

ORDINANCE NO. 2021-21

AN ORDINANCE REPEALING AND REENACTING TITLE 17, FRUITA LAND USE CODE, OF THE FRUITA MUNICIPAL CODE.

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

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

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

WHEREAS, the Planning Commission reviewed the amendments contained here in on September 14, 2021 and formalized their recommendation regarding those amendments with a vote of 4-0 of those members present recommending approval of the proposed amendments; and

WHEREAS, the ordinance was introduced at first reading on September 21, 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 August 27, 2021 and a notice was posted a Fruita City Hall on August 27, 2021 for the City Council meeting on October 19, 2021 to consider City staff and Planning Commission recommendations and receive public comments; and

WHEREAS, the City Council finds that passage of Ordinance 2021-21 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. Repealed and Re-enacted. Title 17, Fruita Land Use Code, of the Fruita Municipal Code is hereby repealed and re-enacted to read as shown in Exhibit A.

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

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

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

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

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

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

**PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL ON THIS
19TH DAY OF OCTOBER 2021.**

CITY OF FRUITA

Joel Kincaid, Mayor

ATTEST:

Margaret Sell, City Clerk