



**FRUITA CITY COUNCIL
SEPTEMBER 15, 2020
7:00 P.M.**

Public Link to Meeting

When: September 15, 2020 7:00 PM Mountain Time (US and Canada)

Topic: City Council Meeting – 9/15/2020

The link to join the meeting electronically will be posted on 9/15/20 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 October as “Random Acts of Kindness Month” in the City of Fruita to be accepted by Kevin Barclay, Executive Director of the National Alliance on Mental Illness Western Slope (NAMI)
- 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 September 1, 2020 Regular (Virtual) City Council Meeting
 - B. FINANCIAL REPORT** – A request to approve the August 2020 Financial Report

- C. ORDINANCE 2020-04 – First Reading – An introduction of an Ordinance amending Section 17.21, Subdivision and Development Improvements Agreements, of Title 17, Land Use Code of the Fruita Municipal Code for publication of public hearing on October 6, 2020
- D. ORDINANCE 2020-05 – First Reading – An introduction of an Ordinance amending Section 17.47, Vested Rights, of Title 17, Land Use Code of the Fruita Municipal Code for publication of public hearing on October 6, 2020
- E. LETTER OF COMMITMENT – A request to approve a Letter of Commitment to commit matching funds for a grant application to the Colorado Tourism Office for the Matching Marketing Grant Program and authorizing the Mayor to sign the Letter of Commitment
- F. AMENDMENT TO LEASE AGREEMENT – Approving an amendment to the Lease Agreement with the Museum of Western Colorado
- G. RESOLUTION 2020-35 – Approving a transfer from the General Fund Contingency Accounts to the Public Works Building Maintenance Program for building maintenance repairs and COVID-related expenses
- H. RESOLUTION 2020-36 – Approving the Final Release of the Subdivision Improvements Agreement for Pinewood Estates 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. QUASI-JUDICIAL HEARINGS

- 1) MI RANCHITO LIQUOR LICENSE PUBLIC HEARING - A request to approve a new Hotel and Restaurant – Malt, Vinous and Spirituous Liquor License Application for Mi Ranchito located at 439 U.S. Highway 6 & 50 (formerly Mi Ranchito Taco Shop, LLC) – *Deputy City Clerk Deb Woods*
- 2) SPECIAL EVENT LIQUOR PERMIT APPLICATION – SUPPER ON SOUTHSIDE - A request to approve a Special Event Liquor Permit Application for the Fruita Area Chamber of Commerce to sell beer, wine and spirituous liquors on Saturday, September 19, 2020 from 4:30 to 10:00 pm in the Kokopelli Marketplace parking lots - *Deputy City Clerk Deb Woods*
- 3) SPECIAL EVENT LIQUOR PERMIT APPLICATION – BREW FEST & CORNHOLE TOURNAMENT - A request to approve a Special Event Liquor Permit Application for the Fruita Area Chamber of Commerce to sell beer on Friday, September 25, 2020 from 2:00 to 9:00 pm in Civic Center Park located at 325 E. Aspen Avenue - *Deputy City Clerk Deb Woods*
- 4) SPECIAL EVENT LIQUOR PERMIT APPLICATION – DINNER DOWNTOWN - A request to approve a Special Event Liquor Permit Application for the Fruita Area Chamber of Commerce to sell beer, wine and spirituous liquors on Saturday, September 26, 2020 from 3:00 to 9:00 pm in Civic Center Park located at 325 E. Aspen Avenue - *Deputy City Clerk Deb Woods*
- 5) RESOLUTION 2020-37 – Regulating the use of public rights-of-way within the City of Fruita to encourage and permit outdoor dining and to assist local businesses in response to the City’s local Disaster Emergency regarding COVID-19 – *City Attorney Paul Wisor*
- 6) RESOLUTION 2020-38 – Implementing the provisions of State of Colorado Executive Order D 2020 093 pertaining to local authorization of the suspension of laws prohibiting public consumption of alcoholic beverages but only within limited areas of the City of Fruita and only as to takeout alcoholic beverages - *City Attorney Paul Wisor*

8. ADMINISTRATIVE AGENDA

9. CITY MANAGER’S REPORT

- A. Update on draft of 2020 – 2022 Action Items

10. COUNCIL REPORTS AND ACTIONS

- A. A request to reschedule the September City Council workshop meeting from September 22nd to September 29, 2020

11. ADJOURN

Proclamation

Whereas, the City of Fruita has many wonderful, caring, and loving residents who give of themselves and their resources; and

Whereas, their daily acts of kindness may go unrecognized and unacknowledged; we believe recognizing these acts will encourage others to also perform acts of kindness; and

Whereas, we know that our community is hurting now more than ever, and we believe initiating acts of kindness will help foster healing in our community; and

Whereas, by recognizing random acts of kindness, it will encourage other community members to create their own acts of kindness; and

Whereas, we believe it takes a village to raise a village; and

Whereas, we believe by having both city and county governments support and participate with National Alliance on Mental Illness and its partners we will be able to reach the most people; and

Whereas, encouraging acts of kindness with the model of family, friends and neighbors will support better connections and strengthen our community.

Be it hereby resolved that the Fruita City Council proclaims September 15 - October 31, 2020 as:

“Random Acts of Kindness Days”

in the City of Fruita and asks that we all encourage friends, neighbors, colleagues, and fellow citizens to participate with daily acts of kindness.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Official Seal of the City of Fruita this 15th day of September, 2020.

Joel Kincaid, Mayor



**FRUITA CITY COUNCIL
VIRTUAL MEETING
SEPTEMBER 1, 2020
7:00 P.M.**

1. CALL TO ORDER AND ROLL CALL

Mayor Kincaid called the regular meeting of the Fruita City Council to order at 7:00 p.m. The meeting was held with virtual access provided through Zoom.

2. PLEDGE OF ALLEGIANCE

The American Flag was displayed on the screen and the Pledge of Allegiance was recited.

Present via teleconference:

Mayor Joel Kincaid
Mayor Pro Tem Lori Buck
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
Deputy City Clerk Deb Woods
Management Analyst Shannon Vassen
Planning & Development Director Dan Caris
Members of the public

3. AGENDA – ADOPT/AMEND

Mayor Kincaid asked if there had been any additions or amendments to the agenda. Deputy City Clerk Deb Woods confirmed that there were none.

- **COUNCILOR LEONHART MOVED TO ACCEPT THE AGENDA AS PROPOSED. COUNCILOR BREMAN SECONDED THE MOTION. THE MOTION PASSED WITH SIX YES VOTES.**

4. PROCLAMATIONS AND PRESENTATIONS

There were no Proclamations or presentations on the agenda.

5. PUBLIC PARTICIPATION

Mayor Kincaid noted that he did not see any members of the public present to provide any comments in the list of attendees in the Zoom meeting. Shannon Vassen confirmed this to be correct.

6. CONSENT AGENDA

- A. MINUTES - A REQUEST TO APPROVE THE MINUTES OF THE AUGUST 18, 2020 REGULAR CITY COUNCIL MEETING (VIRTUAL)**
- B. RESOLUTION 2020-34 – APPROVING THE FIRST RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE BRANDON RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) SUBDIVISION**

Mayor Kincaid opened the public hearing on the Consent Agenda. Mr. Vassen noted that there were no requests from the public to provide comments.

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

7. PUBLIC HEARINGS

There were no public hearings on the agenda.

8. ADMINISTRATIVE AGENDA

- A. UPDATE ON STATUS OF PROJECTS AND EFFORTS ASSOCIATED WITH THE EXPENDITURE OF CORONAVIRUS RELIEF FUNDS – MIKE BENNETT, CITY MANAGER AND DAN CARIS, PLANNING & DEVELOPMENT DIRECTOR**

City Manager Mike Bennett provided the first segment of an update on the City's expenditures of Federal Coronavirus Relief Funds (CVRF) and Planning & Development Director Dan Caris provided the second segment of the update.

Mr. Bennett and Mr. Caris reported on staff's progress on ascertaining eligible operational expenses, developing outdoor dining spaces, shade areas, outdoor programming space and outdoor classrooms, evaluating possible assistance for food banks, looking at technology upgrades and instituting a "Be Well/Be Fruita" public outreach campaign.

As reported to Council in public meetings, through the City Manager's weekly update and various public webinars, the City of Fruita is eligible for reimbursement of up to \$1,162,373 of CVRFs for expenditures that were unbudgeted for and related directly to COVID-19. Eligibility criteria is

established by the US Treasury and guidance continues to be updated weekly and almost daily. Expenses must be incurred between April 1, 2020 and December 31, 2020.

Councilors Breman and Buck had questions about the method and regulations for having alcohol in the new downtown outdoor spaces. Staff explained a few aspects of the Governor's Executive Order for Temporary Modifications of Licensed Premises and how it would work. There was concern among Council members that there would not be enough flexibility for patrons, so Mr. Caris assured the Council he would speak with the City Attorney about any potential alternative methods. Mr. Bennett pointed out that the new spaces are temporary, but they will stay for the remainder of the year.

Mr. Caris said that educators who looked at the outdoor classroom kits purchased with CVRF funds approved of it. Staff did tour each of the school locations in Fruita to determine which equipment would work best because they are all different.

Mr. Caris reviewed details shown on renderings of the outdoor classroom kits purchased for each one of the Fruita schools to show the Council what they will look like. Equipment for the classrooms include commercial grade tents and sun sails, tables, chairs, picnic tables and rolling whiteboards. Tents will be anchored into concrete and come fully furnished with sidewalls. The School District's principals and maintenance staff will be responsible for storage of the equipment when it is not in use.

Mr. Bennett added that he submitted the City's coronavirus expenditures to the Department of Local Affairs (DOLA) to obtain their guidance and DOLA was confident and comfortable that what was submitted will qualify as valid coronavirus expenditures.

There was further discussion about how people will be able to consume alcohol in the new outdoor spaces downtown and it was concluded that staff would talk with the City Attorney and get back to the Council. Mr. Bennett added that once staff has been able to ascertain how the alcohol consumption in the new spaces will work, there will need to be an education process for the public and liquor licensees.

Mayor Kincaid emphasized that the City doesn't normally rush decisions and pointed out that the rules for using the new spaces downtown will be an ongoing learning process for everyone.

9. CITY MANAGER'S REPORT

City Manager Mike Bennett reported that the Pine Gulch Fire is now 81% contained and has grown to 139,000 acres.

Mike also noted that on the following Tuesday, the City Council would be holding a Virtual Joint Workshop session with the Planning Commission. In-person attendance will also be available on the 2nd Floor of the Fruita Civic Center, but people will have the option of joining the meeting remotely. The boards will be discussing short-term rentals and attainable housing and will feature a special guest from the Vail Valley Housing Authority.

Mike stated that there was a recent Outside Magazine article for which he was interviewed by the writer in the spring before staff had any data for the City's revenues. He had told the writer that the City was extremely busy on the weekends even though in late spring there was a dip in the temperature when most work was being done remotely.

Mike said the article didn't come out until now and he is a little annoyed because out of everything he talked about, it was written that the City Manager said that no one was visiting Fruita. The actual headline was, "Maybe the Outdoor Recreation Industry Isn't as Resilient..." Mike said he sent the writer a message to explain that Fruita is 25% up over its busiest year ever in sales tax revenues and the last three years have been the busiest years the City has ever had with 2019 being the best from a sales tax perspective.

The writer did reply to Mike and apologized, saying that it was a mistake on their part, so she was going to talk to the editor about doing an update in an upcoming issue.

Mike congratulated Public Works Director Ken Haley for just completing his Masters of Public Administration degree. He pointed out that there are now four staff members who have this same degree: Planning & Development Director Dan Caris, Management Analyst Shannon Vassen, himself and now Ken Haley.

10. COUNCIL REPORTS AND ACTIONS

COUNCILOR KEN KREIE

Ken had nothing to report.

COUNCILOR MATTHEW BREMAN

Matthew reported that the Grand Junction Economic Partnership (GJEP) is working with Grand Junction, Fruita and Palisade on a Comprehensive Plan, although they did not go into any details about the Plan. He said he would try to find out more.

Mike explained that GJEP is working on their own Comp Plan and has representatives of their staff working with each municipality. He also pointed out that Steve Jozefczyk is on the City of Fruita's committee.

Matthew continued that the Colorado Concern White Paper (the infrastructure funding report) was finished with input from all the communities.

COUNCILOR KYLE HARVEY

Kyle reported that he attended the Grand Valley Task Force Meeting on Thursday and the group went through the nomination process for an Executive Committee, which will essentially keep the Task Force on task. They also reviewed the eight objectives of the board that came out of the last planning session. Subcommittees were formed to begin tackling some of the bigger issues such as the School District. Drs. Sirko and Hill are sitting on that subcommittee. Kyle is on the mental health subcommittee and then there are approximately seven other subcommittees ranging from

law enforcement and criminal justice to business and community. These subcommittees will be fleshed out with members of the community as well as experts in each of the fields from different institutions and organizations throughout the Grand Valley. The next meeting of the Grand Valley Task Force will be held on Thursday, September 10, 2020 at 6:00 p.m. at Orchard Mesa Middle School.

COUNCILOR HEATHER O'BRIEN

Heather reported that the Parks and Recreation Advisory Board will be meeting on September 14th and the Planning Commission would be presenting to the City Council the week of September 7th, so she didn't have anything to report yet.

COUNCILOR LEONHART

Karen reported that she wasn't able to attend the Museums of Western Colorado (MWC) Board of Directors meeting, but that she would forward the meeting minutes to the other Council members. She added that Shannon Vassen really goes above and beyond to get the information out from the Livability Commission.

Karen stated that she lives on North Mesa Street in Fruita, which does not have any bike lanes north of Shelledy Elementary. She noted that there are bike lanes on 17 and 17 ½ Roads, but not on North Mesa, so she wondered if North Mesa was on the list to get them. Mike (Bennett) stated that he would look into it and make sure that North Mesa would get on the list for bike lanes if it was not already.

Karen also reported that the Fruita For Equality event is scheduled for September 12th. The group did a "run through" at Reed Park with Rotary Club members to work out some kinks and make sure everyone is prepared.

COUNCILOR LORI BUCK

Lori reported that the Grand Valley Regional Transportation Committee (GVRTC) met the previous week. The Union attended the meeting and continues to ask for better Personal Protective Equipment (PPE) and higher wages. The GVRTC feels that the appropriate time to address those issues will be when it is time to renegotiate the contract with TransDev at the end of the year. Lori asked the Council members to think about what direction she should take back to the GVRTC concerning how Fruita wants to proceed, even though Fruita is a very small part of the Grand Valley Transit (GVT) big picture with its one route.

Lori asked Planning & Development Director Dan Caris if he could look at the covenants of the City's bigger, newer subdivisions (constructed ten years ago or less) and report to the Council (at the upcoming Joint Workshop with the Planning Commission) with approximately how many of those covenants do address short-term rentals. Dan responded that he would provide that information to the Council.

Heather asked if the Council could also have a heat map that shows where short-term rentals are permitted in the City and where they are not. Dan responded that he could provide that to the

Council as well but warned that it would not be a static map because covenants can be changed at any time.

Mayor Kincaid asked for a map of where all the existing short-term rentals in Fruita are currently located. Heather stated that staff already had that map; she recalled seeing it.

MAYOR JOEL KINCAID

Joel reported that the Fruita Tourism Advisory Council (FTAC) met the previous week and was presented with some comparisons done by Slate Communications on where the City's actual sales tax dollars are coming in and/or how they are related to promotions on social media and elsewhere.

The other topic of conversation at the FTAC meeting focused on the City's Entertainment Mini-Grants, for which the City normally budgets between \$24,000 and \$26,000 per year. There were discussions about not including this line item in the 2021 Budget, but the City did receive a request from the Fruita Chamber to help fund other events that were not for locals. The FTAC decided that the funds need to go towards bringing tourists into Fruita and not towards events for locals.

Ken (Kreie) stated that he is a firm believer that anything that the City does to improve life in Fruita will bring tourists to the City, so events happening here are for tourists, too. Joel said he agrees, but the FTAC has stated that because marketing and promotional funds come from lodging tax, the intent of the tax that was passed by voters stipulates that the funds must be spent on tourism.

Mike added that the Mesa County Department of Public Health's restrictions on events require that they be limited to locals only at this time, so it put the FTAC in a dilemma since the funding as approved by the voters is supposed to be for events that bring people in from the outside. He said that typically, the City blends it all together really well, but because of COVID-19, there exists a unique and awkward dynamic.

With no further business before the Council, the meeting was adjourned at 8:00 p.m.

Respectfully submitted,

Debra Woods
Deputy City Clerk
City of Fruita



FRUITA

COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR
FROM: MARGARET SELL, FINANCE DIRECTOR/CITY CLERK
DATE: SEPTEMBER 15, 2020
RE: FINANCIAL REPORTS FOR AUGUST 2020

BACKGROUND

Sales, Use Tax and Lodging Tax Revenues –July 2020.

The following chart provides a comparison between 2019 and 2020 sales tax, use tax and lodging tax revenues. Overall tax revenues are up \$364,142 from the prior year and up \$458,223 over budgeted amounts. The month indicated represents the month of sales, not when collected by the City.

Summary of Sales and Use Tax Revenues - Jan thru July 2020					
Type	Month	Percent (%) Change		Dollar (\$) Change	
		Month	Y-T-D	From prior year	Between actual and budget
City Sales Tax (2%)	Jul-20	47%	28%	\$ 345,414	\$ 391,491
Use tax on Motor Vehicles (2%)	Jul-20	32%	-7%	\$ (29,703)	\$ (41,495)
Use tax on Building Materials (2%)	Jul-20	121%	16%	\$ 23,454	\$ 64,884
Lodging Tax - (3%)	Jul-20	-27%	-47%	\$ (35,871)	\$ (40,556)
County Sales Tax	Jul-20	8%	4%	\$ 57,810	\$ 75,495
Public Safety Tax	Jul-20	7%	1%	\$ 3,038	\$ 8,405
				\$ 364,142	\$ 458,223

The following table compares July 2019 and July 2020 city sales tax revenue by type of sales. There were significant increases in oil and gas activity (910% increase) and retail trade (41% increase).

Sales and Use Tax Revenues by Category (3%)				
July				
Description	2019	2020	1 yr % Chg	1 yr \$ Chg
Sales taxes				
Retail Trade	129,270	182,024	41%	52,754
Manufacturing	4,325	9,089	110%	4,764
Wholesale Trade	8,602	12,033	40%	3,431
Other Miscellaneous	5,522	10,193	85%	4,671
Utilities	23,867	22,444	-6%	(1,423)
Food	61,049	60,594	-1%	(455)
Other Services	5,613	5,228	-7%	(385)
Communications	13,745	13,448	-2%	(297)
Rental and Leasing	11,312	13,612	20%	2,300
Oil and Gas	7,220	72,941	910%	65,721
Lodging	15,937	18,934	19%	2,997
Subtotal	286,462	420,540	47%	134,078
Remote retailers	12,322	31,246	154%	18,924

Community Center Fund. The combination of the 1% city sales and use tax revenues for the month of July reflect a 48% increase from 2019 revenues and a 13.8% year to date increase.

Revenue vs Expense by Account Type –August 2020. This report presents summary information on revenues and expenses and budget comparisons for all funds. The report includes revenues and expenses by category or type of revenue/expense and by department. The following is a summary of the report by fund showing actual revenues and expenses as a percentage of budget.

Revenues and Expenses as Percentage of Budget August 2020		
Column	Revenues as a % Budget	Expenses as a % of Budget
General Fund	67%	56%
Conservation Trust Fund	47%	0%
Marketing	38%	45%
Community Center	54%	50%
Capital Projects	53%	52%
Debt Service	50%	28%
Devils Canyon Center	0%	0%
Irrigation Water	76%	70%
Sewer	70%	76%
Trash	60%	58%
Fleet Maintenance Fund	100%	66%
Total	64%	58%

Lodger's Tax Detail.

Lodging tax revenues are down 27% for July and down 47% year-to-date. This is the strongest month for lodging tax revenues since the COVID pandemic stay-at-home order went into effect in March. The following chart shows a breakdown of the Lodger's Tax collected from hotels, motels and campgrounds, and vacation rentals by owner (VRBO's).

2020 City Lodging Tax - 3% (125-3134)					
	Hotels & Campgrounds		VRBO'S		Monthly Total
	Revenue	% of Total	Revenue	% of Total	
Jan	3,261	91%	313	9%	3,573
Feb	3,657	91%	362	9%	4,019
Mar	4,457	95%	220	5%	4,677
Apr	2,166	94%	139	6%	2,305
May	5,094	92%	419	8%	5,513
Jun	7,425	88%	1,039	12%	8,464
Jul	9,728	87%	1,422	13%	11,150
TOTAL	35,788	90%	3,913	10%	39,701

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

These reports provide financial information to the Council to monitor the City's financial position

and may be used as a tool to hold staff accountable for accomplishing goals and objectives set forth in the Budget.

OPTIONS AVAILABLE TO COUNCIL

Approval of Financial Reports

Approval of Financial Reports with clarification on specific items

RECOMMENDATION

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

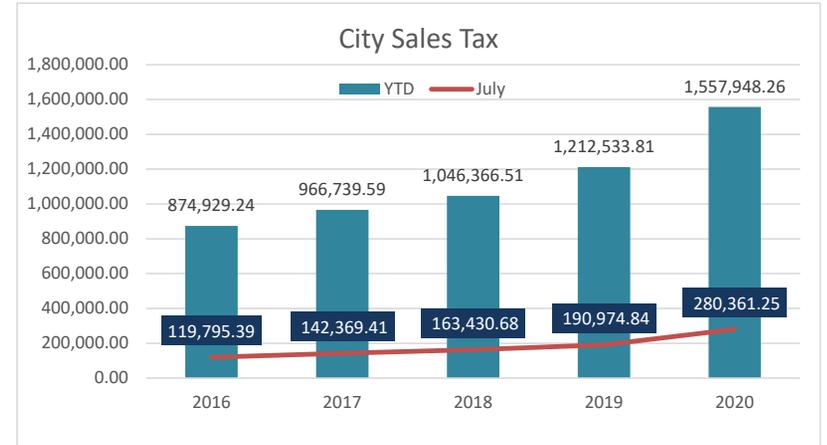
ACCEPT THE AUGUST 2020 FINANCIAL REPORTS AS PRESENTED

CITY SALES AND USE TAX REPORTS

City Sales Tax - 2% General Fund (110-3131)							
	2016	2017	2018	2019	2020	\$ Variance	% Variance
Jan	102,654.47	110,073.96	116,622.91	124,973.08	190,392.44	65,419.36	52.35%
Feb	109,027.57	106,532.67	106,634.80	144,100.65	167,749.86	23,649.21	16.41%
Mar	122,491.87	139,574.31	159,114.23	165,160.52	242,722.52	77,562.00	46.96%
Apr	130,968.87	143,147.33	158,126.49	191,027.30	211,354.97	20,327.67	10.64%
May	146,283.09	164,468.58	167,938.47	198,826.37	236,158.52	37,332.15	18.78%
Jun	143,707.98	160,573.33	174,498.93	197,471.05	229,208.70	31,737.65	16.07%
Jul	119,795.39	142,369.41	163,430.68	190,974.84	280,361.25	89,386.41	46.81%
Aug	142,278.27	144,989.26	175,336.63	200,644.07			
Sep	126,602.05	148,777.11	181,109.36	193,024.68			
Oct	128,845.80	147,596.93	204,845.74	205,934.68			
Nov	116,101.47	144,996.46	153,890.31	192,966.14			
Dec	120,203.83	137,020.73	159,113.63	208,689.86			
TOTAL	1,508,961	1,690,120.08	1,920,662.18	2,213,793.24	1,557,948.26	345,414.45	28.49%
%	3.09%	12.01%	13.64%	15.26%			

2020 Budget= \$2,130,000, 3.8% decrease from 2019 Actual Revenues

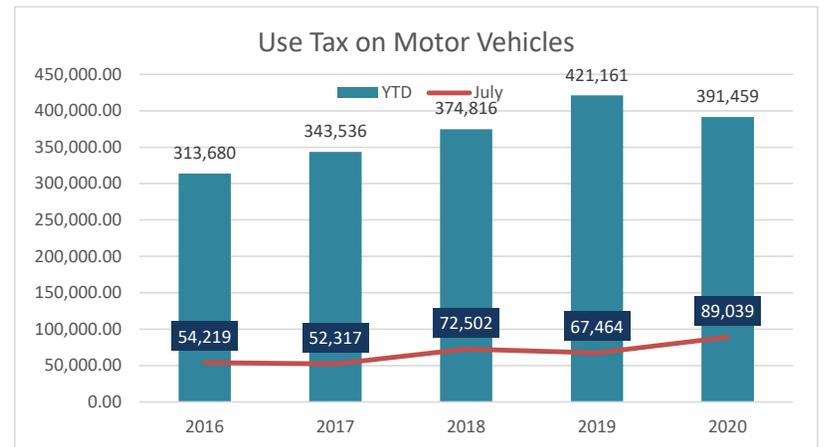
July



Use Tax on Motor Vehicles - 2% General Fund (110-3132)							
	2016	2017	2018	2019	2020	Variance	% Change
JAN	28,122.91	43,562.42	41,597.40	59,067.65	44,776.20	-14,291.45	-24.20%
FEB	36,471.71	45,398.99	42,294.19	35,431.97	59,554.07	24,122.10	68.08%
MAR	40,528.67	52,721.40	46,660.84	56,995.69	53,618.86	-3,376.83	-5.92%
APR	47,068.73	30,578.05	60,910.43	58,679.47	37,062.83	-21,616.64	-36.84%
MAY	43,755.86	67,716.13	36,802.77	90,700.80	35,122.84	-55,577.96	-61.28%
JUN	63,513.86	51,241.39	74,048.50	52,822.10	72,285.02	19,462.92	36.85%
JUL	54,218.60	52,317.23	72,501.97	67,463.71	89,038.90	21,575.19	31.98%
AUG	45,673.29	61,190.50	37,103.59	66,028.27			
SEP	44,344.61	71,360.98	62,407.47	46,789.04			
OCT	36,179.44	62,492.61	75,929.88	51,469.53			
NOV	43,817.97	39,313.29	41,987.01	58,715.01			
DEC	49,627.81	61,912.59	36,418.95	46,583.89			
YTD	533,323.46	639,805.58	628,663.00	690,747.13	391,458.72	(29,702.67)	-7.05%
%	-3.59%	19.97%	-1.74%	9.88%			

2020 Budget = \$710,000 - 2.8% increase from 2019 Actual revenues

July



3%

for chart only

CITY SALES AND USE TAX REPORTS

Use Tax on Building Materials - 2% General Fund (110-3133)							
	2016	2017	2018	2019	2020	Variance	% Change
JAN	3,256	11,966.68	40,827.15	19,357.85	14,922.55	-4,435.30	-22.91%
FEB	14,608	3,788.29	24,414.67	19,056.71	10,930.68	-8,126.03	-42.64%
MAR	14,726	3,558.90	38,328.55	9,936.56	41,435.81	31,499.25	317.00%
APR	34,284	13,173.71	20,911.52	24,173.95	10,766.83	-13,407.12	-55.46%
MAY	29,705	11,216.84	37,147.62	32,410.86	38,491.01	6,080.15	18.76%
JUN	12,847	4,893.13	105,602.45	26,190.88	17,591.28	-8,599.60	-32.83%
JUL	13,948	7,689.06	15,634.23	16,836.31	37,279.04	20,442.73	121.42%
AUG	8,117	32,557.34	18,073.99	8,864.92			
SEP	49,757	7,864.41	19,407.92	3,865.13			
OCT	7,553	11,756.71	12,148.65	16,537.07			
NOV	10,586	35,906.06	19,278.98	12,122.45			
DEC	3,731	2,702.11	9,762.50	19,073.22			
YTD	203,118	147,073.24	361,538.23	208,425.91	171,417.20	23,454.08	15.85%
%	93.87%	-27.59%	145.82%	-42.35%			

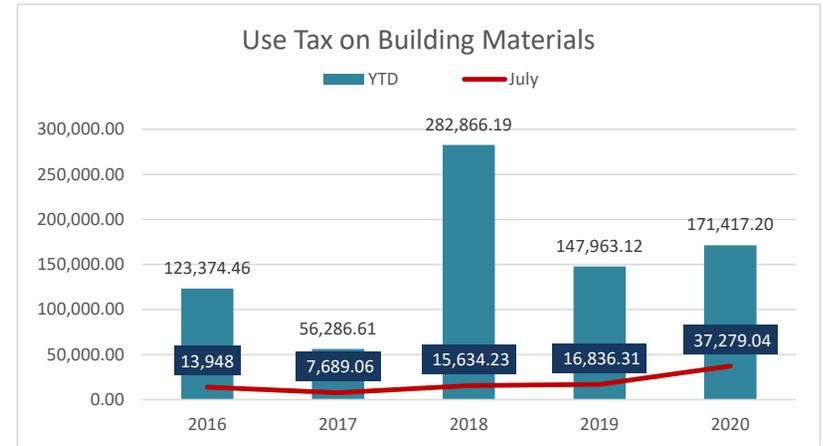
2020 Budget = \$150,000 - 28% decrease from 2019 Actual revenues

July
3%

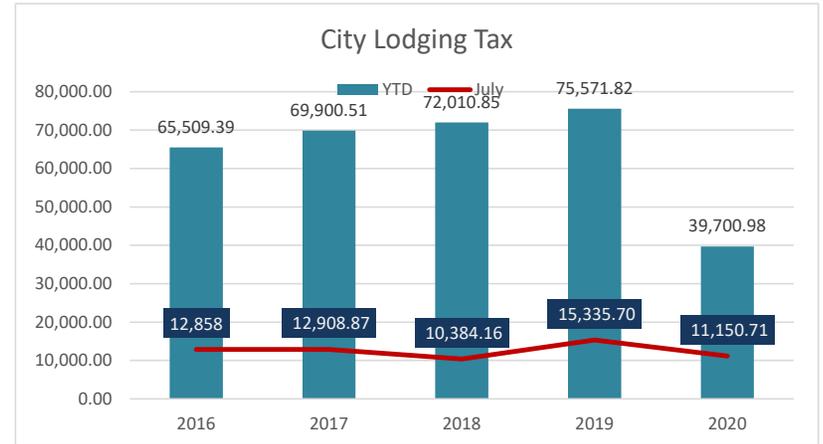
City Lodging Tax - 3% (125-3134)							
	2016	2017	2018	2019	2020	Difference	%
Jan	3,010	2,341.15	3,540.60	2,611.13	3,573.20	962.07	36.84%
Feb	3,650	3,694.45	3,635.19	3,774.09	4,018.26	244.17	6.47%
Mar	7,755	7,910.90	8,698.52	8,249.09	4,677.20	-3,571.89	-43.30%
Apr	9,031	10,908.40	10,215.52	8,046.43	2,305.15	-5,741.28	-71.35%
May	14,534	15,483.31	17,781.52	15,242.71	5,512.69	-9,730.02	-63.83%
Jun	14,672	16,653.43	17,755.34	22,312.67	8,463.77	-13,848.90	-62.07%
Jul	12,858	12,908.87	10,384.16	15,335.70	11,150.71	-4,184.99	-27.29%
Aug	12,210	13,751.20	17,768.30	12,712.49			
Sep	14,162	15,445.86	16,495.92	9,427.07			
Oct	7,155	10,637.39	10,668.75	18,400.75			
Nov	7,801	6,251.33	7,492.25	6,398.12			
Dec	4,009	4,895.53	4,288.01	4,558.22			
TOTAL	110,846	120,881.82	128,724.08	127,068.47	39,700.98	-35,870.84	-47.47%
%	3.89%	9.05%	6.49%	-1.29%			

2020 Budget = \$135,000 - 6.2% increase from 2019 actual revenues

July



for chart only

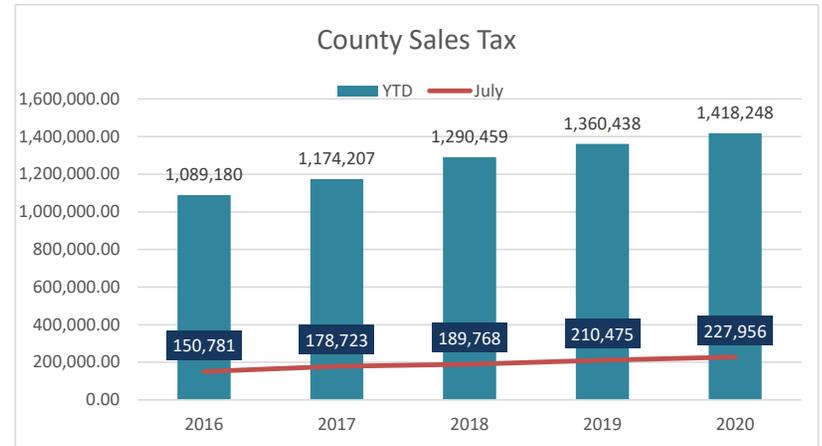


CITY SALES AND USE TAX REPORTS

County Sales Tax - 2% (110-3130)								
	2016	2017	2018	2019	2020	\$ Variance	% Variance	
Jan	143,234	136,307.24	146,939.45	168,991.80	178,526.13	9,534.33	5.64%	
Feb	140,143	142,434.80	176,530.32	161,231.36	181,438.93	20,207.57	12.53%	
Mar	155,984	172,028.79	185,516.49	198,980.47	188,855.08	-10,125.39	-5.09%	
Apr	159,418	173,380.86	189,469.26	197,897.18	187,855.58	-10,041.60	-5.07%	
May	162,276	178,328.17	193,958.66	209,011.45	220,166.38	11,154.93	5.34%	
Jun	177,343	193,003.33	208,276.71	213,850.33	233,449.26	19,598.93	9.16%	
Jul	150,781	178,723.35	189,768.49	210,475.42	227,956.26	17,480.84	8.31%	
Aug	173,860	188,794.09	199,733.45	216,142.51				
Sep	164,869	186,027.87	195,797.26	206,870.89				
Oct	156,670	173,689.04	188,033.02	210,951.31				
Nov	157,683	174,721.72	184,074.04	204,326.68				
Dec	182,095	203,167.47	215,052.48	233,401.07				
TOTAL	1,924,355	2,100,606.73	2,273,149.63	2,432,130.47	1,418,247.62	57,809.61	4.25%	
%	-2.79%	9.16%	8.21%	6.99%				

2020 Budget=\$2,400,000, 1.3% decrease from 2019 actual revenue

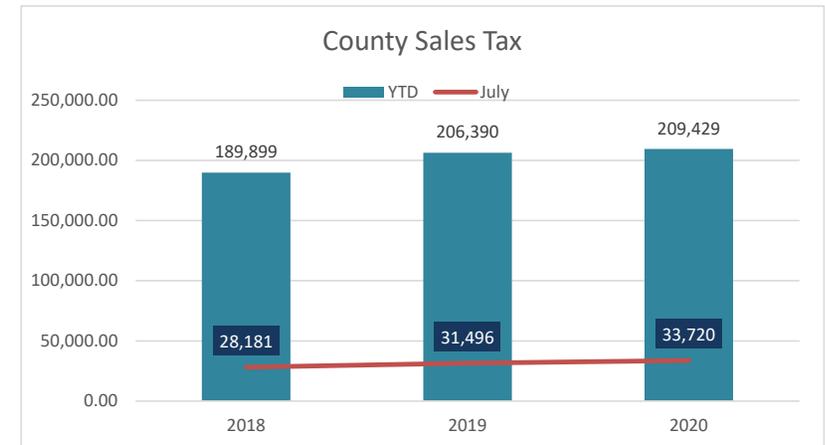
July	1,089,179.78	1,174,206.54	1,290,459.38	1,360,438.01	1,418,247.62	57,809.61	4.25%
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County Sales Tax - 0.37% Public Safety Tax (110-3129)								
	2016	2017	2018	2019	2020	\$ Variance	% Variance	
Jan			23,704.20	25,508.99	26,762.07	1,253.08	4.91%	
Feb			23,956.30	24,195.07	26,744.72	2,549.65	10.54%	
Mar			25,560.92	30,317.68	26,640.82	-3,676.86	-12.13%	
Apr			28,690.41	30,643.86	27,635.27	-3,008.59	-9.82%	
May			29,288.65	32,085.32	32,800.08	714.76	2.23%	
Jun			30,517.49	32,143.50	35,125.60	2,982.10	9.28%	
Jul			28,181.20	31,495.72	33,720.00	2,224.28	7.06%	
Aug			29,822.85	32,200.79				
Sep			29,235.41	31,197.04				
Oct			27,412.35	31,996.22				
Nov			27,259.12	30,373.05				
Dec			32,203.19	35,263.78				
TOTAL	0.00	0.00	335,832.09	367,421.02	209,428.56	3,038.42	1.47%	
%			9.41%					

2020 Budget=\$358,000, 2.6% decrease from 2019 actual revenue

July	0.00	0.00	189,899.17	206,390.14	209,428.56	3,038.42	1.47%
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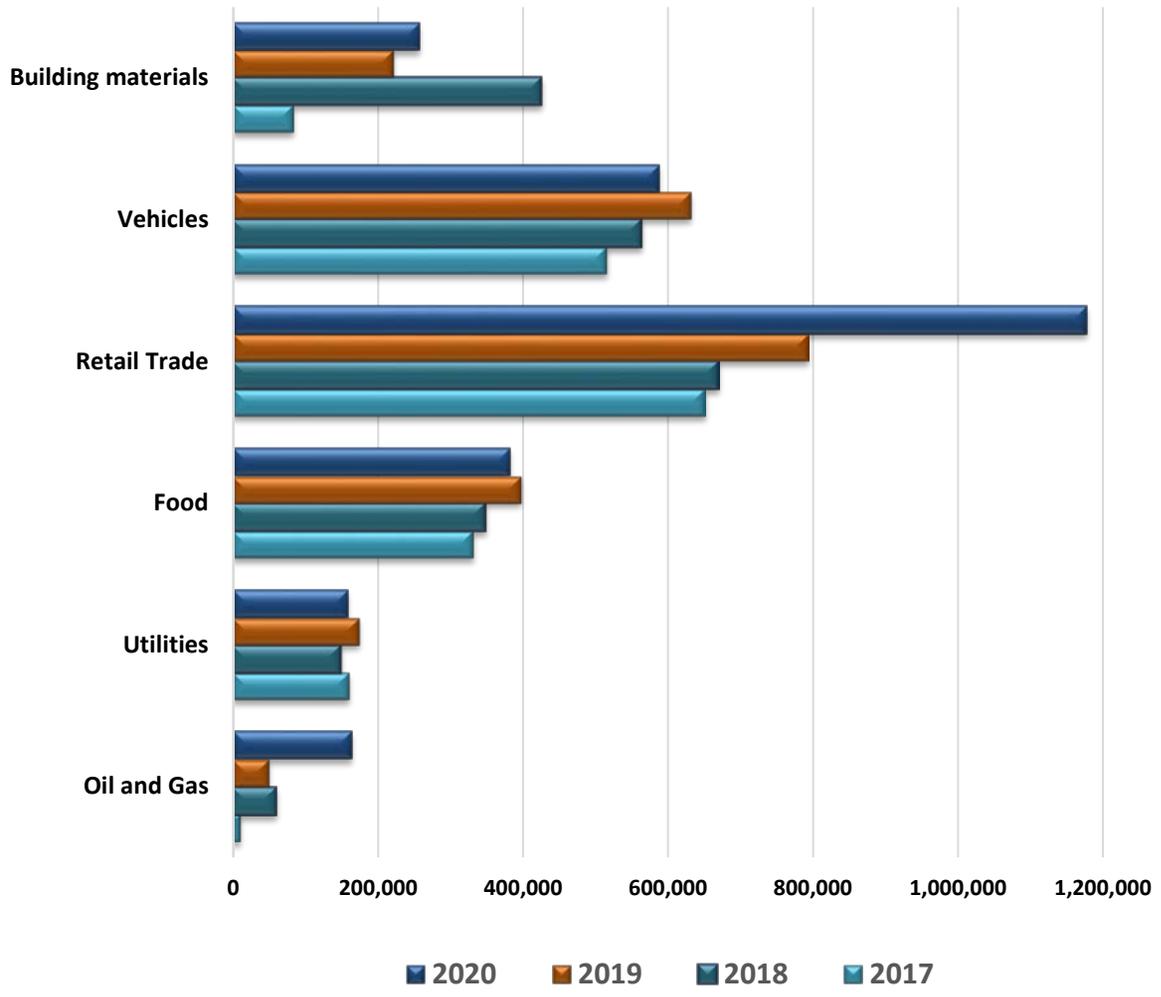




**Sales and Use Tax Revenues by Category (3%)
January thru July**

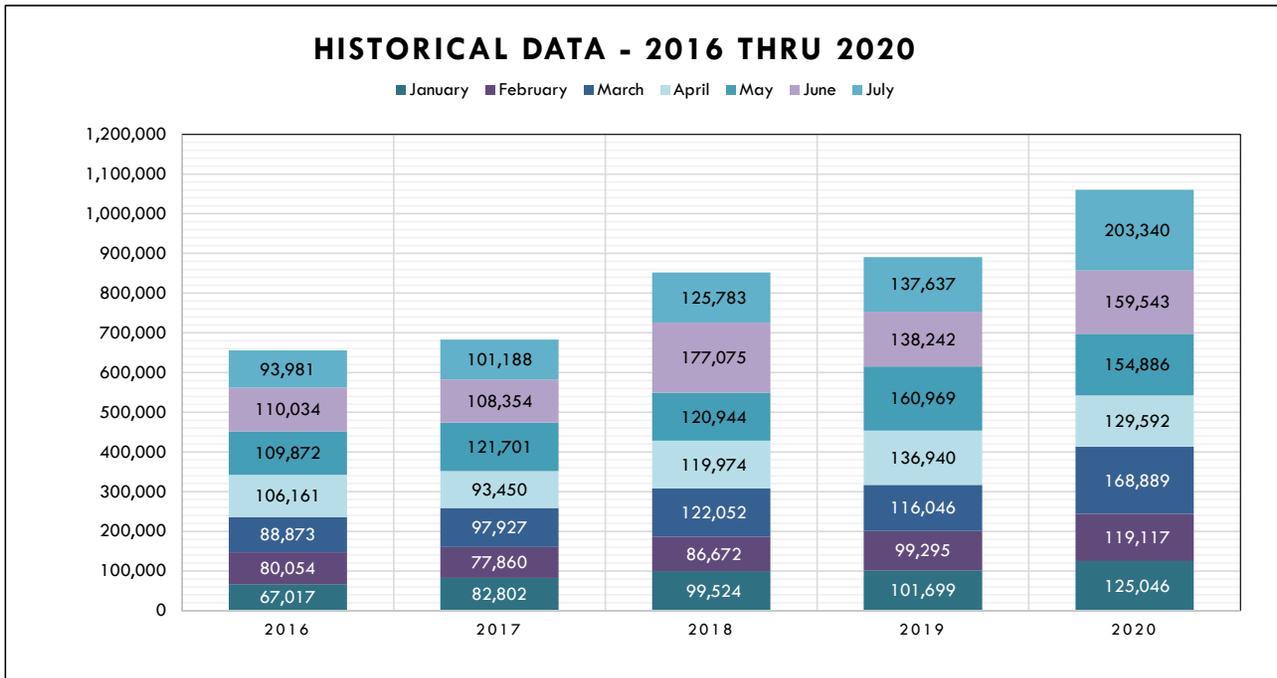
Description	2017	2018	2019	2020	1 yr % Chg	1 yr \$ Chg	% of 2020 Total
Sales taxes							
Other Services	27,660	27,375	32,408	33,974	5%	1,566	1%
Other Miscellaneous	24,481	31,359	38,720	61,335	58%	22,615	2%
Manufacturing	19,549	12,999	30,607	62,487	104%	31,880	2%
Wholesale Trade	10,162	19,935	48,320	77,908	61%	29,588	2%
Rental and Leasing	51,125	77,692	84,719	72,218	-15%	(12,501)	2%
Communications	92,247	100,657	88,211	86,350	-2%	(1,861)	3%
Oil and Gas	10,727	59,621	50,361	163,765	225%	113,404	5%
Utilities	160,754	148,365	174,939	158,127	-10%	(16,812)	5%
Lodging	69,899	76,033	79,053	61,859	-22%	(17,194)	2%
Food	331,716	347,639	397,870	381,528	-4%	(16,342)	12%
Retail Trade	651,022	667,874	793,593	1,177,371	48%	383,778	37%
Subtotal	1,449,342	1,569,549	1,818,801	2,336,922	28%	518,121	73%
Use taxes							
Vehicles	515,303	562,224	631,742	587,188	-7%	(44,554)	18%
Building materials	84,430	424,299	221,945	257,126	16%	35,181	8%
Subtotal	599,733	986,523	853,687	844,314	-1%	-9,373	27%
Total	2,049,075	2,556,072	2,672,488	3,181,236	19%	508,748	100%
Online sales			67,521	200,450	197%	132,929	9%

City 3% Sales and Use Tax by Top 6 Industries Year to Date History thru July 2020



2020 COMMUNITY CENTER FUND TAX REVENUES July 2020 Report

Month					2020 Tax Revenues						
	2016 Total	2017 Total	2018 Total	2019 Total	City Sales	Use Tax Motor Vehicles	Use Tax Building Materials	Total	\$ Change	% Chg	
January	67,017	82,802	99,524	101,699	95,196.22	22,388.10	7,461.27	125,045.59	23,346	22.96%	
February	80,054	77,860	86,672	99,295	83,874.93	29,777.03	5,465.34	119,117.30	19,823	19.96%	
March	88,873	97,927	122,052	116,046	121,361.30	26,809.43	20,717.91	168,888.64	52,842	45.54%	
April	106,161	93,450	119,974	136,940	105,677.48	18,531.42	5,383.42	129,592.32	-7,348	-5.37%	
May	109,872	121,701	120,944	160,969	118,079.30	17,561.42	19,245.50	154,886.22	-6,083	-3.78%	
June	110,034	108,354	177,075	138,242	114,604.39	36,142.52	8,795.64	159,542.55	21,301	15.41%	
July	93,981	101,188	125,783	137,637	140,180.62	44,519.47	18,639.52	203,339.61	65,702	47.74%	
August	98,034	119,369	115,257	137,769							
September	110,352	114,001	131,462	121,839							
October	86,289	110,923	146,462	136,971							
November	85,253	110,108	107,578	131,902							
December	86,781	100,818	102,648	137,173							
TOTAL	1,122,701	1,238,499	1,455,432	1,556,483	778,974.24	195,729.39	85,708.60	1,060,412.23	169,583	13.79%	
% Change	5.83%	10.31%	17.52%	6.94%							
2020 Budget					1,065,000	361,500	75,000	1,501,500			
% of Budget					73.14%	54.14%	114.28%	70.62%			
	562,011	582,093	726,241	753,192				857,073	103,881	13.79%	



General Ledger
Actual vs Budget Report

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
110	General Fund					
000						
R01	Taxes	-711,222.86	-5,967,718.86	-7,763,300.00	-1,795,581.14	76.87
R02	Licenses and permits	-1,965.00	-16,700.00	-32,750.00	-16,050.00	50.99
R03	Intergovernmental revenue	-96,209.24	-443,485.44	-1,711,600.00	-1,268,114.56	25.91
R04	Charges for services	-3,804.32	-60,171.68	-183,350.00	-123,178.32	32.82
R05	Fines and forfeitures	-2,354.88	-11,772.51	-18,900.00	-7,127.49	62.29
R06	Interest	-1,190.20	-51,304.07	-60,000.00	-8,695.93	85.51
R07	Donations	5,500.00	-38,947.07	-18,500.00	20,447.07	210.52
R08	Miscellaneous	-9,681.47	-38,671.92	-3,000.00	35,671.92	1,289.06
R09	Transfers from other funds	0.00	-120,250.00	-240,500.00	-120,250.00	50.00
R10	Other financing sources	0.00	-2,972.15	0.00	2,972.15	0.00
R12	Rents	-1,939.01	-32,707.08	-36,000.00	-3,292.92	90.85
000		-822,866.98	-6,784,700.78	-10,067,900.00	-3,283,199.22	67.39
410	<i>General Government Department</i>					
E01	Personnel services, salaries	19,874.76	172,203.25	257,075.00	84,871.75	66.99
E02	Personnel services, benefits	5,115.48	45,964.61	65,300.00	19,335.39	70.39
E03	Purchased professional service	8,976.12	81,052.76	150,750.00	69,697.24	53.77
E04	Purchased property services	369.24	3,323.16	7,450.00	4,126.84	44.61
E05	Other purchased services	258.08	1,986.49	7,100.00	5,113.51	27.98
E06	Supplies	329.11	21,392.70	24,600.00	3,207.30	86.96
E08	Special projects	0.00	29,153.00	39,200.00	10,047.00	74.37
410	<i>General Government Department</i>	34,922.79	355,075.97	551,475.00	196,399.03	64.39
415	<i>Administration Department</i>					
E01	Personnel services, salaries	24,285.08	257,454.98	395,150.00	137,695.02	65.15
E02	Personnel services, benefits	7,626.60	80,990.28	130,925.00	49,934.72	61.86
E03	Purchased professional service	24,960.35	34,352.61	55,250.00	20,897.39	62.18
E04	Purchased property services	10,029.33	107,613.17	140,175.00	32,561.83	76.77
E05	Other purchased services	1,242.71	11,760.49	36,050.00	24,289.51	32.62
E06	Supplies	1,905.50	21,084.19	44,825.00	23,740.81	47.04
E07	Capital	0.00	11,025.00	102,800.00	91,775.00	10.72

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
415	<i>Administration Department</i>	70,049.57	524,280.72	905,175.00	380,894.28	57.92
418	<i>Engineering Department</i>					
E01	Personnel services, salaries	17,302.48	154,883.49	225,000.00	70,116.51	68.84
E02	Personnel services, benefits	6,789.40	64,290.60	88,100.00	23,809.40	72.97
E03	Purchased professional service	0.00	5,030.00	7,900.00	2,870.00	63.67
E04	Purchased property services	0.00	3,737.40	4,200.00	462.60	88.99
E05	Other purchased services	100.28	686.14	3,250.00	2,563.86	21.11
E06	Supplies	210.64	1,159.79	4,700.00	3,540.21	24.68
418	<i>Engineering Department</i>	24,402.80	229,787.42	333,150.00	103,362.58	68.97
419	<i>Community Development Dpmt</i>					
E01	Personnel services, salaries	16,308.03	146,133.56	214,100.00	67,966.44	68.25
E02	Personnel services, benefits	6,903.48	62,379.11	86,325.00	23,945.89	72.26
E03	Purchased professional service	0.00	563.15	1,500.00	936.85	37.54
E04	Purchased property services	0.00	3,900.00	4,620.00	720.00	84.42
E05	Other purchased services	232.15	2,701.30	7,900.00	5,198.70	34.19
E06	Supplies	356.22	1,847.77	5,355.00	3,507.23	34.51
E08	Special projects	5,702.25	54,668.68	112,100.00	57,431.32	48.77
419	<i>Community Development Dpmt</i>	29,502.13	272,193.57	431,900.00	159,706.43	63.02
421	<i>Police Department</i>					
E01	Personnel services, salaries	98,496.27	854,155.46	1,278,450.00	424,294.54	66.81
E02	Personnel services, benefits	38,442.24	375,667.06	554,925.00	179,257.94	67.70
E03	Purchased professional service	0.00	1,084.96	16,025.00	14,940.04	6.77
E04	Purchased property services	1,556.34	85,068.29	100,150.00	15,081.71	84.94
E05	Other purchased services	26,503.95	205,190.92	348,400.00	143,209.08	58.90
E06	Supplies	6,076.39	30,439.81	75,900.00	45,460.19	40.11
E07	Capital	927.68	136,249.87	148,300.00	12,050.13	91.87
421	<i>Police Department</i>	172,002.87	1,687,856.37	2,522,150.00	834,293.63	66.92
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	48,513.18	343,733.23	536,000.00	192,266.77	64.13
E02	Personnel services, benefits	16,774.25	159,124.72	230,900.00	71,775.28	68.91
E03	Purchased professional service	384.00	5,754.80	9,300.00	3,545.20	61.88
E04	Purchased property services	5,203.59	382,876.91	479,775.00	96,898.09	79.80
E05	Other purchased services	187.49	1,325.61	4,150.00	2,824.39	31.94
E06	Supplies	33,250.31	181,478.49	344,900.00	163,421.51	52.62
E07	Capital	64,071.59	84,950.73	130,800.00	45,849.27	64.95
431	<i>Public Works Department</i>	168,384.41	1,159,244.49	1,735,825.00	576,580.51	66.78
451	<i>Parks and Recreation Dept</i>					
E01	Personnel services, salaries	38,074.58	342,606.73	542,775.00	200,168.27	63.12

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% ExpendCollect
E02	Personnel services, benefits	13,475.72	130,906.04	183,350.00	52,443.96	71.40
E03	Purchased professional service	653.08	16,794.24	27,050.00	10,255.76	62.09
E04	Purchased property services	12,903.36	101,522.36	144,450.00	42,927.64	70.28
E05	Other purchased services	115.32	1,726.42	5,750.00	4,023.58	30.02
E06	Supplies	9,029.41	71,399.52	139,625.00	68,225.48	51.14
E07	Capital	35,201.80	43,627.68	42,000.00	-1,627.68	103.88
E08	Special projects	19,532.42	66,494.02	132,500.00	66,005.98	50.18
451	<i>Parks and Recreation Dept</i>	<i>128,985.69</i>	<i>775,077.01</i>	<i>1,217,500.00</i>	<i>442,422.99</i>	<i>63.66</i>
490	<i>Non-Departmental Expenses</i>					
E02	Personnel services, benefits	-4,287.41	-0.94	0.00	0.94	0.00
E03	Purchased professional service	2,356.96	66,968.95	76,000.00	9,031.05	88.12
E04	Purchased property services	455.52	3,924.84	8,200.00	4,275.16	47.86
E05	Other purchased services	10,223.81	140,548.23	155,000.00	14,451.77	90.68
E08	Special projects	0.00	13,750.00	745,500.00	731,750.00	1.84
E11	Contingency	0.00	0.00	764,925.00	764,925.00	0.00
E12	Transfers to other funds	542,250.12	634,236.79	1,014,450.00	380,213.21	62.52
490	<i>Non-Departmental Expenses</i>	<i>550,999.00</i>	<i>859,427.87</i>	<i>2,764,075.00</i>	<i>1,904,647.13</i>	<i>31.09</i>
Revenue Total		-822,866.98	-6,784,700.78	-10,067,900.00	-3,283,199.22	-0.6739
Expense Total		1,179,249.26	5,862,943.42	10,461,250.00	4,598,306.58	0.5604
110	General Fund	356,382.28	-921,757.36	393,350.00	1,315,107.36	-234.34

General Ledger
Actual vs Budget Report

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Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
121	Conservation Trust Fund					
000						
R03	Intergovernmental revenue	0.00	-66,029.67	-140,000.00	-73,970.33	47.16
R06	Interest	0.00	-92.47	-100.00	-7.53	92.47
000		0.00	-66,122.14	-140,100.00	-73,977.86	47.20
Revenue Total		0.00	-66,122.14	-140,100.00	-73,977.86	-0.4720
Expense Total		0.00	0.00	0.00	0.00	0.0000
121	Conservation Trust Fund	0.00	-66,122.14	-140,100.00	-73,977.86	47.20

General Ledger
Actual vs Budget Report

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COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
124	Economic Development Fund					
000						
R09	Transfers from other funds	0.00	0.00	-69,600.00	-69,600.00	0.00
000		0.00	0.00	-69,600.00	-69,600.00	0.00
465	<i>Marketing Operations</i>					
E03	Purchased professional service	0.00	0.00	9,600.00	9,600.00	0.00
E08	Special projects	0.00	0.00	60,000.00	60,000.00	0.00
465	<i>Marketing Operations</i>	0.00	0.00	69,600.00	69,600.00	0.00
Revenue Total		0.00	0.00	-69,600.00	-69,600.00	0.0000
Expense Total		0.00	0.00	69,600.00	69,600.00	0.0000
124	Economic Development Fund	0.00	0.00	0.00	0.00	0.00

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
125	Marketing and Promotion Fund					
<i>000</i>						
R01	Taxes	-11,150.71	-44,259.20	-135,000.00	-90,740.80	32.78
R04	Charges for services	0.00	-122.00	0.00	122.00	0.00
R06	Interest	0.00	-36.04	0.00	36.04	0.00
R09	Transfers from other funds	-12,000.00	-12,000.00	-12,000.00	0.00	100.00
<i>000</i>		<i>-23,150.71</i>	<i>-56,417.24</i>	<i>-147,000.00</i>	<i>-90,582.76</i>	<i>38.38</i>
<i>465</i>	<i>Marketing Operations</i>					
E01	Personnel services, salaries	1,263.00	11,314.93	16,450.00	5,135.07	68.78
E02	Personnel services, benefits	296.39	2,677.01	3,850.00	1,172.99	69.53
E04	Purchased property services	39.82	216.51	1,800.00	1,583.49	12.03
E05	Other purchased services	119.88	28,481.88	50,000.00	21,518.12	56.96
E08	Special projects	-8,000.00	23,000.00	33,000.00	10,000.00	69.70
E11	Contingency	0.00	0.00	41,900.00	41,900.00	0.00
<i>465</i>	<i>Marketing Operations</i>	<i>-6,280.91</i>	<i>65,690.33</i>	<i>147,000.00</i>	<i>81,309.67</i>	<i>44.69</i>
Revenue Total		-23,150.71	-56,417.24	-147,000.00	-90,582.76	-0.3838
Expense Total		-6,280.91	65,690.33	147,000.00	81,309.67	0.4469
125	Marketing and Promotion Fund	-29,431.62	9,273.09	0.00	-9,273.09	0.00

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
127	Community Center Fund					
000						
R01	Taxes	-169,372.60	-1,154,600.33	-1,501,500.00	-346,899.67	76.90
R03	Intergovernmental revenue	0.00	0.00	-100,000.00	-100,000.00	0.00
R04	Charges for services	-47,293.36	-400,930.96	-1,275,000.00	-874,069.04	31.45
R06	Interest	-176.17	-10,110.03	-1,250.00	8,860.03	808.80
R07	Donations	0.00	-2,625.00	0.00	2,625.00	0.00
R08	Miscellaneous	-82.29	1,215.92	-1,000.00	-2,215.92	-121.59
R09	Transfers from other funds	0.00	-47,500.00	-95,000.00	-47,500.00	50.00
R12	Rents	-2,475.42	-32,999.17	-71,200.00	-38,200.83	46.35
000		-219,399.84	-1,647,549.57	-3,044,950.00	-1,397,400.43	54.11
451	<i>Parks and Recreation Dept</i>					
E01	Personnel services, salaries	77,096.75	658,459.48	1,154,450.00	495,990.52	57.04
E02	Personnel services, benefits	16,869.25	172,587.04	258,425.00	85,837.96	66.78
E03	Purchased professional service	1,485.39	15,553.93	33,850.00	18,296.07	45.95
E04	Purchased property services	8,354.88	91,095.13	119,400.00	28,304.87	76.29
E05	Other purchased services	10.02	27,073.76	34,050.00	6,976.24	79.51
E06	Supplies	34,627.36	134,591.44	241,975.00	107,383.56	55.62
E07	Capital	46,597.50	110,772.75	213,600.00	102,827.25	51.86
E08	Special projects	5,542.06	18,244.25	25,000.00	6,755.75	72.98
E11	Contingency	0.00	0.00	402,050.00	402,050.00	0.00
E12	Transfers to other funds	0.00	359,050.00	718,100.00	359,050.00	50.00
451	<i>Parks and Recreation Dept</i>	190,583.21	1,587,427.78	3,200,900.00	1,613,472.22	49.59
Revenue Total		-219,399.84	-1,647,549.57	-3,044,950.00	-1,397,400.43	-0.5411
Expense Total		190,583.21	1,587,427.78	3,200,900.00	1,613,472.22	0.4959
127	Community Center Fund	-28,816.63	-60,121.79	155,950.00	216,071.79	-38.55

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
130	Capital Projects Fund					
000						
R06	Interest	-250.18	-9,861.83	0.00	9,861.83	0.00
000		-250.18	-9,861.83	0.00	9,861.83	0.00
733	<i>Sidewalk Replacement</i>					
E07	Capital	0.00	12,576.00	30,000.00	17,424.00	41.92
R05	Fines and forfeitures	0.00	-1,522.80	0.00	1,522.80	0.00
R09	Transfers from other funds	-11,053.20	-11,053.20	-30,000.00	-18,946.80	36.84
733	<i>Sidewalk Replacement</i>	-11,053.20	0.00	0.00	0.00	0.00
735	<i>Overlays</i>					
E07	Capital	190,406.24	190,445.12	210,000.00	19,554.88	90.69
R09	Transfers from other funds	-190,445.12	-190,445.12	-200,000.00	-9,554.88	95.22
735	<i>Overlays</i>	-38.88	0.00	10,000.00	10,000.00	0.00
736	<i>Business Park Improvements</i>					
E07	Capital	0.00	0.00	200,000.00	200,000.00	0.00
R03	Intergovernmental revenue	0.00	0.00	-50,000.00	-50,000.00	0.00
R11	Development impact fees	0.00	0.00	-121,700.00	-121,700.00	0.00
736	<i>Business Park Improvements</i>	0.00	0.00	28,300.00	28,300.00	0.00
737	<i>K.4 Road Improvements</i>					
E07	Capital	246,663.72	593,015.62	688,000.00	94,984.38	86.19
R09	Transfers from other funds	-328,751.80	-340,500.00	-340,500.00	0.00	100.00
R11	Development impact fees	-138,987.17	-160,038.46	-157,500.00	2,538.46	101.61
737	<i>K.4 Road Improvements</i>	-221,075.25	92,477.16	190,000.00	97,522.84	48.67
742	<i>Hwy 340 and I-70 Improvements</i>					
E03	Purchased professional service	0.00	7,565.00	23,700.00	16,135.00	31.92
E07	Capital	0.00	0.00	55,525.00	55,525.00	0.00
R09	Transfers from other funds	0.00	-7,565.00	-79,225.00	-71,660.00	9.55
742	<i>Hwy 340 and I-70 Improvements</i>	0.00	0.00	0.00	0.00	0.00

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
749	<i>Fremont Street Design</i>					
E03	Purchased professional service	0.00	0.00	410,000.00	410,000.00	0.00
R03	Intergovernmental revenue	0.00	0.00	-205,000.00	-205,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-205,000.00	-205,000.00	0.00
749	<i>Fremont Street Design</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
783	<i>Civic Center Improvements</i>					
E07	Capital	0.00	0.00	17,000.00	17,000.00	0.00
R09	Transfers from other funds	0.00	0.00	-17,000.00	-17,000.00	0.00
783	<i>Civic Center Improvements</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
790	<i>Kokopelli Trail</i>					
E07	Capital	0.00	337,046.72	590,000.00	252,953.28	57.13
R03	Intergovernmental revenue	0.00	-320,242.67	-590,000.00	-269,757.33	54.28
790	<i>Kokopelli Trail</i>	<i>0.00</i>	<i>16,804.05</i>	<i>0.00</i>	<i>-16,804.05</i>	<i>0.00</i>
794	<i>Little Salt Wash Park</i>					
R03	Intergovernmental revenue	0.00	0.00	0.00	0.00	0.00
794	<i>Little Salt Wash Park</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
841	<i>Big Salt Wash Trail</i>					
E07	Capital	0.00	25,173.47	27,000.00	1,826.53	93.24
R09	Transfers from other funds	0.00	-25,173.47	-27,000.00	-1,826.53	93.24
841	<i>Big Salt Wash Trail</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
Revenue Total		-669,487.47	-1,066,402.55	-2,022,925.00	-956,522.45	-0.5272
Expense Total		437,069.96	1,165,821.93	2,251,225.00	1,085,403.07	0.5179
130	Capital Projects Fund	-232,417.51	99,419.38	228,300.00	128,880.62	43.55

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
140	Debt Service Fund					
000						
R06	Interest	-197.26	-5,693.85	-13,000.00	-7,306.15	43.80
R09	Transfers from other funds	0.00	-356,050.00	-712,100.00	-356,050.00	50.00
000		-197.26	-361,743.85	-725,100.00	-363,356.15	49.89
470	<i>Debt Service</i>					
E09	Debt service principal	0.00	0.00	320,000.00	320,000.00	0.00
E10	Debt interest & bond issuance	400.00	202,700.00	405,100.00	202,400.00	50.04
470	<i>Debt Service</i>	400.00	202,700.00	725,100.00	522,400.00	27.95
Revenue Total		-197.26	-361,743.85	-725,100.00	-363,356.15	-0.4989
Expense Total		400.00	202,700.00	725,100.00	522,400.00	0.2795
140	Debt Service Fund	202.74	-159,043.85	0.00	159,043.85	0.00

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
210	Devils Canyon Center Fund					
<i>000</i>						
R06	Interest	0.00	-267.62	0.00	267.62	0.00
R08	Miscellaneous	0.00	-1,666.61	0.00	1,666.61	0.00
<i>000</i>		<i>0.00</i>	<i>-1,934.23</i>	<i>0.00</i>	<i>1,934.23</i>	<i>0.00</i>
<i>450</i>	<i>DCC Administration</i>					
E12	Transfers to other funds	0.00	0.00	43,875.00	43,875.00	0.00
<i>450</i>	<i>DCC Administration</i>	<i>0.00</i>	<i>0.00</i>	<i>43,875.00</i>	<i>43,875.00</i>	<i>0.00</i>
Revenue Total		0.00	-1,934.23	0.00	1,934.23	0.0000
Expense Total		0.00	0.00	43,875.00	43,875.00	0.0000
210	Devils Canyon Center Fund	0.00	-1,934.23	43,875.00	45,809.23	-4.41

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
211	Irrigation Water Fund					
000						
R04	Charges for services	-502.75	-92,830.15	-122,000.00	-29,169.85	76.09
R06	Interest	0.00	-36.00	0.00	36.00	0.00
000		-502.75	-92,866.15	-122,000.00	-29,133.85	76.12
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	-3,241.80	36,522.79	58,250.00	21,727.21	62.70
E02	Personnel services, benefits	876.90	23,179.05	24,425.00	1,245.95	94.90
E04	Purchased property services	0.00	2,100.00	2,100.00	0.00	100.00
E05	Other purchased services	486.76	3,757.35	8,400.00	4,642.65	44.73
E06	Supplies	299.33	11,980.13	15,125.00	3,144.87	79.21
E12	Transfers to other funds	0.00	5,250.00	10,500.00	5,250.00	50.00
431	<i>Public Works Department</i>	-1,578.81	82,789.32	118,800.00	36,010.68	69.69
Revenue Total		-502.75	-92,866.15	-122,000.00	-29,133.85	-0.7612
Expense Total		-1,578.81	82,789.32	118,800.00	36,010.68	0.6969
211	Irrigation Water Fund	-2,081.56	-10,076.83	-3,200.00	6,876.83	314.90

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
212	Sewer Fund					
000						
R03	Intergovernmental revenue	0.00	-342,245.98	-392,225.00	-49,979.02	87.26
R04	Charges for services	-47,096.48	-2,572,607.17	-3,780,000.00	-1,207,392.83	68.06
R06	Interest	-793.95	-23,135.65	-45,000.00	-21,864.35	51.41
R08	Miscellaneous	0.00	-2,970.54	-1,500.00	1,470.54	198.04
R10	Other financing sources	0.00	-3,250.00	0.00	3,250.00	0.00
000		-47,890.43	-2,944,209.34	-4,218,725.00	-1,274,515.66	69.79
433	<i>Sewer</i>					
E01	Personnel services, salaries	42,470.02	379,665.89	605,075.00	225,409.11	62.75
E02	Personnel services, benefits	19,722.03	185,804.21	264,175.00	78,370.79	70.33
E03	Purchased professional service	3,812.59	17,293.89	51,500.00	34,206.11	33.58
E04	Purchased property services	4,948.41	45,244.44	56,000.00	10,755.56	80.79
E05	Other purchased services	36,274.18	107,980.11	163,100.00	55,119.89	66.20
E06	Supplies	46,793.89	213,648.65	342,600.00	128,951.35	62.36
E07	Capital	0.00	7,275.00	59,075.00	51,800.00	12.31
E09	Debt service principal	0.00	845,000.00	845,000.00	0.00	100.00
E10	Debt interest & bond issuance	0.00	474,126.68	474,150.00	23.32	100.00
E11	Contingency	0.00	0.00	126,100.00	126,100.00	0.00
E12	Transfers to other funds	0.00	82,500.00	165,000.00	82,500.00	50.00
433	<i>Sewer</i>	154,021.12	2,358,538.87	3,151,775.00	793,236.13	74.83
600	<i>Treatment System</i>					
E03	Purchased professional service	350.00	13,588.78	27,125.00	13,536.22	50.10
E07	Capital	81,069.00	226,168.00	323,725.00	97,557.00	69.86
600	<i>Treatment System</i>	81,419.00	239,756.78	350,850.00	111,093.22	68.34
601	<i>Lift Stations</i>					
E07	Capital	40,003.44	40,383.78	83,200.00	42,816.22	48.54
601	<i>Lift Stations</i>	40,003.44	40,383.78	83,200.00	42,816.22	48.54
602	<i>Lagoons</i>					
E07	Capital	600.79	600.79	100,000.00	99,399.21	0.60
602	<i>Lagoons</i>	600.79	600.79	100,000.00	99,399.21	0.60

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
603	<i>Sewer Line Upgrades</i>					
E07	Capital	0.00	0.00	225,000.00	225,000.00	0.00
603	<i>Sewer Line Upgrades</i>	0.00	0.00	225,000.00	225,000.00	0.00
605	<i>Sewer Line Extensions</i>					
E07	Capital	0.00	1,547,480.66	1,625,750.00	78,269.34	95.19
605	<i>Sewer Line Extensions</i>	0.00	1,547,480.66	1,625,750.00	78,269.34	95.19
Revenue Total		-47,890.43	-2,944,209.34	-4,218,725.00	-1,274,515.66	-0.6979
Expense Total		276,044.35	4,186,760.88	5,536,575.00	1,349,814.12	0.7562
212	Sewer Fund	228,153.92	1,242,551.54	1,317,850.00	75,298.46	94.29

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
215	Trash Fund					
000						
R04	Charges for services	-823.20	-480,330.66	-805,000.00	-324,669.34	59.67
R06	Interest	0.00	-40.85	0.00	40.85	0.00
000		-823.20	-480,371.51	-805,000.00	-324,628.49	59.67
432	<i>Sanitation Department</i>					
E05	Other purchased services	125,419.88	436,877.06	746,000.00	309,122.94	58.56
E12	Transfers to other funds	0.00	29,500.00	59,000.00	29,500.00	50.00
432	<i>Sanitation Department</i>	125,419.88	466,377.06	805,000.00	338,622.94	57.94
Revenue Total		-823.20	-480,371.51	-805,000.00	-324,628.49	-0.5967
Expense Total		125,419.88	466,377.06	805,000.00	338,622.94	0.5794
215	Trash Fund	124,596.68	-13,994.45	0.00	13,994.45	0.00

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

Sort Level	Description	Period Amt	End Bal	Budget	Variance	% Expend/Collect
220	Fleet Maintenance Fund					
000						
R04	Charges for services	0.00	-329,775.00	-329,775.00	0.00	100.00
000		0.00	-329,775.00	-329,775.00	0.00	100.00
431	<i>Public Works Department</i>					
E01	Personnel services, salaries	9,842.67	87,769.09	137,400.00	49,630.91	63.88
E02	Personnel services, benefits	4,944.16	46,103.20	64,825.00	18,721.80	71.12
E03	Purchased professional service	166.00	647.00	1,500.00	853.00	43.13
E04	Purchased property services	1,114.22	16,692.54	32,300.00	15,607.46	51.68
E06	Supplies	8,900.65	63,172.55	91,750.00	28,577.45	68.85
E07	Capital	0.00	1,900.00	2,000.00	100.00	95.00
431	<i>Public Works Department</i>	24,967.70	216,284.38	329,775.00	113,490.62	65.59
Revenue Total		0.00	-329,775.00	-329,775.00	0.00	-1.0000
Expense Total		24,967.70	216,284.38	329,775.00	113,490.62	0.6559
220	Fleet Maintenance Fund	24,967.70	-113,490.62	0.00	113,490.62	0.00

General Ledger
Actual vs Budget Report

User: msell
Printed: 09/08/20 12:34:44
Period 08 - 08
Fiscal Year 2020



FRUITA

COLORADO

<u>Sort Level</u>	<u>Description</u>	<u>Period Amt</u>	<u>End Bal</u>	<u>Budget</u>	<u>Variance</u>	<u>% Expend/Collect</u>
	<i>Revenue Total</i>	-1,784,318.64	-13,832,092.36	-21,693,075.00	-7,860,982.64	-0.6376
	<i>Expense Total</i>	2,225,874.64	13,836,795.10	23,689,100.00	9,852,304.90	0.5841



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PLANNING & DEVELOPMENT DEPARTMENT

DATE: SEPTEMBER 15, 2020

RE: ORDINANCE 2020-04, 1ST READING, A REQUEST TO APPROVE AN ORDINANCE OF THE FRUITA CITY COUNCIL AMENDING SECTION 17.21, SUBDIVISION AND DEVELOPMENT IMPROVEMENTS AGREEMENTS, OF THE FRUITA LAND USE CODE FOR PUBLICATION OF PUBLIC HEARING ON OCTOBER 6, 2020.

BACKGROUND

A Subdivision or Development Improvements Agreement is required when there are infrastructure or utility improvements that are required as part of a development project. The Subdivision Improvements Agreement (SIA) is used for a subdivision when all the improvements are located on the property being developed. The Development Improvements Agreement (DIA) is used for all off-site improvements required to be constructed as part of a development. This would mean that in some cases, the developer would have to enter into two agreements with the City in order to start and warrant construction of improvements. This results in unnecessary time on both the City Staff and the developer on coordinating these two agreements.

These agreements protect the City of Fruita and the public from any undo hardships caused during the construction of the development project. In addition, these agreements hold the developer accountable to complete construction within a timely manner and under the terms of which the project was approved. This section of the code also requires that all improvements agreements go to City Council for approval.

Entering into the SIA or DIA is usually the last step in the development approval process prior to the start of construction and in many cases, there is time lost while waiting for a scheduled City Council meeting. Prior to the agreements being executed, the developer and the associated development application has met all review agency comments and construction design specifications. After construction, the SIA or DIA are required to go to City Council again for a 1st Release of the agreement. This release starts the two (2)

year warranty period and has the associated financial guarantee (10% of the estimated cost of construction) with it. Then, at the end of the two (2) year warranty period, the SIA or DIA goes before City Council for a Final Release of the agreement. This release happens because the warranty period expires and the 10% is returned to the developer if there are no issues with the construction.

Changes/Modifications:

The proposed changes do not alter the requirements for the developer nor do they elevate the burden on the developer to construct any public improvements in a timely manner under the terms for which the project is approved. The proposed changes eliminate the need for two agreements and will allow the Planning & Development Director or the City Manager to execute these development agreements. Additionally, this will allow greater flexibility for a development to start construction of improvements without waiting until a scheduled City Council meeting while eliminating the need for these agreements to go before City Council three times.

Minor modifications also include the percentage of the total cost for the performance guarantee from 110% to 125%. This is required to be secured from the time the developer starts construction to the time construction is completed. Depending on the size of the development, the time between starting construction and completion should not exceed one (1) year.

With the changes, the Planning & Development Director or City Manager will have the ability to issue a certificate of completion. This will take the place of the 1st Release portion of the process. Additionally, the same process will apply to the Final Release, allowing the Planning & Development Director or City Manager to issue another certificate that would release the developer from the two (2) year warranty period.

Another minor modification is a change to the percentage to secure a warranty for the required two (2) years based on the total estimated construction costs of the project. For example, if the construction costs are \$500,000, the developer would need to secure 10% of the cost (\$50,000) for the standard two (2) year warranty period.

Design Workshop has compiled numerous examples of other municipalities similar to Fruita and the majority of these communities allow for these types of agreements to be executed by the Planning & Development Director or City Manager. Furthermore, it's uncommon for municipalities to have multiple types of improvement agreements.

The Fruita Planning Commission voted 6-0 in favor of the amendments at their September 8, 2020 public hearing.

FISCAL IMPACT

No fiscal impact is expected from this Land Use Code Amendment.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

One of the current City Council's goals is a commitment to review the Land Use Code to help ensure that the regulations reflect the best promotion of the public health, safety, and welfare and improve the fiscal sustainability of the community.

OPTIONS AVAILABLE TO COUNCIL

1. Publish a synopsis of Ordinance 2020-04, A request to approve an Ordinance Amending Section 17.21, Subdivision and Development Improvements Agreements, of the Fruita Land Use Code for publication of public hearing on October 6, 2020.
2. Denial of the proposed Ordinance.

RECOMMENDATION

Staff recommends that the City Council move to:

Publish a synopsis of Ordinance 2020-04, A request to approve an Ordinance Amending Section 17.21, Subdivision and Development Improvements Agreements, of the Fruita Land Use Code for publication of public hearing on October 6, 2020.



**Planning & Development Department
Staff Report
September 8, 2020**

Application #: 2020-12
Project Name: SIA & DIA Amendments
Application: Land Use Code Amendment
Representative: City of Fruita
Request: This is a request to amend Section 17.21 of the Fruita Land Use Code concerning Subdivision & Development Improvements Agreements.

Background:

A Subdivision or Development Improvements Agreement is required when there are infrastructure or utility improvements that are required as part of a development project. The Subdivision Improvements Agreement (SIA) is used for a subdivision when all the improvements are located on the property being developed. The Development Improvements Agreement (DIA) is used for all off-site improvements required to be constructed as part of a development. This would mean that in some cases, the developer would have to enter into two agreements with the City in order to start and warrant construction of improvements. This results in unnecessary time on both the City Staff and the developer on coordinating these two agreements.

These agreements protect the City of Fruita and the public from any undo hardships caused during the construction of the development project. In addition, these agreements hold the developer accountable to complete construction within a timely manner and under the terms of which the project was approved. This section of the code also requires that all improvements agreements go to City Council for approval.

Entering into the SIA or DIA is usually the last step in the development approval process prior to the start of construction and in many cases, there is time lost while waiting for a scheduled City Council meeting. Prior to the agreements being executed, the developer and the associated development application has met all review agency comments and construction design specifications. After construction, the SIA or DIA are required to go to City Council again for a 1st Release of the agreement. This release starts the two (2) year warranty period and has the associated financial guarantee (10% of the estimated cost of construction) with it. Then, at the end of the two (2) year warranty period, the SIA or DIA goes before City Council for a Final Release of the agreement. This release happens because the warranty period expires and the 10% is returned to the developer if there are no issues with the construction.

Changes/Modifications:

The proposed changes do not alter the requirements for the developer nor do they elevate the burden on the developer to construct any public improvements in a timely manner under the terms for which the project is approved. The proposed changes eliminate the need for two agreements and will allow the Planning & Development Director or the City Manager to execute these development agreements. Additionally, this will allow greater flexibility for a development to start construction of improvements without waiting until a scheduled City Council meeting while eliminating the need for these agreements to go before City Council three times.

Minor modifications also include the percentage of the total cost for the performance guarantee from 110% to 125%. This is required to be secured from the time the developer starts construction to the time construction is completed. Depending on the size of the development, the time between starting construction and completion should not exceed one (1) year.

With the changes, the Planning & Development Director or City Manager will have the ability to issue a certificate of completion. This will take the place of the 1st Release portion of the process. Additionally, the same process will apply to the Final Release, allowing the Planning & Development Director or City Manager to issue another certificate that would release the developer from the two (2) year warranty period.

Another minor modification is a change to the percentage to secure a warranty for the required two (2) years based on the total estimated construction costs of the project. For example, if the construction costs are \$500,000, the developer would need to secure 10% of the cost (\$50,000) for the standard two (2) year warranty period.

Design Workshop has compiled numerous examples of other municipalities similar to Fruita and the majority of these communities allow for these types of agreements to be executed by the Planning & Development Director or City Manager. Furthermore, it's uncommon for municipalities to have multiple types of improvement agreements.

Review of Land Use Code Requirements:

Section 17.13.070.B of the Land Use Code (2009, as amended), states that amendments to the Land Use Code may be made upon a finding that the amendment is consistent with the City's goals, policies and Master Plan.

These amendments will decrease the confusion on coordinating the possibility of two separate agreements along with decreasing the potential delay in the amount of time it takes to execute the agreement while waiting for a City Council meeting.

With the recent adoption of the Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan) and to align with the City Council's commitments to review the Land Use

Code to help ensure that the regulations reflect the best promotion of Fruita's Core Services, Staff believes that these amendments meet this criteria.

Review Comments:

No review comments have been received regarding this proposed Land Use Code amendment.

Public Comments:

At this time, no written public comments have been received regarding this proposed Land Use Code amendment.

Legal Notice:

17.01.120 (C) Public Notices

When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

Legal Notice in Paper- August 22, 2020 (17 days prior to public hearing)

Posted Legal Notice- August 18, 2020 (21 days prior to public hearing)

Staff Recommendation:

Staff recommends **approval** of the proposed Land Use Code amendments.

FRUITA PLANNING COMMISSION:

September 8, 2020

FRUITA CITY COUNCIL:

1st Reading (Introduction Ordinance) - September 15, 2020;

2nd Reading – October 6, 2020

Additions shown in *Italics*
Deletions shown in ~~Strikethrough~~

Chapter 17.21
SUBDIVISION AND IMPROVEMENT GUARANTEES AND
DEVELOPMENT IMPROVEMENTS AGREEMENTS

Sections:

- 17.21.010** **General Requirements**
- 17.21.020** **Construction of Improvements**
- 17.21.030** **Schedule of Improvements to Be Constructed**
- 17.21.040** ~~Timetable for Construction of Required~~ ***City Inspections of Improvements***
- 17.21.050** ***City Inspections of Improvements***
- ~~17.21.060~~ **Final Approval of Improvements by City Staff**
- ~~17.21.070~~ **060** **Conveyance of Public Improvements**
- ~~17.21.080~~ **070** **Warranty for Public and Other Required Improvements**
- ~~17.21.090~~ ~~Revegetation of Disturbed Areas Required~~
- ~~17.21.100~~ **080** **Performance Guarantee Required**
- ~~17.21.110~~ **090** **Indemnification and Insurance**
- ~~17.21.120~~ **100** **Default; Notice and Termination of ~~Subdivision or Development~~ Improvements Agreements**
- ~~17.21.130~~ **110** **Issuance of Certificate of Compliance**

17.21.010 GENERAL REOUIREMENTS.

An approval of a land development application which requires a ~~subdivision improvements agreement or development improvements agreement~~ does not become effective until a ~~subdivision or development improvements agreement~~ and related documents, setting forth financial arrangements to secure the actual construction of required public or semi-public (shared) improvements required by the ~~city~~ ***City***, has been executed between the property owner and the ~~City Council~~ ***Manager or Community Development Director***. The ~~subdivision improvements agreement or development improvements agreement~~ shall include a guarantee to construct all required improvements together with collateral which shall be sufficient to ensure the completion of the required improvements. With the property owner's written consent, the ~~City Council~~ may enter into a ~~subdivision improvements agreement or development improvements agreement~~ with a developer or applicant who is not the property owner, provided that the agreement(s) ~~shall be~~ ***binding*** on the subject property and ~~shall~~ run with the land.

17.21.020 CONSTRUCTION OF IMPROVEMENTS.

Every ~~subdivision improvements agreement or development improvements agreement~~ shall provide that the applicant, at its sole cost and expense, shall design, purchase, construct and install all elements of all improvements, whether ~~such~~ ***the*** improvements are located within the subdivision or development property

(on-site) or outside of the subdivision or development (off-site). The improvements shall be designed and built in conformance with this Title and other applicable ~~city ordinances, building codes and regulations in effect as of the effective date of the subdivision improvements agreement or development improvements agreement, and the approved for construction drawings.~~ Prior to the commencement of construction of the subdivision or development improvements, ~~the city shall review and approve all drawings and plans.~~ *City ordinances and regulations in effect as of the effective date of the development agreement, unless otherwise provided in the approved plans and specifications. Those improvements shall be designed and approved by a registered professional engineer retained by the developer or applicant. All drawings and plans for those improvements shall be stamped by the engineer. Prior to the commencement of construction of the development improvements, the City shall review and approve all drawings and plans.*

17.15.270 RELATED COSTS - PUBLIC AND OTHER REQUIRED SUBDIVISION IMPROVEMENTS.

~~A subdivider shall provide, at its sole cost, all necessary engineering designs, surveys, field surveys, as built drawings and incidental services, including the cost of updating city mapping related to the construction of the public and other required subdivision improvements.~~

17.21.030 SCHEDULE SCHEDULE OF IMPROVEMENTS TO BE CONSTRUCTED.

~~Every subdivision improvements agreement or~~

~~A. All development improvements agreement agreements shall include a schedule of the required improvements showing in detail the required improvements, their costs thereof, and make reasonable provision for the completion of said provisions to complete the improvements in accordance with design and time specifications. No work shall be commenced on such those improvements until such time as the schedule of improvements has been is approved by the city City and the required performance guarantee has been is delivered to the city City.~~

17.21.040 TIMETABLE FOR CONSTRUCTION OF REQUIRED IMPROVEMENTS.

~~B. Every improvement identified in the subdivision improvements agreement or development improvements agreement shall include a time schedule for the construction and completion of the required improvements. Said The schedule shall provide for a commencement date as well as a date when such improvements will be substantially completed. Under such the schedule, all required subdivision or development improvements shall be completed no later than one (1) year following the start of development, unless otherwise agreed by the City Council.~~

C. Where a developer or property owner is prevented from commencing or completing any of the required improvements within the time periods set forth in the ~~subdivision improvements development agreement due to an unforeseeable cause or development improvements agreement delay beyond the control and without the fault or negligence of the developer or applicant,~~ the times for commencement and/or completion of such improvements may be extended by the ~~City Manager~~ *Community Development Director* in accordance with Section 17.05.040 *in an amount equal to the time lost due to such delay if a request is made in writing to the City by the developer or*

applicant.

1. Delays beyond the control of the developer or applicant shall include acts of neglect by the City, fires, floods, epidemics, abnormal weather conditions, strikes, freight embargos or acts of God. Time extensions, however, will not be granted for rain, snow, wind or other natural phenomena at normal intensity within Mesa County.

2. Delays attributable to and within the control of the developer's or applicant's contractors, subcontractors or suppliers are deemed delays within the control of the developer or applicant.

17.21.050040 CITY INSPECTIONS OF IMPROVEMENTS. ~~Every subdivision improvements agreement or development improvements agreement shall provide that the city shall have the right to make inspections~~

The City may inspect and require testing during construction of the required improvements in such reasonable intervals as the responsible city officials may request. Inspection, acquiescence and approval of any inspector of the construction of physical facilities, at any particular time, shall does not constitute an approval by the cityCity of any phase of the construction of such improvements. SuchThe approval shall be is made by the cityCity only after completion of construction of all improvements in the manner set forth in Section 17.21.060. The cityCity also reserves the right to perform or contract for independent quality assurance tests to confirm compliance with cityCity requirements.

17.21.060050 FINAL APPROVAL OF IMPROVEMENTS BY CITY STAFF. ~~Every subdivision improvements agreement or development improvements agreement shall provide that upon~~

A. Upon completion of construction of all required improvements, the responsible city officials shall perform final inspections of the improvements and certify with specificity their conformity or lack thereof whether they conform to the approved plans, specifications and design standards. The subdivision improvements agreement orThe development improvements agreement shall further provide that the property owner or developer shall make all corrections necessary to bring the improvements into conformity with applicable city standards, approved for construction drawings, and the utility, drainage and street improvements plans and requirements of other agencies, as approved. The city shall beCity is under no obligation to provide any wastewater collection service, street maintenance or issue any further planning clearances for building permits or certificates of occupancy, until all suchof those facilities are brought into conformance with conform to the applicable standards, plans and specifications and approved by the responsible city officials.

B. The applicant or developer shall provide all necessary engineering designs, surveys, field surveys, and "as-built" drawings for all public improvements and utility improvements, which shall be subject to review and approval by the City, and any incidental services related to the construction of the improvements, at its sole cost and expense. The legal description of all utility service lines shall be prepared by a registered land surveyor at the applicant's or developer's sole expense. In addition, all expenses incurred by the City in updating the City's base maps shall be paid by the applicant or developer, to the City.

C. All areas disturbed by construction shall be promptly revegetated with native vegetation following completion of such work unless a building permit application has been requested for a particular lot, in which case revegetation shall be provided prior to legal occupancy of such lot. The property owner or developer shall comply with all city regulations concerning dust suppression, drainage and the control of other nuisances. In addition, the applicant or developer shall control all noxious weeds and rodents within such areas to the reasonable satisfaction of the City until conveyed to individual lot owners.

17.21.070060 CONVEYANCE OF PUBLIC IMPROVEMENTS. ~~A subdivision improvements agreement or development improvements agreement shall provide that all~~

All public improvements shall be conveyed to the ~~city~~City or other public entity, as applicable. Upon completion of construction in conformity with the applicable plans, standards, specifications and any properly approved changes, and final approval by the responsible city official, all public improvements shall be conveyed to the ~~city or Colorado Department of Transportation~~City or other public entity, as applicable. Acceptance of said conveyance to the ~~city~~City shall be made by ~~majority vote of the City Council~~Engineer. Following ~~such~~that conveyance, the ~~city~~City is solely responsible for the maintenance of ~~such~~those public improvements, unless otherwise provided for by the agreement, except for any correction work required during the warranty period.

17.21.080070 WARRANTY FOR PUBLIC AND OTHER REQUIRED IMPROVEMENTS.

The property owner or developer shall warrant in the ~~subdivision improvements agreement or development improvements agreement~~ all ~~required improvements~~public improvements constructed by the applicant or developer which are conveyed or dedicated to the City for a period of twenty-four (24) months from the date the City ~~Council~~ accepts ~~such~~the improvements. Specifically, but not by way of limitation, the property owner or developer shall warrant the following:

- A. That the title conveyed shall be good and its transfer rightful; *and*
- B. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; *and*
- C. Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.

~~17.21.090 REVEGETATION OF DISTURBED AREAS REQUIRED.~~ Every subdivision improvements agreement or development improvements agreement shall provide that all city until conveyed to individual lot owners.

D. To secure the warranty:

1. The guarantee of performance provided for in this Section shall remain in effect until the end of the warranty period; or
2. The applicant or developer shall furnish the City with a cash deposit or letter of credit in an amount equal to a percent of the total construction costs as set forth in this Subsection. This security shall guarantee the payment of any reconstruction or repair costs that may be undertaken due to failures occurring during the warranty period. Responsibility for identifying the necessity of repairs or reconstruction of the improvements shall rest with the City.

Percent to Secure Warranty

<i>Total Construction Costs</i>	<i>Percent to Secure Warranty</i>
<i>\$0.00-\$500,000.00</i>	<i>10%</i>
<i>\$500,000.01-\$1,000,000.00</i>	<i>7.5%</i>
<i>\$1,000,000.01 and over</i>	<i>5%</i>

3. *Correction of Deficiencies Under Warranty. Within thirty (30) days or a reasonable extension at the sole discretion of the City Engineer, of notification by the City of the need for repair or reconstruction, the applicant or developer shall correct the deficiencies, satisfactory to the City. Such notification shall be made by certified mail. If the applicant or developer fails to repair or reconstruct the deficiency within the time specified in this Section, the City will make the repair at the developer or property owner's sole expense. The City may then bill the applicant or developer for the cost of the repair or declare the deposit forfeited. All repairs shall have a two (2) year warranty period and shall be guaranteed by the applicant or developer in a manner satisfactory to the City Engineer, including extension of the full warranty guarantee.*
4. *Release of Warranty. Inspection will be made by the City at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be corrected prior to release of the warranty security. Upon satisfactory correction of all deficiencies and completion of the warranty period for the corrected improvements, the City will release the remaining security.*
5. *Default. If the applicant or developer defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the*

City may demand immediate payment on the performance or warranty guarantee. In the case of deposits in escrow or letter of credit, the City may demand immediate payment of a portion of all sums obligated for the performance or warranty of any improvement. In the case of a deed of trust guarantee method, the City may foreclose on the deed of trust and may also retain any sums deposited to obtain a partial release of the deed of trust. All funds received by the City shall be used for any construction, repair or reconstruction necessary to ensure that:

a. All required public improvements are built to specifications necessary to receive final acceptance; and

b. The improvements remain in good condition for the completion of the warranty period. The City may use guarantee funds for the construction, repair or maintenance of required public improvements from the date of initial default until three (3) years after the funds have become available to the City for such use, except that no use shall be made of the funds later than two (2) years after satisfactory completion and final acceptance of the work. Following either: (1) the final acceptance of all public improvements and posting of the warranty security, or (2) successful completion of the warranty period, or (3) the three-year period provided for in this Subsection, the City shall pay to the property owner or developer all guarantee funds which were not used or obligated for the completion of the improvements.

6. Standards May not Be Altered. All provisions of this Section are mandatory and may not be altered by the subdivision agreement. The obligations contained in this Section shall be enforceable by methods of this Land Use Code, as well as by contract.

17.21.10080 PERFORMANCE GUARANTEE REQUIRED.

~~Every subdivision improvements agreement or development improvements agreement shall provide that in order to~~

- A.** *To secure the construction and installation of the public and other required improvements listed in the schedule of improvements for which the applicant or developer is responsible, whether on-site or off-site, including tasks not specifically itemized within the schedule of improvements but which can be reasonably considered necessary for the development and for which the property owner or developer is responsible, the property owner or developer shall furnish the city with: (1) cash to be deposited in an escrow account that is acceptable to the city pursuant to an escrow and disbursement agreement approved by the city; or a cash, letter of credit, cash bond, performance bond, or other security acceptable to the City Attorney to secure the performance and completion of such required improvements, in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of those improvements. (2) an irrevocable letter of credit that is acceptable to the city, or (3) a performance bond issued by*

a surety approved by the city, in an amount equal to one hundred ten (110) percent of the estimated cost of all required improvements.

The purpose of the cost estimate described above in Section 17.21.030 is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and the applicant or developer shall agree to pay the actual cost of all such public and other required improvements. Neither the estimated costs nor the amount of the security establishes the maximum amount of the applicant's or developer's liability.

B. The developer or property owner shall deliver to the city the performance guarantee required by subsection (A) above prior to the recording of a subdivision final plat, or prior to recording of a PUD final development plan, or prior to the issuance of a conditional use permit or planning clearance, as applicable. Unless expressly authorized by the city, work shall not be commenced within the development until the approved security is furnished to the city. No lot within a subdivision shall be conveyed to any third party until the approved security is delivered to the city and the final plat ~~has been~~ recorded in the records of the Mesa County Clerk and Recorder.

C. *Partial Release. Upon completion of improvements, a portion of the guarantee may be released as follows:*

~~E.1. Upon completion of a certain class of improvements, such as wastewater facilities by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security tendered may be reduced by up to one hundred (100) percent of the approved cost for the installation of such class of improvements, upon approval by the city. Upon completion of all of the improvements required by the subdivision improvements agreement or development improvements agreement, and upon final inspection and approval by the city of all such improvements, the City Council shall further authorize a reduction of the amount of the security guaranteeing the required subdivision or development improvements to ten (10) percent of the total~~

actual cost of the improvements.

2. ~~Any~~ Upon completion of portions of the improvements by the applicant or developer, evidenced by a detailed cost breakdown of the completed improvements, and submittal of as-built drawings, a property owner or developer may apply to the City for a release of part or all of the collateral deposited with the City. Upon inspection and approval, the City may authorize the reduction of the amount of any performance guarantee security issued pursuant to the development agreement may be reduced by seventy-five percent (75%) of the approved estimated cost for the installation of such improvements, upon written request of the applicant or developer, and approval by the Community Development Director.
3. Upon completion of all of the improvements required by the development agreement, and upon final inspection and approval by the city of all such improvements, the city shall further authorize a reduction of the amount of the security guaranteeing the required development improvements pursuant to Section 17.21.070(D)(2).

D. *Full Release.* Pursuant to Section 17.21.110, any performance guarantee tendered to the city shall be fully released and discharged ~~only by express action of the City Council~~ by certificate or resolution upon expiration of the twenty-four (24) month warranty period described in Section 17.21.080 and the correction of any defects discovered during such warranty period. ~~In the event that~~ If the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) month warranty period, the city will retain the existing performance guarantee and may require a new performance guarantee and withhold further planning clearances for building permits and certificates of occupancy within the subdivision or development until the new performance guarantee is tendered to the city.

E. Every ~~subdivision improvements agreement or a development improvements~~ agreement shall provide that upon the developer's or property owner's failure to perform its obligations under such agreement and all other applicable plans, drawings, specifications and documents, as approved, within the time periods set forth in the agreement, the city may give written notice to the developer or property owner of the nature of the default and an opportunity to be heard before the City Council concerning such default. If the default ~~has~~ is not ~~been~~ remedied within thirty (30) days of receipt of the notice or of the date of any hearing before the City Council, whichever is later (or ~~such~~ any reasonable time period as is necessary to cure the default provided that the developer or the property owner has commenced in good faith to cure the default), the city may then give written notice to the developer or property owner and any surety on a performance bond, issuer of a letter of credit, or escrow agent that the city, as agent for the developer or property owner, is proceeding with the task of installing and completing the remaining required improvements in whole or in part.

- F. Every ~~subdivision improvements agreement or development improvements agreement~~ must contain a power of attorney whereby the developer or property owner designates and irrevocably appoints the City ~~Manager~~Attorney of the City of Fruita, Colorado as its attorney in fact and agent for the purpose of completing all necessary improvements required by the ~~subdivision improvements agreement or development improvements agreement~~ in the event of a default by the developer or property owner. The agreement shall be recorded in the office of the Clerk and Recorder of Mesa County, Colorado, and shall constitute constructive notice of the agreement and the power of attorney ~~contained therein~~. The agreement and power of attorney ~~contained therein~~ may be enforced by the ~~city~~City pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.
- G. If a substantial amount of time elapses between the time of delivery of the security and actual construction of the improvements, the city may require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.
- H. *In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.*

17.21.110090 INDEMNIFICATION AND INSURANCE.

Every ~~subdivision improvements agreement or development improvements agreement~~ shall require the developer, property owner and any contractor or subcontractor employed by the developer or property owner who performs work within public rights-of-way, easements dedicated to the ~~city~~City, or within other property owned by the city to indemnify and hold harmless the City of Fruita, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by the developer or property owner, its contractors and subcontractors, within city rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, an act, omission, error, professional error, mistake, negligence, or other fault of the developer, property owner, or contractor, and any subcontractor. The ~~city~~City may also require in a ~~subdivision improvements agreement or development improvements agreement~~ that any contractor employed by the developer or property owner to perform work within public rights-of-way, easements dedicated to the city, or within any other property owned by the city to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by contractors and subcontractors pursuant to this section.

17.21.120-100 DEFAULT; -NOTICE; -AND -TERMINATION -OF -SUBDIVISION AND DEVELOPMENT IMPROVEMENTS AGREEMENTS.

In the event of any default or breach by a property owner or developer of a covenant, term, condition or obligation contained in a ~~subdivision improvements agreement or development improvements agreement~~, and if ~~such~~*the* default or breach continues after notice ~~thereof~~ and an opportunity of a hearing as set forth in this Chapter, the ~~agreement~~*City* may be ~~forthwith terminated, at the option of~~*terminate the city agreement*. Any declaration of termination of an agreement shall ~~be~~*is* effective only after and upon a resolution to that effect adopted by the City Council. ~~In the event~~*If* a property owner or developer fails to construct any required improvements in accordance with the terms of a ~~subdivision improvements agreement or development improvements agreement~~, the ~~city~~*City* may suspend approval of the development during which time the property owner or developer shall ~~have no right to~~*not* sell, transfer or otherwise convey tracts or lots within the development or property without the express written approval of the city.

17.21.130/10 ISSUANCE OF CERTIFICATE OF COMPLIANCE.

Upon satisfactory completion of all required improvements, expiration of the applicable warranty period, and compliance with all of the terms of the ~~subdivision improvements agreement or development improvements agreement~~, the ~~city~~*City* shall, upon request, execute a resolution or certificate stating that all improvements have been constructed in compliance with the ~~subdivision or development improvements agreement~~.

Grand Junction Daily Sentinel
734 S 7th St #7737
(970) 242-1313

I, Terry Flanagan, of lawful age, being duly sworn upon oath, deposes and says that I am the Legal Secretary of Grand Junction Daily Sentinel, a publication that is a "legal newspaper" as that phrase is defined for the city of Grand Junction, for the County of Mesa, in the state of Colorado, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
Aug. 22, 2020

Notice ID: ZnPIAHEpdm1G5FMGTuZc
Publisher ID: BW # 68409
Notice Name: SIA & DIA, VESTED RTS LUC LEGAL NOTICE

PUBLICATION FEE: \$30.49

Terry Flanagan
Legal Secretary

VERIFICATION

STATE OF COLORADO
COUNTY OF MESA

Signed or attested before me on this

24th day of August, A.D. 2020.

Diawn Lee Beach Document Authentication Number
Notary Public 20204014519-493991

My Commission Expires: April 22, 2024

NOTICE OF PUBLIC HEARING
The Fruita Planning Commission will hold a VIRTUAL public hearing Tuesday, September 8, 2020 at 6:00 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, October 6, 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: #2020-12
Application Name: Chapter 21 - SIA & DIA LUC Amendment
Application Type: Land Use Code Amendment
Representative: City of Fruita
Description: This is a request to amend Section 17.21 of the Fruita Land Use Code.
Application: #2020-13
Application Name: Chapter 47 - Vested Rights Amendment
Application Type: Land Use Code Amendment
Representative: City of Fruita
Description: This is a request to amend Section 17.47 of the Fruita Land Use Code.
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.
Published: August 22, 2020.

ORDINANCE NO. 2020-04

**AN ORDINANCE AMENDING SECTION 17.21 OF THE FRUITA MUNICIPAL CODE
CONCERNING IMPROVEMENT GUARANTEES AND DEVELOPMENT
AGREEMENTS**

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

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

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

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

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

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

WHEREAS, the Planning Commission reviewed the amendments contained here in on September 8, 2020 and formalized their recommendation regarding those amendments with a vote of 6-0 of those members present recommending approval of the proposed amendments; and

WHEREAS, the ordinance was introduced at first reading on September 15, 2020 pursuant to Section 2.13(B) of the City Charter; and

WHEREAS, pursuant Section 2.13(C) of the City Charter and Section 17.01.130 of the Municipal Code, a notice of public hearing was published in the Grand Junction Sentinel on August 22, 2020 and a notice was posted a Fruita City Hall on August 18, 2020 for the City Council meeting on October 6, 2020 to consider City staff and Planning Commission recommendations and receive public comments; and

WHEREAS, the City Council finds that passage of Ordinance 2020-04 will promote the health, safety and general welfare of the Fruita community; and,

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the requirement of Section 2.13(B) of the City Charter by setting

a public hearing in order to provide the public an opportunity to present testimony and evidence and that approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, has determined to take final action on this Ordinance prior to concluding the public hearing on second reading.

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

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

Section 2. Repealed and Re-enacted. Section 17.21 of the Fruita Municipal Code is hereby repealed and re-enacted to read as shown in Exhibit A.

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

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

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

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

remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

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

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

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
6TH DAY OF OCTOBER, 2020.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

EXHIBIT A TO ORDINANCE 2020-04

CHAPTER 17.21

IMPROVEMENT GUARANTEES AND DEVELOPMENT AGREEMENTS

Sections:

- 17.21.010 General Requirements**
- 17.21.020 Construction of Improvements**
- 17.21.030 Schedule of Improvements to Be Constructed**
- 17.21.040 City Inspections of Improvements**
- 17.21.050 Final Approval of Improvements by City Staff**
- 17.21.060 Conveyance of Public Improvements**
- 17.21.070 Warranty for Public and Other Required Improvements**
- 17.21.080 Performance Guarantee Required**
- 17.21.090 Indemnification and Insurance**
- 17.21.100 Default; Notice and Termination of Development Agreements**
- 17.21.110 Issuance of Certificate of Compliance**

17.21.010 GENERAL REQUIREMENTS.

An approval of a land development application which requires a development agreement does not become effective until a development agreement and related documents, setting forth financial arrangements to secure the actual construction of required public or semi-public (shared) improvements required by the City, has been executed between the property owner and the City Manager or Community Development Director. The development agreement shall include a guarantee to construct all required improvements together with collateral which shall be sufficient to ensure the completion of the required improvements. With the property owner's written consent, the City may enter into a development agreement with a developer or applicant who is not the property owner, provided that the agreement(s) are binding on the subject property and run with the land.

17.21.020 CONSTRUCTION OF IMPROVEMENTS.

Every development agreement shall provide that the applicant, at its sole cost and expense, shall design, purchase, construct and install all elements of all improvements, whether the improvements are located within the subdivision or development property (on-site) or outside of the subdivision or development (off-site). The improvements shall be designed and built in conformance with this Title and other applicable City ordinances and regulations in effect as of the effective date of the development agreement, unless otherwise provided in the approved plans and specifications. Those improvements shall be designed and approved by a registered professional engineer retained by the developer or applicant. All drawings and plans for those improvements shall be stamped by the engineer. Prior to the commencement of construction of the development improvements, the City shall review and approve all

drawings and plans.

17.21.030 SCHEDULE OF IMPROVEMENTS TO BE CONSTRUCTED.

A. All development agreements shall include a schedule of the required improvements showing in detail the required improvements, their costs, and reasonable provisions to complete the improvements in accordance with design and time specifications. No work shall be commenced on those improvements until the schedule of improvements is approved by the City and the required performance guarantee is delivered to the City.

B. Every improvement identified in the development agreement shall include a time schedule for the construction and completion of the required improvements. The schedule shall provide for a commencement date as well as a date when such improvements will be substantially completed. Under the schedule, all required development improvements shall be completed no later than one (1) year following the start of development.

C. Where a developer or property owner is prevented from commencing or completing any of the required improvements within the time periods set forth in the development agreement due to an unforeseeable cause or delay beyond the control and without the fault or negligence of the developer or applicant, the times for commencement and/or completion of such improvements may be extended by the Community Development Director in accordance with Section 17.05.040 in an amount equal to the time lost due to such delay if a request is made in writing to the City by the developer or applicant.

1. Delays beyond the control of the developer or applicant shall include acts of neglect by the City, fires, floods, epidemics, abnormal weather conditions, strikes, freight embargos or acts of God. Time extensions, however, will not be granted for rain, snow, wind or other natural phenomena at normal intensity within Mesa County.

2. Delays attributable to and within the control of the developer's or applicant's contractors, subcontractors or suppliers are deemed delays within the control of the developer or applicant.

17.21.040 CITY INSPECTIONS OF IMPROVEMENTS.

The City may inspect and require testing during construction of the required improvements in reasonable intervals as the responsible city officials may request. Inspection, acquiescence and approval of any inspector of the construction of physical facilities, at any particular time, does not constitute an approval by the City of any phase of the construction of such improvements. The approval is made by the City only after completion of construction of all improvements in the manner set forth in Section 17.21.060. The City also reserves the right to perform or contract for independent quality assurance tests to confirm compliance with City requirements.

17.21.050 FINAL APPROVAL OF IMPROVEMENTS BY CITY STAFF.

A. Upon completion of construction of all required improvements, the responsible city officials shall perform

final inspections of the improvements and certify with specificity whether they conform to the approved plans, specifications and design standards. The development agreement shall provide that the property owner or developer make all corrections necessary to bring the improvements into conformity with applicable city standards, approved for construction drawings, and the utility, drainage and street improvements plans and requirements of other agencies, as approved. The City is under no obligation to provide any wastewater collection service, street maintenance or issue any further planning clearances for building permits or certificates of occupancy, until all of those facilities conform to the applicable standards, plans and specifications and approved by the responsible city officials.

B. The applicant or developer shall provide all necessary engineering designs, surveys, field surveys, and "as-built" drawings for all public improvements and utility improvements, which shall be subject to review and approval by the City, and any incidental services related to the construction of the improvements, at its sole cost and expense. The legal description of all utility service lines shall be prepared by a registered land surveyor at the applicant's or developer's sole expense. In addition, all expenses incurred by the City in updating the City's base maps shall be paid by the applicant or developer, to the City.

C. All areas disturbed by construction shall be promptly revegetated with native vegetation following completion of such work unless a building permit application has been requested for a particular lot, in which case revegetation shall be provided prior to legal occupancy of such lot. The property owner or developer shall comply with all city regulations concerning dust suppression, drainage and the control of other nuisances. In addition, the applicant or developer shall control all noxious weeds and rodents within such areas to the reasonable satisfaction of the City until conveyed to individual lot owners.

17.21.060 CONVEYANCE OF PUBLIC IMPROVEMENTS.

All public improvements shall be conveyed to the City or other public entity, as applicable. Upon completion of construction in conformity with the applicable plans, standards, specifications and any properly approved changes, and final approval by the responsible city official, all public improvements shall be conveyed to the City or other public entity, as applicable. Acceptance of said conveyance to the City shall be made by the City Engineer. Following that conveyance, the City is solely responsible for the maintenance of those public improvements, unless otherwise provided for by the agreement, except for any correction work required during the warranty period.

17.21.070 WARRANTY FOR PUBLIC AND OTHER REQUIRED IMPROVEMENTS.

The property owner or developer shall warrant in the development agreement all public improvements constructed by the applicant or developer which are conveyed or dedicated to the City for a period of twenty-four (24) months from the date the City accepts the improvements. Specifically, but not by way of limitation, the property owner or developer shall warrant the following:

A. That the title conveyed shall be good and its transfer rightful; and

- B. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance; and
- C. Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.
- D. To secure the warranty:

1. The guarantee of performance provided for in this Section shall remain in effect until the end of the warranty period; or
2. The applicant or developer shall furnish the City with a cash deposit or letter of credit in an amount equal to a percent of the total construction costs as set forth in this Subsection. This security shall guarantee the payment of any reconstruction or repair costs that may be undertaken due to failures occurring during the warranty period. Responsibility for identifying the necessity of repairs or reconstruction of the improvements shall rest with the City.

Percent to Secure Warranty

Total Construction Costs	Percent to Secure Warranty
\$0.00-\$500,000.00	10%
\$500,000.01-\$1,000,000.00	7.5%
\$1,000,000.01 and over	5%

3. **Correction of Deficiencies Under Warranty.** Within thirty (30) days or a reasonable extension at the sole discretion of the City Engineer, of notification by the City of the need for repair or reconstruction, the applicant or developer shall correct the deficiencies, satisfactory to the City. Such notification shall be made by certified mail. If the applicant or developer fails to repair or reconstruct the deficiency within the time specified in this Section, the City will make the repair at the developer or property owner’s sole expense. The City may then bill the applicant or developer for the cost of the repair or declare the deposit forfeited. All repairs shall have a two (2) year warranty period and shall be guaranteed by the applicant or developer in a manner satisfactory to the City Engineer, including extension of the full warranty guarantee.
4. **Release of Warranty.** Inspection will be made by the City at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be corrected prior to release of the warranty security. Upon satisfactory correction of all deficiencies and completion of the warranty period for the corrected improvements, the City will release the remaining security.
5. **Default.** If the applicant or developer defaults on any obligation to construct required public improvements or the obligation to warrant and repair such improvements, the City may demand immediate payment on the performance or warranty guarantee. In the case of deposits in escrow or letter of credit, the City may demand immediate payment of a portion of all sums obligated for the performance or warranty of any improvement. In

the case of a deed of trust guarantee method, the City may foreclose on the deed of trust and may also retain any sums deposited to obtain a partial release of the deed of trust. All funds received by the City shall be used for any construction, repair or reconstruction necessary to ensure that:

- a. All required public improvements are built to specifications necessary to receive final acceptance; and
 - b. The improvements remain in good condition for the completion of the warranty period. The City may use guarantee funds for the construction, repair or maintenance of required public improvements from the date of initial default until three (3) years after the funds have become available to the City for such use, except that no use shall be made of the funds later than two (2) years after satisfactory completion and final acceptance of the work. Following either: (1) the final acceptance of all public improvements and posting of the warranty security, or (2) successful completion of the warranty period, or (3) the three-year period provided for in this Subsection, the City shall pay to the property owner or developer all guarantee funds which were not used or obligated for the completion of the improvements.
6. Standards May not Be Altered. All provisions of this Section are mandatory and may not be altered by the subdivision agreement. The obligations contained in this Section shall be enforceable by methods of this Land Use Code, as well as by contract.

17.21.080 PERFORMANCE GUARANTEE REQUIRED.

- A. To secure the construction and installation of the public and other required improvements listed in the schedule of improvements for which the applicant or developer is responsible, whether on-site or off-site, including tasks not specifically itemized within the schedule of improvements but which can be reasonably considered necessary for the development and for which the property owner or developer is responsible, the property owner or developer shall furnish the city with a cash, letter of credit, cash bond, performance bond, or other security acceptable to the City Attorney to secure the performance and completion of such required improvements, in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of those improvements.

The purpose of the cost estimate described above in Section 17.21.030 is solely to determine the amount of security required and may be revised from time to time to reflect the actual costs. No representations are made as to the accuracy of these estimates, and the applicant or developer shall agree to pay the actual cost of all such public and other required improvements. Neither the estimated costs nor the amount of the security establishes the

maximum amount of the applicant's or developer's liability.

- B. The developer or property owner shall deliver to the city the performance guarantee required by subsection (A) above prior to the recording of a subdivision final plat, or prior to recording of a PUD final development plan, or prior to the issuance of a conditional use permit or planning clearance, as applicable. Unless expressly authorized by the city, work shall not be commenced within the development until the approved security is furnished to the city. No lot within a subdivision shall be conveyed to any third party until the approved security is delivered to the city and the final plat is recorded in the records of the Mesa County Clerk and Recorder.
- C. Partial Release. Upon completion of improvements, a portion of the guarantee may be released as follows:
 - 1. Upon completion of a certain class of improvements, such as wastewater facilities by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security tendered may be reduced by up to one hundred (100) percent of the approved cost for the installation of such class of improvements, upon approval by the city.
 - 2. Upon completion of portions of the improvements by the applicant or developer, evidenced by a detailed cost breakdown of the completed improvements, and submittal of as-built drawings, a property owner or developer may apply to the City for a release of part or all of the collateral deposited with the City. Upon inspection and approval, the City may authorize the reduction of the amount of any performance guarantee security issued pursuant to the development agreement may be reduced by seventy-five percent (75%) of the approved estimated cost for the installation of such improvements, upon written request of the applicant or developer, and approval by the Community Development Director.
 - 3. Upon completion of all of the improvements required by the development agreement, and upon final inspection and approval by the city of all such improvements, the city shall further authorize a reduction of the amount of the security guaranteeing the required development improvements pursuant to Section 17.21.070(D)(2).
- D. Full Release. Pursuant to Section 17.21.110, any performance guarantee tendered to the city shall be fully released and discharged by certificate or resolution upon expiration of the twenty-four (24) month warranty period described in Section 17.21.080 and the correction of any defects discovered during such warranty period. If the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) month warranty period, the city will retain the existing performance guarantee and may require a new performance guarantee and withhold further planning clearances for building permits and certificates of occupancy within the subdivision or development until the new performance guarantee is tendered to the city.
- E. Every development agreement shall provide that upon the developer's or property owner's failure to

perform its obligations under such agreement and all other applicable plans, drawings, specifications and documents, as approved, within the time periods set forth in the agreement, the city may give written notice to the developer or property owner of the nature of the default and an opportunity to be heard before the City Council concerning such default. If the default is not remedied within thirty (30) days of receipt of the notice or of the date of any hearing before the City Council, whichever is later (or any reasonable time period necessary to cure the default provided that the developer or the property owner has commenced in good faith to cure the default), the city may then give written notice to the developer or property owner and any surety on a performance bond, issuer of a letter of credit, or escrow agent that the city, as agent for the developer or property owner, is proceeding with the task of installing and completing the remaining required improvements in whole or in part.

- F. Every development agreement must contain a power of attorney whereby the developer or property owner designates and irrevocably appoints the City Attorney of the City of Fruita, Colorado as its attorney in fact and agent for the purpose of completing all necessary improvements required by the development agreement in the event of a default by the developer or property owner. The agreement shall be recorded in the office of the Clerk and Recorder of Mesa County, Colorado, and shall constitute constructive notice of the agreement and the power of attorney. The agreement and power of attorney may be enforced by the City pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.
- G. If a substantial amount of time elapses between the time of delivery of the security and actual construction of the improvements, the city may require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.
- H. In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.

17.21.090 INDEMNIFICATION AND INSURANCE.

Every development agreement shall require the developer, property owner and any contractor or subcontractor employed by the developer or property owner who performs work within public rights-of-way, easements dedicated to the City, or within other property owned by the city to indemnify and hold harmless the City of Fruita, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by the developer or property owner, its contractors and subcontractors, within city rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in

whole or in part by, an act, omission, error, professional error, mistake, negligence, or other fault of the developer, property owner, or contractor, and any subcontractor. The City may also require in a development agreement that any contractor employed by the developer or property owner to perform work within public rights-of-way, easements dedicated to the city, or within any other property owned by the city to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by contractors and subcontractors pursuant to this section.

17.21.100 DEFAULT; NOTICE; AND TERMINATION OF DEVELOPMENT AGREEMENTS. In the event of any default or breach by a property owner or developer of a covenant, term, condition or obligation contained in a development agreement, and if the default or breach continues after notice and an opportunity of a hearing as set forth in this Chapter, the City may terminate the agreement. Any declaration of termination of an agreement is effective only after and upon a resolution to that effect adopted by the City Council. If a property owner or developer fails to construct any required improvements in accordance with the terms of a development agreement, the City may suspend approval of the development during which time the property owner or developer shall not sell, transfer or otherwise convey tracts or lots within the development or property without the express written approval of the city.

17.21.110 ISSUANCE OF CERTIFICATE OF COMPLIANCE. Upon satisfactory completion of all required improvements, expiration of the applicable warranty period, and compliance with all of the terms of the development agreement, the City shall, upon request, execute a resolution or certificate stating that all improvements have been constructed in compliance with the development agreement.



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PLANNING & DEVELOPMENT DEPARTMENT

DATE: SEPTEMBER 15, 2020

RE: ORDINANCE 2020-05, 1ST READING, A REQUEST TO APPROVE AN ORDINANCE OF THE FRUITA CITY COUNCIL AMENDING SECTION 17.47, VESTED RIGHTS, OF THE FRUITA LAND USE CODE FOR PUBLICATION OF PUBLIC HEARING ON OCTOBER 6, 2020.

BACKGROUND

The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24 of the Colorado Revised Statutes, as amended, which establishes a vested property right to undertake and complete a development and use of real property under the terms and conditions for which it was approved. As well as to establish local control over creation of vested real property rights to the fullest extent permitted by law. In short, election of vested rights allows the development project up to three (3) years from the date of approval to commence under the terms and conditions for which it was approved.

Changes/Modifications:

The proposed changes will allow Staff to administratively approve a vested rights request in accordance with the associated type of development project (Site Design Review, Minor Subdivision, and Major Subdivision) and align with the goal to make many of the development applications a Staff level decision. Additionally, most modifications or changes are meant to align with best practices among other Land Use Codes of communities that are similar in nature to Fruita.

The elimination of Section 17.47.040 which allows a developer or property owner the option to request vested rights later in the review process of a development application through a separate decision of City Council. It is recommended that this language be removed because this language is uncommon in Land Use Codes and to the knowledge of Staff, hasn't ever been used in the City of Fruita.

Also, there is the addition of language that states that forfeiture of vested rights is triggered by the failure of a developer to abide by the terms and conditions contained in the approval of the development project. The addition of this language is very common in other Land Use Codes around the state.

None of the changes or modifications proposed will negatively impact how development applications are reviewed, approved, or conditionally approved by Staff and outside review agencies.

The Fruita Planning Commission voted 6-0 in favor of the amendments at their September 8, 2020 public hearing.

FISCAL IMPACT

No fiscal impact is expected from this Land Use Code Amendment.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

One of the current City Council's goals is a commitment to review the Land Use Code to help ensure that the regulations reflect the best promotion of the public health, safety, and welfare and improve the fiscal sustainability of the community.

OPTIONS AVAILABLE TO COUNCIL

1. Publish a synopsis of Ordinance 2020-05, A request to approve an Ordinance Amending Section 17.47, Vested Rights, of the Fruita Land Use Code for publication of public hearing on October 6, 2020.
2. Denial of the proposed Ordinance.

RECOMMENDATION

Staff recommends that the City Council move to:

Publish a synopsis of Ordinance 2020-05, A request to approve an Ordinance Amending Section 17.47, Vested Rights, of the Fruita Land Use Code for publication of public hearing on October 6, 2020.



**Planning & Development Department
Staff Report
September 8, 2020**

Application #: 2020-13
Project Name: Vested Rights Amendments
Application: Land Use Code Amendment
Representative: City of Fruita
Request: This is a request to amend Section 17.47 of the Fruita Land Use Code concerning Vested Rights.

Background:

The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24 of the Colorado Revised Statutes, as amended, which establishes a vested property right to undertake and complete a development and use of real property under the terms and conditions for which it was approved. As well as to establish local control over creation of vested real property rights to the fullest extent permitted by law. In short, election of vested rights allows the development project up to three (3) years from the date of approval to commence under the terms and conditions for which it was approved.

Changes/Modifications:

The proposed changes will allow Staff to administratively approve a vested rights request in accordance with the associated type of development project (Site Design Review, Minor Subdivision, and Major Subdivision) and align with the goal to make many of the development applications a Staff level decision. Additionally, most modifications or changes are meant to align with best practices among other Land Use Codes of communities that are similar in nature to Fruita.

The elimination of Section 17.47.040 which allows a developer or property owner the option to request vested rights later in the review process of a development application through a separate decision of City Council. It is recommended that this language be removed because this language is uncommon in Land Use Codes and to the knowledge of Staff, hasn't ever been used in the City of Fruita.

Also, there is the addition of language that states that forfeiture of vested rights is triggered by the failure of a developer to abide by the terms and conditions contained in the approval of the development project. The addition of this language is very common in other Land Use Codes around the state.

None of the changes or modifications proposed will negatively impact how development applications are reviewed, approved, or conditionally approved by Staff and outside review agencies.

Review of Land Use Code Requirements:

Section 17.13.070.B of the Land Use Code (2009, as amended), states that amendments to the Land Use Code may be made upon a finding that the amendment is consistent with the City's goals, policies and Master Plan.

With the recent adoption of the Fruita In Motion: Plan Like a Local Comprehensive Plan (Master Plan) and to align with the City Council's commitments to review the Land Use Code to help ensure that the regulations reflect the best promotion of Fruita's Core Services, Staff believes that these amendments meet this criteria.

Review Comments:

No review comments have been received regarding this proposed Land Use Code amendment.

Public Comments:

At this time, no written public comments have been received regarding this proposed Land Use Code amendment.

Legal Notice:

17.01.120 (C) Public Notices

When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

Legal Notice in Paper- August 22, 2020 (17 days prior to public hearing)

Posted Legal Notice- August 18, 2020 (21 days prior to public hearing)

Staff Recommendation:

Staff recommends **approval** of the proposed Land Use Code amendments.

FRUITA PLANNING COMMISSION:

September 8, 2020

FRUITA CITY COUNCIL:

1st Reading (Introduction Ordinance) - September 15, 2020;

2nd Reading – October 6, 2020

Additions show in *italics*
Deletions shown with ~~strikethrough~~

Chapter 17.47
VESTED PROPERTY RIGHTS

Sections:

- 17.47.010 Purpose**
- 17.47.020 Definitions**
- 17.47.030 Applications; Approval by the City**
- ~~17.47.040 Alternative Creation of Vested Property Rights~~**
- 17.47.0540 Establishment of Vested Property Rights; Public Notice and Hearing Required**
- 17.47.0650 Approval of Site Specific Development Plan; Conditions**
- 17.47.0760 Duration and Termination of Vested Property Rights**
- 17.47.0870 Waiver of Vested Property Rights**
- 17.47.0980 Subsequent Regulation Prohibited; Exceptions**
- ~~17.47.10090 Payment of Costs~~**
- 17.47.1010 Other Provisions Unaffected**
- 17.47.1210 Limitations**

17.47.010 PURPOSE. The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, *as amended*, which ~~Article~~ establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site specific development plan, *and to establish local control over creation of vested real property rights to the fullest extent permitted by law.*

17.47.020 DEFINITIONS. The following definitions are for the purposes of administration of this Chapter only and do not apply to other sections of this Code. Unless modified in this Section, the terms used in this Chapter shall have the same meaning as set forth in Section 24-68-102, C.R.S.

- A. A "site specific development plan" means a plan that has been submitted to the city by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right if the landowner wishes said approval to have the effect of creating vested rights ~~pursuant to Sections 24-68-101, et. Seq., C.R.S.~~ The landowner must request vested rights approval in -writing at the time a land development application is submitted. ~~Failure to request vested rights renders the approval not a "site specific development plan" and no vested rights shall be deemed to have been created.~~ The following shall be considered "site specific development plans". ~~if a landowner wishes to have a "site specific development plan" approved:~~

DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
1. Site Design Review pursuant to Section 17.13.020	Site Design Review as approved by City Council <i>Administratively</i>
2. Conditional Use Permit pursuant to Section 17.13.040	Conditional Use Permit as approved by City Council
23. Minor Subdivisions pursuant to Chapter 17.15.	Subdivision final plat as approved by the City Council <i>Administratively</i>
34. Major Subdivisions pursuant to Chapter 17.15	Subdivision final plat as approved by the City Council AND the applicable subdivision improvements agreement as approved by the City Council <i>Administratively</i>
45. Planned Unit Development (PUD), not accompanied by subdivision of land pursuant to Chapter 17.17	Final PUD Plan, any applicable PUD Guide <i>approved by City Council</i> AND the applicable development improvements agreement as approved by City Council
56. Planned Unit Development (PUD) pursuant to Chapter 17.17, accompanied by subdivision of land pursuant to Chapter 17.15	Subdivision final plat together with Final PUD Plan, PUD Guide <i>as approved by City Council</i> AND any applicable subdivision improvements <i>development</i> agreement as approved by City Council

If not indicated above, a "site specific development plan" shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to a Planning Clearance application.

Provided however, the City Council may, by agreement with the applicant, designate an approval step other than those indicated above, or the final approval step, to serve as the "site specific development plan" approval for a specific project.

The following are specifically excluded from, and shall not constitute, a "site specific development plan": variances, subdivision Sketch Plans, subdivision Preliminary Plans, PUD Concept Plans, PUD Preliminary Plans, business licenses, floodway or floodplain permits, franchises, temporary use permits, any Master Plan element, creation of improvement districts, zoning, rezoning other than Planned Unit Developments, final architectural plans, or final construction

drawings and related documents specifying materials and methods for construction of improvements.

- B. "Vested property right" means the right to undertake and complete development and use of property under the terms and conditions of a "site specific development plan."

17.47.030 APPLICATIONS; APPROVAL BY THE CITY.

- A. Except as otherwise provided in this Section, an application for approval of a "site specific development plan" as well as the approval, conditional approval, or denial of approval of a plan shall be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the city. For purposes of this Section, "laws and regulations" includes any zoning, development, or land use law of general applicability adopted by the city as well as any zoning, development or land use regulations that have previously been adopted for the particular parcel described in the plan and that remain in effect at the time of application for approval of the plan. In the event the application for a "site specific development plan" requires review and approval in multiple stages, "application" means the original application submitted at the first stage in any multi-stage process that may culminate in the ultimate approval of a "site specific development plan."
- B. Notwithstanding the limitations contained in subsection (A) above, the city may adopt a new or amended law or regulation when necessary for the immediate preservation of public health and safety and may enforce such law or regulation in relation to applications for "site specific development plans" pending at the time such law or regulation is adopted.

~~**17.47.040 ALTERNATIVE CREATION OF VESTED PROPERTY RIGHTS.** If any applicant desires an approval step, other than as defined in subsection 17.47.020(A) above, to constitute an approval of a "site specific development plan" with the effect of creating vested property rights pursuant to this Chapter and Article 68 of Title 24, C.R.S., the applicant must so request at least thirty (30) days prior to the date of the public hearing on said approval step by the City Council or Community Development Director, as applicable, is to be considered. Failure to do so renders the approval by the City Council or Community Development Director, as the case may be, to not constitute an approval of a "site specific development plan" and no vested property right shall be deemed to have been created by such approval, except in the case of an approval as set forth in subsection 17.47.020(A) above.~~

17.47.0540 ESTABLISHMENT OF VESTED PROPERTY RIGHTS; PUBLIC NOTICE AND HEARING REQUIRED. A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a "site specific development plan", following notice and public hearing, by the city. A vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the "site specific development plan", as approved, including any amendments thereto. A "site specific development plan" shall be deemed approved upon the effective date of the city's legal action, resolution or ordinance relating thereto. Such approval shall be subject to all rights of referendum and judicial review; except that the period of time

permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a newspaper of general circulation within the city, of a notice advising the general public of the "site specific development plan" approval and creation of a vested property right pursuant to this Chapter and ~~Article 68 of Title 24, C.R.S.~~ Such publication shall occur no later than fourteen (14) days following approval.

17.47.60050 APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN; CONDITIONS.

- A. The city may approve a "site specific development plan" upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions, at the option of the City Council following a public hearing, shall result in the forfeiture of vested property rights. This subsection shall be strictly construed.

- B. Terms and conditions imposed or agreed upon may include, without limitation:
 - 1. Future approvals by the city not inconsistent with the original approval;
 - 2. Approvals by other agencies or other governments;
 - 3. Satisfactory inspections;
 - 4. Completion of all or certain phases or filings of a project by certain dates;
 - 5. Waivers of certain rights;
 - 6. Completion and satisfactory review of studies and reports;
 - 7. Payment of fees to the city or other governmental or quasi- governmental agencies as they become due and payable;
 - 8. Payment of costs and expenses incurred by the city relating to the review and approval;
 - 9. Continuing review and supervision of the plan and its implementation and development;
 - 10. Obtaining and paying for planning clearances, building permits, water plant investment fees (taps) and wastewater plant investment fees (taps);

11. Compliance with other codes and laws, including building codes, of general applicability;
12. Construction of on-site or off-site improvements or facilities for the use of future inhabitants or the public at large;
13. Payment of any applicable impact fees; and
14. Dedication or conveyance of public site or parkland, trails, school land, common area or open spaces, with provision for its maintenance; or payment of a fee in lieu thereof, and dedication of necessary easements and rights-of-way.

17.47.0760 DURATION AND TERMINATION OF VESTED PROPERTY RIGHTS.

- A. A property right, which has been vested pursuant to this Chapter ~~and Article 68 of Title 24, C.R.S.~~, shall remain vested for a period of three (3) years. This vesting period shall not be extended by any amendments to a "site specific development plan" unless expressly authorized by the City Council.
- B. Notwithstanding the provisions of subsection (A) above, the City Council ~~is~~ is authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three (3) years where warranted in the light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Such development agreements shall be adopted as legislative acts subject to referendum.
- C. Following approval or conditional approval of a "site specific development plan", nothing contained in this Chapter ~~or Article 68 of Title 24, C.R.S.~~ shall exempt such a plan from subsequent reviews and approvals by the city to insure compliance with the terms and conditions of the original approval, if such further reviews and approvals are not inconsistent with said original approval. *The Community Development Director shall make this determination.*
- D. *The failure of a developer to abide by the terms and conditions contained in a development agreement, site-specific development plan, development agreement, final PUD development plan agreement, annexation agreement, or the provisions of this section shall result in the forfeiture of vested property rights for the subject property.*

17.47.0870 WAIVER OF VESTED PROPERTY RIGHTS. An applicant may waive a vested property right by separate written agreement, which shall be recorded in the office of the Mesa County Clerk and Recorder. Unless otherwise agreed to by the City Council, any landowner requesting annexation to the City of Fruita shall waive in writing any pre-existing vested property rights as a condition of such annexation.

17.47.0980 SUBSEQUENT REGULATION PROHIBITED; EXCEPTIONS.

- A. A vested property right, once established as provided in this Chapter ~~and Article 68 of Title 24, C.R.S.~~, precludes any zoning or other land use action by the city or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in an approved "site specific development plan," except:
1. With the consent of the affected landowner;
 2. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of "site specific development plan" approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
 3. To the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner after approval by the city, including, but not limited to, costs incurred in preparing the site for development consistent with the "site specific development plan", all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property, which is caused by such action.
- B. Establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City of Fruita, including, but not limited to, building, fire, plumbing, electrical, housing, mechanical, and dangerous building codes.

17.47.1090 PAYMENT OF COSTS. In addition to any and all other fees and charges imposed by this Title, the applicant for approval of a "site specific development plan" shall pay all costs incurred by the city as a result of the "site specific development plan" review and approval, including publication of notices, public hearing and review costs, when such costs are incurred apart and in addition to costs otherwise incurred by the city or applicant for a public hearing relative to the subject property.

17.47.1040 OTHER PROVISIONS UNAFFECTED. Approval of a "site specific development plan" shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to the development and use of property.

17.47.1210 LIMITATIONS. Nothing in this Chapter is intended to create any vested property right, but only to implement Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or judicial determination that said Article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective.

Grand Junction Daily Sentinel
734 S 7th St #7737
(970) 242-1313

I, Terry Flanagan, of lawful age, being duly sworn upon oath, deposes and says that I am the Legal Secretary of Grand Junction Daily Sentinel, a publication that is a "legal newspaper" as that phrase is defined for the city of Grand Junction, for the County of Mesa, in the state of Colorado, and that the attachment hereto contains the correct copy of what was published in said legal newspaper in consecutive issues on the following dates:

PUBLICATION DATES:
Aug. 22, 2020

Notice ID: ZnPIAHEpdm1G5FMGTuZc
Publisher ID: BW # 68409
Notice Name: SIA & DIA, VESTED RTS LUC LEGAL NOTICE

PUBLICATION FEE: \$30.49

Terry Flanagan

Legal Secretary

VERIFICATION

STATE OF COLORADO
COUNTY OF MESA

Signed or attested before me on this

24th day of August, A.D. 2020.

Diawn Lee Beach
Notary Public

Document Authentication Number
20204014519-493991

My Commission Expires: April 22, 2024

NOTICE OF PUBLIC HEARING
The Fruita Planning Commission will hold a VIRTUAL public hearing Tuesday, September 8, 2020 at 6:00 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, October 6, 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: #2020-12
Application Name: Chapter 21 - SIA & DIA LUC Amendment
Application Type: Land Use Code Amendment
Representative: City of Fruita
Description: This is a request to amend Section 17.21 of the Fruita Land Use Code.
Application: #2020-13
Application Name: Chapter 47 - Vested Rights Amendment
Application Type: Land Use Code Amendment
Representative: City of Fruita
Description: This is a request to amend Section 17.47 of the Fruita Land Use Code.
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.
Published: August 22, 2020.

ORDINANCE NO. 2020-05

**AN ORDINANCE AMENDING SECTION 17.21 OF THE FRUITA MUNICIPAL CODE
CONCERNING VESTED RIGHTS**

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

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

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

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

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

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

WHEREAS, the Planning Commission reviewed the amendments contained here in on September 8, 2020 and formalized their recommendation regarding those amendments with a vote of 6-0 of those members present recommending approval of the proposed amendments; and

WHEREAS, the ordinance was introduced at first reading on September 15, 2020 pursuant to Section 2.13(B) of the City Charter; and

WHEREAS, pursuant Section 2.13(C) of the City Charter and Section 17.01.130 of the Municipal Code, a notice of public hearing was published in the Grand Junction Sentinel on August 22, 2020 and a notice was posted a Fruita City Hall on August 18, 2020 for the City Council meeting on October 6, 2020 to consider City staff and Planning Commission recommendations and receive public comments; and

WHEREAS, the City Council finds that passage of Ordinance 2020-05 will promote the health, safety and general welfare of the Fruita community; and,

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the City Council desires to comply with the requirement of Section 2.13(B) of the City Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence

and that approval of this Ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, has determined to take final action on this Ordinance prior to concluding the public hearing on second reading.

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

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

Section 2. Repealed and Re-enacted. Section 17.47 of the Fruita Municipal Code is hereby repealed and re-enacted to read as shown in Exhibit A.

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

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

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

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

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

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

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
6TH DAY OF OCTOBER, 2020.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk

EXHIBIT A TO ORDINANCE 2020-05

CHAPTER 17.47
VESTED PROPERTY RIGHTS

Sections:

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

17.47.010 PURPOSE. The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, as amended, which establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site specific development plan, and to establish local control over creation of vested real property rights to the fullest extent permitted by law.

17.47.020 DEFINITIONS. The following definitions are for the purposes of administration of this Chapter only and do not apply to other sections of this Code. Unless modified in this Section, the terms used in this Chapter shall have the same meaning as set forth in Section 24-68-102, C.R.S.

- A. A "site specific development plan" means a plan that has been submitted to the city by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right if the landowner wishes said approval to have the effect of creating vested rights. The landowner must request vested rights approval in writing at the time a land development application is submitted. The following shall be considered "site specific development plans":

DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
1. Site Design Review pursuant to Section 17.13.020	Site Design Review as approved Administratively
2. Minor Subdivisions pursuant to Chapter 17.15.	Subdivision final plat as approved Administratively
3. Major Subdivisions pursuant to Chapter 17.15	Subdivision final plat as approved Administratively
4. Planned Unit Development (PUD), not accompanied by subdivision of land pursuant to Chapter 17.17	Final PUD Plan, any applicable PUD Guide approved by City Council AND the applicable development agreement
5. Planned Unit Development (PUD) pursuant to Chapter 17.17, accompanied by subdivision of land pursuant to Chapter 17.15	Subdivision final plat together with Final PUD Plan, PUD Guide as approved by City Council AND any applicable development agreement

If not indicated above, a "site specific development plan" shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to a Planning Clearance application.

Provided however, the City Council may, by agreement with the applicant, designate an approval step other than those indicated above, or the final approval step, to serve as the "site specific development plan" approval for a specific project.

The following are specifically excluded from, and shall not constitute, a "site specific development plan": variances, subdivision Sketch Plans, subdivision Preliminary Plans, PUD Concept Plans, PUD Preliminary Plans, business licenses, floodway or floodplain permits, franchises, temporary use permits, any Master Plan element, creation of improvement districts, zoning, rezoning other than Planned Unit Developments, final architectural plans, or final construction

drawings and related documents specifying materials and methods for construction of improvements.

- B. "Vested property right" means the right to undertake and complete development and use of property under the terms and conditions of a "site specific development plan."

17.47.030 APPLICATIONS: APPROVAL BY THE CITY.

- A. Except as otherwise provided in this Section, an application for approval of a "site specific development plan" as well as the approval, conditional approval, or denial of approval of a plan shall be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the city. For purposes of this Section, "laws and regulations" includes any zoning, development, or land use law of general applicability adopted by the city as well as any zoning, development or land use regulations that have previously been adopted for the particular parcel described in the plan and that remain in effect at the time of application for approval of the plan. In the event the application for a "site specific development plan" requires review and approval in multiple stages, "application" means the original application submitted at the first stage in any multi-stage process that may culminate in the ultimate approval of a "site specific development plan."
- B. Notwithstanding the limitations contained in subsection (A) above, the city may adopt a new or amended law or regulation when necessary for the immediate preservation of public health and safety and may enforce such law or regulation in relation to applications for "site specific development plans" pending at the time such law or regulation is adopted.

17.47.040 ESTABLISHMENT OF VESTED PROPERTY RIGHTS: PUBLIC NOTICE AND HEARING REQUIRED.

A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a "site specific development plan". A vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the "site specific development plan", as approved, including any amendments thereto. A "site specific development plan" shall be deemed approved upon the effective date of the city's legal action, resolution or ordinance relating thereto. Such approval shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a newspaper of general circulation within the city, of a notice advising the general public of the "site specific development plan" approval and creation of a vested property right pursuant to this Chapter. Such publication shall occur no later than fourteen (14) days following approval.

17.47.050 APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN: CONDITIONS.

- A. The city may approve a "site specific development plan" upon such terms and conditions as may reasonably be necessary to protect the public health, safety and

welfare, and failure to abide by such terms and conditions, at the option of the City Council following a public hearing, shall result in the forfeiture of vested property rights. This subsection shall be strictly construed.

- B. Terms and conditions imposed or agreed upon may include, without limitation:
1. Future approvals by the city not inconsistent with the original approval;
 2. Approvals by other agencies or other governments;
 3. Satisfactory inspections;
 4. Completion of all or certain phases or filings of a project by certain dates;
 5. Waivers of certain rights;
 6. Completion and satisfactory review of studies and reports;
 7. Payment of fees to the city or other governmental or quasi- governmental agencies as they become due and payable;
 8. Payment of costs and expenses incurred by the city relating to the review and approval;
 9. Continuing review and supervision of the plan and its implementation and development;
 10. Obtaining and paying for planning clearances, building permits, water plant investment fees (taps) and wastewater plant investment fees (taps);

11. Compliance with other codes and laws, including building codes, of general applicability;
12. Construction of on-site or off-site improvements or facilities for the use of future inhabitants or the public at large;
13. Payment of any applicable impact fees; and
14. Dedication or conveyance of public site or parkland, trails, school land, common area or open spaces, with provision for its maintenance; or payment of a fee in lieu thereof, and dedication of necessary easements and rights-of-way.

17.47.060 DURATION AND TERMINATION OF VESTED PROPERTY RIGHTS.

- A. A property right, which has been vested pursuant to this Chapter, shall remain vested for a period of three (3) years. This vesting period shall not be extended by any amendments to a "site specific development plan" unless expressly authorized by the City Council.
- B. Notwithstanding the provisions of subsection (A) above, the City is authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three (3) years where warranted in the light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Such development agreements shall be adopted as legislative acts subject to referendum.
- C. Following approval or conditional approval of a "site specific development plan", nothing contained in this Chapter shall exempt such a plan from subsequent reviews and approvals by the city to insure compliance with the terms and conditions of the original approval, if such further reviews and approvals are not inconsistent with said original approval. The Community Development Director shall make this determination.
- D. The failure of a developer to abide by the terms and conditions contained in a development agreement, site-specific development plan, development agreement, final PUD development plan agreement, annexation agreement, or the provisions of this section shall result in the forfeiture of vested property rights for the subject property.

17.47.070 WAIVER OF VESTED PROPERTY RIGHTS. An applicant may waive a vested property right by separate written agreement, which shall be recorded in the office of the Mesa County Clerk and Recorder. Unless otherwise agreed to by the City Council, any landowner requesting annexation to the City of Fruita shall waive in writing any pre-existing vested property rights as a condition of such annexation.

17.47.080 SUBSEQUENT REGULATION PROHIBITED; EXCEPTIONS.

- A. A vested property right, once established as provided in this Chapter, precludes any zoning or other land use action by the city or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in an approved "site specific development plan," except:
1. With the consent of the affected landowner;
 2. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of "site specific development plan" approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
 3. To the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner after approval by the city, including, but not limited to, costs incurred in preparing the site for development consistent with the "site specific development plan", all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property, which is caused by such action.
- B. Establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City of Fruita, including, but not limited to, building, fire, plumbing, electrical, housing, mechanical, and dangerous building codes.

17.47.090 PAYMENT OF COSTS. In addition to any and all other fees and charges imposed by this Title, the applicant for approval of a "site specific development plan" shall pay all costs incurred by the city as a result of the "site specific development plan" review and approval, including publication of notices, public hearing and review costs, when such costs are incurred apart and in addition to costs otherwise incurred by the city or applicant for a public hearing relative to the subject property.

17.47.100 OTHER PROVISIONS UNAFFECTED. Approval of a "site specific development plan" shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to the development and use of property.

17.47.110 LIMITATIONS. Nothing in this Chapter is intended to create any vested property right, but only to implement Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or judicial determination that said Article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective.



FRUITA

COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA MAYOR AND CITY COUNCIL

FROM: SHANNON VASSEN, MANAGEMENT ANALYST

DATE: SEPTEMBER 15, 2020

RE: A REQUEST TO AUTHORIZE THE MAYOR TO SIGN A LETTER OF COMMITMENT TO COMMIT MATCHING FUNDS FOR A GRANT APPLICATION TO THE COLORADO TOURISM OFFICE FOR THE MATCHING MARKETING GRANT PROGRAM

BACKGROUND

Staff is in the process of preparing a grant application for the Matching Marketing Grant program through the Colorado Tourism Office (“CTO”). The purpose of this agenda item is to allow the Mayor to sign a Letter of Commitment to commit matching funds for this grant if awarded funding. Each year, the CTO administers this program and allows eligible organizations the opportunity to apply for up to \$25,000 in funding to help with future marketing efforts and new projects. This grant requires a 1:1 match, and if awarded, the CTO would match each dollar that is spent up to the maximum amount. A Letter of Commitment is a requirement to apply.

The City of Fruita’s marketing efforts are funded exclusively through the Marketing and Promotion Fund. The revenue for this fund is the 3 percent lodging tax assessed on all short-term lodging and has been severely impacted by the COVID-19 pandemic. Through the month of July, when compared to the previous year, revenues have decreased 47.47 percent overall and as much as 71 percent in April. Due to these decreases, early in the pandemic, there were several cuts made to the marketing and promotion budget and many projects were postponed.

Out of the projects that were postponed this year, staff is applying for matching funding for a “Digital Maturity Project” that will focus on conversion tracking of marketing efforts and expanding GoFruita’s photo and video library. The deadline for this grant application is the end of the month, and the match is coming from the funding budgeted for contracted services from Slate Communications – a line item that is funded each year. As staff continues to work on the grant application, we will share more information on specific projects being proposed for this grant. Since this is the last regular meeting of the month, however, the Letter of Commitment is not included here as the application is not complete and is due at the end of the month. Staff is working with the Colorado Tourism Office staff to narrow the most competitive project for

the grant request. We are requesting City Council approve the Mayor to sign the letter of intent when it is completed considering the match commitment is not in addition to, but part of the annual funding.

FISCAL IMPACT

If awarded funding, there is no fiscal impact. The funding for the match requirement is coming from the advertising and promotion line item, which is provided to Slate Communications each year for their marketing efforts.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Two of the goals of the CTO Marketing Matching Grant Program is to increase traveler spending and economic benefit for Colorado through effective marketing and promotion and leveraging funds to maximize marketing impact. By applying for this grant and if awarded, the City of Fruita will be able to fund future marketing projects to meet these goals which will support the City's goal of economic health. The proposal being put together also highlights the importance of responsible tourism and encourages those who are traveling to leave no trace and to only recreate responsibly, which contributes to the quality of place and lifestyle that the City strives for.

OPTIONS AVAILABLE TO THE COUNCIL

1. Authorize the Mayor to sign a Letter of Commitment to Commit Matching Funds for a Grant Application to the Colorado Tourism Office for the Matching Marketing Grant Program
2. Not authorize the Mayor to sign a Letter of Commitment to Commit Matchings Funds for a Grant Application to the Colorado Tourism Office for the Matching Marketing Grant Program
3. Direct staff to provide more information or alternatives

RECOMMENDATION

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

AUTHORIZE THE MAYOR TO SIGN A LETTER OF COMMITMENT TO COMMIT MATCHING FUNDS FOR A GRANT APPLICATION TO THE COLORADO TOURISM OFFICE FOR THE MATCHING MARKETING GRANT PROGRAM



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: TURE NYCUM, PARKS AND RECREATION DIRECTOR

DATE: SEPTEMBER 15, 2020

RE: AMENDMENT TO LEASE AGREEMENT WITH THE MUSEUM OF WESTERN COLORADO

BACKGROUND

The Fruita Youth Initiative and Fruita Youth Action Council (FYAC) in particular have been working with a state-wide program called Rise Above Colorado (RAC) to promote positive social behaviors and reduce youth substance abuse through proactive education and marketing programs. Working with Rise Above Colorado addresses the Risk Factor identified by Fruita Youth Initiative and through the Communities That Care process: Availability of substances and laws and norms favorable towards substance abuse.

As the Fruita Youth Action Council has been working with Rise Above Colorado, the opportunity to design and create a mural that reflects the communities values and promotes positive social norming behavior was provided by RAC at their cost.

FYAC discussed several locations where a mural could be placed and would receive high visibility and the Dinosaur Journey Museum facility was identified as a preferred location. FYAC and RAC have had discussions of the mural content and determined a dinosaur theme highlighting the Fruitadens would be appropriate. Other images that may be included in the mural would be the Fruita logo and images of the monument. The mural will be designed by an artist selected by RAC and the final concept will be provide to FYAC and the Museum of Western Colorado for approval.

Fruita staff reached out to the Museum of Western Colorado to work with them on placing the mural at their Dinosaur Journey location in Fruita. They have agreed to a mural being placed on the exterior wall near the entrance to the museum with the understanding that maintenance and care of the mural would be the responsibility of the City of Fruita, Parks and Recreation Department. The attached amendment to the lease addresses this. The lease amendment also provides the ability to have the mural removed at any time, if either the Museum or the City of Fruita determine it is necessary. The lease amendment was drafted by the City of Fruita's Attorney and has been reviewed and approved the by the Museum of Western Colorado.

FISCAL IMPACT

There is no initial fiscal impact as Rise Above Colorado will pay for the costs of contracting an artist to design and complete the mural. However, maintenance of the mural or cost to cover the mural if becomes damaged will be the responsibility of the City of Fruita, Parks and Recreation Department. To limit the cost of future maintenance, a protective, graffiti resistant coating will be applied to the mural once it has been completed.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

Amending the Lease with the Museum of Western Colorado to provide the opportunity for the Rise Above Colorado and the Fruita youth Council to paint a community-based mural on the Dinosaur Journey building will promote positive behaviors and provide a visually appealing depiction of our community's history and values. It will support the strategic goals of promoting **Quality of Place** and enhancing our community's **Lifestyle**.

OPTIONS AVAILABLE TO THE COUNCIL:

1. Authorize the Mayor to sign the First Amendment to the Lease Agreement with the Museum of Western Colorado
2. Not authorize the Mayor to sign the First Amendment to the Lease Agreement with the Museum of Western Colorado
3. Direct staff to provide more information on the mural project and First Amendment to the Lease Agreement with the Museum of Western Colorado

RECOMMENDATION:

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

- Authorize the Mayor to sign the First Amendment to the Lease Agreement with the Museum of Western Colorado

FIRST AMENDMENT TO LEASE AGREEMENT (WITH OPTION TO PURCHASE)

THIS FIRST AMENDMENT the ("First Amendment") is effective August 1, 2020 (the "Effective Date") by and between the city of Fruita, Colorado, whose address is 325 E. Aspen Avenue, Suite 155, Fruita, Colorado 81521, a home rule municipality (the "Lessor") and Museum of Western Colorado, Inc., a Colorado nonprofit corporation, whose address is P.O. Box 20,000 (462 Ute Avenue) Grad Junction, Colorado 81502 ("Lessee") Lessee and Lessor may be referred to herein as "Party" or collectively as "Parties." Any capitalized terms not defined herein shall have the same meaning ascribed to them in the Lease (defined below).

WHEREAS, the Parties entered into that certain Lease Agreement (With Option to Purchase) dated January 1, 2015 (the "Lease") for the Premises; and

WHEREAS, the Parties now desire to permit Colorado Meth Project, Inc., d/b/a Rise Above Colorado, a Colorado nonprofit organization ("RAC") to paint a mural on the exterior of the Building; and

WHEREAS, Article 6 of the Lease provides during the term of the Lease Lessee is responsible for the upkeep and maintenance of the Premises and any alteration of the Premises, including the costs of such upkeep, maintenance and alteration; and

WHEREAS, the Parties desire to amend the Lease to provide for the care, maintenance and other matters related to the RAC mural.

W I T N E S S E T H

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. Amendment to Article 6. Article 6 of the Lease is hereby amended by the addition of Section 6.7.

The Parties agree and acknowledge RAC may paint a mural on the exterior of the Premises. Lessor shall cause RAC to provide Lessee with sketches of the proposed mural, and shall provide Lessee with fourteen (14) days to review and comment on the location of the mural as well as the sketches of the proposed mural. Lessee acknowledges and agrees Lessor may permit the mural to remain on the exterior of the Premises for ten (10) years and may, in Lessor's sole direction, permit the mural to remain on the exterior of the Premises beyond such ten (10) year period.

Lessor may replace or remove the mural at any time, and such replacement mural need not be related to the RAC mural or RAC. In the event the mural is replaced, Lessor shall provide Lessee fourteen (14) days to review and comment on the location of the mural as well as the sketches of the proposed mural. Notwithstanding anything in this Article 6, Lessor shall have the sole obligation to maintain and repair the mural, which maintenance and repair shall be undertaken at Lessor's sole expense.



FRUITA

COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: MARGARET SELL, FINANCE DIRECTOR

DATE: SEPTEMBER 15, 2020

RE: RESOLUTION 2020-35 APPROVING A TRANSFER FROM THE GENERAL FUND CONTINGENCY ACCOUNTS TO THE PUBLIC WORKS BUILDING MAINTENANCE PROGRAM FOR BUILDING MAINTENANCE REPAIRS AND COVID RELATED EXPENSES

BACKGROUND

This budget amendment transfers \$7,500 to complete planned maintenance projects in the 4th quarter of 2020 from the General Fund Contingency Account to Public Works Building Maintenance Program. Budgeted funds have been spent for unplanned HVAC repairs of \$6,000 and unplanned elevator repairs of \$4,000 so far this year leaving insufficient funds available to complete other planned building maintenance repairs.

In addition, the budget amendment transfers an additional \$50,600 from contingency to paint the fascia on the Civic Center. This project was initially budgeted for \$7,000. However, we have since realized that the existing paint is lead-based and there is considerable wood repair needed as well as roofing repairs, which are contributing to the water damage of the wood. The full extent of the damaged wood will not be realized until the panels and soffit are removed. A general contractor will be hired to complete the work. Repairs could cost up to \$58,000 depending on the extent of damages.

This budget amendment also transfers \$10,000 from the General Fund COVID Contingency account created with Corona Virus Relief grant funds for the purpose of offsetting additional expenses due to the COVID pandemic. These expenses include additional disinfection and cleaning supplies for city facilities, personal protective equipment and temporary alterations to facilities to promote social distancing.

FISCAL IMPACT

The General Fund contingency account of \$514,925 will be reduced to \$456,825
The General Fund COVID contingency account of \$250,000 will be reduced to \$240,000.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The Budget is a financial plan developed for the purpose of allocating resources necessary to achieve short and long-term goals established by the City throughout the year. Responding to unanticipated needs brought about by the COVID pandemic and equipment failures are critical to maintaining the City's goals.

OPTIONS AVAILABLE TO THE 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 2020-35 AMENDING THE 2020 BUDGET AND TRANSFERRING FUNDS FROM THE GENERAL FUND CONTINGENCY ACCOUNT AND COVID CONTINGENCY ACCOUNT FOR EXPENSES ASSOCIATED WITH BUILDING MAINTENANCE.

RESOLUTION 2020-35

A RESOLUTION TRANSFERRING BUDGETED AND APPROPRIATED FUNDS FROM THE GENERAL FUND CONTINGENCY ACCOUNTS TO THE BUILDING MAINTENANCE PROGRAM TO DEFRAY EXPENSES IN EXCESS OF AMOUNTS BUDGETED FOR THE CITY OF FRUITA FOR THE 2020 FISCAL YEAR

WHEREAS, the Fruita City Council finds it necessary to transfer funds from the General Fund Contingency account to the Public Works Building Maintenance Program for unanticipated repairs to the Elevator and HVAC system at the Fruita Civic Center, and additional costs to repair the wood structure, soffit and fascia as needed prior to painting the fascia at the Civic Center, and

WHEREAS, the Fruita City Council finds it necessary to transfer funds from the General Fund COVID Contingency account to the Public Works Building Maintenance Program for additional cleaning supplies and personal protective equipment in response to the COVID-19 pandemic, and

WHEREAS, funds are available in the General Fund Contingency account and the General Fund COVID Contingency account to cover the additional expenses.

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

Section 1: The sum of \$58,100 is hereby transferred from the General Fund Contingency account to the Public Works Building Maintenance program for unanticipated building maintenance expenses.

Section 2: The sum of \$10,000 is hereby transferred from the General Fund COVID Contingency account to the Public Works Building Maintenance program for unanticipated expenses related to cleaning and disinfection and personal protective equipment due to the COVID pandemic.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL
THIS 15th DAY OF SEPTEMBER, 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: SEPTEMBER 15, 2020

RE: RESOLUTION 2020-36, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE PINWOOD ESTATES SUBDIVISION.

BACKGROUND

The Pinewood Estates Subdivision was approved in May 2018 along with the Subdivision Improvements Agreement (reception #2843516). The City Council approved the 1st Release of the SIA (Resolution 2018-33) on September 18, 2018 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 2018. 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 2020-36
- Deny Resolution 2020-36
- 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 2020-36, A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE PINWOOD ESTATES SUBDIVISION.

RESOLUTION 2020-36

A RESOLUTION OF THE FRUITA CITY COUNCIL APPROVING THE FINAL RELEASE OF THE SUBDIVISION IMPROVEMENTS AGREEMENT FOR THE PINWOOD ESTATES SUBDIVISION.

WHEREAS, the developer of Pinewood Estates Subdivision entered into a subdivision improvements agreement recorded in the records of the Mesa County Clerk and Recorder at Reception # 2843516 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 2018-33 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 Pinewood Estates 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 Pinewood Estates 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 15TH DAY OF SEPTEMBER, 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: DEBRA WOODS, DEPUTY CITY CLERK
DATE: SEPTEMBER 15, 2020
RE: MI RANCHITO LIQUOR LICENSE PUBLIC HEARING – A REQUEST TO APPROVE A NEW HOTEL AND RESTAURANT – MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE APPLICATION FOR MI RANCHITO LOCATED AT 439 U.S. HIGHWAY 6 & 50 (FORMERLY MI RANCHITO TACO SHOP, LLC)

BACKGROUND

On July 31, 2020, Carlos Gutierrez, dba Mi Ranchito submitted an application and all of the necessary paperwork and fees with the City Clerk's Office to be granted a Hotel and Restaurant Liquor License at 439 U.S. Highway 6 & 50 (formerly Mi Ranchito Taco Shop).

The previous owner of Mi Ranchito Taco Shop, LLC Jaime Olivas, was granted a Hotel and Restaurant Liquor License in November of 2018, but Mr. Olivas failed to renew the license when it was due to expire in November of 2019. Pursuant to **Section 44-3-302** of the **Colorado Liquor Code**, if a liquor license has been expired for more than ninety days, the licensee must apply for a new license or a reissued license. A reissued license must be applied for within 180 days, which Mr. Olivas also did not do.

During that time, Jaime Olivas sold the restaurant to Carlos Gutierrez, who established a Trade Name of Mi Ranchito with the Colorado Secretary of State as an individual and not a corporation. Mr. Gutierrez entered into a lease agreement with the building owner, Vat Brothers, LLC for the building located at 439 U.S. Highway 6 & 50. This property encompasses the premises for which the Hotel and Restaurant Liquor License is being requested.

Criminal history background checks were conducted with the Colorado Bureau of Investigation, Mesa County Sheriff's Department, Grand Junction Police Department, Fruita Police Department, City of Colorado Springs Police Department and the El Past County Sheriff's Office.

Although the background checks did yield some results, law enforcement does not consider any of the resulting records to be "serious" offenses (pursuant to Chief Krouse of the Fruita Police Department, especially compared to crimes of moral turpitude). It also should be noted that all offenses occurred between 16 and 25 years ago.

The Colorado Liquor License Application and Preliminary Findings Report (which includes the Needs of the Neighborhood Survey and background results) are attached hereto.

The following guidelines are provided to aid the Council in the decision-making process to determine if the liquor license should be approved. These guidelines are from both the Colorado State Statutes and the Fruita Municipal Code.

C.R.S. Section 44-3-301. Licensing in general.

(2) (a) Before granting any license, all licensing authorities shall consider, except where this article 3 and article 4 of this title 44 specifically provide otherwise, the reasonable requirements of the neighborhood, the desires of the adult inhabitants as evidenced by petitions, remonstrances, or otherwise, and all other reasonable restrictions that are or may be placed upon the neighborhood by the local licensing authority.

Regulation 47-310 Application – General Provisions

E. A licensing authority (the City Council in this case) is required to make a determination as to the character, record and reputation of the applicants for new licenses. The City Council may consider the following factors when assessing the character of the applicants, which may include but not be limited to the following:

1. The applicant or licensee has submitted false applications, made willful misrepresentations and/or committed fraudulent acts;
2. The application or licensee has a criminal history of crimes of moral turpitude. By way of example, crimes of moral turpitude shall include but not be limited to, murder, burglary, robbery, arson kidnapping, sexual assault, illegal drugs or narcotics convictions;
3. The applicant or licensee has had previous alcohol beverage licenses denied, suspended or revoked as a result of violations of law;
4. The applicant or licensee has been found to be delinquent in the payment of any state or local taxes, and record of such tax delinquency has been filed in a court having jurisdiction, or has been made a public record by some other lawful means;
5. The applicant or licensee has committed statutory violations resulting in the suspension, revocation or denial of any other professional license. For purpose of this section, the suspension or revocation of a state-issued driver's license shall not be considered.

F. Pursuant to 24-5-101, C.R.S., when making a determination as to the character, record or reputation of a licensee or applicant as required by Title 12, Article 46, 47 and 48, the licensing authority shall also consider evidence of rehabilitation. Such evidence may include, but not be limited to, evidence of no criminal history record information, educational achievements, financial solvency, community standing, lack of additional arrests or convictions, or the lack of parole or probation violations since the date of last conviction.

ISSUANCE OF A NEW LIQUOR LICENSE

No license shall be issued to or held by:

1. Any person until the annual fee therefore has been paid;

2. Any person who is not of good moral character;
3. Any partnership, association, or company any of whose officers, or any of whose members holding ten percent or more interest therein, are not of good moral character;
4. Any person unless such person's character, record, and reputation are satisfactory to the respective licensing authority;
5. Any natural person under twenty-one years of age.

FISCAL IMPACT

No significant impact.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

The City of Fruita is charged with protection of the public health, safety and welfare. The consideration of the issuance of a new Hotel and Restaurant Liquor License by the City Council ensures that the applicant has demonstrated control of the premises and the ease of enforcement, that the proposed establishment is desired in the neighborhood and that the applicant is of good moral character.

OPTIONS AVAILABLE TO THE COUNCIL

1. Approve the Hotel and Restaurant – Malt, Vinous and Spirituous Liquor License for Mi Ranchito at 439 U.S. Highway 6 & 50 as proposed
2. Approve the Hotel and Restaurant – Malt, Vinous and Spirituous Liquor License for Mi Ranchito at 439 U.S. Highway 6 & 50 with additional requirements.
3. Deny the issuance based on the character of the applicant.

RECOMMENDATION

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

- **APPROVE THE ISSUANCE OF A HOTEL AND RESTAURANT – MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE TO MI RANCHITO LOCATED AT 439 U.S. HIGHWAY 6 & 50**

Application Documents Checklist and Worksheet

Instructions: This checklist should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable. **Questions? Visit: www.colorado.gov/enforcement/liquor for more information**

Items submitted, please check all appropriate boxes completed or documents submitted	
I.	Applicant information <input type="checkbox"/> A. Applicant/Licensee identified <input checked="" type="checkbox"/> B. State sales tax license number listed or applied for at time of application <input type="checkbox"/> C. License type or other transaction identified <input type="checkbox"/> D. Return originals to local authority (additional items may be required by the local licensing authority) <input type="checkbox"/> E. All sections of the application need to be completed <input checked="" type="checkbox"/> F. Master file applicants must include the Application for Master File form DR 8415 and applicable fees to this Retail License Application
II.	Diagram of the premises <input checked="" type="checkbox"/> A. No larger than 8 1/2" X 11" <input type="checkbox"/> B. Dimensions included (does not have to be to scale). Exterior areas should show type of control (fences, walls, entry/exit points, etc.) <input type="checkbox"/> C. Separate diagram for each floor (if multiple levels) <input type="checkbox"/> D. Kitchen - identified if Hotel and Restaurant <input checked="" type="checkbox"/> E. Bold/Outlined Licensed Premises
III.	Proof of property possession (One Year Needed) <input type="checkbox"/> A. Deed in name of the applicant (or) (matching question #2) date stamped / filed with County Clerk <input checked="" type="checkbox"/> B. Lease in the name of the applicant (or) (matching question #2) <input type="checkbox"/> C. Lease assignment in the name of the applicant with proper consent from the landlord and acceptance by the applicant <input type="checkbox"/> D. Other agreement if not deed or lease. (matching question #2)
IV.	Background information (DR 8404-I) and financial documents <input checked="" type="checkbox"/> A. Complete DR 8404-I for each principal (individuals with more than 10% ownership, officers, directors, partners, members) <input checked="" type="checkbox"/> B. Fingerprints taken and submitted to the appropriate Local Licensing Authority through an approved state vendor. Do not complete fingerprint cards prior to submitting your application. The Vendors are as follows: IdentoGO – https://enroll.identogo.com/ Phone: 844-539-5539 (toll-free) IdentoGO FAQs: https://www.colorado.gov/pacific/cbi/identification-faqs Colorado Fingerprinting – http://www.coloradofingerprinting.com Appointment Scheduling Website: http://www.coloradofingerprinting.com/cabs/ Phone: 720-292-2722 Toll Free: 833-224-2227 <input type="checkbox"/> C. Purchase agreement, stock transfer agreement, and/or authorization to transfer license <input checked="" type="checkbox"/> D. List of all notes and loans (Copies to also be attached)
V.	Sole proprietor/husband and wife partnership (if applicable) <input checked="" type="checkbox"/> A. Form DR 4679 <input checked="" type="checkbox"/> B. Copy of State issued Driver's License or Colorado Identification Card for each applicant
VI.	Corporate applicant information (if applicable) <input type="checkbox"/> A. Certificate of Incorporation <input type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Certificate of Authorization if foreign corporation (out of state applicants only)
VII.	Partnership applicant information (if applicable) <input type="checkbox"/> A. Partnership Agreement (general or limited). <input type="checkbox"/> B. Certificate of Good Standing
VIII.	Limited Liability Company applicant information (if applicable) <input type="checkbox"/> A. Copy of articles of organization <input type="checkbox"/> B. Certificate of Good Standing <input type="checkbox"/> C. Copy of Operating Agreement (if applicable) <input type="checkbox"/> D. Certificate of Authority if foreign LLC (out of state applicants only)
IX.	Manager registration for Hotel and Restaurant, Tavern, Lodging & Entertainment, and Campus Liquor Complex licenses when included with this application <input type="checkbox"/> A. \$75.00 fee <input type="checkbox"/> B. Individual History Record (DR 8404-I) <input checked="" type="checkbox"/> C. If owner is managing, no fee required

Name <u>MIRANCHITO</u>	Type of License	Account Number		
7. Is the applicant (including any of the partners if a partnership, members or managers if a limited liability company, or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years?		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
8. Has the applicant (including any of the partners if a partnership, members or managers if a limited liability company, or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state):				
a. Been denied an alcohol beverage license?		<input type="checkbox"/> <input checked="" type="checkbox"/>		
b. Had an alcohol beverage license suspended or revoked?		<input type="checkbox"/> <input checked="" type="checkbox"/>		
c. Had interest in another entity that had an alcohol beverage license suspended or revoked?		<input type="checkbox"/> <input checked="" type="checkbox"/>		
If you answered yes to 8a, b or c, explain in detail on a separate sheet.				
9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.		<input type="checkbox"/> <input checked="" type="checkbox"/>		
10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?		<input type="checkbox"/> <input checked="" type="checkbox"/>		
Waiver by local ordinance? <input type="checkbox"/> <input type="checkbox"/>				
Other: _____				
11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,0000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.		<input type="checkbox"/> <input type="checkbox"/> <u>N/A</u>		
12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,0000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.		<input type="checkbox"/> <input type="checkbox"/> <u>N/A</u>		
13 a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016?		<input type="checkbox"/> <input type="checkbox"/> <u>N/A</u>		
13 b. Are you a Colorado resident?		<input checked="" type="checkbox"/> <input type="checkbox"/>		
14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership, members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee.		<input type="checkbox"/> <input checked="" type="checkbox"/>		
15. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership, lease or other arrangement?		<input checked="" type="checkbox"/> <input type="checkbox"/>		
<input type="checkbox"/> Ownership <input checked="" type="checkbox"/> Lease <input type="checkbox"/> Other (Explain in Detail) <u>VAT BROTHERS LLC</u>				
a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease:				
Landlord <u>VAT BROTHERS LLC</u>	Tenant <u>MIRANCHITO</u>	Expires <u>11/15/2024</u>		
b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16.		<input type="checkbox"/> <input checked="" type="checkbox"/>		
c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".				
16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary.				
Last Name <u>N/A</u>	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Last Name	First Name	Date of Birth	FEIN or SSN	Interest/Percentage
Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.				
17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises:		Has a local ordinance or resolution authorizing optional premises been adopted? <u>N/A</u> <input type="checkbox"/> <input type="checkbox"/>		
Number of additional Optional Premise areas requested. (See license fee chart) _____				
18. For the addition of a Sidewalk Service Area per Regulation 47-302(A)(4), include a diagram of the service area and documentation received from the local governing body authorizing use of the sidewalk. Documentation may include but is not limited to a statement of use, permit, easement, or other legal permissions.				
19. Liquor Licensed Drugstore (LLDS) applicants, answer the following:				
a. Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise?				<input type="checkbox"/> <input type="checkbox"/> <u>N/A</u>
If "yes" a copy of license must be attached.				

Name <i>MI RANCHITO</i>	Type of License	Account Number
----------------------------	-----------------	----------------

20. Club Liquor License applicants answer the following: **Attach a copy of applicable documentation**

a. Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain?	Yes	No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain?	<input type="checkbox"/>	<input type="checkbox"/>
c. How long has the club been incorporated?	<i>N/A</i>	
d. Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above?	<input type="checkbox"/>	<input type="checkbox"/>

21. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following:

a. Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) *N/A*

22. Campus Liquor Complex applicants answer the following:

a. Is the applicant an institution of higher education?

b. Is the applicant a person who contracts with the institution of higher education to provide food services?
If "yes" please provide a copy of the contract with the institution of higher education to provide food services.
N/A

23. For all on-premises applicants.

a. Hotel and Restaurant, Lodging and Entertainment, Tavern License and Campus Liquor Complex, the Registered Manager must also submit an Individual History Record
- DR 8404-I and fingerprint submitted to approved State Vendor through the Vendor's website. See application checklist, Section IV, for details.

b. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit a Manager Permit Application
- DR 8000 and fingerprints.

Last Name of Manager <i>N/A</i>	First Name of Manager
------------------------------------	-----------------------

24. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. *N/A* Yes No

25. Related Facility - Campus Liquor Complex applicants answer the following:

a. Is the related facility located within the boundaries of the Campus Liquor Complex?
If yes, please provide a map of the geographical location within the Campus Liquor Complex.
If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex.

b. Designated Manager for Related Facility- Campus Liquor Complex

Last Name of Manager <i>N/A</i>	First Name of Manager
------------------------------------	-----------------------

26. Tax Information.

a. 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? Yes No

b. 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.? Yes No

27. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members. In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant. All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.

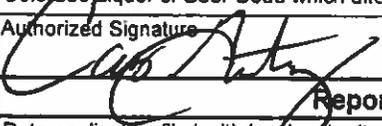
Name	Home Address, City & State	DOB	Position	%Owned

** If applicant is owned 100% by a parent company, please list the designated principal officer on above.

** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable)

** If total ownership percentage disclosed here does not total 100%, applicant must check this box:

Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.

Name <i>MI RANCHITO</i>	Type of License	Account Number
Oath Of Applicant		
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. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.		
Authorized Signature 	Printed Name and Title <i>Carlos Gutierrez Owner</i>	Date <i>5/11/20</i>
Report and Approval of Local Licensing Authority (City/County)		
Date application filed with local authority <i>JULY 31, 2020</i>	Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application) <i>SEPT. 15, 2020</i>	
The Local Licensing Authority Hereby Affirms that each person required to file DR 8404-I (Individual History Record) or a DR 8000 (Manager Permit) has been:		
<input checked="" type="checkbox"/> Fingerprinted <input checked="" type="checkbox"/> Subject to background investigation, including NCIC/CCIC check for outstanding warrants		
That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with and aware of, liquor code provisions affecting their class of license		
(Check One)		
<input type="checkbox"/> Date of inspection or anticipated date _____ <input checked="" type="checkbox"/> Will conduct inspection upon approval of state licensing authority		
<input type="checkbox"/> Is the Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1,500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of > 10,00000?	Yes	No
<input type="checkbox"/> Is the Liquor Licensed Drugstore(LLDS) or Retail Liquor Store (RLS) within 3,000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of < 10,00000?	<input type="checkbox"/>	<input type="checkbox"/>
NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.		
<input type="checkbox"/> Does the Liquor-Licensed Drugstore (LLDS) have at least twenty percent (20%) of the applicant's gross annual income derived from the sale of food, during the prior twelve (12) month period?	<input type="checkbox"/>	<input type="checkbox"/>
The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 44, Article 4 or 3, C.R.S., and Liquor Rules. Therefore, this application is approved.		
Local Licensing Authority for <i>The City of Fruita</i>	Telephone Number <i>(970) 858-3663</i>	<input checked="" type="checkbox"/> Town, City <input type="checkbox"/> County
Signature	Print <i>JOEL KINCAID</i>	Title <i>MAYOR</i>
Signature	Print <i>MARGARET SELL</i>	Title <i>CITY CLERK</i>
		Date
		Date

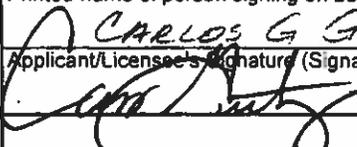
Tax Check Authorization, Waiver, and Request to Release Information

I, CARLOS G GUTIERREZ am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of MI RANCHITO (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>MI RANCHITO</u>		Social Security Number/Tax Identification Number <u>94519235-0001</u>	
Address <u>439 HIGHWAY 6950</u>			
City <u>FRUITA</u>		State <u>CO</u>	Zip <u>81521</u>
Home Phone Number <u>970-973-3927</u>		Business/Work Phone Number <u>970-639-8668</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>CARLOS G GUTIERREZ</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) 			Date signed <u>5-11-20</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).



FRUITA
COLORADO

325 E Aspen
Fruita, CO 81521
(970) 858-3663

CITY OF FRUITA LOCAL LICENSING AUTHORITY, MESA COUNTY COLORADO

PRELIMINARY FINDINGS AND REPORT UPON APPLICATION FOR A TRANSFER OF OWNERSHIP ON A HOTEL AND RESTAURANT LIQUOR LICENSE

IN RE: Mi Ranchito
439 Highway 6 & 50
Fruita, CO 81521

TO THE APPLICANT NAMED ABOVE AND OTHER INTERESTED PARTIES:

You are hereby advised that with regard to your application for a Hotel and Restaurant Liquor License, an investigation has been made and based on the results thereof the following has been determined:

1. That the application was filed on July 31, 2020.
2. That the Notices of Public Hearing on this matter were posted by the applicant on August 14, 2020 and publication was made in the Grand Junction Daily Sentinel on August 19, 2020 for the hearing date of September 15, 2020.
3. There has not been, within two years preceding the date of your application, a denial of an application by the County Commissioners of Mesa County, the State Licensing Authority, or the Local Licensing Authority of the City of Fruita for a Hotel and Restaurant Liquor License at the location for which you make application for the reason that the reasonable requirements of the neighborhood and the desires of the inhabitants have been satisfied by the existing outlets.
4. It appears from the evidence submitted by you that you will be entitled to possession of the premises where you propose to exercise the license applied for.
5. Employees serving alcohol shall attend a Training Intervention Procedures (TIPS) class. This is a four-hour class on Colorado laws pertaining to but not limited to: serving alcohol, identifying intoxicated persons, and how to identify those of age to drink alcoholic beverages. All employees that serve alcohol should be trained either prior to beginning employment or within 30 days of employment. You may contact the Fruita Police Department, Officer John Coughran at 858-3008. Proof of attendance by employees selling alcohol must be submitted to the City Clerk's office and will be kept on file.
6. The proposed establishment is located in a Downtown Mixed-Use Zoning District. Food Service, Restaurant (including alcohol) is an allowed use in this zone. A certificate of occupancy, a food establishment permit and any other applicable licenses and permits must

be issued prior to commencement of operations including Planning Clearances from the City of Fruita Planning Department.

7. The building and grounds where you propose to exercise the privilege of serving alcohol does not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary.
8. Within a one-mile radius from the building and grounds where you propose to sell malt and vinous liquors there are the following **Hotel and Restaurant Liquor License** establishments:

Strayhorn Grill
Rib City Grill
El Tapatio
Fiesta Guadalajara
Karma Kitchen

9. The following criminal history information has been brought to the attention of the authority:

Applicant (including partners, officers, directors over 10% shareholders)

Owner: Carlos Gutierrez

05/7/1995	GJ PD	3 rd Degree Assault (Misdemeanor)
02/13/2002	Mesa Co Sheriff	Summons/Ticket Child Abuse (Misdemeanor)
12/10/2002	GJ PD	Failure to Appear (Misdemeanor)
12/30/2004	Mesa Co Sheriff	Contempt of Court (Did not comply with something ordered by the court, e.g., community service)

Source of information:

Colorado Bureau of Investigation (Exhibit A)
Mesa County Sheriff's Office (Exhibit B)
Grand Junction Police Department (Exhibit C)
Fruita Police Department (Exhibit D)
El Paso County Sheriff's Office (Exhibit E)
City of Colorado Springs Police Department (Exhibit F)

10. The results of the petition circulated with respect to this application are as follows:

Total Signatures obtained by applicant: 14 (Exhibit G)
For: 14
Against: 0
No Opinion: 0

10. The public hearing on your application will be held on September 15, 2020 at 7:00 p.m., either in person at the Council Chambers at the Fruita Civic Center, 325 E Aspen, Fruita, CO or virtually through the Zoom application online. At said hearing you shall have the opportunity to be heard regarding all matters related to your application, including all matters set forth herein.
11. At the public hearing, and pursuant to CRS 12-46-108, as amended, you have the burden of proving that you are qualified to hold the license applied for and that your character, record and reputation are satisfactory; that the neighborhood needs this license and that the residents of the neighborhood desire that this license be granted.
12. A copy of the "Order of Hearing" procedures used by the Local Licensing Authority of the City of Fruita for use and guidance in holding hearings on liquor license applications is attached for your information and review. (Exhibit G)

Dated this 20th day of August, 2020



Debra Woods, Deputy City Clerk
for the Local Licensing Authority

(revised August 20, 2020 from August 13, 2020 to include neighborhood survey)



COLORADO
Bureau of Investigation
Department of Public Safety



Page 1 of 3

Biometric Identification and Records Unit
690 Kipling Street, Suite 4000
Lakewood, CO 80215
303-239-4208

CITY OF FRUITA
325 E ASPEN
FRUITA, CO, 81521

Date: 07/07/2020 10:19:36(MT)

RE: GUTIERREZ, CARLOS DOB: [REDACTED] SOC: [REDACTED]

The Colorado arrest record for the person noted to follow.

The Colorado Bureau of Investigation's database contains detailed information of arrest records based upon fingerprints provided by Colorado law enforcement agencies. Arrests, which are not supported by fingerprints, will not be included in this database. On occasion the Colorado criminal history will contain disposition information provided by the Colorado Judicial system. Additionally, warrant information, sealed records (except those allowed per state statute 24-72-703), and juvenile records are not available to the public.

The results attached are based on a name search which may or may not be the subject of this inquiry. This search does not include a fingerprint comparison, which is the only means of positive identification. Since an arrest record may be established after this inquiry, an arrest record is only valid at the time of the current request. To ensure the most current available information in regards to subsequent arrest after an initial inquiry, it is recommended another query be made.

The results attached below are based on the criteria given.

Falsifying or altering this document with the intent to misrepresent the contents of the record is prohibited by law, and may be punishable as a felony when done with intent to injure or defraud any person.

Sincerely,
John Camper, Director
Colorado Bureau of Investigation



COLORADO BUREAU OF INVESTIGATION - IDENTIFICATION UNIT
690 KIPLING STREET, SUITE #3000, DENVER, COLORADO 80215 (303)239-4208

THIS IDENTIFICATION RECORD IS FOR LAWFUL USE ONLY AND SUMMARIZES
INFORMATION SENT TO THE COLORADO BUREAU OF INVESTIGATION FROM
FINGERPRINT CONTRIBUTORS IN THE STATE OF COLORADO.

UNLESS FINGERPRINTS ACCOMPANIED YOUR INQUIRY, THE COLORADO BUREAU OF
INVESTIGATION CAN NOT GUARANTEE THIS RECORD RELATES TO THE PERSON IN
WHOM YOU HAVE AN INTEREST.

IF THE DISPOSITION IS NOT SHOWN OR FURTHER EXPLANATION OF AN ARREST
CHARGE OR DISPOSITION IS DESIRED, THAT INFORMATION MAY BE OBTAINED FROM
THE AGENCY WHO FURNISHED THE ARREST INFORMATION.

ONLY THE COURT OF JURISDICTION OR THE RESPECTIVE DISTRICT ATTORNEY'S
OFFICE WHEREIN THE FINAL DISPOSITION OCCURRED CAN PROVIDE AN OFFICIAL
COPY TO ANY SPECIFIC DISPOSITION.

STATE LAW GOVERNS ACCESS TO SEALED RECORDS.

BECAUSE ADDITIONS AND DELETIONS TO A CRIMINAL HISTORY RECORD MAY BE MADE
AT ANY GIVEN TIME, A NEW INQUIRY SHOULD BE REQUESTED WHEN NEEDED FOR
SUBSEQUENT USE.

***** IDENTIFICATION *****

NAME(S) USED:

GUTIERREZ, CARLOS

PHYSICAL:

SEX: M RACE: W HGT: 600 WGT: 180
EYE: BRO HAIR: BLK SKN:

DATE(S) OF BIRTH:



PLACE(S) OF BIRTH:

MM

SCARS/MARKS:

TAT L ARM
DISC R CHK
TAT LF ARM
SC BACK
TAT R ARM

***** CRIMINAL HISTORY *****

==== Cycle 1 of 2 =====

----- ARREST -----

DATE ARRESTED 05/07/1995
AGENCY GRAND JUNCTION POLICE DEPARTMENT
ARREST NUMBER 95-05047
NAME USED GUTIERREZ, CARLOS
CHARGE 01
CHARGE LITERAL ASSAULT 3RD DEG
TYPE/LEVEL MISDEMEANOR
OFFENSE DATE 05/07/1995

==== Cycle 2 of 2 =====

----- ARREST -----

DATE ARRESTED 12/10/2002
AGENCY GRAND JUNCTION POLICE DEPARTMENT
ARREST NUMBER 02A8080-1
NAME USED GUTIERREZ, CARLOS

CHARGE	01
CHARGE LITERAL	FAIL TO APPEAR
TYPE/LEVEL	MISDEMEANOR
OFFENSE DATE	12/10/2002

** CRIMINAL JUSTICE AGENCIES MAY NOT HAVE PROVIDED ALL ARRESTS, **
** CHARGES OR DISPOSITIONS TO THE CBI. THIS RECORD SHOWS ALL **
** ARRESTS, CHARGES & DISPOSITIONS THAT WERE PROVIDED, UNLESS **
** ACCESS TO THEM HAS BEEN LIMITED BY COURT ORDER. **
FALSIFYING OR ALTERING THIS RECORD WITH THE INTENT TO MISREPRESENT
*THE CONTENTS OF THE RECORD IS PROHIBITED BY LAW, AND MAY BE *
*PUNISHABLE AS A FELONY WHEN DONE WITH THE INTENT TO INJURE OR *
*DEFRAUD ANY PERSON. *

---- END OF RECORD MEETING DISSEMINATION CRITERIA ----

----- 07/07/2020 10:18MT -----



Global Subject Activity Report

Rap Sheet



Print Date/Time: 07/20/2020 15:21
 Login ID: ddraper

MESA COUNTY SHERIFF'S OFFICE
 ORI Number: CO0390000

GUTIERREZ, CARLOS GUTIERREZ

Jacket: 69985 A

Address: 479 TECO CT
 GRAND JUNCTION

CO 81504

Phone #: (970)773-3927

DOB: [REDACTED]

Race: WHITE

DL State: CO

Sex: MALE
 Height: 72
 Weight: 190.0 lbs
 Eyes: BRO - BROWN
 Hair: BRO - BROWN
 DL#: 920906725

Activity:

Type: Arrest

Date	Reference	Description	ORI
02/13/2002	02A956-1	Arrest Type: SUMMONS/CITED Charge(s):	CO0390000
12/30/2004	04A9666-1	18-6-401(1).CHILD ABUSE Arrest Type: TAKEN INTO CUSTODY Charge(s):	CO0390000
		RULE 107.CONTEMPT OF COURT	

Total Activity :2



Address: 479 TECO CT
GRAND JUNCTION
CO 81504
Phone #: (970)773-3927
DOB: [REDACTED]
Race: WHITE
DL State: CO

Sex: MALE
Height: 72
Weight: 190.0 lbs.
Eyes: BRO - BROWN
Hair: BRO - BROWN
DL#: 920906725

Activity:

Type: Arrest

Date	Reference	Description	ORI
12/11/2002	02-070118	Arrest Type: TAKEN INTO CUSTODY Charge(s): 11 111 1110,MUNI WARRANT	CO0390100



FRUITA
COLORADO



POLICE DEPARTMENT

157 S Mesa St, Fruita, CO 81521
Phone (970) 858-3008 / Fax (970) 858-3665
fpdrecords@fruita.org

MEMO

To: Deb Woods
From: Paula Rajewich
Date: July 7, 2020
Re: **Local Records Check**

The following background information check was completed through local computer records with the Fruita Police Department and the results will be listed below.

I have checked the local criminal history over the past year(s) for the person(s) and business(s) listed below and there has not been any contacts with the Fruita Police Department and this individual.

Carlos Gutierrez
479 Teco Ct.
Grand Junction, CO 81504
12-19-1973

Thank you,

Paula Rajewich

From:

07/08/2020 12:48



970 8580210

City of Fruita

10:57:15 a.m. 07-08-2020

FRUITA COLORADO

325 East Aspen
Suite 155
Fruita, CO 81521

P 970.858.3663
F 970.858.0210
www.fruita.org



CITY MANAGER
970.858.3663

CITY CLERK/FINANCE
970.858.3663

COMMUNITY
DEVELOPMENT
970.858.0786

MUNICIPAL COURT
970.858.8041

POLICE DEPARTMENT
970.858.3008

ENGINEERING
970.858.8377

HUMAN RESOURCES
970.858.8373

PUBLIC WORKS
970.858.9558

PARKS/RECREATION
970.858.0360

WASTEWATER
TREATMENT FACILITY
970.858.4081

July 7, 2020

El Paso County Sheriff's Office
ATTN: Records
Via Fax: (719) 520-7171

RE: Records check on an individual for an application for a Hotel & Restaurant - Malt, Vinous and Spirituous Liquor License for Mi Ranchito located at 439 Highway 6 & 50 in Fruita, CO

The City of Fruita has received an application for an application for a new Hotel & Restaurant Liquor License at located at 439 Highway 6 & 50 (previously Mi Ranchito Taco Shop) in Fruita.

Please conduct a records check and let me know of any items that would reflect the below individual's character. The background check will assist the Fruita City Council in determining whether the applicant is of "Good Moral Character."

You can fax or e-mail the information back to me at (970) 858-0210 or dwoods@fruita.org. If you have questions please call me at (970) 858-3663. Thank you.

Owner	Carlos Gutierrez
Current Address	479 Teco Ct. Grand Junction, CO 81504 1995 - present
Date of Birth:	[REDACTED]
SSN#:	[REDACTED]
Previous business address:	Wendy's 1515 N. Academy Blvd. Colorado Springs, CO 80909 (1991 - 1995?)

NO RECORDS FOUND

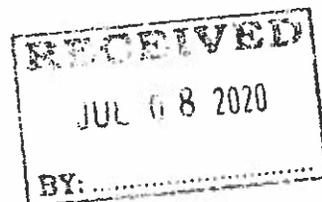
AE
Kym Ettleman
Records Technician
719-520-7177
7/8/20

El Paso County Sheriff's Office
27 East Vermijo Avenue
Colorado Springs, CO 80903

Thank you for your assistance in this matter.

Sincerely,

Debra Woods
Deputy City Clerk





POLICE DEPARTMENT
RECORDS SECTION

Date: 07/11/2020

To: DEB WOODS

Subject: Background / Local Record Check

The following is in response to your request to receive a copy of the local arrest record for:

NAME: CARLOS GUTIERREZ

DOB: [REDACTED]

The above person has:

- No arrest record on file with the Colorado Springs Police Department
- No traffic record on file with the Colorado Springs Police Department
- Is listed as a Registered Sex Offender in the City of Colorado Springs
- An arrest record on file with the Colorado Springs Police Department *(record attached)*
- A traffic record on file with the Colorado Springs Police Department *(record attached)*
 - The traffic record consists of **a traffic accident** only. The person was not incarcerated or cited.
 - The subject was cited with a traffic summons, but not incarcerated.
- There is no releasable information that meets the requirements of Title 19 or 24, Colorado Revised Statutes, as amended.

Please note, background checks include searching the arrest records maintained by the Colorado Springs Police Department. **This is not a statewide or a nationwide check.** To receive a statewide or nationwide check, please contact the Colorado Bureau of Investigations at 303-239-4300.

Please direct all written inquiries to:

Colorado Springs Police Department
Records & Identification Section, Records Release Unit
705 S Nevada Avenue
Colorado Springs, CO 80903

You can also contact the Records Section at 719-444-7521. The Records Release Unit operates Monday through Friday, 6:30 am to 5:00 pm. The Unit is closed on weekends and holidays.

Thank you,
Aaron Ruffalo
Custodian of Records

By: Alana Shuff 5816
(Name)
Asst. Records Custodian



FRUITA COLORADO

SURVEY



An application has been filed with the City of Fruita for a liquor license. In its consideration of this application, the Fruita City Council must consider the reasonable requirements of the neighborhood and the desires of the inhabitants. An "inhabitant" is an individual who resides in a given neighborhood or community for more than six months each year. The "neighborhood" is defined generally as the area between L Road to the North and the Colorado National Monument to the South, and between 15 1/2 Road to the West and 20 Road to the East. A public hearing will be advertised and held on this application in the Council Chambers at the Fruita Civic Center, 325 E. Aspen, Fruita, Colorado on the first and third Tuesdays of the month at 7:00 pm.

Do not sign this survey unless you are 21 years or older and reside within the area bounded on the north by L Road, on the south by Colorado National Monument, on the west by 15 1/2 Road, and on the 20 Road to the East.

As an owner of property in the neighborhood, an employee or business lessee of property in the neighborhood and/or an inhabitant who resides in the neighborhood for more than six months each year:

Question 1. *I believe the reasonable requirements of the neighborhood are already being met by other existing outlets. (Yes or No)*

As an inhabitant who resides in the neighborhood for more than six month each year:

Question 2. *It is my desire that the license be issued. (Yes or No or Not Applicable (N/A))*

Name (signature)	Address	Business (B) Residence (R)	Question 1		Question 2			Date
			Yes	No	Yes	No	N/A	
<i>[Signature]</i>	792 Delcan way	R	X		X			8-13-20
<i>[Signature]</i>	709 E Cleveland	R	✓		✓			8/13/20
<i>[Signature]</i>	709 E Cleveland	R	✓		✓			8/13/20
<i>[Signature]</i>	336 S APPLE ST	R	✓		✓			8/13/20
<i>[Signature]</i>	556 E Harrison	R	✓		✓			8/13/20
<i>[Signature]</i>	543 E. HARRISON	R	✓		✓			8/13/20
<i>[Signature]</i>	537E HARRISON	R	✓		✓			8/13/20
<i>[Signature]</i>	608E Carolina Ave	R	✓		✓			8/13/20
<i>[Signature]</i>	608 E Carolina Ave	R	✓		✓			8/13/20
<i>[Signature]</i>	608E Carolina Ave	R	✓		✓			8/13/20
<i>[Signature]</i>	919 E. Harrison Ave	R	✓		✓			8/13/20
<i>[Signature]</i>	956 E CAROLINA	R	✓		✓			8/13/20
<i>[Signature]</i>	956 E. Carolina	R	✓		✓			8/13/20
<i>[Signature]</i>	1014 E carolina Ave.	R	✓		✓			8/13/20



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.



AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: SEPTEMBER 15, 2020

RE: SPECIAL EVENT LIQUOR PERMIT APPLICATION – SUPPER ON SOUTHSIDE - APPROVING A SPECIAL EVENT LIQUOR PERMIT APPLICATION FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE BEER, WINE AND SPIRITUOUS LIQUOR AT THE SUPPER ON SOUTHSIDE EVENT IN THE KOKOPELLI MARKETPLACE PARKING LOTS ON SATURDAY, SEPTEMBER 19, 2020 FROM 4:30 PM TO 10:00 PM IN THE EVENT PARTICIPATING RESTAURANTS ARE NOT ABLE TO SECURE PROPER LICENSING (AS A BACKUP PLAN)

BACKGROUND

The Fruita Area Chamber of Commerce has filed an application for a Special Events Liquor Permit to serve beer, wine and spirituous liquor during the “Supper on Southside” event on Saturday, September 12, 2020 from 4:30 p.m. to 10:00 p.m. in the parking lots of the Kokopelli Marketplace in south Fruita.

The Chamber is applying for a Special Event Liquor Permit only as a backup plan in the event that the participating restaurants (Pablo’s Pizza and Rib City Grill) have not been granted Temporary Modifications of their Licensed Premises into the parking lots adjacent to Kokopelli Drive pursuant to Colorado Liquor Enforcement Division **Emergency Regulations 47-302(F) - COVID Temporary Modification of On-Premises Licenses and 47-1102 – Compliance with Public Health Orders and Executive Orders Issued During Disaster Emergencies.**

If Rib City Grill and Pablo’s Pizza are granted Temporary Modifications of Premises for alcohol by state Liquor Enforcement by the date of the “Supper on the Southside” event, the Special Event Permit that the Fruita Area Chamber of Commerce is applying for with this agenda item will not be needed, nor will it be used. Instead, the two restaurants will be serving their alcohol to patrons who sit in their additional outdoor seating areas at the event. Each restaurant will have its own, separate and defined area as illustrated in the first diagram provided as part of the Chamber’s application with the City Clerk’s Office.

The owner of the Strayhorn Grill has decided not to apply for a Temporary Modification of their licensed premises at this time and will instead participate in the event by utilizing their

existing patio that is adjacent to Kokopelli Drive and is already licensed for alcohol.

If the participating restaurants are *not* granted a Temporary Modification of Licensed Premises in a timely enough manner or are denied by state Liquor Enforcement, the Fruita Chamber will provide alcohol at the back of the VIP Seating tent as shown in the second diagram marked “Alternate Plan – Chamber Serves Alcohol” as an alternative to having the restaurants serve the alcohol in their designated areas. Patrons will not be allowed to leave the VIP tent with alcohol, which will be enclosed with fencing.

State law allows local chambers to apply for a special events liquor permit, and the Fruita City Council adopted Resolution 2011-32, which authorizes the Local Licensing Authority to issue Special Events Permits to qualifying organizations and political candidates without sending the application to the State Authority for approval.

The City of Fruita requires that the applicant submit a narrative addressing specific issues related to the special events permit. The Police Department has reviewed the application and has no concerns or additional requirements for the event. The application, narrative, diagram, and Fruita Police Department comments are attached.

On August 19, 2020, the Fruita Chamber was also approved by the Mesa County Public Health Department to offer the “Supper on Southside” event to the public after the Chamber presented a plan to help prevent the spread of COVID-19 and enhance the protection of individuals and the community.

The diagram of the licensed premises submitted with the application controls the area in which alcohol may be sold or consumed and should be strictly adhered to.

FISCAL IMPACT

None

APPLICABILITY TO CITY GOALS AND OBJECTIVES

None

OPTIONS AVAILABLE TO THE COUNCIL

1. Approval of the special events permit for the “Supper on Southside” event
2. Denial of the special events permit

RECOMMENDATION

IT IS THE RECOMMENDATION OF STAFF THAT THE COUNCIL BY MOTION:

APPROVE THE APPLICATION FOR A SPECIAL EVENTS PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE BEER, WINE AND

SPIRITUOUS LIQUOR AT THE “SUPPER ON SOUTHSIDE” EVENT IN THE KOKOPELLI MARKETPLACE PARKING LOTS ON SATURDAY, SEPTEMBER 19, 2020 FROM 4:30 PM TO 10:00 PM

SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. CHAMBER STAFF AND VOLUNTEERS (ALONG WITH RESTAURANT STAFF) WILL MONITOR THE ENTRANCES, EXITS AND PERIMETERS OF THE LICENSED AREAS TO ENSURE THAT NO ALCOHOL IS BROUGHT INTO OR OUT OF THE LICENSED AREAS.**
- 2. SIGNS WILL BE POSTED AROUND THE PERIMETER OF THE LICENSED AREAS PROHIBITING ALCOHOL FROM BEING CONSUMED IN ANY AREA OTHER THAN THE LICENSED PREMISES.**
- 3. ALL OTHER PROCEDURES PRESENTED BY THE CHAMBER WILL BE FOLLOWED.**
- 4. THE FRUITA CHAMBER WILL BE SOLELY RESPONSIBLE FOR THE ENFORCEMENT OF LIQUOR LAWS.**

Application for a Special Events Permit

Departmental Use Only

Supper on Southside

In order to qualify for a Special Events Permit, You Must Be Nonprofit and One of the Following (See back for details.)

- | | | |
|------------------------------------|--|--|
| <input type="checkbox"/> Social | <input type="checkbox"/> Athletic | <input type="checkbox"/> Philanthropic Institution |
| <input type="checkbox"/> Fraternal | <input checked="" type="checkbox"/> Chartered Branch, Lodge Or Chapter | <input type="checkbox"/> Political Candidate |
| <input type="checkbox"/> Patriotic | <input type="checkbox"/> Of A National Organization Or Society | <input type="checkbox"/> Municipality Owning Arts Facilities |
| <input type="checkbox"/> Political | <input type="checkbox"/> Religious Institution | |

LIAB Type of Special Event Applicant is Applying for:	DO NOT WRITE IN THIS SPACE
2110 <input checked="" type="checkbox"/> Malt, Vinous And Spirituous Liquor	Liquor Permit Number
2170 <input checked="" type="checkbox"/> Fermented Malt Beverage	

1. Name of Applicant Organization or Political Candidate <i>Fruita Area Chamber of Commerce</i>	State Sales Tax Number (Required) <i>00493410-0000</i>
--	---

2. Mailing Address of Organization or Political Candidate (include street, city/town and ZIP) <i>432 E. Aspen Ave. Fruita CO 81521</i>	3. Address of Place to Have Special Event (include street, city/town and ZIP) <i>Kokopelli Dr. Fruita CO 81521</i>
---	---

Name	Date of Birth	Home Address (Street, City, State, ZIP)	Phone Number
4. Pres./Sec'y of Org. or Political Candidate <i>Kayla Brown</i>			

5. Event Manager <i>Selena Sanchez</i>	<i>10/03/1991</i>	<i>3033 1/2 Chocktaw Pl. Grand Junction CO 81504</i>	<i>970-381-1991</i>
---	-------------------	--	---------------------

6. Has Applicant Organization or Political Candidate been Issued a Special Event Permit this Calendar Year? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES HOW MANY DAYS? <i>1</i>	7. Is premises now licensed under state liquor or beer code? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM?
--	--

8. Does the Applicant Have Possession or Written Permission for the Use of The Premises to be Licensed? Yes No

List Below the Exact Date(s) for Which Application is Being Made for Permit

Date	Hours From	To	Date	Hours From	To	Date	Hours From	To	Date	Hours From	To
<i>09/19/2020</i>	<i>4:30 p.m.</i>	<i>10:00 p.m.</i>									

Oath of Applicant
 I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

Signature <i>S. Sanchez</i>	Title <i>Marketing & Event Coordinator</i>	Date <i>08/14/2020</i>
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Report and Approval of Local Licensing Authority (City or County)
 The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.
THEREFORE, THIS APPLICATION IS APPROVED.

Local Licensing Authority (City or County) <i>The City of Fruita</i>	<input checked="" type="checkbox"/> City <input type="checkbox"/> County	Telephone Number of City/County Clerk <i>(970) 858-3663</i>
Signature <i>JOEL KINCAID, MAYOR</i>	Title <i>JOEL KINCAID, MAYOR</i>	Date

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

Liability Information

License Account Number	Liability Date	State	Total
			<i>-750 (999) \$</i>

Supper on Southside hosted by Fruita Area Chamber of Commerce

Narrative for Special Events Liquor Permit

Supper on Southside will take place on Saturday, September 19 in the Kokopelli Plaza on Southside Fruita. Participating restaurants will be provided with expanded outdoor seating for customers. The type of alcohol that will be served at this event is beer, wine, and spirits. Alcohol will be served by trained restaurant staff within the restaurant's designated outdoor seating area. Restaurants will be responsible for applying for a Temporary Modification of Premises to serve alcohol within their designated outdoor dining area. The Fruita Area Chamber of Commerce will apply for a Special Events liquor permit to serve alcohol as a backup plan in the event participating restaurants are not able to secure proper licensing. The alcohol area indicated on the map will be the only tent the Chamber will serve alcohol from to those sitting in the VIP section.

Fruita Area Chamber of Commerce staff and volunteers will be monitoring the control of alcohol points in addition to restaurant staff and management monitoring alcohol ingress and egress points to ensure alcoholic beverages do not come in or leave the licensed premises. Local law enforcement will be notified in advance of the event. Restaurant staff will maintain that patrons are not over-served alcohol.

Designated restaurant sections will be fenced off using fencing borrowed from the City of Fruita and additional snow fencing provided by Western Slope Traffic Control. Western Slope Traffic Control will set up all fencing and proper traffic control plans. Signage will be posted stating that alcohol cannot be taken outside of designated area. Road blockages will be made on Kokopelli Drive in front of Kokopelli plazas (not blocking parking lot entrances or US Bank ATM access), and shortly behind Strayhorn Grill – Traffic Control Plan to be submitted by Western slope Traffic Control.

Restroom facilities will be provided by the restaurants within their indoor facilities for patrons to use. Signage concerning the consumption of alcohol will be placed at all entrances and exits within the licensed area. Identification and age verification procedures for the purchase and consumption of alcohol will be processed by trained restaurant staff in the same manner that they conduct identification and age verification within their restaurants. Food will be available to patrons in the licensed area through participating restaurants. All persons serving alcohol and checking IDs will be 21 years of age or older. Clean up arrangements will be facilitated by restaurant staff.

Debra Woods

From: Kayla Brown <kayla@fruitachamber.org>
Sent: Tuesday, September 8, 2020 2:07 PM
To: Debra Woods
Cc: Selena Sanchez
Subject: Pablo's Permit

Hi Deb!

I spoke with Dawn from Pablo's and she said she would like to proceed with the modification of premises permit.

Sheryl with Strayhorn Grill will not be applying at this time and would rather keep everything in her restaurant through her own patio seating. Is it possible to include the middle tent on Kokopelli Dr for both Pablo's and Rib City Grill so they are both able to serve alcohol to those sitting in our additional seating for the event?

To clarify, We will now only have 1 tent in the Pablo's/Strayhorn parking lot on the far west corner as originally submitted, but we are not going to be putting it directly in front of Strayhorn as she was concerned about it blocking her entrance.

Get [Outlook for Android](#)

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

Supper on Southside

September 19, 2020



-  - Staff Booth - Check in
-  - Booth - Local Artist
-  - Road Block
-  - Tent with fencing

Fruita Southside Feast

Ashley Miller <ashley.miller@mesacounty.us>

Wed 8/19/2020 1:11 PM

To: Kayla Brown <kayla@fruitachamber.org>

Hi Kayla,

After our conversation and review of your application, MCPH approves Fruita Southside Feast.

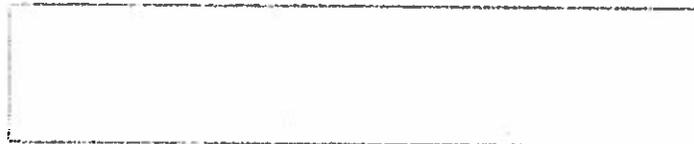
Please let me know if you have any questions.

Thank you,

--

 upload image

Ashley C. Miller, MPH, CP-FS
Consumer Protection Manager
PO Box 20,000-5033
Grand Junction, CO 81502
Office: 970-248-6961



Mesa County Public Health is taking action to stop the spread of illness in our community. For the latest information visit health.mesacounty.us/covid19.

Fruita Police Department

Chief David Krouse



157 S. Mesa St
Fruita, CO 81521

970-858-3008 Phone
970-858-3665 Fax
www.fruita.org

To: Debra Woods
From: Dave Krouse, Chief of Police
Date: August 24, 2020
Re: 2020 Supper on South Side Special Event Liquor Permit

The application and narrative have been reviewed. There is nothing which would prohibit the issuance of the license requested.

The licensee needs to be aware they are solely responsible for control of the licensed premises in regard to alcohol possession, consumption and adherence to state and municipal laws.

From: Sara Martz
To: [Kayla Brown](mailto:kayla@fruitachamber.org)
Cc: [Debra Woods](mailto:dwoods@fruita.org)
Subject: RE: Written Permission and Liquor Licensing
Date: Friday, August 28, 2020 10:13:47 AM

To whom it may concern, We give consent for tents and tables to be set up in our parking area for the upcoming September 19th concert event

Please don't hesitate to call with any additional requirements

Sara Martz
970-255-7330

(RIB CITY)

Sent from my Sprint Samsung Galaxy Note9.

----- Original message -----

From: Kayla Brown <kayla@fruitachamber.org>
Date: 8/28/20 9:59 AM (GMT-07:00)
To: Sara Martz <smartz@rcgwest.com>
Cc: Debra Woods <dwoods@fruita.org>
Subject: Written Permission and Liquor Licensing

Hi Sara,

As I mentioned in my text, the City of Fruita has informed me of some changes that would allow restaurants to apply for a modification in their license to serve alcohol within 1000 ft of your facility. I have included Deb Woods in this email so she can assist you in that process so Rib City Grill is able to handle their own alcohol sales during the dinner. Additionally, we have decided to move the dinner to September 19. Would you please email me your written permission to set up tents and tables in your parking lot for Deb to include with our Special Events application?

Please call or email me with any questions.

Thank you,

Kayla Brown
Fruita Area Chamber of Commerce
Executive Director
432 E. Aspen Ave. Fruita CO 81521
Office: 970-858-3894
kayla@fruitachamber.org



From: [Kayla Brown](#)
To: [Debra Woods](#)
Subject: Fw: Written Permission and Liquor Licensing
Date: Monday, August 31, 2020 10:13:47 AM

Thank you,

STRAYHORN GRILL

Kayla Brown
Fruita Area Chamber of Commerce
Executive Director
432 E. Aspen Ave. Fruita CO 81521
Office: 970-858-3894
kayla@fruitachamber.org



From: SHERYL MARTIN <bill_martin05@msn.com>
Sent: Friday, August 28, 2020 11:25 PM
To: Kayla Brown <kayla@fruitachamber.org>
Subject: RE: Written Permission and Liquor Licensing

Hi Kayla.

As per our discussion, I give permission to set up a tent for the Strayhorn Grill and Pablos Pizza for the evening of September 19 in the parking lot at 456 Kokopelli Blvd.

Sheryl Martin

Sent from [Mail](#) for Windows 10

From: [Kayla Brown](#)
Sent: Friday, August 28, 2020 9:54 AM
To: [SHERYL MARTIN](#)
Cc: [Debra Woods](#)
Subject: Written Permission and Liquor Licensing

Hi Sheryl,

Thanks for talking with me last night. I am excited to pull this dinner together for the Southside. I have included Deb Woods from the City of Fruita in this email so she can help assist you though the process for the license modification to serve alcohol within your designated area.

From: [Kayla Brown](#)
To: [Debra Woods](#); [Selena Sanchez](#)
Subject: Fwd: Sept 19th
Date: Friday, August 28, 2020 2:47:31 PM

Get [Outlook for Android](#)

From: Dawn Davis <pablosfruta@yahoo.com>
Sent: Friday, August 28, 2020 2:44:23 PM
To: Kayla Brown <kayla@fruitachamber.org>
Subject: Sept 19th

PABLO'S PIZZA

To whom it may concern:

I approve to use of the parking lot for a dinner, on September the 19th 2020.

Thanks Dawn Davis

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

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

FRUITA AREA CHAMBER OF COMMERCE

is a

Nonprofit Corporation

formed or registered on 09/20/1989 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19891094924 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 09/04/2020 that have been posted, and by documents delivered to this office electronically through 09/08/2020 @ 16:21:51 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 09/08/2020 @ 16:21:51 in accordance with applicable law. This certificate is assigned Confirmation Number 12582868 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/bi:/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/19/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Moody-Valley Insurance Agency, Inc. 760 Horizon Drive, Suite 302 Grand Junction CO 81506		CONTACT NAME: Jo Harper PHONE (A/C, No, Ext): (970) 248-8300 E-MAIL ADDRESS: jo.harper@moodyins.com FAX (A/C, No): (970) 242-1894	
INSURED Fruita Chamber of Commerce 432 East Aspen Ave Fruita CO 81521		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Acuity	NAIC # 14184
		INSURER B: Philadelphia Ins Companies	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 20/21 Master Cert **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y		Z62717	02/01/2020	02/01/2021	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						MED EXP (Any one person) \$ 5,000
	<input type="checkbox"/> OTHER						PERSONAL & ADV INJURY \$ 1,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						BODILY INJURY (Per person) \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						BODILY INJURY (Per accident) \$
B	Directors & Officers Coverage			PHSD1554246	08/01/2020	08/01/2021	PROPERTY DAMAGE (Per accident) \$
							PER STATUTE OTH-ER
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
							Each Occurrence \$ 1,000,000
							Aggregate Limit \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Special Events:

- September 19, 2020 Supper on Southside
- September 25, Brew Fest
- September 26, 2020 Dinner in Downtown Fruita

CERTIFICATE HOLDER City of Fruita 325 E Aspen Ave Fruita CO 81521	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Moody-Valley Insurance Agency</i>
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AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: SEPTEMBER 15, 2020

RE: SPECIAL EVENT LIQUOR PERMIT APPLICATION – BREW FEST AND CORNHOLE TOURNAMENT - APPROVING A SPECIAL EVENT LIQUOR PERMIT APPLICATION FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE BEER AT THE BREW FEST AND CORNHOLE TOURNAMENT EVENT IN CIVIC CENTER PARK LOCATED AT 325 E. ASPEN AVENUE ON FRIDAY, SEPTEMBER 25, 2020 FROM 2:00 PM TO 9:00 PM

BACKGROUND

The Fruita Area Chamber of Commerce has filed an application for a Special Events Liquor Permit to serve beer during the “Brew Fest and Cornhole Tournament” event on Friday, September 25, 2020 from 2:00 p.m. to 9:00 p.m. in Civic Center Park located at 325 E. Aspen Avenue.

State law allows local chambers to apply for a special events liquor permit, and the Fruita City Council adopted Resolution 2011-32, which authorizes the Local Licensing Authority to issue Special Events Permits to qualifying organizations and political candidates without sending the application to the State Authority for approval.

The City of Fruita requires that the applicant submit a narrative addressing specific issues related to the special events permit. The Police Department has reviewed the application and has no concerns or additional requirements for the event. The application, narrative, diagram, and Fruita Police Department comments are attached.

On August 31, 2020, the Fruita Chamber was also approved by the Mesa County Public Health Department to offer the “Brew Fest and Cornhole Tournament” event to the public after the Chamber presented a plan to help prevent the spread of COVID-19 and enhance the protection of individuals and the community.

The diagram of the licensed premises submitted with the application controls the area in which alcohol may be sold or consumed and should be strictly adhered to.

FISCAL IMPACT

None

APPLICABILITY TO CITY GOALS AND OBJECTIVES

None

OPTIONS AVAILABLE TO THE COUNCIL

1. Approval of the special events permit for the “Brew Fest and Cornhole Tournament” event
2. Denial of the special events permit

RECOMMENDATION

IT IS THE RECOMMENDATION OF STAFF THAT THE COUNCIL BY MOTION:

APPROVE THE APPLICATION FOR A SPECIAL EVENTS PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE BEER AT THE “BREW FEST AND CORNHOLE TOURNAMENT” EVENT IN CIVIC CENTER PARK LOCATED AT 325 E. ASPEN AVE. ON FRIDAY, SEPTEMBER 25, 2020 FROM 2:00 PM TO 9:00 PM

SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. CHAMBER STAFF AND VOLUNTEERS WILL MONITOR THE ENTRANCES, EXITS AND PERIMETERS OF THE LICENSED AREAS TO ENSURE THAT NO ALCOHOL IS BROUGHT INTO OR OUT OF THE LICENSED AREAS.**
- 2. SIGNS WILL BE POSTED AROUND THE PERIMETER OF THE LICENSED AREAS PROHIBITING ALCOHOL FROM BEING CONSUMED IN ANY AREA OTHER THAN THE LICENSED PREMISES.**
- 3. ALL OTHER PROCEDURES PRESENTED BY THE CHAMBER WILL BE FOLLOWED.**
- 4. THE FRUITA CHAMBER WILL BE SOLELY RESPONSIBLE FOR THE ENFORCEMENT OF LIQUOR LAWS.**

Application for a Special Events Permit

Departmental Use Only

Brew Fest &
 Grande Toumey

In order to qualify for a Special Events Permit, You Must Be Nonprofit and One of the Following (See back for details.)

- | | | |
|------------------------------------|--|--|
| <input type="checkbox"/> Social | <input checked="" type="checkbox"/> Athletic | <input type="checkbox"/> Philanthropic Institution |
| <input type="checkbox"/> Fraternal | <input checked="" type="checkbox"/> Chartered Branch, Lodge Or Chapter | <input type="checkbox"/> Political Candidate |
| <input type="checkbox"/> Patriotic | <input type="checkbox"/> Of A National Organization Or Society | <input type="checkbox"/> Municipality Owning Arts Facilities |
| <input type="checkbox"/> Political | <input type="checkbox"/> Religious Institution | |

LIAB Type of Special Event Applicant is Applying for:	DO NOT WRITE IN THIS SPACE
2110 <input type="checkbox"/> Malt, Vinous And Spirituous Liquor	Liquor Permit Number
2170 <input type="checkbox"/> Fermented Malt Beverage	

1. Name of Applicant Organization or Political Candidate <i>Fruita Area Chamber of Commerce</i>	State Sales Tax Number (Required) <i>00493410-0000</i>
--	---

2. Mailing Address of Organization or Political Candidate (include street, city/town and ZIP) <i>432 E Aspen Ave Fruita, CO 81520</i>	3. Address of Place to Have Special Event (include street, city/town and ZIP) <i>CIVIC CENTER PARK 825 E ASPEN AVE. Fruita, CO 81521</i>
--	---

Name	Date of Birth	Home Address (Street, City, State, ZIP)	Phone Number
4. Pres./Sec'y of Org. or Political Candidate <i>Kayla Brown</i>	<i>7/7/91</i>	<i>1748 10 Rd. Mack, CO 81521</i>	<i>970-773-4482</i>
5. Event Manager <i>Selena Sanchez</i>	<i>10/3/96</i>	<i>3033 1/2 Choctaw Place GT, CO 81504</i>	<i>970-361-1991</i>

6. Has Applicant Organization or Political Candidate been issued a Special Event Permit this Calendar Year? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES HOW MANY DAYS? <i>(one app pending)</i>	7. Is premises now licensed under state liquor or beer code? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____
--	--

8. Does the Applicant Have Possession or Written Permission for the Use of The Premises to be Licensed? Yes No

List Below the Exact Date(s) for Which Application is Being Made for Permit

Date	Hours From	To	Date	Hours From	To	Date	Hours From	To	Date	Hours From	To
<i>9/25/2020</i>	<i>12:00 pm.</i>	<i>9:00 .m.</i>	<i>9/26/2020</i>	<i>3:00 pm.</i>	<i>9:00 p.m.</i>						

Oath of Applicant

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

Signature 	Title <i>Executive Director</i>	Date <i>8/28/2020</i>
---------------	------------------------------------	--------------------------

Report and Approval of Local Licensing Authority (City or County)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

Local Licensing Authority (City or County)	<input type="checkbox"/> City <input type="checkbox"/> County	Telephone Number of City/County Clerk
Signature	Title	Date

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

Liability Information			
License Account Number	Liability Date	State	Total
		-750 (999)	\$

Beer Garden at Civic Center Park hosted by Fruita Area Chamber of Commerce

Narrative for Special Events Liquor Permit

The Fruita Area Chamber of Commerce is applying for a Special Events Liquor Permit for Friday, September 25, 2020 for Fruita's Brew Fest.

The Fruita Area Chamber of Commerce plans on hosting a ticketed concert in Civic Center Park with a beer garden on Friday, September 25, 2020. The type of alcohol to be served will be beer. Alcohol will be served by trained staff from local breweries in the Grand Valley. Volunteers will be checking patron ID's to ensure they are over 21 years of age and then patrons will be given a wristband identifying that they meet the minimum age requirement as they check in with their reserved ticket. Additional beer tickets will be sold by trained volunteers at the staff booth to purchase at the brewery booths in addition to their complimentary samples.

Fencing used will be a mixture of fencing borrowed from City of Fruita and fencing provided by Western Slope Traffic Control. Signage will be posted throughout the area and at all entrances and exits stating that alcohol is not allowed to leave the fenced area and no outside alcohol may be brought in.

Clean up arrangements will be facilitated by the Fruita Area Chamber of Commerce staff and volunteer to ensure that all COVID-19 requirements set forth by Mesa County Public Health are followed and Civic Center Park is adequately cleaned up.

Food will be available through restaurants within the Downtown Area including Suds Bros. Brewery, Camilla's Kaffe, Hot Tomato and Aspen Street Coffee and any invited local food trucks.

Brew Fest
September 25, 2020



121

Debra Woods

From: Kayla Brown <kayla@fruitachamber.org>
Sent: Monday, August 31, 2020 2:30 PM
To: Debra Woods; Ture Nycum; Tom Casal
Subject: Fw: Fruita Brew Fest

FYI We now have approval from MCPH on the Brew Fest as well.

Thank you,

Kayla Brown
Fruita Area Chamber of Commerce
Executive Director
432 E. Aspen Ave. Fruita CO 81521
Office: 970-858-3894
kayla@fruitachamber.org



From: Ashley Miller <ashley.miller@mesacounty.us>
Sent: Monday, August 31, 2020 2:28 PM
To: Kayla Brown <kayla@fruitachamber.org>
Subject: Fruita Brew Fest

Hi Kayla,

After review of the outdoor event application for Fruita Brew Fest, MCPH approves the event based on the current application.

Also, when the food vendor list is finalized, please provide me a copy to ensure all vendors are appropriately licensed.

If you have any questions or concerns, please let me know.

Thank you!

Fruita Police Department

Chief David Krouse



157 S. Mesa St
Fruita, CO 81521

970-858-3008 Phone
970-858-3665 Fax
www.fruita.org

To: Debra Woods
From: Dave Krouse, Chief of Police
Date: September 4, 2020
Re: 2020 Fruita Beer Fest Special Event Liquor Permit

The application and narrative have been reviewed. There is nothing which would prohibit the issuance of the license requested.

The licensee needs to be aware they are solely responsible for control of the licensed premises in regard to alcohol possession, consumption and adherence to state and municipal laws.

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

FRUITA AREA CHAMBER OF COMMERCE

is a

Nonprofit Corporation

formed or registered on 09/20/1989 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19891094924 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 09/02/2020 that have been posted, and by documents delivered to this office electronically through 09/04/2020 @ 13:33:03 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 09/04/2020 @ 13:33:03 in accordance with applicable law. This certificate is assigned Confirmation Number 12578149 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****
Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/19/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Moody-Valley Insurance Agency, Inc. 760 Horizon Drive, Suite 302 Grand Junction CO 81506		CONTACT NAME: Jo Harper PHONE (A/C, No, Ext): (970) 248-8300 E-MAIL ADDRESS: jo.harper@moodyins.com	FAX (A/C, No): (970) 242-1894
INSURED Fruita Chamber of Commerce 432 East Aspen Ave Fruita CO 81521		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Acuity	NAIC # 14184
		INSURER B: Philadelphia Ins Companies	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 20/21 Master Cert **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y		Z62717	02/01/2020	02/01/2021	EACH OCCURRENCE \$ 1,000,000
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Data Breach \$ 50,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) if yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Directors & Officers Coverage			PHSD1554246	08/01/2020	08/01/2021	Each Occurrence \$ 1,000,000 Aggregate Limit \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Special Events:

- September 19, 2020 Supper on Southside
- September 25, Brew Fest
- September 26, 2020 Dinner in Downtown Fruita

CERTIFICATE HOLDER

CANCELLATION

City of Fruita
325 E Aspen Ave

Fruita CO 81521

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Moody-Valley Insurance Agency



FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: DEBRA WOODS, DEPUTY CITY CLERK

DATE: SEPTEMBER 15, 2020

RE: SPECIAL EVENT LIQUOR PERMIT APPLICATION – DINNER DOWNTOWN - APPROVING A SPECIAL EVENT LIQUOR PERMIT APPLICATION FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE BEER AND WINE AT THE DINNER DOWNTOWN EVENT IN CIVIC CENTER PARK LOCATED AT 325 E. ASPEN AVENUE ON SATURDAY, SEPTEMBER 26, 2020 FROM 3:00 PM TO 9:00 PM

BACKGROUND

The Fruita Area Chamber of Commerce has filed an application for a Special Events Liquor Permit to serve beer and wine during the “Dinner Downtown” event on Saturday, September 26, 2020 from 3:00 p.m. to 9:00 p.m. in Civic Center Park located at 325 E. Aspen Avenue.

State law allows local chambers to apply for a special events liquor permit, and the Fruita City Council adopted Resolution 2011-32, which authorizes the Local Licensing Authority to issue Special Events Permits to qualifying organizations and political candidates without sending the application to the State Authority for approval.

The City of Fruita requires that the applicant submit a narrative addressing specific issues related to the special events permit. The Police Department has reviewed the application and has no concerns or additional requirements for the event. The application, narrative, diagram, and Fruita Police Department comments are attached.

On August 27, 2020, the Fruita Chamber was also approved by the Mesa County Public Health Department to offer the “Dinner Downtown” event to the public after the Chamber presented a plan to help prevent the spread of COVID-19 and enhance the protection of individuals and the community.

The diagram of the licensed premises submitted with the application controls the area in which alcohol may be sold or consumed and should be strictly adhered to.

FISCAL IMPACT

None

APPLICABILITY TO CITY GOALS AND OBJECTIVES

None

OPTIONS AVAILABLE TO THE COUNCIL

1. Approval of the special events permit for the “Dinner Downtown” event
2. Denial of the special events permit

RECOMMENDATION

IT IS THE RECOMMENDATION OF STAFF THAT THE COUNCIL BY MOTION:

APPROVE THE APPLICATION FOR A SPECIAL EVENTS PERMIT FOR THE FRUITA AREA CHAMBER OF COMMERCE TO SERVE BEER AND WINE AT THE “DINNER DOWNTOWN” EVENT IN CIVIC CENTER PARK LOCATED AT 325 E. ASPEN AVE. ON SATURDAY, SEPTEMBER 26, 2020 FROM 3:00 PM TO 9:00 PM

SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. CHAMBER STAFF AND VOLUNTEERS WILL MONITOR THE ENTRANCES, EXITS AND PERIMETERS OF THE LICENSED AREAS TO ENSURE THAT NO ALCOHOL IS BROUGHT INTO OR OUT OF THE LICENSED AREAS.**
- 2. SIGNS WILL BE POSTED AROUND THE PERIMETER OF THE LICENSED AREAS PROHIBITING ALCOHOL FROM BEING CONSUMED IN ANY AREA OTHER THAN THE LICENSED PREMISES.**
- 3. ALL OTHER PROCEDURES PRESENTED BY THE CHAMBER WILL BE FOLLOWED.**
- 4. THE FRUITA CHAMBER WILL BE SOLELY RESPONSIBLE FOR THE ENFORCEMENT OF LIQUOR LAWS.**

Application for a Special Events Permit

Departmental Use Only

Dinner Downtown

In order to qualify for a Special Events Permit, You Must Be Nonprofit and One of the Following (See back for details.)

<input type="checkbox"/> Social	<input checked="" type="checkbox"/> Athletic	<input type="checkbox"/> Philanthropic Institution
<input type="checkbox"/> Fraternal	<input checked="" type="checkbox"/> Chartered Branch, Lodge Or Chapter	<input type="checkbox"/> Political Candidate
<input type="checkbox"/> Patriotic	<input type="checkbox"/> Of A National Organization Or Society	<input type="checkbox"/> Municipality Owning Arts Facilities
<input type="checkbox"/> Political	<input type="checkbox"/> Religious Institution	

LIAB Type of Special Event Applicant is Applying for:	DO NOT WRITE IN THIS SPACE
2110 <input type="checkbox"/> Malt, Vinous And Spirituous Liquor	Liquor Permit Number
2170 <input type="checkbox"/> Fermented Malt Beverage	

1. Name of Applicant Organization or Political Candidate Fruita Area Chamber of Commerce		State Sales Tax Number (Required) 00493410-0000	
2. Mailing Address of Organization or Political Candidate (Include street, city/town and ZIP) 432 E Aspen Ave Fruita, CO 81521		3. Address of Place to Have Special Event (Include street, city/town and ZIP) CIVIC CENTER PARK 825 E ASPEN AVE. FRUITA, CO 81521	
Name	Date of Birth	Home Address (Street, City, State, ZIP)	Phone Number
4. Pres./Sec'y of Org. or Political Candidate Kayla Brown	7/7/91	1748 LO RD. MACE, CO 81521	970-773-4482
5. Event Manager Selena Sanchez	10/3/96	3033 1/2 Choctaw Place GT, CO 81504	970-361-1991
6. Has Applicant Organization or Political Candidate been issued a Special Event Permit this Calendar Year? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES HOW MANY DAYS? one app pending		7. Is premises now licensed under state liquor or beer code? <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES TO WHOM? _____	
8. Does the Applicant Have Possession or Written Permission for the Use of The Premises to be Licensed? <input type="checkbox"/> Yes <input type="checkbox"/> No			

List Below the Exact Date(s) for Which Application is Being Made for Permit

Date	Hours From	Hours To	Date	Hours From	Hours To	Date	Hours From	Hours To
9/25/2020	12:00 pm.	9:00 .m.	9/26/2020	3:00 pm.	9:00 p.m.			

Oath of Applicant

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

Signature	Title Executive Director	Date 8/28/2020
-----------	------------------------------------	--------------------------

Report and Approval of Local Licensing Authority (City or County)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

Local Licensing Authority (City or County)	<input type="checkbox"/> City <input type="checkbox"/> County	Telephone Number of City/County Clerk
Signature	Title	Date

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

Liability Information			
License Account Number	Liability Date	State	Total
		-750 (999)	\$

Dinner Downtown hosted by Fruita Area Chamber of Commerce

Narrative for Special Events Liquor Permit

The Fruita Area Chamber of Commerce is applying for a Special Events Liquor Permit for Saturday, September 26, 2020.

Dinner Downtown will take place on Saturday, September 26 in Downtown Fruita on Aspen Street. If the Fruita Area Chamber of Commerce is unable to use Aspen Street, the Dinner Downtown will take place in Civic Center Park. Participating restaurants will be provided with expanded outdoor seating for customers. The type of alcohol that will be served at this event is beer and wine. Alcohol will be served by trained staff within the designated outdoor seating area. Suds Brothers and Copper Club will be hired to serve alcohol for attendees.

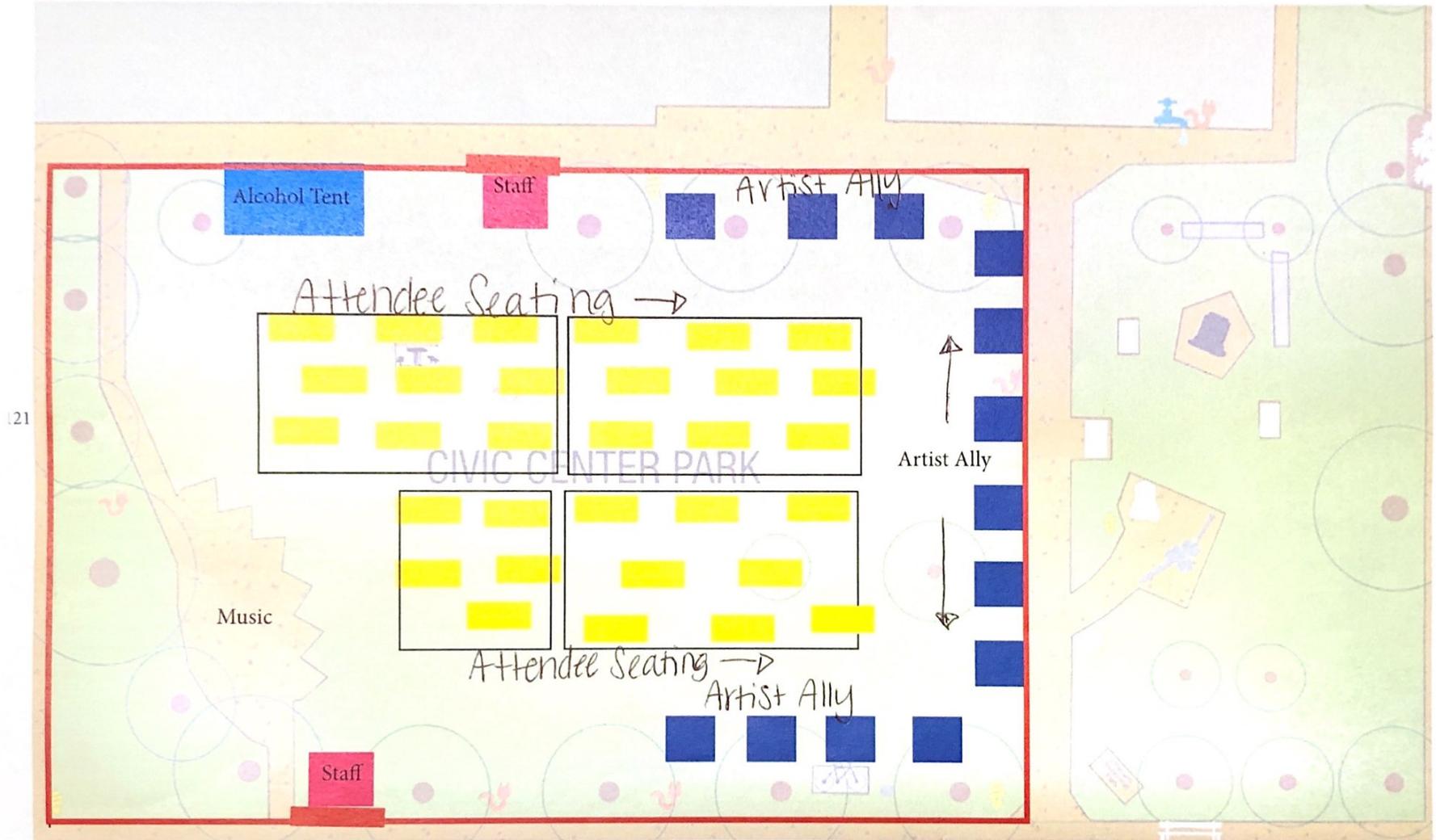
Fencing used will be a mixture of fencing borrowed from City of Fruita and fencing provided by Western Slope Traffic Control. Signage will be posted throughout the area and at all entrances and exits stating that alcohol is not allowed to leave the fenced area and no outside alcohol may be brought in.

Restroom facilities will be provided by the Civic Center indoor facilities for patrons to use, unless additional outdoor restroom facilities are requested by the City of Fruita. Signage concerning the consumption of alcohol will be placed at all entrances and exits within the licensed area. Identification and age verification procedures for the purchase and consumption of alcohol will be processed by trained staff in the same manner that they conduct identification and age verification within their facility. Food will be available to patrons in the licensed area through participating restaurants and invited food truck vendors. All persons serving alcohol and checking IDs will be 21 years of age or older.

Fruita Area Chamber of Commerce staff and volunteers will be monitoring the control of alcohol points in addition to restaurant staff monitoring ingress and egress points to ensure alcoholic beverages do not come in or leave the licensed premises during the Dinner Downtown in Civic Center Park. on Saturday, September 26, 2020.

Dinner in Downtown

September 26, 2020



Debra Woods

From: Kayla Brown <kayla@fruitachamber.org>
Sent: Thursday, August 27, 2020 5:03 PM
To: Ture Nycum; Debra Woods; Tom Casal; Mike Bennett
Subject: Fw: Dinner in Downtown Fruita

Follow Up Flag: Follow up
Flag Status: Flagged

FYI - We just received our official approval for the Dinner in Downtown Fruita. We are working on the revisions needed for the changes to have it at Civic Center and should have those over to you by tomorrow. I am hoping to have everything for Southside confirmed and finalized no later than Monday. The Health Department is reviewing our Brew Fest currently and will let us know once they have decided on how they would like us to proceed.

Thank you,

Kayla Brown
Fruita Area Chamber of Commerce
Executive Director
432 E. Aspen Ave. Fruita CO 81521
Office: 970-858-3894
kayla@fruitachamber.org



From: Ashley Miller <ashley.miller@mesacounty.us>
Sent: Thursday, August 27, 2020 4:53 PM
To: Kayla Brown <kayla@fruitachamber.org>
Subject: Dinner in Downtown Fruita

Hi Kayla,

After review of your application, MCPH approves the Dinner in Downtown Fruita event.

If you have any questions, please let me know.

Thank you!

--

Fruita Police Department

Chief David Krouse



157 S. Mesa St
Fruita, CO 81521

970-858-3008 Phone
970-858-3665 Fax
www.fruita.org

To: Debra Woods
From: Dave Krouse, Chief of Police
Date: September 4, 2020
Re: 2020 Dinner Downtown Special Event Liquor Permit

The application and narrative have been reviewed. There is nothing which would prohibit the issuance of the license requested.

The licensee needs to be aware they are solely responsible for control of the licensed premises in regard to alcohol possession, consumption and adherence to state and municipal laws.

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

FRUITA AREA CHAMBER OF COMMERCE

is a

Nonprofit Corporation

formed or registered on 09/20/1989 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19891094924 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 09/02/2020 that have been posted, and by documents delivered to this office electronically through 09/04/2020 @ 13:33:03 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 09/04/2020 @ 13:33:03 in accordance with applicable law. This certificate is assigned Confirmation Number 12578149 .



A handwritten signature in blue ink that reads "Jena Griswold".

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/bi:/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/19/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Moody-Valley Insurance Agency, Inc. 760 Horizon Drive, Suite 302 Grand Junction CO 81506		CONTACT NAME: Jo Harper PHONE (A/C, No, Ext): (970) 248-8300 E-MAIL ADDRESS: jo.harper@moodyins.com FAX (A/C, No): (970) 242-1894	
INSURED Fruita Chamber of Commerce 432 East Aspen Ave Fruita CO 81521		INSURER(S) AFFORDING COVERAGE INSURER A: Acuity INSURER B: Philadelphia Ins Companies INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 20/21 Master Cert **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y		Z62717	02/01/2020	02/01/2021	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000						
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
							Data Breach \$ 50,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$
							AGGREGATE \$
							\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER
							E L EACH ACCIDENT \$
							E L DISEASE - EA EMPLOYEE \$
							E L DISEASE - POLICY LIMIT \$
B	Directors & Officers Coverage			PHSD1554246	08/01/2020	08/01/2021	Each Occurrence \$ 1,000,000 Aggregate Limit \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Special Events:

September 19, 2020 Supper on Southside

September 25, Brew Fest

September 26, 2020 Dinner in Downtown Fruita

CERTIFICATE HOLDER City of Fruita 325 E Aspen Ave Fruita CO 81521		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Moody-Valley Insurance Agency</i>	
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AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PAUL WISOR, CITY ATTORNEY

DATE: SEPTEMBER 15, 2020

RE: RESOLUTION 20-37, A RESOLUTION REGULATING THE USE OF PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF FRUITA TO ENCOURAGE AND PERMIT OUTDOOR DINING AND TO ASSIST LOCAL BUSINESSES IN RESPONSE TO THE CITY'S LOCAL DISASTER EMERGENCY REGARDING COVID-19

SUMMARY

In order to promote greater social distancing and other practices aimed at diminishing the spread of COVID-19, staff is proposing the establishment of outdoor dining areas in which food and alcohol could be served by nearby restaurants and legally consumed by their patrons. In order to comply with state law and recent public health orders, Council will need to adopt Resolution 20-37 which will shut down portions of N. Mulberry Street and N. Peach Street. Council will then need to adopt Resolution 20-38 which will establish an outdoor dining area on N. Mulberry Street and N. Peach Street. Public consumption of alcohol will be permitted by virtue of the right-of-way being closed to vehicular traffic.

BACKGROUND

The COVID-19 pandemic has largely had a negative impact on restaurants and other dining establishments in Fruita. In part, the downturn in the economic fortunes of these establishments is due to the fact that certain capacity caps and social distancing standards must be met, thereby reducing the overall capacity of such establishments.

In order to allow for flexibility and judicious use of public space amid the pandemic, Governor Polis issued Executive Order 20-093, which suspends the prohibition on public right of ways (municipal sidewalks, and streets) from being ineligible as areas where localities may authorize public consumption of alcohol. Executive Order 20-093 further provides that liquor licensees with on-premises serving abilities may now apply for a

temporary modification of premises to be included in a Communal Outdoor Dining Area. Within this Communal Outdoor Dining Area, which now may include the public right of way, patrons may consume takeout food and alcohol.

RESOLUTION 20-37

Resolution 20-37 will shut down traffic flow on N. Mulberry Street between the intersections of E. Aspen Avenue and E. Pabor Avenue as well as shut down all traffic flow on N. Peach Street between the intersections of E. Aspen Avenue and E. Pabor Avenue. It is anticipated the City would install permanent barriers to make clear traffic is not permitted in these areas. In doing so, the City will be able to designate that area as an area where public consumption of alcohol may occur.

Resolution 20-37 further provides the following activities are permitted on the closed of streets:

- Sanitation stations.
- Non-exclusive communal dining space available for any lawful public use or to assist with either take out, delivery or possible wait service from licensed restaurant establishments. Any option of wait service within the N. Mulberry Street and N. Peach Street communal dining spaces must include the execution of a subsequent release of liability and indemnification agreement between the City and the dining establishment.
- On a case-by-case basis, the City may approve individual agreements with restaurants for a temporary modification of premise for liquor licensing.
- Bicycle parking.

Finally, Resolution 20-37 provides the City Manager may implement rules and regulations as necessary to effectuate a fair and safe closure and operation of the designated area.

FISCAL IMPACT

Expenses related to this project have already been approved and are funded via Federal Coronavirus Relief Funds per US Treasury eligibility criteria.

Providing outdoor, safe, spaced out public seating to assist with social distancing and aid local food and beverage-based businesses is one purpose of the relief funds since these businesses are negatively impacted economically from capacity requirements. During the first few months of the pandemic, this category of business has experienced significant decreases in business as measured by City sales tax collection. Per the US Treasury guidance, this project fits with “providing economic support to those suffering from employment or business interruptions to due COVID-19-related business closures.” (CVRF Guidance for State, Territorial, Local, and Tribal Governments, September 2, 2020).

In addition, Governor Polis has requested (letter attached) of Colorado Mayors for communities to participate in these types of projects as well as prepare for winter months in the outdoor spaces, which we have done.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This project directly applies to all three City strategic priority areas of positively impacting economic health, lifestyle and quality of place in Fruita.

OPTIONS AVAILABLE TO COUNCIL

1. Adopt Resolution 20-37, or work with staff to modify prior to adoption.
2. Decline to adopt Resolution 20-37.

RECOMMENDATION

Staff recommends that the City Council move to:

ADOPT RESOLUTION 20-37, REGULATING THE USE OF PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF FRUITA TO ENCOURAGE AND PERMIT OUTDOOR DINING AND TO ASSIST LOCAL BUSINESSES IN RESPONSE TO THE CITY'S LOCAL DISASTER EMERGENCY REGARDING COVID-19.

RESOLUTION 20-37

A RESOLUTION REGULATING THE USE OF PUBLIC RIGHTS-OF-WAY WITHIN THE CITY OF FRUITA TO ENCOURAGE AND PERMIT OUTDOOR DINING AND TO ASSIST LOCAL BUSINESSES IN RESPONSE TO THE CITY'S LOCAL DISASTER EMERGENCY REGARDING COVID-19

WHEREAS, COVID-19 is a highly contagious virus that has spread throughout the United States, including the City of Fruita, Colorado (the "City"); and

WHEREAS, COVID-19 may cause serious illness and death, especially with respect to elderly persons or those with underlying health conditions; and

WHEREAS, on January 30, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 a "public health emergency of international concern"; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services declared COVID-19 a public health emergency; and

WHEREAS, on March 10, 2020, in response to the spread of COVID-19, Governor Polis declared a state of emergency; and

WHEREAS, on March 26, 2020 the Fruita City Manager issued a Declaration of Local Disaster Emergency (the "Declaration"), on file with the City Clerk and with the County Clerk and Recorder; and

WHEREAS, part of the governmental response to COVID-19 from the State of Colorado and the Mesa County Board of County Commissioners pursuant to several versions of Public Health Orders ("PHOs") has included the closure of all restaurant dine-in options, while still permitting take-out and delivery options for restaurants along with the initial closure of many retail establishments, which retail closures have at least been partially lifted or lifted with restrictions; and,

WHEREAS, the City of Fruita values both the retail industry along with the restaurant and dining experience enjoyed by visitors and local citizens alike; and,

WHEREAS, the City is committed to encouraging and assisting restaurants and other dining establishments with the possible use of City public rights-of-way to offer areas that could assist with some of the social distancing and occupancy restrictions that are expected during the duration of the COVID-19 pandemic; and,

WHEREAS, on May 18, 2020 Colorado Governor Jared Polis encouraged Colorado cities and towns to look at a variety of options to encourage outdoor dining, including the use of public sidewalks and streets to host outdoor dining; and,

WHEREAS, Governor Polis also specifically mentioned the expected spacing and occupancy restrictions for dine-in restaurants as a continued challenge to the restaurant industry during the COVID-19 pandemic and that local jurisdictions should strongly consider working with

local restaurants to attempt to boost restaurant capacity with the use of outdoor dining including in public rights-of-way and park areas; and,

WHEREAS, the City can assist restaurants and other dining establishments, who are expected to experience spacing and occupancy restrictions inside such establishments, by offering the non-exclusive use of City public rights-of-way for outdoor dining on City property; and,

WHEREAS, the City Council is adopting this Resolution pursuant to its Home Rule Authority provided under the Colorado Constitution, Article XX, the Fruita Home Rule Charter and the City's Police Power authority under Colorado Revised Statute Section 31-15-401(1)(b) with the explicit authority to "[t]o do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease" within the limits of the City of Fruita; and,

WHEREAS, the City also has explicit authority under Colorado law found at Colorado Revised Statute Section 31-15-702, by an enactment of the governing body of the municipality, to regulate, open and alter streets, alleys, sidewalks, parks and public places and to regulate traffic and sales upon streets, alleys, sidewalks, parks and public places.

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

Section 1. Mulberry Avenue and Peach Street

- A. The City hereby shuts down traffic flow on N. Mulberry Street between the intersections of E. Aspen Avenue and E. Pabor Avenue as well as shuts down all traffic flow on N. Peach Street between the intersections of E. Aspen Avenue and E. Pabor Avenue. The streets are hereby closed pursuant to this Resolution and the area of the same shall be incorporated into the other non-vehicular uses permitted by this Resolution under Section 1(C). The City shall erect all appropriate and required signage to clearly illustrate and prohibit traffic flow on N. Mulberry Street between the intersections of E. Aspen Avenue and E. Pabor Avenue as well as on N. Peach Street between the intersections of E. Aspen Avenue and E. Pabor Avenue.
- B. Along both the east and west side of N. Mulberry Street and N. Peach Street within the area subject to this Resolution, the City shall maintain the existing and current sidewalk configurations to permit continued public pedestrian use of the sidewalks.
- C. Permitted uses for those portions of N. Mulberry Street and N. Peach Street not designated for vehicular traffic or existing sidewalks are denoted in the attached general and approximate usage map labeled as Exhibit A and attached hereto and incorporated herein by this reference. The City Manager is permitted to make minor changes and adjustments to Exhibit A as to the location of Permitted Uses provided such changes do not fundamentally change the generally designating uses for each block. Such Permitted Uses for those portions of Colorado Avenue not designated for vehicular traffic or existing sidewalks include:
 - Sanitation stations.

- Non-exclusive communal dining space available for any lawful public use or to assist with either take out, delivery or possible wait service from licensed restaurant establishments. Any option of wait service within the N. Mulberry Street and N. Peach Street communal dining spaces must include the execution of a subsequent release of liability and indemnification agreement between the City and the dining establishment.
 - On a case-by-case basis, the City may approve individual agreements with restaurants for a temporary modification of premise for liquor licensing.
 - Bicycle parking.
- D. To promote public hygiene during the COVID-19 pandemic, restaurants that participate in the use of the communal dining space provided for under Section 1(C) of this Resolution must permit patrons of the establishment to use the indoor restroom facilities of such establishment.

Section 2. Obstruction of Public Right of Way.

It shall be a defense to a charge of violating Fruita Municipal Code Section 12.12, Obstruction of Streets and Sidewalks, if the person is complying with and operating within the Permitted Uses of this Resolution.

Section 3. Rulemaking and Enforcement by City Manager.

The City Manager is permitted, if needed, to implement any rules or regulations in furtherance of the equitable and fair implementation of this Resolution provided such rules or regulations do not fundamentally change the Permitted Uses of this Resolution.

Any violation of the Fruita Municipal Code by a restaurant establishment may result in the suspension by the City Manager of the ability to participate in the communal dining provided in this Resolution.

Section 4. Effective Date; Duration. This Resolution shall be effective upon the date given below and shall remain in effect for so long as the Declaration is no longer in effect or the Council rescinds this Resolution.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS 15th DAY OF SEPTEMBER 2020

THE CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST

Margaret Sell, City Clerk



COLORADO

Governor Jared Polis

Dear Colorado Mayors,

On behalf of the State of Colorado, thank you for your continued commitment protecting the health and safety of your communities. Together, our leadership has saved lives, connected individuals to financial assistance, and stabilized our economy. Because of our efforts to ensure social distancing, we have begun to slowly re-open our restaurants, stores, offices, and services that Coloradans rely on each and every day. But, there is more work that can be done together to assist families and businesses.

Municipalities have employed successful solutions at the local level-- including the facilitation of expanded outdoor dining-- making a significant difference for Colorado restaurants across our state. We have continued our executive orders for temporary modifications to premises, and our state Liquor Enforcement Division (LED) has stood ready to assist restaurants with their questions and applications including approval within 24 hours for non-contiguous or contiguous outdoor liquor licenses.

As we prepare for Winter operations, we are faced with new challenges to maintain social distancing and mitigate negative impacts to our economy. The fact that outdoor spaces are abundantly safer than indoor spaces will not change through the colder months of winter, presenting a significant challenge that we must be creative to overcome.

In the spirit of our partnership, I would like to ask for your help in continuing expanded, safe outdoor dining through this Winter. The State, local communities, and the restaurant industry must work together to find creative ways to maintain expanded outdoor dining despite colder weather such as municipally operated fire pits, space heaters, and tenting. I'd like your partnership in distinguishing Colorado as a state that deploys creative solutions to help keep Coloradans outdoors, and support a valued and important industry.

I ask that you continue to collaborate with restaurants in your communities to help address the challenges we will face this winter, including the use of grant programs, which can help cover the costs of maintaining expanded outdoor dining through the winter. These include the Coronavirus Relief Fund (www.cdola.colorado.gov/cvrf) through the Department of Local Affairs and various grant opportunities through the Office of Economic Development and International Trade (www.choosecolorado.com/covid19).

Please let my office know how the State can be a more active partner in removing barriers that your communities and restaurants face in overcoming these challenges. Thank you in advance for your time and consideration.

Sincerely,



Jared Polis
Governor





AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL AND MAYOR

FROM: PAUL WISOR, CITY ATTORNEY

DATE: SEPTEMBER 15, 2020

RE: RESOLUTION 20-38, A RESOLUTION TO IMPLEMENT THE PROVISIONS OF STATE OF COLORADO EXECUTIVE ORDER D 2020 093 PERTAINING TO LOCAL AUTHORIZATION OF THE SUSPENSION OF LAWS PROHIBITING PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES BUT ONLY WITHIN LIMITED AREAS OF THE CITY OF FRUITA AND ONLY AS TO TAKEOUT ALCOHOLIC BEVERAGES

SUMMARY

In order to promote greater social distancing and other practices aimed at diminishing the spread of COVID-19, staff is proposing the establishment of outdoor dining areas in which food and alcohol could be served by nearby restaurants and legally consumed by their patrons. In order to comply with state law and recent public health orders, Council will need to adopt Resolution 20-37 which will shut down portions of N. Mulberry Street and N. Peach Street. Council will then need to adopt Resolution 20-38 which will establish an outdoor dining area on N. Mulberry Street and N. Peach Street. Public consumption of alcohol will be permitted by virtue of the right-of-way being closed to vehicular traffic.

BACKGROUND

The COVID-19 pandemic has largely had a negative impact on restaurants and other dining establishments in Fruita. In part, the downturn in the economic fortunes of these establishments is due to the fact that certain capacity caps and social distancing standards must be met, thereby reducing the overall capacity of such establishments.

In order to allow for flexibility and judicious use of public space amid the pandemic, Governor Polis issued Executive Order 20-093, which suspends the prohibition on public right of ways (municipal sidewalks, and streets) from being ineligible as areas where localities may authorize public consumption of alcohol. Executive Order 20-093 further

provides that liquor licensees with on-premises serving abilities may now apply for a temporary modification of premises to be included in a Communal Outdoor Dining Area. Within this Communal Outdoor Dining Area, which now may include the public right of way, patrons may consume takeout food and alcohol.

RESOLUTION 20-38

Resolution 20-38 permits the consumption of alcohol on N. Mulberry Street between the intersections of E. Aspen Avenue and E. Pabor Avenue as well as on N. Peach Street between the intersections of E. Aspen Avenue and E. Pabor Avenue. Resolution 20-38 further designates this area as a “City Open Public Consumption Areas.” Within the City Open Public Consumption Areas, the only permitted alcoholic beverages to possess or consume are those beverages known as Takeout Alcoholic Beverages (the “Takeout Alcoholic Beverages”) purchased only in sealed containers as authorized pursuant to Colorado Executive Order D 2020 011.

Takeout Alcoholic Beverages authorized for consumption or possession in the City Open Public Consumption Areas are subject to the following restrictions:

- All alcohol must be sold in sealed containers
- Any alcoholic beverages sold to a consumer through takeout shall be in a cup or other container closed securely with a lid taped securely to the cup or other container
- All containers must have a warning regarding drinking about consuming while in transit or in public
- All alcohol shall be sold with food, such as meals and/or sandwiches and light snacks
- No refills of containers permitted
- Smoking shall not be permitted at any time within a City Open Public Consumption Area.

The City Open Public Consumption Area will be open from 10 a.m. to 10 p.m. As with Resolution 20-37, Resolution 20-38 provides the City Manager with the ability to promulgate rules necessary for the safe operation of the City Open Consumption Area.

FISCAL IMPACT

Expenses related to this project have already been approved and are funded via Federal Coronavirus Relief Funds per US Treasury eligibility criteria.

Providing outdoor, safe, spaced out public seating to assist with social distancing and aid local food and beverage-based businesses is one purpose of the relief funds since these businesses are negatively impacted economically from capacity requirements. During the first few months of the pandemic, this category of business has experienced significant decreases in business as measured by City sales tax collection. Per the US Treasury guidance, this project fits with “providing economic support to those suffering from employment or business interruptions to due COVID-19-related business closures.” (CVRF Guidance for State, Territorial, Local, and Tribal Governments, September 2, 2020).

In addition, Governor Polis has requested (letter attached) of Colorado Mayors for communities to participate in these types of projects as well as prepare for winter months in the outdoor spaces, which we have done.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

This project directly applies to all three City strategic priority areas of positively impacting economic health, lifestyle and quality of place in Fruita.

OPTIONS AVAILABLE TO COUNCIL

1. Adopt Resolution 20-38, or work with staff to modify prior to adoption.
2. Decline to adopt Resolution 20-38.

RECOMMENDATION

Staff recommends that the City Council move to:

ADOPT RESOLUTION 20-38, TO IMPLEMENT THE PROVISIONS OF STATE OF COLORADO EXECUTIVE ORDER D 2020 093 PERTAINING TO LOCAL AUTHORIZATION OF THE SUSPENSION OF LAWS PROHIBITING PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES BUT ONLY WITHIN LIMITED AREAS OF THE CITY OF FRUITA AND ONLY AS TO TAKEOUT ALCOHOLIC BEVERAGES.

RESOLUTION 20-38

A RESOLUTION TO IMPLEMENT THE PROVISIONS OF STATE OF COLORADO EXECUTIVE ORDER D 2020 093 PERTAINING TO LOCAL AUTHORIZATION OF THE SUSPENSION OF LAWS PROHIBITING PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES BUT ONLY WITHIN LIMITED AREAS OF THE CITY OF FRUITA AND ONLY AS TO TAKEOUT ALCOHOLIC BEVERAGES.

WHEREAS, COVID-19 is a highly contagious virus that has spread throughout the United States, including the City of Fruita, Colorado (the “City”); and

WHEREAS, COVID-19 may cause serious illness and death, especially with respect to elderly persons or those with underlying health conditions; and

WHEREAS, on January 30, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 a “public health emergency of international concern”; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services declared COVID-19 a public health emergency; and

WHEREAS, on March 10, 2020, in response to the spread of COVID-19, Governor Polis declared a state of emergency; and

WHEREAS, on March 26, 2020 the Fruita City Manager issued a Declaration of Local Disaster Emergency (the “Declaration”), on file with the City Clerk and with the County Clerk and Recorder; and

WHEREAS, part of the governmental response to COVID-19 from the State of Colorado and the Mesa County Board of County Commissioners pursuant to several versions of Public Health Orders (“PHOs”) has included the closure of all restaurant dine-in options, while still permitting take-out and delivery options for restaurants along with the initial closure of many retail establishments, which retail closures have at least been partially lifted or lifted with restrictions; and,

WHEREAS, the City of Fruita values both the retail industry along with the restaurant and dining experience enjoyed by visitors and local citizens alike; and,

WHEREAS, the City is committed to encouraging and assisting restaurants and other dining establishments with the possible use of City public rights-of-way to offer areas that could assist with some of the social distancing and occupancy restrictions that are expected during the duration of the COVID-19 pandemic; and,

WHEREAS, on May 18, 2020 Colorado Governor Jared Polis encouraged Colorado cities and towns to look at a variety of options to encourage outdoor dining, including the use of public sidewalks and streets to host outdoor dining; and,

WHEREAS, Governor Polis also specifically mentioned the expected spacing and occupancy restrictions for dine-in restaurants as a continued challenge to the restaurant industry during the COVID-19 pandemic and that local jurisdictions should strongly consider working with

local restaurants to attempt to boost restaurant capacity with the use of outdoor dining including in public rights-of-way; and,

WHEREAS, on September 15, 2020 the Fruita City Council approved Resolution No. 20-37, which, among other things, closed sections of N. Mulberry Street between the intersections of E. Aspen Avenue and E. Pabor Avenue as well on N. Peach Street between the intersections of E. Aspen Avenue and E. Pabor Avenue to vehicular traffic and opened the same up to non-exclusive communal dining space available for any lawful public use or to assist with either take out, delivery or possible wait service from licensed restaurant establishments; and,

WHEREAS, on June 5, 2020 Colorado Governor Jared Polis issued Executive Order D 2020-093 authorizing a suspension of the provisions of C.R.S. Section 44-3-901(1)(i)(D)(VII), thereby suspending the enforcement of existing Colorado laws prohibiting public consumption of alcohol beverages on any public right-of-way if a local jurisdiction also permits the same suspension by ordinance, resolution or rule adopted by a municipality, city and county, or county; and,

WHEREAS, it is the intent of this Resolution to exercise the authority granted to local governments under Executive Order D 2020-093 on the local level in the City of Fruita to suspend both Colorado law and local provisions under the Fruita Municipal Code (“FMC”) that otherwise would normally prohibit the public consumption of alcohol to assist restaurant patrons with lawfully consuming Takeout Alcoholic Beverages while using limited areas of City property for outdoor dining as those areas are detailed in the provisions of this Resolution; and,

WHEREAS, the City Council is also adopting this Resolution pursuant to its Home Rule Authority provided under the Colorado Constitution, Article XX, Sections 1-6, the Fruita Charter and the City's Police Power authority under Colorado Revised Statute Section 31-15-401(1)(b) with the explicit authority to “[t]o do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease” within the limits of the City of Fruita; and,

WHEREAS, the City also has explicit authority under Colorado law found at Colorado Revised Statute Section 31-15-702, by an enactment of the governing body of the municipality, to regulate, open and alter streets, alleys, sidewalks, parks and public places and to regulate traffic and sales upon streets, alleys, sidewalks, parks and public places.

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

Section 1. Specific, Limited Areas of the City of Fruita Exempted from Provisions of C.R.S. Section 44-3-901(1)(i)(D)(VII), FMC Section 9.08.010 and Hereby Permitted for Open Public Consumption of Alcohol.

Pursuant to the authority granted by Colorado Governor Jared Polis under Executive Order D 2020-093, issued June 5, 2020, the City of Fruita hereby authorizes a suspension of the provisions of C.R.S. Section 44-3-901(1)(i)(D)(VII) and any other sections of law or ordinance enacted by the City of Fruita, which existing laws otherwise would prohibit open public consumption of alcoholic beverages in any public place or on any public right of way.

The suspension of the open container law authorized herein is only as to the following limited areas of the City of Fruita, as the same areas are also referenced and delineated in this Resolution under Exhibit A, attached hereto and incorporated herein by reference:

- A. Within the specific areas designated and delineated as the City owned non-exclusive Communal Dining Areas ("Communal Dining Areas") as the same were established by City of Fruita Resolution 20-37 on N. Mulberry Street between the intersections of E. Aspen Avenue and E. Pabor Avenue as well on N. Peach Street between the intersections of E. Aspen Avenue and E. Pabor Avenue as the same are also referenced and delineated in this Resolution under Exhibit A, attached hereto and incorporated herein by reference.

Collectively, the areas permitted for open public consumption of alcoholic beverages pursuant to Sections 1(A) of this Resolution shall be referred to as the "City Open Public Consumption Areas." The City will erect either appropriate barriers or boundaries or sufficient signage to alert members of the public that they are either entering or exiting the City's Open Public Consumption Areas.

Section 2. Limited Alcoholic Beverages in Open Public Consumption Areas.

- A. In the City Open Public Consumption Areas, the City hereby permits possession and consumption, by those who are at least twenty-one (21) years of age and not otherwise prohibited from possession or consumption of alcoholic beverages, of the following types of alcoholic beverages: malt liquors, vinous liquors or spirituous liquors as the same are defined under the Colorado Liquor Code, 44-3-101 *et. seq.*
- B. Within the City Open Public Consumption Areas, the only permitted alcoholic beverages to possess or consume are those beverages known as Takeout Alcoholic Beverages (the "Takeout Alcoholic Beverages") purchased only in sealed containers as authorized pursuant to Colorado Executive Order D 2020 011 as the same has been amended by Colorado Executive Order D 2020 029, Colorado Executive Order D 2020 052, and Colorado Executive Order D 2020 084, which provide for Takeout Alcoholic Beverages from licensed on-premise retail liquor establishments that sell food and operate under and in compliance with one of the following license types:
 - i. Beer and Wine
 - ii. Brew Pubs
 - iii. Club Licenses
 - iv. Distillery Pubs
 - v. Hotel & Restaurant
 - vi. Lodging and Entertainment
 - vii. Tavern
 - viii. Vintners Restaurant
- B. Pursuant to the State of Colorado Liquor Rules, 1 CCR 203-2, specifically Regulation 47-1101, and as defined under C.R.S. Section 44-3-103(51), the following restrictions apply to the permitted Takeout Alcoholic Beverages authorized for consumption or possession in the City Open Public Consumption Areas:

- i. Any alcoholic beverage sold to a consumer through takeout shall be in sealed containers, which are defined under C.R.S. Section 44-3-103(51) as “any container or receptacle used for holding an alcohol beverage, which container or receptacle is corked or sealed with any stub, stopper, or cap.”
 - ii. Pursuant to Regulation 47-1101(A)(8)(B), any alcoholic beverages sold to a consumer through takeout shall be in a cup or other container closed securely with a lid taped securely to the cup or other container. A plastic lid complies so long as any holes in the lid are sealed securely with tape, no straw is inserted through the lid, and the contents of the cup are not partially removed. Such a cup or other container shall be affixed with a label containing a warning statement, with a minimum fourteen (14) font size, stating as follows: **“WARNING: DO NOT OPEN OR REMOVE SEAL WHILE IN TRANSIT. Purchasers are subject to state and local laws prohibiting drinking or possessing open containers of alcoholic beverages in motor vehicles, including section 42-4-1305, C.R.S.”**
 - iii. All Takeout Alcoholic Beverages, pursuant to Regulation 47-1101(B), that are sold by a retailer shall be sold with food, such as meals and/or sandwiches and light snacks. Both food and alcohol beverages sold for take-out or delivery must be reflected on the same receipt or transaction.
 - iv. State of Colorado Liquor Rules currently prohibit the refill with alcohol beverage of any alcoholic beverage container and the reuse of such containers by adding any substance, including water, to the alcoholic beverage container. (Regulation 47- 904(C), 1 CCR 203-2.).
 - v. Any on-premise retail liquor establishment providing takeout alcoholic beverages is encouraged by the City of Fruita to explore whether such sealed containers can be made of either stainless steel or aluminum material or that is either compostable or biodegradable and still meet the requirements of this Resolution, the Colorado Liquor Rules and the Colorado Liquor Code.
- D. Consumers of Takeout Alcoholic Beverages are reminded that the sealed containers provided to them must continue to remain sealed during transit from the on-premise retail liquor establishment until the consumer enters a City Open Public Consumption Area or the consumer risks a violation of Colorado law under C.R.S. Section 44-3-901 or local Fruita law.
- E. Smoking shall not be permitted at any time within a City Open Public Consumption Area.

Section 3. Limitation and Rules Within City Open Consumption Areas

- A. Hours for permitted possession and consumption of open containers of alcoholic beverages within the City Open Public Consumption Areas shall be limited from 10 a.m. until 10 p.m. daily.
- B. Unless otherwise specifically authorized, amplified music is not permitted in any of the City Open Public Consumption Areas.
- C. Use of any of the City Open Public Consumption Areas may be temporarily suspended if the City has previously or subsequently approved use of these areas, including any portion of the same, for any Special Event Liquor License.

Section 4. Rulemaking and Enforcement by City Manager.

The City shall continue to enforce provisions under Colorado law and local provisions in the Fruita Municipal Code that prohibit the open or public consumption of alcoholic beverages on all public sidewalks, public parks or any other public property not otherwise specifically exempted herein by the terms of this Resolution or other provisions of Colorado law or local Fruita law.

The City Manager is permitted, if needed, to implement any rules or regulations in furtherance of the equitable and fair implementation of this Resolution provided such rules or regulations do not fundamentally change the intent of this Resolution.

Any violation of this Resolution, Fruita Municipal Code, the Colorado Liquor Code or the Colorado Liquor Rules by an on-premise retail liquor establishment may subject the licensed establishment to public hearing requirements and possible sanctions or fines under the Fruita Municipal Code, the Colorado Liquor Code or the Colorado Liquor Rules.

Section 5. Effective Date; Duration. This Resolution shall be effective upon the date given below and shall remain in effect for so long as the City's Local Emergency Declaration is no longer in effect, the Council rescinds this Resolution. Notwithstanding the forgoing, this Resolution shall automatically be repealed if any of the following events occur:

- A. The repeal or expiration of State of Colorado Executive Order D 2020-093 that authorizes the suspension of open container prohibitions as to municipal rights-of-way by a local government.
- B. The repeal or expiration of any of the State of Colorado Executive Orders (D 2020 011; D 2020 029; D 2020 052; D 2020 084) which provide for Takeout Alcoholic Beverages from licensed on-premise retail liquor establishments unless the same or similar Executive Order exemption provision for Takeout Alcoholic Beverages is replaced by similar law, rule or order that continues to permit lawful Takeout Alcoholic Beverages or its equivalent.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS 15th DAY OF SEPTEMBER 2020

THE CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST

Margaret Sell, City Clerk



COLORADO

Governor Jared Polis

Dear Colorado Mayors,

On behalf of the State of Colorado, thank you for your continued commitment protecting the health and safety of your communities. Together, our leadership has saved lives, connected individuals to financial assistance, and stabilized our economy. Because of our efforts to ensure social distancing, we have begun to slowly re-open our restaurants, stores, offices, and services that Coloradans rely on each and every day. But, there is more work that can be done together to assist families and businesses.

Municipalities have employed successful solutions at the local level-- including the facilitation of expanded outdoor dining-- making a significant difference for Colorado restaurants across our state. We have continued our executive orders for temporary modifications to premises, and our state Liquor Enforcement Division (LED) has stood ready to assist restaurants with their questions and applications including approval within 24 hours for non-contiguous or contiguous outdoor liquor licenses.

As we prepare for Winter operations, we are faced with new challenges to maintain social distancing and mitigate negative impacts to our economy. The fact that outdoor spaces are abundantly safer than indoor spaces will not change through the colder months of winter, presenting a significant challenge that we must be creative to overcome.

In the spirit of our partnership, I would like to ask for your help in continuing expanded, safe outdoor dining through this Winter. The State, local communities, and the restaurant industry must work together to find creative ways to maintain expanded outdoor dining despite colder weather such as municipally operated fire pits, space heaters, and tenting. I'd like your partnership in distinguishing Colorado as a state that deploys creative solutions to help keep Coloradans outdoors, and support a valued and important industry.

I ask that you continue to collaborate with restaurants in your communities to help address the challenges we will face this winter, including the use of grant programs, which can help cover the costs of maintaining expanded outdoor dining through the winter. These include the Coronavirus Relief Fund (www.cdola.colorado.gov/cvrf) through the Department of Local Affairs and various grant opportunities through the Office of Economic Development and International Trade (www.choosecolorado.com/covid19).

Please let my office know how the State can be a more active partner in removing barriers that your communities and restaurants face in overcoming these challenges. Thank you in advance for your time and consideration.

Sincerely,



Jared Polis
Governor





FRUITA
COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA MAYOR AND CITY COUNCIL

FROM: MIKE BENNETT, CITY MANAGER

DATE: SEPTEMBER 15, 2020

RE: UPDATE ON DRAFT OF 2020 – 2022 ACTION ITEMS

BACKGROUND

As a follow-up to multiple meetings and discussions on City goals in relationship to the City's strategic priority areas and vision and values as identified in the City's recently adopted Fruita in Motion Comprehensive Plan, attached is a draft summary of the 2020 – 2022 Action Items discussed by City Council.

This item is for a brief review and discussion to assure it meets City Council's direction.

2020 –2022 Action Items

IN ADDITION TO CORE SERVICES



Community's Vision: "The City of Fruita values quality of place. It's an inclusive city, with a small-town feel and vibrant downtown, surrounded by public lands. People love to live, work, and play in Fruita because the City facilitates community, safe neighborhoods, family-friendly events, and walking and biking. The City governs in a way that's responsive to its citizens and prioritizes high-impact services and projects. Fruita fosters a fun and funky ambiance around the arts, agriculture, and recreation."

QUALITY OF PLACE

- Establish clear steps to address commitments of the City's Inclusivity Proclamation & Proclamation of Solidarity
- Fruita Youth Initiative to fully embrace Rise Above & Fruita Youth Action Council initiatives
- Establish next phase of community public safety efforts & implement use of body-worn cameras
- Community First Approach to Tourism Marketing Strategies
- Identify a long-term plan and funding source for drainage management/potential recreation of natural washes

LIFESTYLE

- Complete the update to the Parks, Health, Recreation, Open Space, Trails (PHROST) Master Plan*
- Complete the update to the Sewer Service Master Plan*
- Fruita Trails Initiative to implement sustainable maintenance plan & begin construction of 18 Road Trails Master Plan

ECONOMIC HEALTH

- Coronavirus Response and Recovery Efforts focused on operational, economic, social and educational recovery
- Craft economic development incentives focused on business expansions, start-ups & complementary new businesses
- Complete the update to the Multi-modal Circulation Master Plan*
- Develop a long-term plan for partnerships and management of the recreational lands & water rights on Pinon Mesa*
- Complete the update to the Land Use Code (LUC) & Engineering Design Standards*
- Complete realistic, prioritized 5-year capital improvement plan*

BUILT UPON THE FOUNDATION OF PROVIDING QUALITY CORE SERVICES

**Many of these action items are planning processes, which will result in identifying prioritized action items as next steps.*



FRUITA COLORADO

AGENDA ITEM COVER SHEET

TO: FRUITA CITY COUNCIL & MAYOR

FROM: MIKE BENNETT, CITY MANAGER

DATE: SEPTEMBER 15, 2020

RE: RESCHEDULING THE SEPTEMBER CITY COUNCIL WORKSHOP MEETING

BACKGROUND

The only item on the agenda for the September 22, 2020 City Council workshop meeting is staff's presentation and overview of the proposed draft 2021 Budget to City Council.

As previously discussed with the City Council at the last workshop meeting, staff is proposing that because September 2020 has a fifth Tuesday, the Council workshop meeting be rescheduled from Tuesday, September 22, 2020 to Tuesday, September 29, 2020. This will allow staff one extra week to work on the draft 2021 Budget.

Pursuant to Section 2.10.030(B) of the Fruita Municipal Code, "...the City Council may establish an alternate regular meeting date upon motion and public notice of the changed date."

FISCAL IMPACT

None.

APPLICABILITY TO CITY GOALS AND OBJECTIVES

N/A

OPTIONS AVAILABLE TO THE COUNCIL:

- Approve the change to the date of the September 2020 workshop meeting of the Fruita City Council from September 22, 2020 to September 29, 2020
- Suggest an alternate date for the September 2020 workshop meeting of the Fruita City Council

- Not reschedule the date of the September 2020 workshop meeting of the Fruita City Council

RECOMMENDATION:

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

- **RESCHEDULE THE TUESDAY, SEPTEMBER 22, 2020 CITY COUNCIL WORKSHOP MEETING TO TUESDAY, SEPTEMBER 29, 2020**