

**FRUITA CITY COUNCIL  
DECEMBER 1, 2015  
7:00 P.M.**

**1. INVOCATION AND PLEDGE OF ALLEGIANCE**

**2. CALL TO ORDER AND ROLL CALL**

**3. AGENDA - ADOPT/AMEND**

**4. PROCLAMATIONS AND PRESENTATIONS**

**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 five-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. A Single **Public Hearing** will be opened for all items on the Consent Agenda. These items will be approved by a single motion of the Council. The Mayor will ask if there is anyone present who has objection to such procedure as to certain items. Members of the Council may also 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. ORDINANCE 2015-16 – Second Reading – A request to approve an Ordinance repealing and reenacting Section 9.01.034 of the Fruita Municipal Code concerning Peddling and Solicitation and repealing Section 9.01.037 of the Fruita Municipal Code concerning Loitering**

**B. ORDINANCE 2015-17 – Second Reading – A request to approve an Ordinance repealing Section 2.19.030 of the Fruita Municipal Code concerning Candidate Nomination Procedures for Mail Ballot Elections**

**7. PUBLIC HEARINGS**

Public Hearings are the formal opportunity for the city council to LISTEN to the public regarding the issue at hand. For land use hearings and liquor license hearings; the Council is required to act in a quasi-judicial capacity. When acting as a quasi-judicial body, the Council is acting in much the same capacity as a judge would act in a court of law. Under these circumstances, the judicial or quasi-judicial body must limit its consideration to matters which are placed into evidence and are part of the public record. The council must base their decision on the law and evidence presented at the hearing.

- 1) **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.
- 2) **Staff presentation (15 minutes max)** Staff will present the comments and reports received from review agencies, and offer a recommendation.
- 3) **Public Input (limit of 5 minutes per person.** If two people in the audience are willing to cede their time to the speaker, that speaker may receive a total of 10 minutes, referred to as banking time). 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.
- 4) **Applicant Rebuttal (limited to 5 minutes)** The Mayor will ask for the applicant's rebuttal. During this brief time, the applicant should answer the questions raised by the public.
- 5) **The hearing is then closed to public comments.**

- 6) **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.
- 7) **Make a motion.** A member of the City Council will make a motion on the issue.
- 8) **Discussion on the motion.** The City Council may discuss the motion.
- 9) **Vote.** The City Council will then vote on the motion.

**A. City Clerk/Finance Director Margaret Sell – Adoption of the 2016 Annual Budget for the City of Fruita**

- 1) **RESOLUTION 2015-29 - A request to approve a Resolution establishing Fees and Charges for the 2016 Budget Year**
- 2) **RESOLUTION 2015-30 – A request to approve a Resolution adopting the 2016 Budget**
- 3) **RESOLUTION 2015-31 – A request to approve a Resolution appropriating funds for the 2016 Budget**
- 4) **RESOLUTION 2015-32 – A request to approve a Resolution establishing the Mill levy for the 2016 Budget**

**8. ADMINISTRATIVE AGENDA**

**A. Community Development Director Dahna Raugh**

- 1) **CONDITIONAL USE PERMIT – A request to approve a Conditional Use Permit to allow one horse on approximately 1.19 acres of property located in a Community Residential zone and located at 985 E. Ottley Avenue**

**9. COUNCIL REPORTS AND ACTIONS**

**10. CITY MANAGER'S REPORT**

**11. ADJOURN**



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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: JUDY MACY, CHIEF OF POLICE**

**DATE: DECEMBER 1, 2015**

**RE: ORDINANCE 2015-16 – SECOND READING – AN ORDINANCE OF THE CITY OF FRUITA REPEALING AND REENACTING SECTION 9.01.034 OF THE FRUITA MUNICIPAL CODE CONCERNING PEDDLING AND SOLICITATION; AND REPEALING FMC 9.01.037 CONCERNING LOITERING**

### **BACKGROUND**

Recently, the US District Court ruled against the City of Grand Junction regarding an ordinance regulating panhandling. The ruling was based on First Amendment freedom of speech rights when seeking donations in public places. Based on that ruling, our city attorney has recommended the City of Fruita repeal our current “Loitering” ordinance.

The city attorney has also recommended we repeal our current “Solicitation” ordinance as he believes portions of the current law could be unconstitutional as well. The attached revision addresses those portions of the law and is titled “Peddling and Solicitation.”

### **FISCAL IMPACT**

None.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

Maintaining and performing the core functions of government with a high level of expertise.

### **OPTIONS AVAILABLE TO COUNCIL**

1. Approve Ordinance 2015-16 to repeal and reenact section 9.01.034 regarding Peddling and Solicitation and repeal section 9.01.037 regarding Loitering
2. Amend Ordinance 2015-16 to repeal and reenact section 9.01.034 regarding Peddling and Solicitation and repeal section 9.01.037 regarding Loitering
3. Deny Ordinance 2015-16 to repeal and reenact section 9.01.034 regarding Peddling and Solicitation and repeal section 9.01.037 regarding Loitering

### **RECOMMENDATION**

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

- **APPROVE ORDINANCE 2015-16 – SECOND READING – AN ORDINANCE OF THE CITY OF FRUITA REPEALING AND REENACTING SECTION 9.01.034**

**OF THE FRUITA MUNICIPAL CODE REGARDING PEDDLING AND  
SOLICITATION AND REPEALING SECTION 9.01.037 REGARDING  
LOITERING**

**ORDINANCE NO. 2015-16**

**AN ORDINANCE OF THE CITY OF FRUITA, COLORADO REPEALING AND REENACTING SECTION 9.01.034 OF THE FRUITA MUNICIPAL CODE CONCERNING PEDDLING AND SOLICITATION; AND REPEALING SECTION 9.01.037 OF THE FRUITA MUNICIPAL CODE CONCERNING LOITERING.**

**BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:**

**Section 1.** That Section 9.01.034 of the Fruita Municipal Code concerning peddling and solicitation is hereby repealed and reenacted to read as follows:

**9.01.034 Peddling and Solicitation**

A. **Definitions.** Words used in this Section shall have the following meanings ascribed to them:

1. A “peddler” is any individual, whether a resident of the City or not, who engages in the itinerant or transient sale or bartering of any goods, merchandise or services directly to the consuming public, whether or not the goods, merchandise or services are actually delivered at the time of sales. A peddler engages in such activities as selling from place to place, from house to house, or from street to street, hawking of items at public events, and selling or canvassing by means of carrying goods or samples around from place to place in order to encounter consumers who will purchase or order the goods.
2. “Peddling” includes all activities ordinarily performed by a peddler but does not include the following:
  - a. Any sales efforts by telephone, mail, or electronic media where there is no face to face encounter with the purchaser at the time of sale, delivery or provision of goods, merchandise or services;
  - b. Any sales by sales persons selling goods or merchandise or providing services exclusively to commercial, industrial or business accounts;
  - c. Newspaper and magazine sales;
  - d. The sale of food by food peddlers or operators of mobile food units including push carts;
  - e. Sales from push carts and similar vending devices located in public rights-of-way;
  - f. Sales from a stationary but temporary source, such as a road side fruit stand, located totally upon private property, to the extent such activities are permitted and regulated under the City’s Land Use Code contained in Title 17 of the

FruitaMunicipal Code; and

g. Sales in City parks to the extent such activities are permitted.

3. A “solicitor” is any person, whether resident of the City or not, traveling either by foot or vehicle or any other type of conveyance, from place to place, or from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, merchandise or personal property of any nature whatsoever for future delivery or for services to be performed or furnished in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sale or not.

B. Business License and Sales Tax License-Required. A. Any peddler or solicitor working either individually or for a corporation, partnership or other legally recognized organization shall individually obtain a business license pursuant to Chapter 5.4 of the Fruita Municipal Code and sales tax license if required under Section 3.12 of the Fruita Municipal Code.

1. The following types of organizations and individuals selling goods, merchandise or services on their behalf are not required to obtain a license but shall otherwise comply with the applicable requirements of this Section:

- a. State and local governmental departments, agencies and subdivisions, including public schools;
- b. State accredited private schools and academies;
- c. Charitable, civic, patriotic, religious, educational, recreational, fraternal or cultural organizations which are tax exempt pursuant to Section 501(C) of the Internal Revenue Code as amended; and
- d. Person promoting a political candidate, political party, or ballot issue.

C. Prohibited Activities. It shall be unlawful for any peddler or a solicitor to:

1. Make any false statement of misrepresentation of fact, or otherwise engage in fraud, in the course of carrying out the activities permitted under this Section, or to fail to fulfill the obligations and representations which the peddler or solicitor makes to a consumer.
2. In peddling any goods, merchandise or services to be delivered or provided at a future date, refuse or fail to give to a purchaser at the time of sale a written and signed receipt which shall accurately set forth name, address and telephone number of the peddler or solicitor; a brief description of the goods, merchandise or services to be delivered or provided; the anticipated date and manner of delivery or provision of such goods, merchandise or services; the amount paid by the consumer; the balance due on purchases; and the terms or any payment;

3. Fail or refuse to leave peacefully private property immediately when told to do so by the land owner, the land owner's agent or representative, or the occupant of the premises, or to attempt to solicit business at any place which maintains a sign or other visible and legible indication that such solicitation of business is not desired or is prohibited, unless the permission of the owner, agent, representative or occupant of the premises has been previously obtained;
4. Engage in door-to-door sales at residences from a half hour after sunset until 8:00 a.m. the next day; or
5. Obstruct, impede or otherwise interfere with the public's use of public streets, sidewalks, ways or places, other than as authorized by other provisions of the Fruita Municipal Code.

D. Juvenile Peddlers and Solicitors.

1. No person under the age of eighteen (18) years of age shall be permitted to engage in peddling or soliciting except as provided in this subsection. Except as provided in subsection (B) above, pursuant to Section 5.04 of the Fruita Municipal Code a business license shall be obtained by a sponsoring person, company or organization for the conduct of any peddling or soliciting business involving, in whole or in part, a sales force of one (1) or more persons under eighteen (18) years of age. Any person eighteen (18) years of age or older peddling or soliciting for a sponsor shall obtain an individual business license as provided in subsection (B) above. The sponsor shall be responsible for supervising and controlling the conduct of all persons, including juveniles, peddling under the sponsor's license. This responsibility shall extend to the prohibited activities set forth in subsection (C) above. The sponsor shall maintain visual contact with all juveniles at all times sponsored juveniles are peddling or soliciting.
2. The sponsor shall be limited to peddling or soliciting, through its sales force, food products, such as candies and snacks, which are pre-packaged by the manufacturer and not requiring refrigeration; inexpensive household and novelty items; items hand crafted or prepared by members or beneficiaries of the sponsor.
3. Peddling or soliciting under this subsection shall be limited to between the hours of 3:00 p.m. and one half (1/2) hour after sunset on school days, as scheduled by the School District. During any other time of the year, peddling or soliciting under this Section shall be limited to the hours set forth subsection (C) above.
4. No juvenile under the age of twelve (12) shall be permitted to engage in peddling or soliciting unless accompanied by his or her parent or guardian.

E. Enforcement and Penalties. Any person, firm, association or corporation knowingly violating any of the provisions of this Section commits a Class A municipal offense. Such person, firm, association or corporation shall be guilty of a separate offense for each and

every day during any portion of which a violation of this Section is committed or continued.

**Section 2.** That Section 9.01.037 of the Fruita Municipal Code, concerning loitering, is hereby repealed in its entirety.

**INTRODUCED, READ, PASSED, AND ADOPTED BY THE FRUITA CITY COUNCIL, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015**

CITY OF FRUITA, COLORADO

By: \_\_\_\_\_  
Lori Buck, Mayor

ATTEST:

\_\_\_\_\_  
Margaret Sell, City Clerk





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## AGENDA ITEM COVER SHEET

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**TO: FRUITA CITY COUNCIL AND MAYOR**

**FROM: MARGARET SELL, CITY CLERK/FINANCE DIRECTOR**

**DATE: DECEMBER 1, 2015**

**RE: ORDINANCE 2015-17 – SECOND READING – AN ORDINANCE OF THE CITY OF FRUITA REPEALING SECTION 2.19.030 OF THE FRUITA MUNICIPAL CODE CONCERNING CANDIDATE NOMINATION PROCEDURES FOR MAIL BALLOT ELECTIONS**

### **BACKGROUND**

The City of Fruita amended the Fruita Municipal Code in 2007 to provide for candidate nomination petition deadlines that were conducive to the mail ballot process and which were not addressed in the Municipal Election Code. The most recent version of the Colorado Municipal Election Code (C.R.S. §31-10-909 amended through May of 2015) addresses the need for different deadlines for candidate nomination petitions when conducting a mail ballot election.

This proposed ordinance repeals the conflicting deadlines set forth in the Fruita Municipal Code, thus reverting to the timeframes set forth in the Municipal Election Code.

Attached is the April 5, 2016 Election Calendar for candidates for office upon final adoption of this ordinance.

### **FISCAL IMPACT**

None.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

This Ordinance allows for the effective conduct of election procedures while providing the citizens of Fruita with their preferred method of voting by mail ballot.

### **OPTIONS AVAILABLE TO COUNCIL**

1. Approve Ordinance 2015-17 concerning Candidate Nomination Petition deadlines for Mail Ballot Elections and use the same time frames for candidacy nomination petitions as established in the Municipal Election Code.
2. Take no action on Ordinance 2015-17 thus leaving the existing Candidate Nomination Petition deadlines in effect for the April 2016 election.

## **RECOMMENDATION**

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

- **APPROVE ORDINANCE 2015-17 – SECOND READING - AN ORDINANCE OF THE CITY OF FRUITA REPEALING SECTION 2.19.030 OF THE FRUITA MUNICIPAL CODE CONCERNING CANDIDATE NOMINATION PROCEDURES FOR MAIL BALLOT ELECTIONS**

**ORDINANCE 2015-17**

**AN ORDINANCE OF THE CITY OF FRUITA, COLORADO REPEALING SECTION 2.19.030 OF THE FRUITA MUNICIPAL CODE CONCERNING CANDIDATE NOMINATION PROCEDURES FOR MAIL BALLOT ELECTIONS**

**WHEREAS**, the basic laws applicable to regular municipal election are contained in Title 31, Article 10, Colorado Revised Statutes (C.R.S) known as the “Colorado Municipal election Code of 1965,” and

**WHEREAS**, Article 10 was enacted in 1965 and has been subject to a number of amendments since, and

**WHEREAS**, the most recent version of the Colorado Municipal Election Code was amended through May of 2015, and

**WHEREAS**, it is the intent of the Fruita City Council that the time periods for circulation and submission of nomination petitions for the offices of City Council and Mayor for any regular mail ballot election in Fruita reflect the same time periods as those recently enacted in Title 31, Article 10 of the Colorado Revised Statutes and not be in conflict with them.

**BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:**

**Section 1.** That Section 2.19.030 of the Fruita Municipal Code concerning Candidate Nomination Procedures for Mail Ballot Elections is hereby repealed in its entirety.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL  
THIS 1<sup>st</sup> DAY OF DECEMBER, 2015.**

CITY OF FRUITA, COLORADO

By: \_\_\_\_\_  
Lori Buck, Mayor

ATTEST:

\_\_\_\_\_  
Margaret Sell, City Clerk

## Chapter 2.19

### ELECTIONS

#### Sections:

- 2.19.010 Write-In Candidate Affidavit Required**
- 2.19.020 Election May be Canceled - When**
- 2.19.030 Candidate Nomination Procedures for Mail Ballot Elections**

**2.19.010 WRITE-IN CANDIDATE AFFIDAVIT REQUIRED.** No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the City Clerk by the person whose name is written in prior to twenty days before the day of the day of the election indicating that such person desires the office and is qualified to assume the duties of that office if elected. (Ord. 1995-12, S1, 1995)

**2.19.020. ELECTION MAY BE CANCELED - WHEN.** If the only matter before the voters is the election of persons to office and if, at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including candidates who have filed affidavits of intent as required by Section 2.19.010 of this code, the City Clerk shall certify such fact to the City Council, and it shall hold a meeting and may cancel the election and by resolution declare the candidates elected and, as permitted by C.R.S. 31-10-507, said candidates shall be deemed elected. The City Clerk shall publish notice of such cancellation if possible, in order to inform the electors of the City of Fruita, and notice of such cancellation shall be posted at each polling place and in not less than one other public place. (Ord. 1995-12, S2, 1995)

**~~2.19.030 CANDIDATE NOMINATION PROCEDURES FOR MAIL BALLOT ELECTIONS.~~** ~~The time periods for circulation and submission of nomination petitions for the offices of City Council and Mayor for any regular mail ballot election, other than one conducted as part of a coordinated election, shall be as follows:~~

- ~~A. Nomination petitions may be circulated and signed beginning on the seventy-seventh (77<sup>th</sup>) day and ending on the fifty-seventh (57<sup>th</sup>) day prior to the day of election.~~
- ~~B. Each nomination petition shall be filed with the City Clerk no later than the fifty-seventh (57<sup>th</sup>) day prior to the day of election.~~
- ~~C. Any petition may be amended to correct or replace those signatures which the City Clerk finds are not in apparent conformity with the requirements of the Municipal Election Code at any time prior to fifty (50) days prior to the day of election.~~

(Ord. 2007-20, S1)

# MUNICIPAL ELECTION CALENDAR

## BEFORE ELECTION DAY

### 91 DAYS BEFORE ELECTION

- First day on which a nominating petition may be circulated.<sup>31</sup>

### 90 DAYS BEFORE ELECTION

- Last day for any changes in the boundaries of election precincts or wards or for the creation of new election precincts.<sup>32</sup> This does not apply to precinct changes resulting from annexations. All changes in precinct or ward boundaries and in municipal boundaries must be reported to the county clerk by the municipal clerk as soon as possible after the change.<sup>33</sup>
- First day those applications for absentee ballots may be filed in writing with the municipal clerk. The clerk must then follow the procedure set forth in C.R.S. § 31-10-1002. Requests for applications for absentee ballots may be made either orally or in writing.<sup>34</sup>
- Absentee ballots are to be delivered to applicants as soon as practicable, but not more than 72 hours after the ballots have been printed.<sup>35</sup>

### 71 DAYS BEFORE ELECTION

- Last day upon which a nominating petition may be circulated.<sup>36</sup>
- Nominating petitions must be filed by close of this business day.<sup>37</sup>

### 64 DAYS BEFORE ELECTION

- Last day a nominating petition may be amended to correct or replace signatures.<sup>38</sup>
- Mail Ballot Election
  - For a person to participate as a write-in candidate, that person must file an affidavit of intent by this date.<sup>39</sup>

### 63 DAYS BEFORE ELECTION

- Last day for any person who has accepted a nomination to withdraw from such nomination. This requires a written affidavit from the candidate withdrawing, which must be signed by the candidate and filed with the municipal clerk.

### 60 DAYS BEFORE ELECTION

- Date by which the county clerk must forward to the municipal clerk a list of municipal voters whose names appear on the statewide computerized voter list as "overseas" or "active military."<sup>40</sup>

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31 C.R.S. § 31-10-302(2),

32 C.R.S. §§ 1-5-102.5; 1-5-104(2).

33 C.R.S. § 31-10-502.

34 C.R.S. § 31-10-1002.

35 C.R.S. § 31-10-1002.

36 C.R.S. § 31-10-302(4).

37 C.R.S. § 31-10-102.8(5).

38 C.R.S. § 31-10-302(4)

39 C.R.S. § 31-10-912.

40 C.R.S. § 31-10-102.8(5).



## APRIL 5, 2016 ELECTION CALENDAR

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<u>Date</u>	<u>Description</u>
January 5, 2016	Nomination Petitions for Council and Mayor may be picked up from the office of the City Clerk.
January 5 – January 15, 2016	A Candidate Affidavit must be filed with the City Clerk within ten (10) days of becoming a candidate. <b>Failure to file the affidavit will result in the disqualification of the individual as a candidate.</b>
January 5 – January 15, 2016	A Committee Registration Form needs to be completed prior to accepting any contributions or making expenditures.
January 25, 2016	Last day to file completed Nomination Petitions with the City Clerk
February 1, 2016	Last day to file amended Nomination Petitions
February 19, 2016	Written comments on TABOR issues due
February 22, 2014	Summary of written comments on TABOR issues due from petition reps – no later than 3:00 p.m.
March 14, 2016	First day to mail ballots
March 21, 2016	Last day to mail ballots
April 1, 2016	Fair Campaign Practices Act Financial Report due
April 5, 2016	Last day to register to vote
April 5, 2016	Election Day
May 5, 2016	Fair Campaign Practices Act Financial Report due



## AGENDA ITEM COVER SHEET

**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MARGARET SELL, CITY CLERK/FINANCE DIRECTOR**  
**DATE: DECEMBER 1, 2015**  
**RE: RESOLUTION 2015-29 ESTABLISHING THE SCHEDULE FOR FEES AND CHARGES FOR THE 2016 BUDGET YEAR**

### **BACKGROUND**

Resolution 1991-13 requires that fees and charges of the City of Fruita be set annually by resolution of the City Council in conjunction with the budget adoption process. Fee changes go into effect on January 1, 2016 unless otherwise noted. The following is a summary of the more significant changes in fee.

- Monthly trash collection charge decreased by \$0.30 from \$12.80 TO \$12.50 and senior citizen rate for trash decreased by \$0.30 from \$11.00 to \$10.70 per month
- Monthly sewer charges for residential property increased by \$0.30 from \$41.00 to \$41.30 and senior citizen rate increased by \$0.30 from \$16.40 to \$16.70
- Annual irrigation maintenance charge for partial and full underground systems increased by \$10.00.
- Convenience fee for utility payments made online or through Interactive Voice Response (IVR) of \$2.95 per transaction.
- The building valuation table used for determining use tax on building materials has been updated to the August 2015 values published by the International Code Council
- Drainage impact fees increased by CPI from a base value of \$17,041 to \$17,058

### **FISCAL IMPACT**

The increases in fees are minimal and will not have any significant fiscal impact on the City.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

Fee adjustments are necessary to offset the increased cost of providing services and to continue the City's conservative fiscal policies and guidelines.

### **OPTIONS AVAILABLE TO THE COUNCIL**

Approve Resolution 2015-29 adopting the Fees Schedule for the 2016 Fiscal Year.  
Make amendments to the fees and charges and adopt an amended resolution

### **RECOMMENDATION**

It is the recommendation of the Fruita City Staff that the Council move to:

**APPROVE RESOLUTION 2015-29 ESTABLISHING THE FEES AND CHARGES FOR THE 2016 BUDGET YEAR**

**RESOLUTION 2015-29**

**A RESOLUTION ESTABLISHING FEES AND CHARGES  
FOR THE CITY OF FRUITA FOR THE 2016 BUDGET YEAR**

**WHEREAS**, pursuant to Resolution 1991-13, adopted by the Fruita City Council, it is necessary to establish fees and charges for the City of Fruita annually by Resolution of the City Council, in conjunction with the budget adoption process.

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

**Section 1:** The fees and charges set forth in Exhibit A, attached hereto, are hereby adopted for the City of Fruita. The effective date of any changes in fees shall be January 1, 2016 unless otherwise noted.

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS \_\_\_\_\_  
DAY OF DECEMBER, 2015.**

City of Fruita

\_\_\_\_\_  
Lori Buck, Mayor

ATTEST:

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



**EXHIBIT A  
2016 FEES AND CHARGES**

<b>DESCRIPTION</b>	<b>2015</b>	<b>2016</b>	<b>Account #</b>
<b><u>I. ANIMAL CONTROL FEES</u></b>			
Boarding Fee/per day	8.00	8.00	110-000-00-3455
Impoundment Fee (1st)	35.00	35.00	110-000-00-3455
Impoundment Fee (2nd)	50.00	50.00	110-000-00-3455
Impoundment Fee (3rd)	100.00	100.00	110-000-00-3455
Quarantine Fee/per day	12.00	12.00	110-000-00-3455
Transport Fee to/from Mesa County Animal Control	40.00	40.00	110-000-00-3455
Euthanasia Fee	40.00	40.00	110-000-00-3455
<b><u>II. BUILDING RENTAL FEES</u></b>			
<b><u>Fruita Civic Center</u></b>			
without food and drinks for first 2 hours	20.00	20.00	110-000-00-3626
each additional hour	10.00	10.00	110-000-00-3626
with food and drinks for first 2 hours	50.00	50.00	110-000-00-3626
each additional hour	20.00	20.00	110-000-00-3626
Key Deposit (refundable)	25.00	25.00	110-000-00-3626
Cleaning as necessary/per hour	20.00	20.00	110-000-00-3626
<b><u>III. CITY DOCUMENTS</u></b>			
Budget	25.00	25.00	110-000-00-3680
City Council Agendas mailed, per year	15.00	15.00	110-000-00-3680
Community Plan	15.00	15.00	110-000-00-3680
Financial Statement	15.00	15.00	110-000-00-3680
Highway 340 Conceptual Development Plan	15.00	15.00	110-000-00-3680
Land Use Regulations/Zoning code	35.00	35.00	110-000-00-3680
Municipal Code	75.00	75.00	110-000-00-3680
Municipal Code Updates, annual fee	25.00	25.00	110-000-00-3680
Design Criteria and Construction Specifications Manual	25.00	25.00	110-000-00-3680
<b><u>IV. CODE ENFORCEMENT FEES</u></b>			
Property Clean up fees for eligible property's based on financial/physical hardship			
Dump Fee (per load)	15.00	15.00	110-000-00-3680
Tire Disposal (per tire)	3.00	3.00	110-000-00-3680
Television disposal, large (per television)	40.00	40.00	110-000-00-3680
Clean up fees - 1 day or less	50.00	50.00	110-000-00-3680
Clean up fees - 10 to 20 hours	100.00	100.00	110-000-00-3680
<b><u>V. COMMUNITY DEVELOPMENT FEES</u></b>			
Annexation			
10 acres or less	\$300.00	\$300.00	110-000-00-3413
more than 10 acres	350.00	350.00	110-000-00-3413
Master Plan Amendment	1,000.00	1,000.00	110-000-00-3413
Land Use Code Text Amendment	500.00	500.00	110-000-00-3413
Variance	225.00	225.00	110-000-00-3413

**EXHIBIT A**  
**2016 FEES AND CHARGES**

DESCRIPTION	2015	2016	Account #
*For the land development applications listed below with an *, when two types of applications are required for one project such as Site Design Review and a Conditional Use Permit, or Minor Subdivision and Conditional Use Permit, only the highest of the two fees is charged.			
* Conditional Use Permit			
Minor - residential land uses	200.00	200.00	110-000-00-3413
Major - All others	575.00	575.00	110-000-00-3413
* Sketch Plan or Concept Plan (plus acreage or lot fee)	625.00	625.00	110-000-00-3413
* Preliminary Plan including PUD Preliminary Plan (plus acreage or lot fee, review and inspection charges in excess of application fee and attorney fees for excess of 3 hours of legal review)	1,525.00	1,525.00	110-000-00-3413
* Final Plat or PUD Final Plan (plus recording costs, review and inspection charges in excess of application fee and attorney fees for excess of 3 hours of legal review)	1,100.00	1,100.00	110-000-00-3413
* Minor Subdivision			
Lot line or property line adjustment, consolidation plat, vacation of plat (plus acreage or lot fee, recording costs and attorney fees in excess of 3 hours of legal review)	525.00	525.00	110-000-00-3413
New lots created, townhouse/condominium plats (plus acreage or lot fee, recording costs and attorney fees for excess of 3 hours of legal review)	1,325.00	1,325.00	110-000-00-3413
* Site Design Review (plus acreage fee)			
Minor - increase in existing floor/land area by more than 40%, new utility structures, multi-family or attached single family with less than six units, changes in land use resulting in changes to parking requirements	200.00	200.00	110-000-00-3413
Major - all others and any Site Design Review requiring an adjustment requiring a public hearing	600.00	600.00	110-000-00-3413
* Rezone (Official Zoning Map Amendment)	575.00	575.00	110-000-00-3413
* Vacation of Easement	125.00	125.00	110-000-00-3413
* Vacation of Right of Way	375.00	375.00	110-000-00-3413
Acreage fee, per acre (The lesser of the acreage fee or lot fee applies)	200.00	200.00	110-000-00-3413
Lot fee, per buildable lot (The lesser of the acreage fee or lot fee applies)	50.00	50.00	110-000-00-3413
Attorney Fees in excess of noted number of hours, per hour	190.00	190.00	110-000-00-3413
Recording Fees, first page, plus \$1 document fee			
First page of document, letter or legal size	10.00	10.00	110-000-00-3413
Each additional page	5.00	5.00	110-000-00-3413
Document fee	1.00	1.00	110-000-00-3413
Plats, per page	10.00	10.00	110-000-00-3413
Planning Clearance Fees			
Detached Single Family or 2 attached Single Family or Duplex Residential	25.00	25.00	110-000-00-3413
Non-Residential and mixed use buildings; 3 or more attached single family	50.00	50.00	110-000-00-3413
Fence	15.00	15.00	110-000-00-3221

**EXHIBIT A**  
**2016 FEES AND CHARGES**

<b>DESCRIPTION</b>	<b>2015</b>	<b>2016</b>	<b>Account #</b>
Sign	25.00	25.00	110-000-00-3221
Temporary Use Permit	25.00	25.00	110-000-00-3413
Utility Upgrade	25.00	25.00	110-000-00-3413
Demolition Permit - Residential and Commercial	30.00	30.00	110-000-00-3413
Appeals	100.00	100.00	110-000-00-3413
Flood Plain Permit with structure	50.00	50.00	110-000-00-3413
Flood Plain Permit with no structure	25.00	25.00	110-000-00-3413
Certificate of Occupancy Reinspection	25.00	25.00	110-000-00-3413
<b>Development Impact Fees</b>			
Chip and Seal Fee per square yard	3.85	3.85	110-000-00-2242
Drainage Impact Fee Base Value	17,041.00	17,058.00	110-000-00-2241
Parks, Open Space and Trails Fee, per dwelling unit	1,860.00	1,860.00	110-000-00-2226
Land Value/cost per acre for establishing credit for parks, open space and trails impact fee/dedication	40,000.00	40,000.00	
School Land Dedication Fee per residential dwelling unit	920.00	920.00	330-000-00-3640
<b>Transportation Impact Fee Base Rate</b>			
Residential	3,200.00	3,200.00	varies
Commercial	1,589.00	1,589.00	varies
Use Tax based on Building Valuation Data published by International Code Council, August 2014 (see attached used tax table for valuation data)	3% of valuation	3% of valuation	110-000-00-3133
 <b><u>VI. LICENSING FEES</u></b>			
Amusement (Coin-op) License Fees (first machine)	25.00	25.00	110-000-00-3210
Amusement (Coin-op) License Fees (each additional machine)	5.00	5.00	110-000-00-3210
Business License Fee (Full year operation)	25.00	25.00	110-000-00-3210
Business License Fee (In operation 6 months or less)	12.50	12.50	110-000-00-3210
Dance Hall License (public or private)	25.00	25.00	110-000-00-3210
Golf Cart Permit	100.00	100.00	110-000-00-3210
<b>Junkyard, Automobile Wrecking or Salvage Yard license</b>			
6,000 sf or less	25.00	25.00	110-000-00-3210
6,001 - 10,000 sf	40.00	40.00	110-000-00-3210
10,001 - 15,000 sf	60.00	60.00	110-000-00-3210
15,001 - 20,000 sf	80.00	80.00	110-000-00-3210
20,001 plus sf	100.00	100.00	110-000-00-3210
Kennel License Fee	50.00	50.00	110-000-00-3210
Occupation tax on alcoholic beverage licenses	350.00	350.00	110-000-00-3211
Pawnbrokers	100.00	100.00	110-000-00-3210
<b>Private Patrol Application</b>			
Individuals	25.00	25.00	110-000-00-3210
Partnerships	30.00	30.00	110-000-00-3210
Corporations	50.00	50.00	110-000-00-3210
Sexually Oriented Business license	350.00	350.00	110-000-00-3210
plus Manager's Registration Fee	75.00	75.00	110-000-00-3210
Sidewalk Restaurant Permit	150.00	150.00	110-000-00-3210
Sound Amplification Permit	10.00	10.00	110-000-00-3210

**EXHIBIT A  
2016 FEES AND CHARGES**

<b>DESCRIPTION</b>	<b>2015</b>	<b>2016</b>	<b>Account #</b>
<b><u>VII. LIQUOR LICENSE APPLICATION FEES</u></b>			
New Liquor License Application Fee	875.00	875.00	110-000-00-3211
Transfer of Ownership of Liquor License Application Fee	750.00	750.00	110-000-00-3211
Change of Location	750.00	750.00	110-000-00-3211
Special Events Permit Application Fee for 3.2% Beer	50.00	50.00	110-000-00-3211
Special Events Permit Application for liquor	50.00	50.00	110-000-00-3211
Temporary Permit	100.00	100.00	110-000-00-3211
Bed and Breakfast Permit	25.00	25.00	110-000-00-3211
Late Renewal Application Fee	500.00	500.00	110-000-00-3211
Hotel/Tavern Manager's Registration Fee	75.00	75.00	110-000-00-3211
Art Galley Application Fee	100.00	100.00	110-000-00-3211
Resort Complex - Addition of related facility permits (each)	100.00	100.00	110-000-00-3211
Corp/LLC Change (per person) - non master file only	100.00	100.00	110-000-00-3211
Mini-bar permit with H/R License	325.00	325.00	110-000-00-3211
Additional fees are required by the State of Colorado			
<b><u>VIII. MAPS</u></b>			
Map from Arcview, (8 1/2 x 11)	5.00	5.00	110-000-00-3680
Street Plat Map	2.50	2.50	110-000-00-3680
Subdivision Maps	10.00	10.00	110-000-00-3680
Wall Size Map (36 x 48) (Zoning, Community Plan, etc.)	40.00	40.00	110-000-00-3680
Zoning Map, 11 x 17 - 4 page set	15.00	15.00	110-000-00-3680
Plot Plans - Research and copy fee within last 6 years, Add research fee for	2.00	2.00	110-000-00-3680
<b><u>IX. MISCELLANEOUS FEES</u></b>			
Audio recording of City Council meeting	12.00	12.00	110-000-00-3680
Camera Inspection of Sewer lines - Initial inspection	no charge	no charge	
Camera Inspection of Sewer lines - After initial inspection per lineal foot	1.00	1.00	212-000-00-3680
Copies (8 1/2 x 11/14) per page	0.25	0.25	110-000-00-3680
Copies (11 x 17) per page	0.50	0.50	110-000-00-3680
Convenience Fee for Utility Payments/per transaction	N/A	2.95	N/A
Excavation/Right of way Permit Fee	30.00	30.00	110-000-00-3220
Records Research Fee/per hour	30.00	30.00	110-000-00-3680
Returned Check Charge	25.00	25.00	110-000-00-3483
Special Events Permit Application Fees	25.00	25.00	110-000-00-3472
Special Events Permit Deposit (refundable) per 1,000 attendees	100.00	100.00	110-000-00-3472
<b><u>X. MUNICIPAL COURT FEES</u></b>			
Administrative Fee (providing proof of insurance resulting in dismissal)	25.00	25.00	110-000-00-3510
Appeal Bond (double amount of fine)	varies	varies	110-000-00-3510
Appeal Processing Fee	1.50	1.50	110-000-00-3510
Appeal Transcript Deposit Fee (refundable)	300.00	300.00	110-000-00-3510
Appeal Transcript of Court Record, per hour	30.00	30.00	110-000-00-3510
Bench Warrant	50.00	50.00	110-000-00-3510
Community Service Fee	10.00	10.00	110-000-00-3510

**EXHIBIT A**  
**2016 FEES AND CHARGES**

<b>DESCRIPTION</b>	<b>2015</b>	<b>2016</b>	<b>Account #</b>
Default Judgement	50.00	50.00	110-000-00-3510
Deferrment	50.00	50.00	110-000-00-3510
Docket Fee/Court Costs	30.00	30.00	110-000-00-3510
Jury Fee (established by statute)	25.00	25.00	110-000-00-3510
Misdemeanor Fee	40.00	40.00	110-000-00-3510
Outstanding Judgement Warrant (DMV - Civil Action)	50.00	50.00	110-000-00-3510
Report copies, per page	0.25	0.25	110-000-00-3510
Unsupervised Probation Fee	40.00	40.00	110-000-00-3510
*Additional fees are determined in court by Municipal Judge including Stay of Execution, Failure to Appear, Failure to Appear at Trial, Supervised Probation			
<b><u>XI. PARKS FEES</u></b>			
Park shelter reservation fee (first 2 hours)	25.00	25.00	110-000-00-3477
Park shelter reservation fee (each additional hour)	10.00	10.00	110-000-00-3477
Park field use for Little League/per player	20.00	25.00	110-000-00-3477
Regular season		25.00	110-000-00-3477
Fall Season		15.00	110-000-00-3477
Park field use for T-Ball/per player			
Regular season		12.50	110-000-00-3477
Fall Season		7.50	110-000-00-3477
<b><u>XII. POLICE DEPARTMENT FEES</u></b>			
Background Checks	5.00	5.00	110-000-00-3680
Fingerprinting	7.00	7.00	110-000-00-3680
Vehicle Impoundment Storage Fee/day	25.00	N/A	110-000-00-3455
VIN Inspection @ Police Station	10.00	10.00	110-000-00-3421
VIN Inspection @ Residence/Business	15.00	15.00	110-000-00-3421
Preliminary Breath Test (PBT)	5.00	5.00	110-000-00-3680
<b><u>Copies of evidence:</u></b>			
1 VHS tape @ 60 minutes or less	18.00	N/A	110-000-00-3680
1 Audio file(micro or cassette) @ 60 minutes or less	12.00	12.00	110-000-00-3680
Audio and or Digital Images CD	10.00	7.00	110-000-00-3680
Photographs - prints (24 exposure film)	20.00	20.00	110-000-00-3680
Reports - copies, per page	0.25	0.25	110-000-00-3680
Reports - copies, per page (provided to victims)	no charge	no charge	
Archives/records research, per hour	20.00	20.00	110-000-00-3680
<b><u>XIII. UTILITY SERVICE FEES</u></b>			
<b><u>Irrigation Water</u></b>			
Irrigation Water (Full underground system)/annual	110.00	120.00	211-000-00-3441
Irrigation Water (Partial underground system)/annual	80.00	90.00	211-000-00-3441
Water Share Rental Fee/per year	25.00	25.00	211-000-00-3441
Irrigation Plant Investment Fee	500.00	500.00	211-000-00-3449
<b><u>Restart Service Fee</u></b>			
During Regular Business Hours	55.00	55.00	110-000-00-3483
Non Business Hours	85.00	85.00	110-000-00-3483

**EXHIBIT A**  
**2016 FEES AND CHARGES**

<b>DESCRIPTION</b>	<b>2015</b>	<b>2016</b>	<b>Account #</b>
<b><u>Sewer - Inside City</u></b>			
Residential Base Rate/per month	41.00	41.30	212-000-00-3441
Commercial Base Rate/per month for up to 5,000 gallons of water consumption	50.00	50.00	212-000-00-3442
Volume charge for commercial users per 1,000 gallons in between 5,000 and 105,000 gallons of water used per month	6.50	6.50	212-000-00-3442
Volume charge for commercial users in excess of 105,000 gallons of water used per month	4.00	4.00	212-000-00-3442
Dump Station - low use (under 100 vehicles per month)	100.00	100.00	212-000-00-3442
Dump Station - high use (over 100 vehicles per month)	250.00	250.00	212-000-00-3442
Senior Citizen Rate based on income eligibility	16.40	16.70	212-000-00-3441
Plant Investment Fee (3/4" to 1" water tap)	6,600.00	6,600.00	212-000-00-3449
Plant Investment Fee (1 1/2" water tap or larger)*	negotiated	negotiated	212-000-00-3449
*Base rate for 1.5" water tap is \$12,479, 2" is \$19,967 and 3" is \$39,933 subject to City Engineer and Public Works review of volume and treatment demands			
<b><u>Sewer - Outside City</u></b>			
Base Rate/per month	82.00	82.00	212-000-00-3441
Plant Investment Fee (3/4" to 1" water tap)	13,200.00	13,200.00	212-000-00-3449
<b><u>Trash Collection</u></b>			
Per Unit per Month	12.80	12.50	215-000-00-3443
Senior Citizen Rate based on income eligibility	11.00	10.70	215-000-00-3443

# Important Points FRUITA USE TAX TABLE - EFFECTIVE FOR 2016 CALENDAR YEAR

- The BVD is not intended to apply to alterations or repairs to existing buildings. Because the scope of alterations or repairs to an existing building varies so greatly, the Square Foot Construction Costs table does not reflect accurate values for that purpose. However, the Square Foot Construction Costs table can be used to determine the cost of an addition that is basically a stand-alone building which happens to be attached to an existing building. In the case of such additions, the only alterations to the existing building would involve the attachment of the addition to the existing building and the openings between the addition and the existing building.

- For purposes of establishing the Permit Fee Multiplier, the estimated total annual construction value for a given time period (1 year) is the sum of each building's value (Gross Area x Square Foot Construction Cost) for that time period (e.g., 1 year).
- The Square Foot Construction Cost does not include the price of the land on which the building is built. The Square Foot Construction Cost takes into account everything from foundation work to the roof structure and coverings but does not include the price of the land. The cost of the land does not affect the cost of related code enforcement activities and is not included in the Square Foot Construction Cost.

## Square Foot Construction Costs <sup>a, b, c, d</sup>

Group (2012 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	229.03	221.51	216.10	207.06	194.68	189.07	200.10	177.95	171.21
A-1 Assembly, theaters, without stage	209.87	202.35	196.94	187.90	175.62	170.01	180.94	158.89	152.15
A-2 Assembly, nightclubs	177.89	172.85	168.07	161.49	151.98	147.78	155.80	137.68	132.99
A-2 Assembly, restaurants, bars, banquet halls	176.89	171.85	166.07	160.49	149.98	146.78	154.80	135.68	131.99
A-3 Assembly, churches	211.95	204.43	199.02	189.98	177.95	172.34	183.02	161.22	154.48
A-3 Assembly, general, community halls, libraries, museums	176.88	169.36	162.95	154.91	141.73	137.12	147.95	125.00	119.26
A-4 Assembly, arenas	208.87	201.35	194.94	186.90	173.62	169.01	179.94	156.89	151.15
B Business	182.89	176.17	170.32	161.88	147.55	142.00	155.49	129.49	123.76
E Educational	192.29	185.47	180.15	172.12	160.72	152.55	166.18	140.46	136.18
F-1 Factory and industrial, moderate hazard	108.98	103.99	97.83	94.17	84.37	80.56	90.16	69.50	65.44
F-2 Factory and industrial, low hazard	107.98	102.99	97.83	93.17	84.37	79.56	89.16	69.50	64.44
H-1 High Hazard, explosives	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	N.P.
H234 High Hazard	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	58.67
H-5 HPM	182.89	176.17	170.32	161.88	147.55	142.00	155.49	129.49	123.76
I-1 Institutional, supervised environment	182.53	175.88	170.97	162.73	150.55	146.48	162.73	135.02	130.72
I-2 Institutional, hospitals	308.50	301.79	295.93	287.50	272.14	N.P.	281.10	254.09	N.P.
I-2 Institutional, nursing homes	213.56	206.85	200.99	192.56	179.22	N.P.	186.16	161.17	N.P.
I-3 Institutional, restrained	208.37	201.66	195.80	187.37	174.54	167.98	180.97	156.48	148.74
I-4 Institutional, day care facilities	182.53	175.88	170.97	162.73	150.55	146.48	162.73	135.02	130.72
M Mercantile	132.61	127.57	121.79	116.21	106.35	103.15	110.52	92.05	88.36
R-1 Residential, hotels	184.11	177.46	172.55	164.31	152.38	148.31	164.31	136.85	132.55
R-2 Residential, multiple family	154.38	147.73	142.82	134.58	123.25	119.18	134.58	107.72	103.42
R-3 Residential, one- and two-family	143.93	139.97	136.51	132.83	127.95	124.61	130.57	119.73	112.65
R-4 Residential, care/assisted living facilities	182.53	175.88	170.97	162.73	150.55	146.48	162.73	135.02	130.72
S-1 Storage, moderate hazard	101.01	96.02	89.86	86.20	76.60	72.79	82.19	61.73	57.67
S-2 Storage, low hazard	100.01	95.02	89.86	85.20	76.60	71.79	81.19	61.73	56.67
U Utility, miscellaneous	77.82	73.48	69.04	65.52	59.23	55.31	62.58	46.83	44.63

- Private Garages use Utility, miscellaneous, and enclosed storage.
- Unfinished basements (all use group) = \$15.00 per sq. ft.
- For shell only buildings deduct 20 percent (tenant finish estimated at 20% of material cost in table)
- N.P. = not permitted
- Car Ports & Patios: Use 50% of Group U value from table.

$$\text{USE TAX} = 0.03 \times 0.50 \times \text{TABLE VALUE} \times \text{SQURE FOOTAGE}$$

\* Assumes 3.0 % sales tax and material costs equal to 50% of construction costs listed in table



# AGENDA ITEM COVER SHEET

**TO:** FRUITA CITY COUNCIL AND MAYOR  
**FROM:** MARGARET SELL, CITY CLERK/FINANCE DIRECTOR  
**DATE:** DECEMBER 1, 2015  
**RE:** RESOLUTION 2015-30 ADOPTING THE 2016 ANNUAL BUDGET – PUBLIC HEARING CONTINUED FROM NOVEMBER 17, 2015

## **BACKGROUND**

A draft copy of the 2016 Annual Budget was presented to the Council at their workshop on September 22, 2015. A public hearing was held at the November 17, 2015 City Council meeting and continued to the meeting on December 1, 2015 for final adoption of the 2016 Budget and appropriation resolution.

## **FISCAL IMPACT**

Adoption of the 2016 Annual Budget has an overall fiscal impact of \$16,412,375.

This amount includes current year revenues of.....	\$15,549,625
Additions to Available Funds.....	(147,575)
Use of Available Funds .....	<u>1,010,325</u>
	\$16,412,375

## **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The Annual Budget provides the work program and fiscal plan for the City of Fruita for the 2016 fiscal year. Significant efforts have been made in preparation of the budget to provide the necessary financial resources to accomplish the goals and objectives of the City as they have been defined over time through input from the City Council and public.

## **OPTIONS AVAILABLE TO THE COUNCIL**

- Approve Resolution adopting the 2016 Annual Budget.
- Make amendments to the Budget and adopt a revised 2016 Annual Budget

The Budget must be adopted before the mill levy can be approved and certified to the Mesa County Commissioners by December 15. If funds are not appropriated by the first of the year, the amounts appropriated for the 2016 fiscal year will be pro-rated on a month to month basis until a budget is adopted.

## **RECOMMENDATION**

It is the recommendation of the Fruita City Staff that the Council **RE-OPEN THE PUBLIC HEARING, ACCEPT PUBLIC COMMENT AND THEN MOVE TO**

**APPROVE RESOLUTION 2015-30 ADOPTING THE 2016 ANNUAL BUDGET**



**RESOLUTION 2015-30**

**A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR EACH FUND  
AND ADOPTING A BUDGET FOR THE CITY OF FRUITA, COLORADO,  
FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2016,  
AND ENDING ON THE LAST DAY OF DECEMBER, 2016**

**WHEREAS**, the City Manager has directed the preparation of the 2016 Annual Budget for submission to the Fruita City Council for their consideration;

**WHEREAS**, a proposed budget was submitted to this governing body on September 22, 2015, for its consideration, and

**WHEREAS**, upon due and proper notice, published in accordance with the law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held on November 17 and continued to December 1, 2015, and interested taxpayers were given the opportunity to file or register any objections to said proposed budget, and;

**WHEREAS**, whatever increases may have been made in the expenditures, like increases were added to the revenues so that the budget remains in balance, as required by law.

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

**Section 1:** The budget as submitted, amended, and hereinbelow summarized by fund, is approved and adopted as the budget of the City of Fruita for the year stated above.

**General Fund**

Revenues .....	\$6,977,175
Use of Available Funds .....	885,225
Expenditures.....	(\$7,862,400)

**Conservation Trust Fund**

Revenues .....	\$120,000
Additions to Available Funds.....	(64,000)
Expenditures.....	(56,000)

**Marketing and Promotion Fund**

Revenues .....	\$101,500
Use of Available Funds .....	5,625
Expenditures.....	(107,125)

**Community Center Fund Fund**

Revenues .....	\$2,225,000
Use of Available Funds .....	119,475
Expenditures.....	(2,344,475)

**Capital Projects Fund**

Revenues .....	\$1,070,500
Expenditures.....	(1,070,500)

**Debt Service Fund**

Revenues .....	\$948,150
Expenditures.....	(948,150)

**Devil's Canyon Center Fund**

Revenues .....	\$0
Expenditures.....	(0)

**Irrigation Water Fund**

Revenues .....	\$103,525
Expenditures.....	(103,525)

**Sewer Fund**

Revenues .....	\$3,042,400
Additions to Fund Balance.....	(83,575)
Expenditures.....	(2,958,825)

**Trash Fund**

Revenues .....	\$671,000
Expenditures.....	(671,000)

**Fleet Maintenance Fund**

Revenues .....	\$ 290,375
Expenses.....	(290,375)

**Section 2:** The 2016 budget is hereby approved and adopted and made a part of the public records of the City.

**PASSED AND ADOPTED THIS 1st DAY OF DECEMBER, 2015**

Attest:

City of Fruita

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

\_\_\_\_\_  
Lori Buck, Mayor



## AGENDA ITEM COVER SHEET

**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MARGARET SELL, CITY CLERK/FINANCE DIRECTOR**  
**DATE: DECEMBER 1, 2015**  
**RE: RESOLUTION 2015-31 APPROPRIATING FUNDS FOR THE 2016 BUDGET**

### **BACKGROUND**

After adoption of the 2016 Annual Budget, the Council must appropriate the funds for expenditure in 2016. The budget is a fiscal plan for the coming year while the appropriation is the legal authority to spend that money. The amount appropriated for the various funds and departments cannot exceed the amounts fixed in the budget.

### **FISCAL IMPACT**

Appropriation of funds for the 2016 fiscal year has an overall fiscal impact of \$16,412,375, including transfers to other funds of \$1,696,850 for a net overall fiscal impact of \$14,715,525.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The Annual Budget provides the work program and fiscal plan for the City of Fruita for the 2016 fiscal year. Appropriation of the funds to spend as outlined in the Budget is necessary in order to provide the financial resources to accomplish the goals and objectives of the City and provide services to the citizens of the community.

### **OPTIONS AVAILABLE TO THE COUNCIL**

- Approve Resolution appropriating funds for the 2016 Fiscal Year.
- Make amendments to the Budget and adopt a revised Appropriation Resolution
- If funds are not appropriated by the first of the year, amounts appropriated for the year will be pro-rated on a month to month basis until a budget is adopted.

### **RECOMMENDATION**

It is the recommendation of the Fruita City Staff that the Council move to:

**APPROVE RESOLUTION 2015-31 APPROPRIATING FUNDS FOR THE 2016  
FISCAL YEAR IN ACCORDANCE WITH THE ADOPTED 2016 ANNUAL BUDGET**

**RESOLUTION 2015-31****A RESOLUTION APPROPRIATING SUMS OF MONEY TO THE  
VARIOUS FUNDS IN THE AMOUNT AND FOR THE PURPOSE AS SET FORTH BELOW,  
FOR THE CITY OF FRUITA, COLORADO FOR THE 2016 BUDGET YEAR**

**WHEREAS**, the City Council adopted the annual budget in accordance with the Local Government Budget Law on December 1, 2015, and;

**WHEREAS**, the governing body has made provision therein for revenues in an amount equal to or greater than the total proposed expenditures as set forth in said budget; and;

**WHEREAS**, it is not only required by law, but also necessary to appropriate the revenues provided in the budget to and for the purposes described below, thereby establishing a limitation on expenditures for the operations of the City.

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

**Section 1:** That the following sums are hereby appropriated from the revenue of each fund, to each fund, for purposes stated:

**General Fund**

Current Operating Expenses .....	\$6,769,775
Capital Projects and Equipment .....	<u>1,092,625</u>
Total General Fund .....	\$7,862,400

**Conservation Trust Fund**

Current Operating Expenses .....	\$26,000
Capital Projects.....	<u>30,000</u>
Total Conservation Trust Fund .....	\$56,000

**Marketing and Promotion Fund**

Current Operating Expenses .....	<u>\$107,125</u>
Total Marketing and Promotion Fund .....	\$107,125

**Community Center Fund**

Current Operating Expenses .....	\$1,531,125
Capital Projects and Equipment .....	118,000
Debt Service .....	<u>695,350</u>
Total Community Center Fund .....	\$2,344,475

**Capital Projects Fund**

Current Operating Expenses .....	\$0
Capital Projects and Equipment .....	<u>1,070,500</u>
Total Capital Projects Fund .....	\$1,070,500

**Debt Service Fund**

Current Operating Expenses .....	500
Debt Service .....	<u>\$947,650</u>
Total Debt Service Fund .....	\$948,150

**Devil's Canyon Center Fund**

Current Operating Expense .....	\$0
Total Devil's Canyon Center Fund .....	\$0

**Irrigation Water Fund**

Current Operating Expenses .....	<u>\$103,525</u>
Total Irrigation Fund .....	\$103,525

**Sewer Fund**

Current Operating Expenses .....	\$1,493,825
Capital Projects and Equipment .....	272,150
Debt Service .....	<u>1,192,850</u>
Total Sewer Fund .....	\$2,958,825

**Trash Fund**

Current Operating Expenses .....	<u>\$671,000</u>
Total Trash Fund .....	\$671,000

**Fleet Maintenance Fund**

Current Operating Expenses .....	<u>\$290,375</u>
Total Fleet Maintenance Fund .....	\$290,375

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS 1<sup>st</sup> DAY  
OF DECEMBER, 2015**

Attest:

City of Fruita

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

\_\_\_\_\_  
Lori Buck, Mayor



# AGENDA ITEM COVER SHEET

**TO: FRUITA CITY COUNCIL AND MAYOR**  
**FROM: MARGARET SELL, CITY CLERK/FINANCE DIRECTOR**  
**DATE: DECEMBER 1, 2015**  
**RE: RESOLUTION 2015-32 ESTABLISHING THE PROPERTY TAX MILL LEVY FOR THE 2016 BUDGET - REVISED**

## **BACKGROUND**

The final certification of assessed values has been received from the Mesa County Assessor's office and the following information reflects the final certification. The resolution establishes a mill levy of 10.146 mills for general operations. This is the same mill levy that was established for the 2015 Budget year. The November 30, 2015 assessed value of property in the City of Fruita is \$108,171,850. This is an increase of \$3,197,820 (3%) from the prior years' assessed valuation of \$104,974,030. Each mill assessed by the City results in revenue of \$108,172. The mill levy must be certified to the County Commissioners by December 15, 2015 for collection in 2016.

## **FISCAL IMPACT**

The proposed mill levy of 10.146 mills will generate \$1,097,512 in revenue based on the November 30, 2015 assessed values, an increase of \$32,445 from 2015 budgeted revenue. The final certification reflects an increase of \$400 in property revenue from the August 2015 values.

## **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

The City of Fruita provides a number of services to residents of the community to protect the public safety and health. These services are largely paid for through various tax revenues, including the property tax revenue.

## **OPTIONS AVAILABLE TO THE COUNCIL**

- Approve Resolution establishing the mill levy at 10.146 mills.
- Amend Resolution and establish a lower mill levy.
- The Mill Levy must be set after adoption of the budget and can not be increased without voter approval.

## **RECOMMENDATION**

It is the recommendation of the Fruita City Staff that the Council move to:

**APPROVE RESOLUTION 2015-32 ESTABLISHING THE MILL LEVY ASSESSED ON PROPERTY IN FRUITA FOR THE 2016 BUDGET YEAR AT 10.146 MILLS FOR GENERAL OPERATIONS AND AUTHORIZING THE CITY CLERK TO CERTIFY THE MILL LEVY TO HE MESA COUNTY COMMISSIONERS.**

**RESOLUTION 2015-32**

**A RESOLUTION TO SET MILL LEVIES FOR THE 2016 BUDGET YEAR**

**WHEREAS**, the City Council of the City of Fruita adopted the 2016 Annual Budget in accordance with the Local Government Budget Law on December 1, 2015 and;

**WHEREAS**, the amount of money necessary to balance the budget for general operating purposes is \$1,097,500, and;

**WHEREAS**, the 2015 valuation for the assessment for the City of Fruita as certified by the County Assessor is \$108,171,850

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

**Section 1:** That for the purpose of meeting all general operating expenses of the City of Fruita during the 2016 budget year, there is hereby levied a tax of 10.146 mills upon each dollar of the total valuation for assessment of all taxable property within the City for the year 2015.

**Section 2:** That the City Clerk is hereby authorized and directed to immediately certify to the County Commissioners of Mesa County, Colorado, the mill levies for the City of Fruita as hereinabove determined and set.

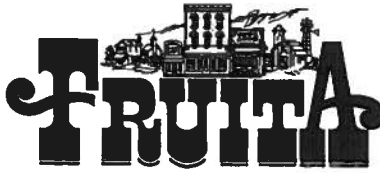
**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL  
THIS 1st DAY OF DECEMBER, 2015.**

Attest:

City of Fruita

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

\_\_\_\_\_  
Lori Buck, Mayor



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<b>AGENDA ITEM COVER SHEET</b>
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**TO: Fruita City Council and Mayor**

**FROM: Community Development Department**

**DATE: December 1, 2015**

**RE: Conditional Use Permit – Sheets Horse (Application #2015-11)**

**BACKGROUND**

This is a request for a Conditional Use Permit (CUP) for keeping one horse on approximately 1.19 acres of land zoned Community Residential (CR) and located at 985 E. Ottley Avenue. The Land Use Code allows keeping livestock as an accessory use in the CR zone with the approval of a CUP. A conditional use is a use which, due to its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone.

In 2012, the City of Fruita received complaints from the neighborhood regarding the condition of the subject property including the horses that were on the property. Olen Sheets (owner of the subject property) and Vernon Sheets were personally served on December 6, 2012, with a Summons and Complaint to Fruita's Municipal Court due to the on-going nuisance issues including junk, trash, debris, junked vehicles and problems caused by the horses that were on the property. On January 9, 2013, the Municipal Court Judge ordered the property owner to remove all junk, trash, debris, junked vehicles and all horses from the property. After this decision was made, the property was cleaned up and the horses were removed.

In June of this year, the City of Fruita's Code Enforcement Officer received a complaint regarding weeds, junk and the condition of the horse corral on the property. The Code Enforcement Officer offered to help Shereen Sheets, representative of the property owner, with bringing the property into compliance with the city's regulations, but she wanted to do the work herself.

To help begin to resolve the code violation regarding the horse, a CUP application was submitted to gain approval to legally keep the horse on the property. Ms. Sheets said that she could not find a way to pay the required \$200 application fee, but agreed to make



payments. In anticipation of payment, the CUP application was scheduled for public hearings and public notification was sent out to surrounding property owners. Although no payments had been made towards the application fee prior to the Planning Commission public hearing, staff believed that it would be a disservice to the surrounding property owners to stop the public hearing process for this CUP application. No payment toward the \$200 application fee has been received at this time.

Although no reviewer expressed a concern with keeping horses at this location, the approval criteria that must be considered for CUPs have not been met.

At the November 10, 2015, Planning Commission public meeting, neither the property owner nor a representative were in attendance, nor was anyone from the public to express any concerns. Although the Planning Commission could have continued the public hearing to a later date, the Planning Commission instead chose to discuss the CUP request and make a recommendation to the City Council. The Planning Commission voted 5-0 to recommend denial this CUP request because the approval criteria have not been met and the applicant has shown little effort to resolve the nuisance problems on the property.

### **FISCAL IMPACT**

The proposed Conditional Use Permit is not expected to have a direct fiscal impact on the City.

### **APPLICABILITY TO CITY GOALS AND OBJECTIVES**

This Conditional Use Permit request has not met all approval criteria identified in the city's Land Use Code that must be considered for Conditional Use Permits. The Land Use Code (along with other regulatory documents such as Fruita's Design Criteria and Construction Specifications Manual) implement the City's goals and policies as outlined in the City's Master Plan including the Fruita Community Plan.

### **OPTIONS AVAILABLE TO COUNCIL**

1. Deny the proposed Conditional Use Permit.
2. Approve the proposed Conditional Use Permit with or without conditions.

### **RECOMMENDATION**

Staff recommends that the City Council move to deny the Sheets Horse Conditional Use Permit. Most of the approval criteria that must be considered for a CUP have not been met. Additionally, no payments have been made for submitting this application and it appears that minimal effort has been made by the applicant to resolve existing nuisance problems at this time.



**Community Development Department  
Staff Report  
November 10, 2015**

Application #: 2015-11  
Applicant: Shereen Sheets  
Application Name: Sheets Horse  
Application Type: Conditional Use Permit (CUP)  
Property Owner: Olen Sheets  
Location: 985 E. Ottley Avenue  
Zone: Community Residential (CR)  
Request: This is a request to have 1 horse on this approximately 1.19 acre residential property.

**Project Description:**

This approximately 1.19 acre property is located on the north side of Ottley Avenue. The rear of the property (north side) backs up to Little Salt Wash Park. The property is zoned Community Residential (CR) and contains a house and a detached garage/barn.

The applicant has requested approval of a Conditional Use Permit (CUP) to allow 1 horse to be kept on the property. Keeping agricultural animals on a property zoned CR requires approval of a Conditional Use Permit (CUP).

In 2012, the City of Fruita received code violation complaints from the neighborhood. Olen and Vernon Sheets were personally served on December 6, 2012 with a Summons and Complaint for the purpose of removing all junk, trash, debris, junked vehicles and all horses from this property. Mesa County Assessor's Office identifies Olen Sheets as the owner of the subject property. Because no response was received, the civil action was taken to the Fruita Municipal Court. On January 9, 2013, the Judge ordered the property owner to remove all junk, trash, debris, junked vehicles and all horses from the said property. The property owner came into compliance with the court order and removed the horses after January 9, 2013.

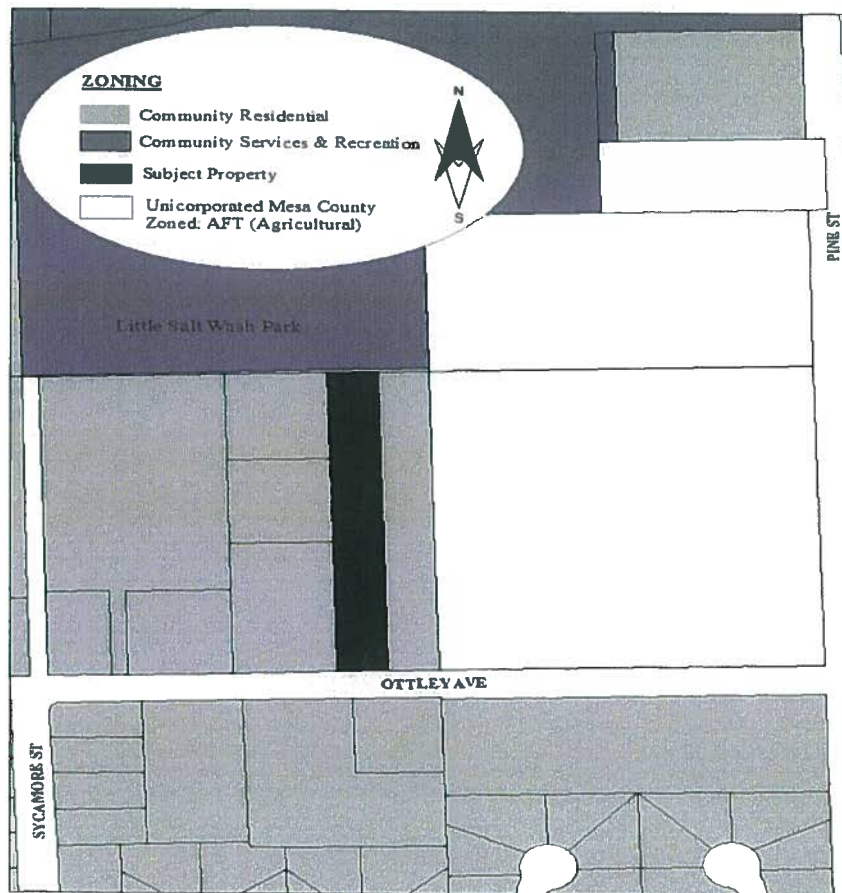
On or about June 25, 2015, the City of Fruita's Code Enforcement Officer received a complaint regarding the weeds and the condition of the horse corral which was confirmed by him. The Code Enforcement Officer offered to help Shereen Sheets, representative of the property owner, with bringing her property into compliance but she wanted to do the work herself. To help begin to resolve code violations, a Conditional Use Permit application was submitted, but the applicant could not find a way to pay the required \$200 application fee, but agreed to make payments. However, no payments have been received at this time.

Attached are pictures of the current condition of the subject property.

**Surrounding Land Uses and Zoning:**

Community Residential (CR), Community Services & Recreation, and Limited Agriculture zoning surround the subject property. The Little Salt Wash Park backs up to the rear/north of the property.

**Zoning & Location Map:**



**2015 Aerial Photograph:**



**Review of Applicable Land Use Code Requirements:**

The Community Residential (CR) zone is intended to allow for moderate density single-family residential detached neighborhoods with the inclusion of other housing types such as attached dwelling units (e.g. apartments and townhouses). The main use of property in the CR zone is typically residential. Keeping animals is permitted as an accessory use in this zone.

Chapter 33 of the Land Use Code sets out the standards for the number of animals permitted per acre in various zones and whether or not a CUP is required. The applicants request permission to keep 1 horse on the property. In the CR zone, one large animal, such as a horse, per acre is

permitted with a CUP. With a little over 1 acre available for the keeping of the horses, the 1 horse proposed does not exceed these limits.

It should be noted that keeping of animals can constitute a public nuisance due to improper care or control. The property must be sufficiently fenced, maintained, and the animals cared for to avoid problems such as noise, odor, and property damage. The goal of the property owner is to bring this property up to current standards of the Land Use Code as per the project narrative. Based on the project narrative the property owner wants to build an overhead shelter for the horse, repair and maintain the fence and gates necessary to keep the horse in the large field on the back half of the property and have the property in full compliance of all sections of the Fruita Municipal Code.

A conditional use is defined as a use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone. After due consideration as provided in section 17.13.040 of the Land Use Code, of the impact upon neighboring land, and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

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

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

Although the purpose of the CR zone is not for the keeping of domestic livestock, Chapter 33 of the Land Use Code allows keeping of domestic livestock in this zone with the approval of a CUP. Keeping animals is considered an accessory to the main use of the property which is single family residential.

If the property is maintained and the animals are cared for to avoid problems such as noise, odor, and property damage, this accessory use can be considered compatible with surrounding land uses and consistent with the provisions and purposes of the Land Use Code and the City's Master Plan. The Land Use Code's overarching purpose is to protect the public health safety and welfare. The Land Use Code is one of the primary documents use to implement the City's Master Plan.

This criterion could be met if the animals are kept so as not to create a public nuisance; however, because of previous nuisances and new continuing nuisances combined with lack of fee payment staff has no confidence that the horse will be kept without a continued nuisance problem.

Nuisance animals are defined in Section 6.09 of the Fruita Municipal Code. A nuisance occurs if an animal poses a public health or safety hazard, damages or destroys property of another, or creates offensive odors which materially interfere with or disrupt other people.

This criteria has not been met.

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

Section 17.07.080 states that for all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved, and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between a proposed use and existing uses in the vicinity to ensure compatibility.

Keeping 1 horse at this location at this time cannot be considered compatible with existing and allowed uses in this area, due to the on-going nuisance issues with the horse and other aspects of the subject property.

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

If the animals are properly confined and taken care of, the keeping of the 1 horse at this location should not materially endanger the public health and safety. This criterion has not been met.

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

All required public services and facilities are available to the subject property. This criterion has been met.

For this Conditional Use Permit for keeping 1 horse, most criteria that must be considered for a Conditional Use Permit have not been met.

**Review Comments:**

All review comments received are included with this Staff Report. All review comments must be adequately resolved. No reviewer expressed a concern with this proposed land use.

**Public Comments:**

No written public comments have been received regarding this application.

**Staff Recommendation:**

Staff recommends **denial** of this Conditional Use Permit based on the criteria that must be considered for this Conditional Use Permit most of which have not been met. No payments have been made for submitting this application and minimal effort has been made by the applicant to resolve existing nuisance problems.

**Fruita Planning Commission:** (November 10, 2015 at 7:00 pm)

**Fruita City Council:** (December 1, 2015 at 7:00 pm)

Looking South  
toward house















# LAND DEVELOPMENT APPLICATION

Project Name: Sheets horse  
 Project Location: 985 E Otley Ave  
 Current Zoning District: CR Requested Zone: N/A  
 Tax Parcel Number(s): 2697-084-00-053 Number of Acres: 1.19 acres  
 Project Type: Conditional Use Permit

Property Owner: Shereen Sheets Developer: None  
 Property Owner: \_\_\_\_\_ Contact: \_\_\_\_\_  
 Address: 985 E Otley Ave Address: \_\_\_\_\_  
 City/State/Zip: Fruita, CO 81521 City/State/Zip: \_\_\_\_\_  
 Phone: 639-2354 Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

Owner Rep: Shereen Sheets Engineer: \_\_\_\_\_  
 Contact: Shereen Contact: \_\_\_\_\_  
 Address: 985 E Otley Ave Address: \_\_\_\_\_  
 City/State/Zip: Fruita, CO 81521 City/State/Zip: \_\_\_\_\_  
 Phone: 639-2354 Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_ E-mail: \_\_\_\_\_

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

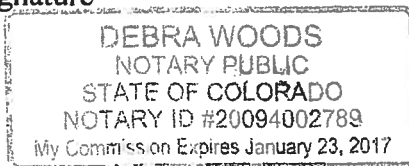
The above information is correct and accurate to the best of my knowledge.

Shereen Lynn Sheets Shereen Sheets 10/9/15  
 Name of Legal Owner Signature Date

\_\_\_\_\_  
 Name of Legal Owner Signature Date

\_\_\_\_\_  
 Name of Legal Owner Signature Date

STATE OF COLORADO )  
 ) ss.  
 COUNTY OF MESA )



The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of October, 2015

My Commission expires: 1/23/2017

Debra Woods  
 Notary Public

## CONDITIONAL USE PERMIT REQUEST PROJECT NARRATIVE

10/12/15

City of Fruita.

My name is Shereen Sheets and I am the property owner and hold the deed to 985 E. Ottley Avenue in Fruita, Colorado.

I was told back when my grandfather owned the property and when he was annexed into the City Limits of Fruita; he was grandfathered in to have farm animals. I understood one of the reasons was so he could keep "Dusty" the family horse. When he died, he passed the family horse down to me to take care of.

Over the years, I have let my Dad, Vernon Sheets, live on this property with the understanding he would take care of the property to include "Dusty" while I was out of town due to my job(s).

I learned in 2013, my dad let a friend(s) keep their horses on the property along with other stuff to include vehicles. He did not take care of the property nor complied with the Fruita Municipal Code so he was taken to court. He was ordered by the Fruita Municipal Judge to bring the property into compliance to include removing all horses from the property.

I have moved back into the house on the property to take care of my dad due to his health issues.

I am requesting the ability to keep one horse, "Dusty" the family horse, on the property to care for. I do not have the financial means to pay someone or place to house Dusty.

I will agree to:

1. Having my property in full compliance of all sections of the City of Fruita Municipal Code;
2. Build an overhead shelter for Dusty;
3. Repair and maintain the fence and gates necessary to keep Dusty in the large field (over one acre) behind the house;
4. Maintain proper care of the horse to include but not limited to removing any horse manure within a reasonable time so the smell does not affect my surrounding neighbors.

Thank You in advance for your consideration into this request.

Respectfully,

Shereen Sheets



10/12/15

To whom it  
may concern.

10/9/15

Im a single mom who has  
a part time job that barley  
pays the bill so it makes  
it hard to just have 200<sup>00</sup>  
dollars for fee's so if you  
would work with me on the  
fee's it would be very helpful

Thanks

Shereen Bell

10/9/15

Fruita Planning Commission

Tuesday, November 10, 2015

**A. CALL TO ORDER**

Chairman Mike Joseph- This is the City of Fruita Planning Commission meeting for Tuesday November 10, 2015. It's now in session (7:00pm). Planning Commission members in attendance were; Janet Brazfield, Mike Joseph, Keith Schaefer, Dave Karisny and Louis Brackett. Doug Van Etten and Mel Mulder were excused absent.

**B. PLEDGE OF ALLEGIANCE**

Mike Joseph- If you would join me in the Pledge of Allegiance. (Mike Joseph led)

**C. AMENDMENTS TO THE AGENDA**

None

**D. APPROVAL OF THE AGENDA**

Janet Brazfield- I move that we approve the agenda as noted here.

Keith Schaefer- I second.

Mike Joseph- We have a motion and a second to approve the agenda.

5 yes votes: motion passes.

**E. WITHDRAWN ITEMS**

None.

**F. CONTINUED ITEMS**

Application #: 2015-10  
 Application Name: Fruita Liquor Mart  
 Application Type: Conditional Use Permit  
 Applicant: Burke Martin  
 Location: 439 Highway 6 & 50  
 Zone: Downtown Mixed Used

Description: This is a request for a Conditional Use Permit approval of a Drive-Thru at the new location of the Fruita Liquor Mart in a Downtown Mixed-Used (DMU) zone. A Conditional Use Permit is required because of a Drive-Thru at the new location.



**\*\*Note:** This is a project that was submitted and on track for the November 10, 2015 Planning Commission meeting but was postponed. Staff decided it would be best to continue the item to next month's agenda (December).

Dahna Raugh- The public hearing for this project was advertised for tonight's (November 10, 2015) public hearing. However, they ran into a bit of a problem with transportation issues so they requested that it be continued for one (1) month so they could work out some of those issues before they presented it to the Planning Commission.

**G. CONSENT ITEMS**

Mike Joseph- This is the approval of the minutes (from August 11, 2015)

Keith Schaefer- I move.

Louis Brackett- I second.

Mike Joseph- We have a motion and a second to approve the Consent Item.

5 yes votes; motion passes.

**H. HEARING ITEMS**

Application #: 2015-11  
 Applicant: Shereen Sheets  
 Application Name: Sheets Horse  
 Application Type: Conditional Use Permit (CUP)  
 Location: 985 E. Ottley Avenue  
 Zone: Community Residential (CR)  
 Description: This is a request for a Conditional Use Permit (CUP) for keeping one (1) horse on approximately 1.19 acres of land zoned Community Residential (CR) and located at 985 East Ottley Avenue. The Land Use Code requires a Conditional Use Permit (CUP) for keeping livestock in the CR zone.

Mike Joseph- Hearing item #2015-11, Shereen Sheets, Conditional Use Permit.

Dahna Raugh- Nobody is in the audience. There is nobody here to represent the hearing item on your agenda. Just a very quick summary, in 2012 the subject property became quite messy with junk and things like that. There were also several horses on the property that weren't being taken care of and the City received complaints from the neighborhood. To make the long story short, this ended up in municipal court; the property owners received a summons of complaint to which they did not respond to which the judge ordered the property to be cleaned up and the horses be removed. Earlier this year

reading the petition, she didn't have the \$200 to start with and ask if a payment plan would be in order and she said yes. However, here we are this evening and no payment has been made. I understand that the Planning staff and the Commission want to do what is best for the community and what is best for the petitioner but she has been, to this point, unwilling to cooperate financially and otherwise. I don't feel comfortable with approving this.

Janet Brazfield- Along with my fellow Commissioners, I understand her dad is the one that got into this mess with the court. However, the actual property owner is the ultimate party responsible for the property in making sure it is maintained properly. If they are letting somebody else live there or not. I understand it is a family horse, but you have to be able to care for it. You need shelter and other things to care for it. And I am not quite sure why this is in front of us, because it's like putting the 'cart in front of the horse'. The items need to be put into compliance and everything made ready to handle a horse prior to applying for a Conditional Use Permit to allow for the horse. Based on that, my strong recommendation would be to deny it at this time.

Mike Joseph- I agree with everything my fellow Commissioners have said and I find that the City has bent over backwards to try to help her. We are even having a public hearing in which she has chosen not to attend after filing her petition and not paying her fees. I'm not sure there is any reason to do further. There is no demonstration of any good faith on the petitioner's part to do any of the things that are said in her application. So I am inclined to deny it.

Keith Schaefer- I agree with what everybody else has said. But I think we should tie the denial to everything being done prior to the application. I don't think you are going to tell me it has been cleaned up are you?

Dahna Raugh- No.

Keith Schaefer- Okay. I think all of the stipulations in the project narrative have to be complied with prior to re-application and I think the permit fee has to be paid prior to application.

Dave Karisny- Could I ask for clarification, this conditional use permit really is for keeping Dusty right?

Dahna Raugh- It is for keeping 1 horse. It is specific to the horse; I really don't think this is the Dusty from 20 years ago. So if a Conditional Use Permit is granted, for whatever reason, can be Dusty the horse. If that horse passes away, they can have another horse within a year.

Dave Karisny- Okay. I wasn't really trying to address Dusty as much as this Conditional Use Permit is about a single horse. So I would be more inclined to making our decision for the Conditional Use Permit for a single horse, rather than try to tie that into things that may have been previously part of some litigation toward this animal.

Mike Joseph- I agree with Mr. Karisny. This is an application to have a horse under the Conditional Use Permit and I feel to deny it. It is my understanding that this property has some code violation issues. This will continue to be pursued by the City as a nuisance. The existing conditions of the property will continue to be taken care of by the ordinances of the City for nuisance. So tonight all we are considering

is whether we are going to approve to let this person have a horse on the property or not. Unless there is anything further, I would entertain a motion with regard to this item.

Louis Brackett- I make a motion that we deny the petition for the Conditional Use Permit.

Keith Schaefer- Second.

Mike Joseph- We have a motion and a second.

Dave Karisny- Could I add to that motion to indicate the reason that we are making a petition for denial is that the Conditional Use Permit is based on the criteria that must be considered for this Conditional Use Permit most of which has not been met. To include nonpayment of submitting the application and the minimal efforts that has been made by the applicant to resolve the existing nuisance problems.

Janet Brazfield- I will second the amendment to the motion.

Mike Joseph- Thank you. So we have an amendment and a second to the motion.

5 yes votes; amendment to the motion passes.

5 yes votes to deny the Conditional Use Permit application.

#### **I. OTHER BUSINESS**

Mike Joseph- We don't have any visitors or guests.

#### **J. ACTIVITY REPORT**

Dahna Raugh- We have Subway almost complete behind the Wendy's. O'Reilly Auto is close to breaking ground on their project near Family Dollar. And there is a application pending for Fruita Liquor Mart to move into the old Chinese restaurant at the corner of Maple and Highway 6 & 50. They are going to do a very significant remodel and expansion. We are also talking with some potential commercial development. Housing starts are down but commercial is looking better at the moment.

Grand Junction is doing a housing needs study that Fruita contributed some money towards that effort. Everyone is invited to attend the focus group meeting on Thursday December 3<sup>rd</sup> during lunch hour 11:30 to 1.

On the agenda next month will be Fruita Liquor Mart and hopefully a Sign Code amendment.

Keith Schaefer asked when O'Reilly was approved and it was discussed that a Site Design Review application does not need to go to a public hearing.

#### **ADJOURNMENT AT 7:28PM**

Respectfully submitted,  
Henry Hemphill  
City of Fruita Planning Technician