

ORDINANCE 2015-05

**AN ORDINANCE AMENDING TITLE 2 OF THE FRUITA MUNICIPAL CODE
CONCERNING ADMINISTRATION AND PERSONNEL**

WHEREAS, there are a number of outdated provisions in the Fruita Municipal Code relating to the administration and personnel of the City of Fruita which need to be updated to reflect current practices and provisions of the City of Fruita, and

WHEREAS, there are also a number of provisions in the Fruita Municipal Code relating to administration and personnel of the City of Fruita which need to be revised to eliminate conflicting provisions with the Fruita City Charter and to reference provisions of the Fruita City Charter, and

WHEREAS, it is the intent of this ordinance to update administrative and personnel provisions of the Fruita Municipal Code.

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

Section 1: Chapter 2.04 of the Fruita Municipal Code entitled City Officers, General Provisions, is hereby repealed.

Section 2: Chapter 2.08 of the Fruita Municipal Code entitled City Administrator is hereby repealed.

Section 3: Chapter 2.12 of the Fruita Municipal Code entitled City Clerk is hereby repealed.

Section 4: Chapter 2.14 of the Fruita Municipal Code entitled City Treasurer is hereby repealed.

Section 5: Chapter 2.16 of the Fruita Municipal Code entitled City Attorney is hereby repealed.

Section 6: Chapter 2.18 of the Fruita Municipal Code entitled City Council and Mayor is hereby repealed, renumbered to Chapter 2.10, and reenacted to read as follows:

Chapter 2.10

CITY COUNCIL AND MAYOR

Sections:

- 2.10.010 Mayor and Council Members**
- 2.10.020 Councilmembers - Terms**
- 2.10.030 Council meetings**
- 2.10.040 Compensation**

2.10.010 MAYOR AND COUNCIL MEMBERS. The Mayor and members of the City Council are responsible for policy making for the City. The Mayor and City Council have the powers, duties and responsibilities as noted in Article II and Article III of the Fruita City Charter. They may perform such other duties as may be prescribed by law or ordinance.

2.10.020 COUNCIL MEMBERS - TERMS. When a vacancy exists in the office of a City Council member, said vacancy shall be filled as set forth in Section 2.04 of the Fruita City Charter. Any Council member appointed to fill a vacancy shall serve until the next regular municipal election. At the next regular election, the three candidates receiving the highest number of votes shall be elected to four year terms and the candidate receiving the next highest number of votes, in descending order, shall be elected to a two year term.

2.10.030 COUNCIL MEETINGS.

- A. The two regular meetings of the City Council shall be held on the first and third Tuesday of each month, at seven p.m., at the Fruita Civic Center.
- B. If there is a conflict of such meeting dates with a holiday or other event, the City Council may establish an alternate regular meeting date upon motion and public notice of the changed date. Further, if the City Council shall determine at a regularly scheduled meeting that the next following meeting(s) will not be required because of lack of council matters to be considered, the City Council may, by a majority vote, cancel the next following meeting(s).

2.10.040 COMPENSATION. Each member of the City Council shall be compensated for expenses incurred in serving his/her office in the amount of three hundred dollars (\$300) per month. The Mayor Pro Tem shall receive an additional fifty dollars (\$50) per month. The Mayor shall be compensated in the amount of four hundred seventy five dollars (\$475) per month.

Section 7: Chapter 2.20 of the Fruita Municipal Code entitled Electrical Inspector is hereby repealed.

Section 8: Chapter 2.24 of the Fruita Municipal Code entitled Superintendent of Streets is hereby repealed.

Section 9: Chapter 2.25 of the Fruita Municipal Code entitled Code Enforcement Officer is hereby repealed.

Section 10: Chapter 2.44 of the Fruita Municipal Code entitled Officers' Oath and Bonds is hereby repealed.

Section 11: Chapter 2.48 of the Fruita Municipal Code entitled Officers' Salaries and Fees is hereby repealed.

Section 12: Chapter 2.15 entitled Officers and Employees is hereby added to the Fruita Municipal Code to read as follows:

Chapter 2.15

OFFICERS AND EMPLOYEES

Sections:

- 2.15.010 Appointed Officers
- 2.15.020 Power and duties of officers
- 2.15.030 Oath of Office; bond
- 2.15.040 Compensation
- 2.15.050 Employee Handbook

2.15.010 APPOINTED OFFICERS. Pursuant to the Fruita City Charter, Article IV, the following officers of the City shall be appointed by a majority vote of all the members of the City Council. Said officers shall hold their respective offices until their successors are duly appointed and qualified. Vacancies shall be filled by appointment of the City Council.

- A. City Manager
- B. City Attorney
- C. Municipal Judge.

2.15.020 POWERS AND DUTIES OF OFFICERS.

- A. Appointed officers of the City shall have such powers and perform such duties as are now or hereafter may be prescribed by state law, the Fruita City Charter and the ordinances of the City, shall further perform any additional duties required by the City Council, and shall be subject to the control and orders of the City Council.
- B. Upon adoption of a resolution by the City Council authorizing an individual City Manager to have the following powers, such City Manager shall have the power and authority to:
 - 1. Execute any agreement on behalf of the City of Fruita that has formally been approved by the City Council;
 - 2. Enter into contracts or agreements on behalf of the City of Fruita for the purchase or provision of services, equipment, or that provides for any expenditure of funds so long as adequate funds for such contracts or agreements have been appropriated by the City Council in its annual budget;
 - 3. Enter into other contracts on behalf of the City of Fruita obligating the City for a period of less than one (1) year; and
 - 4. Execute applications for grant funds and administer grants once received.

2.15.030 OATH OF OFFICE, BOND.

- A. When required by the City Council, each officer or employee, before entering upon entering upon the duties of his or her office, shall take an oath to support the Constitutions and laws of the United States, the State of Colorado and the ordinances of the City.
- B. In all cases where, by law, ordinance or resolution of the City Council, a bond is required of any such officer, he or she shall make and execute to the City a bond in such sum as is required, by be approved by the City Council, conditioned upon the faithful performance of all duties pertaining to such office, the proper care of all money or property of the City coming into his or her hands and the proper accounting for or delivery of the same. The City shall pay the premiums for the bonds required of any such officer.

2.15.040 COMPENSATION. Compensation for City employees and officers shall be set through a pay plan established as part of the annual budget for the City of Fruita or by terms of an employment contract.

2.15.050 EMPLOYEE HANDBOOK. Employment with the City is at-will. An employee handbook setting forth a summary of employment policies, guidelines and procedures shall be periodically reviewed, updated and approved by the City Manager.

Section 13: Chapter 2.36 of the Fruita Municipal Code entitled Police Department, is hereby repealed.

Section 14: Chapter 2.56 of the Fruita Municipal Code entitled Building Department, is hereby repealed.

Section 15: Chapter 2.20, entitled City Departments, is hereby added to the Fruita Municipal Code to read as follows:

Chapter 2.20

CITY DEPARTMENTS

Sections:

- 2.20.010 General Provisions**
- 2.20.020 Administration Department**
- 2.20.030 Community Development Department**
- 2.20.040 Human Resources Department**
- 2.20.050 Parks and Recreation Department**
- 2.20.060 Public Safety Department**
- 2.20.070 Public Works Department**

2.20.010 GENERAL PROVISIONS. Pursuant to the Fruita City Charter the Fruita City Council may establish or abolish city departments, offices or agencies and may prescribe the

functions of all departments, offices and agencies. All Departments and Department Heads are under the management of the City Manager.

2.20.020 ADMINISTRATION DEPARTMENT. The Administration Department is responsible for the oversight of the financial and record keeping duties of the City. The Finance Director is responsible for oversight of the Department. The Administration Department includes accounting functions, budget development and monitoring, cash investments and cash management, record keeping and recording of official city actions, conduct of elections and other duties and responsibilities as may be prescribed. The Finance Director shall give a performance bond in the amount of \$10,000 to the City for the faithful performance of his duties, and for the faithful accounting for and payment of all funds deposited with the City.

2.20.030 COMMUNITY DEVELOPMENT DEPARTMENT.

- A. The Community Development Department is responsible for the oversight of current and long range planning and zoning including implementation and enforcement of Title 17, Land Use Code; Title 15, Building and Construction; and other duties and responsibilities as may be prescribed. The Community Development Director is responsible for oversight of the Department.
- B. The position of Code Enforcement Officer shall be under the administration and operational control of the Community Development Director. Such Code Enforcement Officer shall have the power, together with the Community Development Director and the City Attorney, to enforce all terms and provisions contained in Title 17 of the Fruita Municipal Code concerning Land Use and Development, as well as the terms and conditions of any permits or other land use approvals granted pursuant to Title 17. Such Code Enforcement Officer shall also have the authority, together with the City Attorney and members of the Fruita Police Department, to enforce provisions contained in Title 6 concerning Animals, Title 8 concerning Health and Safety, Title 9 concerning Public Peace, Morals and Welfare, Title 10 concerning Vehicles and Traffic, Title 12 concerning Public Improvements and Title 15 concerning Building and Construction, as well as other provisions of the Fruita Municipal Code as may be determined from time to time by the City Council. The Code Enforcement Officer shall have the authority to issue notices of violation, compliance orders, and may issue citations or summons and complaints in the Fruita Municipal Court. Provided, however, such Code Enforcement Officer need not be a “peace officer” as defined by Title 18, C.R.S., and if the Code Enforcement Officer is not a “peace officer,” shall not be permitted to carry a firearm or conduct arrests.
- C. The Building Inspector shall perform all required inspections within the City pursuant to Title 15, Building and Construction. The Building Inspector may be an employee of the City or may be a person or entity under contract with the City to perform building inspections within the City.

2.20.040 HUMAN RESOURCES DEPARTMENT. The Human Resources Department is responsible for the administration and management of personnel including recruitment, retention, termination, record keeping, development of compensation and fringe benefit plans, and other

duties and responsibilities as may be prescribed. The Human Resource Director is responsible for oversight of the Department.

2.20.050 PARKS AND RECREATION DEPARTMENT. The Parks and Recreation Department is responsible for administration, management, maintenance and operations of the City's parks, open space, trails, recreational programs, Community Center operations, and other duties and responsibilities as may be prescribed. The Parks and Recreation Director is responsible for oversight of the Department.

2.20.060 PUBLIC SAFETY DEPARTMENT. The Public Safety Department (also referred to as Police Department) is responsible for the enforcement of the rules and regulations of the State of Colorado and City of Fruita, the protection of the peace, safety and welfare of the public, and other duties and responsibilities as may be prescribed. The Chief of Police is responsible for oversight of the Department. The Police Department shall be operated and managed in accordance with such departmental Policies and Procedures, and Standard Operating Directives as established by the Chief of Police.

2.20.070 PUBLIC WORKS DEPARTMENT.

- A. The Public Works Department is responsible for the operations and maintenance of the public rights of way, buildings, sewer and irrigation utilities, mountain water system, fleet, engineering and design services and other duties and responsibilities as may be prescribed. The Public Works Director is responsible for oversight of the Department.
- B. The City Engineer shall serve as Traffic Engineer for the City.

Section 16: Section 2.28.200, Additional Fees and Costs, applicable to Chapter 2.28 Municipal Court, is hereby repealed and reenacted to read as follows:

2.28.200 ADDITIONAL FEES AND COSTS. The following fees and costs, if applicable, shall be paid to the City in all Municipal Court proceedings. The amounts of the fees and costs shall be established by annual resolution of the Fruita City Council. When judgment is entered against a defendant, all fees and costs shall be included as part of the judgment, unless otherwise provided in this Chapter. Costs shall be paid by the City when a defendant is acquitted, when charges are dismissed against a defendant, or when a defendant is convicted and the Court determines he is unable to pay them, unless otherwise provided herein.

If any private person complainant, in any action before the Municipal Court, requests dismissal of the prosecution of said action, or willfully absences himself from trial or fails to appear at trial after being subpoenaed, and said action is dismissed, the Court shall give judgment against said private person complainant for all applicable fees and costs. In addition, if charges against an accused pursuant to a private person complaint are dismissed, and it appears to the Court there were no reasonable grounds for the complaint, or that it was maliciously made, the Court shall give judgment against said complainant for all applicable fees and costs.

- A. Docket Fee. In all proceedings before the Municipal Court, a docket fee shall be charged, which shall be payable by the defendant upon his conviction. Said docket fee shall also be charged in the event a defendant is granted a deferred judgment and sentence or a deferred prosecution. A separate docket fee shall be charged upon the filing of a complaint alleging violation of probation or a deferred sentence and judgment.
- B. Jury Fee. At the time he demands a jury trial, a defendant shall pay a jury fee to the Clerk of the Court, unless the fee is waived by the judge because of the indigence of the Defendant. If the action is dismissed or the defendant is acquitted of the charge, or if the defendant, having paid the jury fee, files with the Court at least ten (10) days before the scheduled trial date a written waiver of jury trial, the jury fee shall be refunded. A defendant who fails to file with the Municipal Court the written jury demand together with the jury fee as provided above waives the right to a jury trial.
- C. Witness Fee. A witness fee in for each witness shall be assessed for each witness testifying in a trial. Said fee shall be paid by the defendant upon his conviction.

Witnesses shall receive the witness fee for testifying before the Municipal Court, provided, however, witnesses called to testify only to an opinion founded on a special study or experience in any branch of science or to make scientific or professional examinations and state the results thereof, shall receive additional compensation, to be fixed by the Court, with reference to the value of the time employed and the degree of learning or skill required. Said fees fixed by the Court shall be assessed against the defendant upon his conviction and paid to such witnesses.

Any witness fee collected by the Court Clerk shall be paid to the person entitled to the witness fee, if claimed by such person. Any witness fee collected, but not claimed by a witness within thirty (30) days, shall be paid by the Clerk of the Court to the City Treasurer. All unclaimed witness fees shall become the property of the City and shall not be refunded. If a fee claimed by a witness has not previously been collected by the Court Clerk, the City shall pay the witness claimant if said claim was submitted in a timely manner.

- D. Juror Fees. For attending Municipal Court, jurors shall receive a daily fee while actually engaged on the jury and an attendance fee for attendance on the panel alone. Said fee shall be paid by the City.
- E. Mileage Fees. All witnesses and jurors shall receive a mileage fee for each mile actually and necessarily traveled in going from his place of residence to the Municipal Court; provided, however, no witness shall receive mileage fees unless such witness claims the same before the adjournment of the Court. Mileage fees shall be paid by the City. This subsection shall not apply to an officer of the Court who attends in his official capacity, including clerks, sheriffs, bailiffs and police officers.

- F. Deferred Judgment and Sentence, Deferred Prosecution, or Probation Fee. In all actions in which a defendant is granted a deferred judgment and sentence, or a deferred prosecution, or in all actions in which the Court orders that the defendant be placed on probation, the defendant shall be assessed a fee to defray the costs of preparing the applicable Court documents and to monitor compliance. Such fee shall be in addition the applicable docket fee. Nothing contained in this Chapter shall prevent the Court from assessing additional fees if a human services agency, mental health professional or similar professional is utilized by the Court to supervise the Defendant's compliance with the terms of the deferred judgment, deferred prosecution, or probation.

- G. Bench Warrant Fee. In all actions in which a bench warrant is issued for the arrest of a defendant for failure to appear or failure to pay fines and costs as ordered by the Court, the Court shall assess against said defendant a fee in addition to all other fees and costs due and owing.

- H. Incarceration Fee. In all actions in which a defendant is sentenced to incarceration in the county jail, the Court may assess against said defendant an incarceration fee in an amount equal to the sum charged to the City by Mesa County for such incarceration.

- I. Misdemeanor Fee. In all proceedings before the Municipal Court for Class A or Class B criminal offenses, a misdemeanor fee shall be assessed to defendants which shall be payable by the defendant upon his conviction. Said misdemeanor fee shall also be charged in the event a defendant is granted a deferred judgment and sentence or a deferred prosecution.

The purpose of the Misdemeanor Fee is to accumulate funds to offset costs associated with a defendant's right to counsel in plea negotiations for misdemeanors and lessor offenses. Funds collected through the imposition of the misdemeanor fee shall be accounted for separately and used to offset the City's costs to provide counsel.

Section 17: Chapter 2.52 of the Fruita Municipal Code entitled Retirement Plan is hereby repealed.

PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL

THIS ____ DAY OF _____, 2015

ATTEST:

City of Fruita

Margaret Sell, City Clerk

Lori Buck, Mayor