



**FRUITA**  
COLORADO

## AGENDA ITEM COVER SHEET

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**TO:** FRUITA CITY COUNCIL AND MAYOR

**FROM:** DEBRA WOODS, DEPUTY CITY CLERK

**DATE:** DECEMBER 3, 2024

**AGENDA TEXT:** RETAIL ESTABLISHMENT PERMIT – A request to approve a Retail Establishment Permit application for Canvas 35 Gallery, LLC located at 160 S. Park Square, Unit A (FARM)

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### BACKGROUND

On October 23, 2024, the owner of Canvas 35 Gallery, LLC Carlee Burnett submitted a Retail Establishment Permit application and all applicable fees to the City Clerk's Office, as well as a business license application and fee. A copy of the Retail Establishment Permit application is attached.

On June 2, 2023, Governor Polis signed into law HB 23-1061, which created a "Retail Establishment Permit" that permits a retail establishment to serve complimentary alcohol beverages at a place of business. This class of liquor permit replaced what was previously known in the Liquor Code as an "Art Gallery Permit." As a point of reference, in September of 2022, the Fruita City Council and state Liquor Enforcement Division approved an Art Gallery Permit for Garrett Day, owner of Orbit Artspace located at 138 S. Park Square, Unit 102. Orbit Artspace's Art Gallery Permit was automatically converted to the "Retail Establishment Permit" by state Liquor Enforcement and is valid until September 28, 2025.

Pursuant to **Section 44-3-424., C.R.S. Retail establishment permit - definitions.** (1) (a) Except as provided in subsection (1)(c) of this section, a person operating a retail establishment may offer and serve complimentary alcohol beverages for consumption only on the premises if the retail establishment has been issued a retail establishment permit, which must be renewed annually.

The Liquor Code contains several regulations for the holder of a Retail Establishment Permit such as how many hours in a twenty-four-hour period may alcohol be served (no more than four) or how many days per year alcohol beverages may be served (no more than twenty-four). The Liquor Code also stipulates that a Retail Establishment must derive less than fifty percent of the establishment's gross sales of goods and services from the sale of food and shall not intentionally allow more than two hundred fifty people to be on the premises at one time when alcohol beverages are being served. The applicant has been provided with all these regulations by the City Clerk's Office.

Upon initial application, and for each renewal, the applicant must list each day that alcohol beverages will be served, which days must not be changed without a minimum of fifteen days' written notice to the state and local licensing authority.

There are no further state or local requirements to be met by the applicant, which varies from other types of liquor licenses that require the City to conduct background checks and obtain fingerprints, needs of the neighborhood surveys, and Individual History Records, for example.

## **FISCAL IMPACT**

N/A

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

The City of Fruita is charged with the protection of the public health, safety and welfare. The review and renewal of liquor licenses ensures that licensed establishments are operating by the rules and regulations adopted by the City and State concerning the sale or service of beer and alcoholic beverages.

## **OPTIONS AVAILABLE TO THE COUNCIL**

- 1) Approve the Retail Establishment Permit Application as submitted for Canvas 35 Gallery, LLC.
- 2) Approve the Retail Establishment Permit Application with conditions (there are no provisions in the Liquor Code for the local licensing authority to deny an application if all requirements are met).

## **RECOMMENDATION**

It is staff's recommendation that the City Council:

- **MOVE TO APPROVE THE RETAIL ESTABLISHMENT PERMIT APPLICATION FOR CANVAS 35 GALLERY, LLC LOCATED AT 160 SOUTH PARK SQUARE, UNIT A**