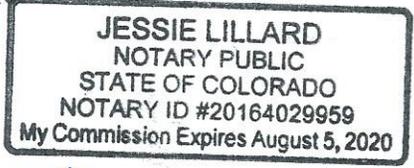
This Notarized application authorizes the owner's representative, if designated, to act on behalf of the property owners regarding this application.
 The above information is correct and accurate to the best of my knowledge.

Jeremiah Windscheffel  5/19/2020
 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

 Name of Legal Owner Signature Date

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)



The foregoing instrument was acknowledged before me this 19th day of May, 2020
 My Commission expires: August 5, 2020 Notary Public J. Lillard

Project Narrative

221 N. Elm Vacation Rental

Proposed Use: Short term vacation rental

I, Jeremiah Windscheffel am the Managing Member for JJW Holdings LLC and would like to respectfully request approval of a short-term vacation rental conditional use permit for 221 N. Elm, tax parcel number 2697-172-08-013. This property is just a few blocks from downtown and would be a popular destination for tourists looking to spend time in Fruita.

The home was built in 1957, it is 979 sf with 2 bedrooms and one bath. The Kitchen and dining facilities serve only the residents and guests during their stay, no commercial use is allowed. The home has CO2 detectors, smoke alarms, and fire extinguishers. It sits on .14 acres with a nicely manicured lawn with no debris visible and will continue to be properly maintained. It has a large parking area on the side of the home with room for 3 or more vehicles. The home is accessed off of Elm and has quick access to downtown, Hwy 50, and 1/70. Traffic in this area is consistent with a downtown residential area and we anticipate no additional impact due to the usage change.

This request is in line with the existing neighborhood and Fruita's current development plan. It will offer guests easy access to downtown, restaurants, stores, community events, and local attractions.

Please see the attached site plan and feel free to reach out to me with questions or concerns, 970-234-0673. Thank you in advance for consideration of a conditional use permit.

Sincerely,

Jeremiah Windscheffel



221 North Elm Street
6 min drive - home

18'
parking

22'
f

N Elm St

N Elm St

N Elm St

A. CALL TO ORDER

Five Planning Commissioners were in virtual attendance. (Patrick Hummel, Whitney Rink, Jesse Fabula, Mel Mulder, and Justin Gollob were present).

B. PLEDGE OF ALLEGIANCE

Mel Mulder led the Pledge of Allegiance.

C. AMENDMENTS TO THE AGENDA

None.

D. APPROVAL OF THE AGENDA

COMMISSIONER MULDER MOVED TO APPROVE THE AGENDA

COMMISSIONER HUMMEL SECONDED THE MOTION

MOTION PASSED 5-0

E. WITHDRAWN ITEMS

None

F. CONTINUED ITEMS

None

G. CONSENT ITEMS

Application #	2020-09
Application Name	506 E. Pabor VRBO
Application Type	Conditional Use Permit
Location	506 E. Pabor Avenue
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

Application #	2020-10
Application Name	221 N. Elm VRBO
Application Type	Conditional Use Permit
Location	221 N. Elm Street
Zone	Community Residential (CR)
Description	This is a request for approval of a Conditional Use Permit for a Vacation Rental by Owner (Bed And Breakfast) in a Community Residential zone.

APPROVAL OF MINUTES

May 12, 2020 Planning Commission Meeting

COMMISSIONER RINK MADE A MOTION TO APPROVE THE CONSENT AGENDA.

COMMISSIONER MULDER SECONDED THE MOTION

MOTION PASSED 5-0 IN FAVOR TO APPROVE THE CONSENT AGENDA
(COMMISSIONERS RINK AND MULDER ABSTAINED FROM THE MEETING MINUTES
BECAUSE THEY WERE NOT IN ATTENDANCE AT THE LAST MEETING)

H. HEARING ITEMS

None

I. OTHER BUSINESS

1. Community Development Activity Reports.
2. Visitors and Guests.
3. Other Business.
 - a. Land Use Code Update
 - i. Chapter 21 Development Agreements
 - ii. Chapter 47 Vested Rights

Mr. Caris gave an update on where they were at with the Land Use Code update and where the consultant was at with the project and what their timeline was. He spoke about the June Working Group meeting and what came out of that was that they were going to move forward with some initial items, sending out drafts of the Zoning chapter in the code and likely Subdivision PUD’s and some of the either entitlements procedures as it pertained to a hearing process. He said that they were going to have another discussion with Design Workshop in late August or early September. He spoke about Chapter 21 Development Agreements and Chapter 47 Vested Rights. He said that each amendment will need a recommendation from them. Mr. Caris gave a brief description about how they will be going about process with the Planning Commission.

Mr. Wisor talked about how the Development Improvement Agreements and Vested Rights were internal to the City and to the applicant. He spoke more about Vested Rights and length of them and how it could affect the public. He spoke about having clarity about time length of Vested Rights is important and streamlining some of the issues by making them administrative.

Mr. Caris talked more about the Development Improvement Agreements and how they pertained to specifically to the residential speculation. He gave examples of this. He said that the tool is that they hold security in different forms that if those improvements do not get constructed that they have a financial mechanism to complete the project based off of the phase that it is in. Mr. Caris then spoke more about Vested Rights and when the time started on them.

Mr. Wisor brought up the state statutes about Vested Rights and conditions to extend that time.

Mr. Caris gave some examples on areas in Fruita with regards to Vested Right

Mr. Wisor mentioned that the Development Improvements Agreements are put into place for the City's protection and the community's best interests.

Adjournment 8:08 pm

Respectfully submitted,

Kelli McLean

Planning Technician, City of Fruita

DRAFT



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: MARGARET SELL, CITY CLERK/FINANCE DIRECTOR
DATE: AUGUST 4, 2020
RE: RESOLUTION 2020-32 ADOPTING THE BOARDS AND COMMISSIONS POLICY

BACKGROUND

Attached is a Resolution adopting the Boards and Commissions Policy of the City which provides guidance for appointment and removal of board and commission members, membership limitations, meeting procedures, code of ethics requirements, and roles of city staff and Council liaisons.

The attached policy contains language which provides that the limitations of membership will apply for any new appointments made after August 1, 2020. This includes nepotism, serving on multiple boards and commissions, and term limits. Current members will be allowed to serve the remainder of their term. Any board member who has two or more consecutive appointments prior to August 1, 2020 is permitted to serve for two more consecutive terms.

There was considerable discussion about term limits which included the benefit, knowledge and value that members who have served multiple terms on boards bring to the board and, on the flip side, the need for fresh ideas, opinions and outlooks that would be brought forth with an evolving membership. While I think the attached policy is the intent of the City Council I have included some alternative language below.

~~3. Term limits. Term limits ~~shall be~~ of two consecutive terms **are encouraged** for all boards, with the exception of the Board of Adjustments. The balance of an unexpired term served by a person appointed to fill a vacancy shall not be counted as a term for the purpose of term limits. ~~This provision shall apply to all appointments made after August 1, 2020. Appointments made prior to this date shall not be included in the two consecutive terms.~~~~

FISCAL IMPACT

This Resolution adopting the Boards and Commissions Policy does not have any fiscal impact on the City

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Boards and Commission of the City provide vital input that contribute to the quality of life

and lifestyle of the community. The Policy provides for a more effective process by providing consistency and uniformity among the various boards and commissions and for consideration when establishing or removing boards and commissions.

OPTIONS AVAILABLE TO THE COUNCIL:

Adopt the Resolution and Boards and Commission Policy as presented or with amendments
Take no action on the Resolution or postpone until future date for further discussion

RECOMMENDATION:

It is the recommendation of staff that the Council by motion:

**ADOPT RESOLUTION 2020-32 APPROVING THE BOARDS AND COMMISSIONS
POLICY (AS WRITTEN OR WITH AMENDMENTS).**

RESOLUTION 2020-32

**A RESOLUTION ADOPTING THE BOARDS AND COMMISSION POLICY FOR
THE CITY OF FRUITA**

WHEREAS, the City of Fruita has a number of Boards and Commission that assist the City Council. Although the specific duties of these commissions, committees, and boards vary with the purpose for which they were formed, they generally assist the city council by acting as an additional line of communication between the general public and the council by making recommendations, focusing attention to specific problems, encouraging broad citizen participation in formulating alternative goals, and providing in-depth analyses on matters that will be decided by the city council, and

WHEREAS, members of Boards and Commission are a valuable resource to the City and volunteer their time and expertise for the benefit of the community, and

WHEREAS, details of each Board or Commission of the City are established by a variety of means including the Fruita City Charter, Fruita Municipal Code and by Resolution, and

WHEREAS, the City Council desires to provide some uniformity and consistency regarding the appointment of board members, term limits, meeting procedures and by laws, roles of board members, city staff and City Council liaisons,

NOW, THEREFORE, BE IT RESOLVED BY THE FRUITA CITY COUNCIL THAT

The Boards and Commissions Policy, attached hereto as Exhibit A, is hereby adopted.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 4TH DAY OF AUGUST 2020**

City of Fruita

Joel Kincaid, Mayor

ATTEST:

City Clerk



BOARDS & COMMISSIONS POLICY

August 4, 2020

PURPOSE

Details about boards and commissions may be found in various documents including the Fruita City Charter, the Fruita Municipal Code and Resolutions adopted by the City Council. These documents prescribe the power, duties, and operating procedures of the board or commission, and establishes the terms of office. The purpose of this policy is to provide general guidance and some uniformity for the various boards and commissions of the City.

POLICY

These general guidelines have been established for uniformity of various procedures associated with boards and commissions, including appointment of board members, city staff responsibilities, and council liaison roles.

- A. GENERAL PROVISIONS.** The City Council may, by ordinance or resolution, establish additional boards to advise them on various issues and perform functions as the Council may designate. The City Council may also abolish boards established by ordinance or resolution. Boards established by the City Charter require approval of the voters to abolish. Boards established by the City Charter include the Board of Adjustments, the Election Commission, Planning and Zoning Commission, Police Commission, and the Parks and Recreation Commission.

The Charter, Ordinance or Resolution establishing each board include the membership requirements including number of members, qualifications of members, residency requirements; duties and responsibilities of the board, and the operating procedures or bylaws of the board.

With the exception of the Board of Adjustments and Election Commission, all Boards serve in an advisory capacity. Boards, by motion, may make formal recommendations to the City Council in accordance with the purpose of the board including the expenditure or receipt of funds, including donation solicitations.

B. APPOINTMENT AND REMOVAL OF BOARD AND COMMISSION MEMBERS.

1. Appointment. Board members are appointed by the Mayor with approval of the Council and subject to membership requirements of the establishing ordinance, resolution or Charter and the membership limitations set forth below.
2. Removal. Pursuant to the Fruita City Charter, Board members may be removed from office for:
 - a. being found guilty of committing a felony,
 - b. having failed to attend 2 consecutive regular meetings, unless excused, or
 - c. found to have willfully engaged in unethical conduct as defined in Chapter 2.70 of the Fruita Municipal Code concerning the Code of Ethics for City Officials.

EXHIBIT A

Board members may also be removed if they no longer meet the requirements for membership established by the ordinance or resolution.

C. MEMBERSHIP.

1. Nepotism.

- a. Relatives of City Council cannot serve on boards and commissions.
- b. City Employees and their Relatives cannot serve on boards and commissions of the City.
- c. Relatives of Board and Commission members cannot serve on the same board or commission.
- d. Relatives are defined as:
 - i) any person related by blood or marriage who is a member of the official's household, under the same roof, or
 - ii) any parent, stepparent, grandparent, spouse, child, grandchild, brother, sister, or
 - iii) any child, parent stepparent, or grandparent of the official's spouse.

This provision shall apply to all appointments made after August 1, 2020.

2. Terms. The Fruita City Charter (Article VI) states that members of Boards and Commissions shall be appointed to 3-year terms and initial appointments shall be staggered terms of 1, 2 and 3 years.
3. Term limits. Term limits shall be two consecutive terms for all boards with the exception of the Board of Adjustments. The balance of an unexpired term served by a person appointed to fill a vacancy shall not be counted as a term for the purpose of term limits. This provision shall apply to all appointments made after August 1, 2020. Appointments made prior to this date shall not be included in the two consecutive terms.
4. Council Members. Where appointment of a council member to a board is required by the authorizing document, the appointment shall be for the term specified. A council member is a required member of the following boards.
 - a. Planning Commission (2-year term)
 - b. Parks and Recreation Commission (2-year term)
 - c. Tourism Advisory Council (3-year term)
 - d. Police Commission (2-year term)

A council member is appointed as an ex-officio, non-voting member, of the Livability Commission.

If a Council member is appointed to another board, appointments will be made after the regular municipal election, and be for a 2-year term. Council members shall have the same duties, responsibilities and voting rights of all other board members.

5. Membership on multiple Boards and Commission. Appointment of an individual to serve concurrently on more than one board is discouraged. This limitation does not apply to committees deemed to be temporary in nature or that have a general purpose which encourages input from representatives of various boards. This provision shall apply to all appointments made after August 1, 2020.

EXHIBIT A

6. Residency. Residency requirements for boards are established at the time the board is created.

D. MEETING PROCEDURES.

1. Meetings of all boards will be posted on the monthly meeting calendar and the City's official website.
2. Agendas and backup documentation (packets) will be posted to the City's website and where possible, sent to members prior to the meeting.
3. Minutes will be in written form and posted to the City's website following approval of the board. Minutes should include the date and time and location of the meeting, members present, general outline of each major topic discussed and the outcome, comments which illustrate individual viewpoints and opinions, verbatim of motions and how each member voted, statements made by members in explanation of their vote, time of adjournment.
4. All meetings are open to the public.
5. Bylaws or amendments thereto must be approved by the City Council and must be in conformance with the Charter, Ordinance or Resolution establishing the Commission.
6. Boards serve in an advisory capacity to the City Council. All recommendations by the board to the City Council shall be made by motion of the board and forwarded to the City Council for action.
7. A quorum must be present at the meeting.
8. Executive sessions may be held in accordance with legal requirements.

- E. CODE OF ETHICS.** Public confidence and respect can best be promoted if every public official, whether elected or appointed, uniformly treats all citizens with courtesy, impartiality, fairness and equality and avoids both actual and potential conflicts between their private self-interest and the public interest. The Fruita Municipal Code (Chapter 2.70) has a Code of Ethics which applies to all elected and appointed officials. The Code of Ethics includes provisions for Fair and Equal Treatment and Conflicts of Interest and provides for a Board of Ethics to hold hearings on alleged violations of the Code of Ethics. Board members who think they may have a potential conflict of interest should contact the Mayor, City Attorney or staff liaison to discuss any conflicts or potential conflicts.

F. CITY CLERK'S OFFICE – DUTIES AND RESPONSIBILITIES

1. **Terms Expiring/Expired.** The City Clerk's office will email notices every quarter to the Mayor and staff liaisons notifying them of members whose terms are expiring and how many terms have been served by each member. Letters will be sent to the member notifying them that their term will be expiring and how many terms they have served, and indicating the City council's policy on term limits, and notifying them that they must submit an application if they wish to be considered for reappointment.

EXHIBIT A

2. Incumbent Must Reapply. Members desiring to serve another term must submit an application for reappointment.
3. Advertising Vacancies. Vacant and expiring positions will be advertised for a minimum of 30 days as follows:
 - a. on the City website Boards and Commissions page and “In the Spotlight” section
 - b. on the bulletin board outside Civic Center on the east side;
 - c. in the Weekly Information Update;
 - d. on social media applications;
 - e. in the City Link;
 - f. through council & staff recruitment.
4. Historical records of meetings. The City Clerk’s office will print copies of minutes posted on the City’s website for archival purposes.

G. CITY COUNCIL LIAISON. In addition to serving as a member of the board, the Council liaison’s role is to:

1. serve as a communications link between the City Council and board members
2. work with the Mayor to fill vacancies, review applications and interview candidates,
3. resolve questions the board may have about the role of Council, city government and the board or commission

H. CITY STAFF. A member of city staff is appointed to each board to assist the board in their duties and responsibilities. The staff’s role is to:

1. schedule meetings based on input from the board and publish on the monthly meeting calendar
2. prepare and post agendas and packets for the board based on input from the board or City Council,
3. post minutes of meetings on the City’s website
4. ensure that recommendations of the board get forwarded to the City Council for action
5. provide guidance and information to the board
6. communicate vacancies and resignations to the City Clerk’s office
7. communicate with the Mayor and Council liaison regarding excessive absences of members
8. schedule annual appointments of officers of the board on the agenda as required by bylaws or other documents.
9. provide orientation and training as needed to board members