

ORDINANCE NO. 2021-11

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 17.13 OF THE FRUITA LAND USE CODE TO ADDING A NEW SECTION DEFINING AND REGULATING SHORT-TERM RENTALS.

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

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

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

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

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

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

WHEREAS, the Planning Commission reviewed the amendments contained here in on February 9, 2021 and formalized their recommendation regarding those amendments with a vote of 5-1 of those members present recommending approval of the proposed amendments; and

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

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

WHEREAS, the City Council finds that passage of Ordinance 2021-11 will promote the health, safety and general welfare of the Fruita community;

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

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

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

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

Section 2. Amendment to Chapter 17.03. Chapter 17.03 is hereby amended to add the following definitions:

BED AND BREAKFAST FACILITY. A facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis. A short-term rental is not a Bed and Breakfast.

HOTEL. A structure providing short term lodging or boarding for guests for not more than thirty (30) consecutive days, including lodges and motels. A short-term rental is not a Hotel.

SHORT-TERM RENTAL. A type of lodging wherein any dwelling unit, either in full or in part, is rented or leased to a temporary occupant(s) for monetary consideration for fewer than thirty (30) consecutive days. Also commonly referred to as Vacation Rentals, Vacation Rental by Owners, Airbnb's.

SHORT-TERM RENTAL PERMIT. A permit issued by the Community Development Department pursuant to Section 17.13.100(C).

Section 3. Amendment to Section 17.04.110(B) – Accessory Uses. Section 17.04.110(B) is hereby repealed and replaced in its entirety as follows:

- B. Accessory Uses.** Accessory uses commonly found are private yards and gardens, private recreational activities, raising of pets, hobbies, home occupations (subject to Code requirements), and parking of the occupants' vehicles, but not including residential occupancy of any vehicle. Home occupations, accessory dwelling units, Short-Term Rentals, and bed and breakfast facilities are accessory uses that are subject to additional regulations.

Section 4. Amendment to Chapter 17.13 – Short Term Rentals. Chapter 17.13 is hereby amended by the addition of Section 17.13.100 as follows:

17.13.100 SHORT-TERM RENTALS.

- A. Purpose. The purpose of this section is to establish procedures and standards to

allow Short-Term Rentals in certain zone districts in the City pursuant to a permit and to provide regulations to assist in protecting the health, safety, and welfare of property owners, neighbors, and occupants. It is the City's intent to establish Short-Term Rental regulations that promote opportunities to support the local economy and protect the long term residential character of Fruita's neighborhoods.

B. Applicability and Prohibitions.

1. A Short-Term Rental application is required for any Short-Term Rental located in the City of Fruita, as permitted based on the Land Use/Zoning Table in Section 17.07.060 (F) of this Title. A Short Term Rental Permit is required for each individual dwelling unit.
2. Private covenants running with the land may restrict or prohibit Short-Term Rentals or similar types of uses. It is the responsibility of the property owner, not the City, to ensure compliance with restrictive covenants.
3. It shall be unlawful for any person, whether a principal or agent, clerk or employee, either for him or herself, or for any other person for anybody, corporation or otherwise, to lease or operate a Short-Term Rental without first obtaining a Short Term Rental Permit in accordance with the provisions and procedures of this Section.
4. Short-Term Rentals are not allowed in bed and breakfasts, hotels or lodges or motels as defined in the Fruita Municipal Code, as amended.

C. Short-Term Rental Permit Required.

1. The Community Development Department shall issue permits in accordance with the provisions of this chapter.
2. No person or entity shall sell lodging to temporary occupant(s) of a dwelling unit for fewer than 30 consecutive days without first having obtained a Short-Term Rental permit issued by the City and complying with any conditions or restrictions thereof. A separate Short-Term Rental permit is required for each Short-Term Rental unit. A Short-Term Rental permit may be issued only to the owner of the property used for Short-Term Rental.
3. A Short-Term Rental Permit attaches only to the property for which it is issued and the property owner to which it is issued. The permit is nontransferable upon sale or other transfer of ownership of the property. Upon such transfer of ownership, the new owner of the property shall apply for a new Short-Term Rental Permit if it wishes to continue the use of the property as a vacation rental.

D. Local Point of Contact.

1. The property owner shall designate one or more person(s) who will be

the Local Point of Contact and will be available and responsible for immediately responding to complaints within a reasonable amount of time about or violations of any permit terms or any public nuisance regulations.

2. The term local as used herein means having a permanent address within a 25-mile radius from the Short-Term Rental. The local point of contact may be the property owner only if the local criteria is met.
3. The Local Point of Contact must be authorized by the property owner to permit inspection of the premises by the City and/or its agent or employee to ensure compliance with applicable fire and building codes and with the requirements for and/or of the short-term rental permit. Additionally the local contact must have physical access to the property and shall be authorized to make decisions regarding the vacation rental property on behalf of the owner.

E. General Requirements. Prior to a Short-Term Rental Permit being issued pursuant to Section C herein, the property owner of the proposed Short-Term Rental shall:

1. Obtain a sales and lodgers tax license as well as a business license and comply with all applicable local, State and federal taxes;
2. Demonstrate and certify that the unit contains the following on the premises at all times:
 - a. A smoke detector in good working order.
 - b. A carbon monoxide detector in good working order.
 - c. Adequate and functional building egress from each sleeping room in the dwelling unit.
 - d. Posted notice in the Short-Term Rental for guests providing, in detail, the following information in a highly visible location and readily accessible form:
 - i. Location of building exits and fire extinguishers;
 - ii. Contact information for the Local Point of Contact;
 - iii. Short-Term Rental application number;
 - iv. Noise restrictions and quiet hours;
 - v. Parking Restrictions;
 - vi. Trash disposal, storage and collection schedule;
 - vii. Relevant water restrictions.
3. Provide with the application a sketch or drawing of the unit that depicts all rooms, doors and windows, including dimensions, and shows on-site areas available for guest parking;
4. If the Short-Term Rental unit is accessed by a shared driveway, provide the City with a copy of a written instrument authorizing use of the driveway for short-term rental purposes;
5. Permit inspection of the premises by the City or its agent or employee

during the pendency of the permit application, and thereafter upon reasonable notice;

6. Provide the name, address and phone number of the Local Point of Contact to the City, and update such information within ten (10) days with the City whenever it changes;
7. Register annually with the City, certifying that the permit terms and requirements are still being met and updating any material changes to the unit or property;
8. Kitchen facilities may only serve the property owner and the guests;
9. Short-Term Rentals are required to be rented for a minimum of 45 days in a calendar year. Failure to rent the property will cause the property to be ineligible for renewal in the subsequent year.
10. Signs advertising Short-Term Rentals, whether on or off premise are prohibited.
11. Digital advertisement shall include the Short-Term Rental application number assigned by the Planning Clearance. The failure to prominently display the Planning Clearance number in any advertisement of accommodation shall be a violation of this Chapter. Advertising shall include any written, oral or video communication or publication disseminated by signage, mailing, print, internet listing, e-mail publication, social media, other electronic means, telephone or other means which is intended to directly or indirectly induce a person to use or possess the accommodation for consideration.

F. Revocation, Suspension, Expiration and Appeal.

1. A Short-Term Rental Permit may be suspended or revoked for any of the following reasons:
 - a. The owner or designated responsible party has failed to comply with any requirement of Section 17.13.100 of this Title.
 - b. The owner or designated responsible party has failed to comply with a condition of or restriction set forth in the Short-Term Rental Permit.
 - c. The owner has failed to collect or remit lodging or sales taxes or otherwise comply with local, State and/or federal tax requirements.
 - d. Materially false or misleading information has been provided to the City by the applicant, owner or designated responsible party on an application.
 - e. The City has received excessive and substantial complaints by neighbors or affected persons, which complaints were not adequately and timely addressed by the owner or Local Point of Contact as determined solely by the City.
2. Notice of revocation shall be provided to the owner, who shall then be given an opportunity to respond within ten (10) days. The Community Development Director shall issue any decision to revoke or suspend a

permit within ten (10) days of the response date.

3. Any aggrieved person may appeal the issuance, denial, suspension, or revocation of a Short-Term Rental Permit to the Fruita City Council within 10 days of the issuance of the decision.

G. Violations.

1. Violations of this Chapter shall be enforced pursuant to Chapter 1.28 of the Fruita Municipal Code.
2. A violation of this Chapter may also be punishable by denial of a license for a Short-Term Rental Permit for the property or property owner that has offended such limitation for a period of two (2) years from the City's date of revocation.
3. All amounts due and owing to the City in connection with any violation of this Chapter shall constitute a first priority lien on the Short-Term Rental property and may be collected by any means provided under the Code.

H. Issuance; Renewal.

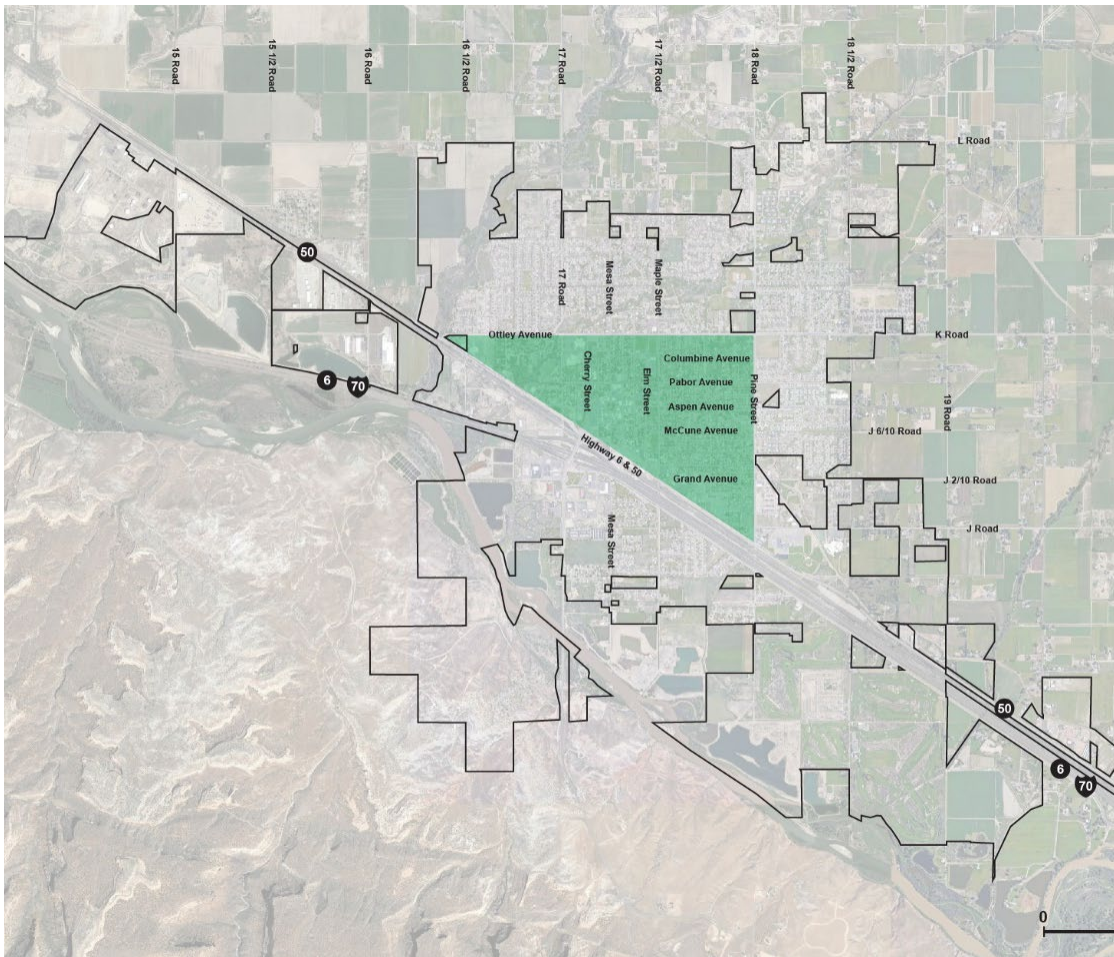
1. After considering the criteria set forth in this Chapter, and within sixty (60) days of receiving a complete application and application fee, the Community Development Director may issue a Short-Term Rental Permit to the property owner. Such permit may contain conditions and restrictions.
2. A permit shall not be issued or renewed until the Short-Term Rental Permit fee has been paid by the property owner. Such fee shall be set by the Fruita Council annually.
3. Permits shall be valid for a single calendar year, and shall expire on December 31st of each year, unless a request for renewal is made. Each permit is only good for a single calendar year, regardless of when it was originally approved. For instance, a permit that is issued in July shall expire on December 31st of that calendar year. Subject to the requirements of this Chapter, a permit shall be renewed annually, extending the term for one additional calendar year.
4. A renewal application shall be submitted by December 1st of each year.
5. After considering the criteria set forth in this Chapter, and prior to the expiration of the then-existing Short-Term Rental Permit, the Community Development Director may issue renewal Short-Term Rental Permit to the property owner. Such renewed permit may contain new or

modified conditions and restrictions.”

I. Temporary Limitation on Issuances of Short-Term Rental Permit.

1. Notwithstanding anything in this Chapter 17.13, commencing on April 15, 2021 through April 1, 2022, there shall not be more than fifty (50) Short Term Rental Permits active within the Licensing Restriction Area Map A-1 shown below (the “Licensing Restriction”). On or before April 1, 2022, City Council shall take action to determine an increase or elimination of the Licensing Restriction. Once the Licensing Restriction has been reached, the City shall continue to accept applications for Short Term Rentals which shall be approved or denied in the order received by the City if the Licensing Restriction has been increased or eliminated. In calculating the Licensing Restriction, the City shall include Conditional Use Permits for Bed and Breakfasts issued thus far; provided, however, the Licensing Restriction shall not include Accessory Dwelling Units or units currently occupied by the property owner.

Licensing Restriction Area Map A-1



Section 4 Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 5. Effective Date. This Ordinance shall take effect thirty days after the date of final passage in accordance with Section 2.13(G) of the City Charter.

Section 6. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. No Existing Violation Affected. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit, or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed, or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right, and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered, or made in such actions, suits or proceedings, or prosecutions imposing, inflicting, or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings, and appeals pending before any court or administrative tribunal.

Section 8. Codification of Amendments. The codifier of the City’s Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Municipal Code. The City Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations, provided that such correction shall not substantively change any provision

of the regulations adopted in this Ordinance. Such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

Section 9. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Chapter 2.13(F)(1) of the Fruita Municipal Code.

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

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk