



**FRUITA**  
COLORADO

## AGENDA ITEM COVER SHEET

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**TO:** FRUITA CITY COUNCIL AND MAYOR

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

**DATE:** FEBRUARY 21, 2023

**AGENDA TEXT:** MODIFICATION OF LICENSED PREMISES – A request to approve a permanent Modification of a Licensed Premises for Dillon Companies, LLC dba City Market #13 located at 135 S. Plum on a Fermented Malt Beverage (FMB) (Off-Premises) liquor license to designate additional alcohol beverage display areas in anticipation of adding wine products on March 1, 2023

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### BACKGROUND

On November 8, 2022, the People of the State of Colorado voted to amend Articles 3 and 4 of Title 44 in the Colorado Revised Statutes. As a result, beginning on March 1, 2023, currently licensed Fermented Malt Beverage (FMB) Off-Premises Retailers (such as convenience or grocery stores that have a FMB liquor license) will automatically convert to a “Fermented Malt Beverage and Wine Retailer.”

On March 1, 2023, Fermented Malt Beverage and Wine Retailers will have a new privilege to sell vinous liquor in sealed containers (including sake, hard cider and wine) for off-premises consumption.

Pursuant to Colorado Liquor Rules Regulation 47-302,

- A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises that materially or substantially alters the licensed premises or the usage of the licensed premises from the latest approved plans and specifications on file with the state and local licensing authorities without application to, and the approval of, the respective licensing authorities. For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior approval, shall include, but not be limited to, the following:

1. Any increase or decrease in the total size or capacity of the licensed premises.

On January 10, 2023, staff received an email from Brenda Rowe, Paralegal with the law firm of Dill, Dill, Carr, Stonbraker & Hutchings, P.C. on behalf of Dillon Companies, Inc. dba City Market #13 located at 135 S. Plum Street in Fruita. Ms. Rowe submitted all the necessary paperwork to request a permanent Modification of Licensed Premises to extend the Fruita City Market’s retail display area from 20 linear feet to 46 linear feet in anticipation of taking advantage of their new Fermented Malt Beverage and Wine Retailer liquor license.

The two diagrams included in the Council packet illustrate the current alcohol beverage display and storage areas and the proposed extended areas to accommodate wine products in addition to beer. This

Modification of Premises will not involve any construction/remodeling of the existing building and therefore will not require approval of any Planning Clearances or building permits.

Fruita Chief of Police Dave Krouse has reviewed the application and states in his memorandum that there is nothing which would prohibit the changes in licensing as requested.

The Report of Changes Form DR 8442, “before” and “after” diagrams and Fruita Police Department memo are attached hereto.

## **FISCAL IMPACT**

None

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

The City of Fruita is charged with 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**

- Approve the Modification of Premises
- Approve the Modification of Premises with conditions
- Deny the Modification of Premises

## **RECOMMENDATION**

It is the recommendation of staff that the Council move to:

- **APPROVE THE PERMANENT MODIFICATION OF A LICENSED PREMISES ON A FERMENTED MALT BEVERAGE (FMB OFF-PREMISES) (AND WINE RETAILER AFTER MARCH 1, 2023) FOR DILLON COMPANIES, LLC DBA CITY MARKET #13 LOCATED AT 135 S. PLUM FOR AN INCREASE OF THE RETAIL DISPLAY FROM 20 LINEAR FEET TO 46 LINEAR FEET**