



CITY OF TRINIDAD TRINIDAD, COLORADO

The City Council will hold its regular Work Session on
Tuesday, December 10, 2013 following a Special Meeting at 1:00 p.m.
City Hall Council Chambers, Third Floor, City Hall

AGENDA

1. Petitions and Communications, Oral or Written
2. Additional discussion regarding finalization of the 2014 Budget and Ordinance appropriating funds for the City of Trinidad 2014 Budget – Tom Acre, City Manager/Lonny Medina, Finance Director
3. Additional discussion regarding the adoption of Revision to Chapter 5 of the Code of Ordinances (Buildings) – Chris Kelley, Chief Building Inspector
4. Consideration of an ordinance increasing business license fees and modifying the term of the same – Tom Acre, City Manager
5. Consideration of an ordinance establishing regulations and licensing requirements for Medical Marijuana Businesses – Les Downs, City Attorney
6. Discussion of other agenda items

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting Audra Garrett, City Clerk, 135 N. Animas Street, Phone (719) 846-9843, or FAX (719) 846-4140. At least a 48 hour advance notice prior to the scheduled meeting would be appreciated so that arrangements can be made to locate the requested auxiliary aid(s).



Council Communication

City Work Session: December 10, 2013
Prepared: December 6, 2013
Dept. Head Signature: 
of Attachments: 1

SUBJECT: Additional discussion regarding finalization of the 2014 Budget and Ordinance appropriating funds for the City of Trinidad 2014 Budget

Presenter: Tom Acre, City Manager

Recommended City Council Action: This item is for additional discussion and input from City Council regarding finalization of the City of Trinidad 2014 Budget.

Summary Statement: Sat the December 3, 2013 regular meeting, City Council passed on first reading the Ordinance appropriating funds for the City of Trinidad 2014 Budget. Additional information regarding the cost of employee health insurance has been obtained since the Ordinance was prepared for the December 3, 2013 meeting and staff has updated the budget to reflect the change in health insurance cost. This continues previous discussions regarding the finalization of the 2014 Budget and 2014-2018 Capital Improvement Projects Plan.

Expenditure Required: \$36,595,259

Source of Funds: Revenue from the General, Power and Light, Water, Gas, Sewer, Capital Projects, Lottery and Tourism Funds

Policy Issue: Development of the 2014 City Budget

Alternative: The City must adopt the 2014 Budget

Background Information: Staff has been working on the preliminary budget since the first of August and will provide a draft budget to City Council on October 1, 2013 for consideration. Staff will present and discuss the budget at the October 8, 2013 City Council Work Session with public input being sought beginning on October 15, 2013. The City is required to adopt a budget for the ensuing year by December 31st.

Staff provided City Council with a preliminary budget and financial update at the September 24, 2013 City Council Work Session. The Draft 2014 Budget was provided to City Council on October 1, 2013 and is available to the general public for review at City Hall and the Library.

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Public Hearings seeking citizen input on the 2014 Budget and the 2014-2018 Capital Improvement Project Plan were opened on October 15, 2013 and were continued until November 19, 2013. Staff presented information regarding the Utilities and Special Funds, proposed departmental and capital improvement budgets, answered questions and received input from City Council. Information regarding the general fund was presented at the October 8, 2013 City Council Work Session. The public hearing on the Draft 2014 Budget and the Draft proposed 2014-2018 Capital Improvement Project Plan was opened on October 15, 2013 and was continued to November 19, 2013. Additional public input to the budget and the 2014-2018 CIPP was sought on November 19, 2013, no additional comments were provided by the public. Staff and City Council had additional discussion regarding the potential budget cuts for 2014 in a work session following the regular meeting on November 19, 2013 during a special work session on Monday November 25, 2013 and at the Work Session on November 26, 2013.

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ORDINANCE NO.

AN ORDINANCE APPROPRIATING CERTAIN SUMS OF MONEY OUT OF THE REVENUES OF THE CITY OF TRINIDAD, COLORADO, TO DEFRAY AND MEET THE LIABILITIES OF THE CITY OF TRINIDAD FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2014 AND ENDING DECEMBER 31, 2014; SAID ORDINANCE BEING TERMED THE ANNUAL APPROPRIATION BILL FOR THE 2014 FISCAL YEAR

WHEREAS, in order to defray all expenses and liabilities for the fiscal year beginning January 1, 2014, and ending December 31, 2014, it is deemed necessary by the City Council of the City of Trinidad to appropriate the sums of money hereinafter set out.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO:

Section 1: That the following sums of money be and the same are hereby appropriated out of the revenues of the City of Trinidad, Colorado, for the object and purpose as specified immediately preceding each sum to defray the expenses and meet the liabilities of the City of Trinidad, Colorado, for the fiscal year beginning January 1, 2014 and ending December 31, 2014, in accordance with the budget to be adopted by said Council of the City of Trinidad, Colorado, pursuant to and in compliance with Title 31 of the Colorado Revised Statutes of the State of Colorado:

GENERAL FUND

TOTAL EXPENDITURES \$ 9,080,250

POWER AND LIGHT FUND

TOTAL EXPENDITURES \$ 8,577,800

WATER FUND

TOTAL EXPENDITURES \$ 6,031,150

GAS FUND

TOTAL EXPENDITURES \$ 3,982,600

SEWER FUND

TOTAL EXPENDITURES \$ 1,972,659

CAPITAL PROJECTS FUND

TOTAL EXPENDITURES \$ 6,591,900

LOTTERY FUND

TOTAL EXPENDITURES \$ 180,000

TOURISM FUND

TOTAL EXPENDITURES \$ 178,900

TOTAL OF ALL FUND EXPENDITURES \$36,595,259

INTRODUCED BY COUNCILMEMBER MATTIE, READ AND ORDERED
PUBLISHED this 3rd day of December, 2013.

FINALLY PASSED AND APPROVED this ____ day of December, 2013.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE THE ____ day of December,
2013.

LINDA VELASQUEZ, Mayor Pro-Tem

ATTEST:

AUDRA GARRETT, City Clerk



COUNCIL COMMUNICATION

CITY WORK SESSION:
PREPARED BY:
DEPT. HEAD SIGNATURE:
ATTACHMENTS:

December 10, 2013

Chris Kelley, CBO

Chris S. Kelley
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SUBJECT: Additional discussion regarding the adoption of Revision to Chapter 5 of the Code of Ordinances (Buildings)

PRESENTER: Chris Kelley, Chief Building Inspector

RECOMMENDED CITY COUNCIL ACTION: This item is for additional discussion regarding the Ordinance providing for revisions to Chapter 5 of the Trinidad Code of Ordinances (Buildings) re-adopting building codes for the regulation of buildings.

SUMMARY STATEMENT: On December 3, 2013, City Council discussed changes to the building codes in a special work session and passed on first reading an ordinance providing for revisions to Chapter 5 – Buildings in the City’s Code of Ordinances to increase the ability for the City to bring enforcement action if buildings are vacant and deteriorating and add some flexibility to certain aspects of the Building Code. City Council had additional questions of staff which required some additional research by staff.

EXPENDITURE REQUIRED: None at this time.

SOURCE OF FUNDS: N/A

POLICY ISSUE: Changes to the City’s Code of Ordinances to increase the effectiveness of building code enforcement and to allow alternatives to be considered by the Building Official to certain aspects of the Building Code.

ALTERNATIVE: Building codes and processes related to vacant buildings could remain as is. At a minimum the International Residential Code needs to be re-adopted before the end of 2013 to allow for continuation of the requirement that sprinklers not be required in single family residential building under the Residential Portion of the Buildings Code.

BACKGROUND INFORMATION:

Staff has previously provided City Council with information regarding the current building ordinance and information on the International Code Council property maintenance code and municipal code. City Council and staff have had discussions regarding changes that the City should consider to improve how the City’s ordinances and building codes and how we can increase code compliance and encourage building owners to make the necessary improvements to the buildings to remedy continued deterioration and any life safety issues.

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Section 5-10. International Mechanical Code.

(1) The *International Mechanical Code*, 2009 Edition, including Appendix Chapter A (“Combustion Air Openings and Chimney Connector Pass-Throughs”), as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Mechanical Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, and changes prescribed in this Section. At least one (1) copy of said *International Mechanical Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Mechanical Code*, 2009 Edition (“IMC”), are hereby revised:

(a) Amend **IMC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IMC § 106.5.2, Fee schedule**, as follows: insert the following fee schedule:

Fee Schedule	
Valuation of Work:	Permit Fee:
Not more than \$2,000.00	\$30.00
More than \$2,000.00	\$30.00 plus \$10.00 per each \$1,000.00 valuation or fraction thereof.

(c) Amend **IMC § 106.5.3, Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations.

(d) Amend **IMC § 108.4, Violation penalties**, to read: Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(e) Amend **IMC § 108.5, Stop work orders**, to read: Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner’s agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be

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Fee Schedule	
Valuation of Work:	Permit Fee:
Not more than \$2,000.00	\$30.00
More than \$2,000.00	\$30.00 plus \$10.00 per each \$1,000.00 valuation or fraction thereof.

(d) Amend IFGC § 106.6.3, **Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations.

(e) Amend IFGC § 108.4, **Violation penalties**, to read: Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof, or erect, install, alter, or repair work in violation of the *approved construction documents* or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(f) Amend IFGC § 108.5, **Stop work orders**, to read: Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner’s agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(g) Amend IFGC § 109.1, **Application for appeal**, to read: Any person shall have the right to appeal an order, decision, or determination of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed no later than fifteen (15) days following the issuance of the order, decision, or determination.

(h) Delete IFGC §§ 109.2 through 109.6, regarding membership and procedures of the board of appeals.

Section 5-12. International Energy Conservation Code.

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that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

- (g) Amend IPMC § 302.4, **Weeds**, as follows: insert “six inches (6”).”
- (h) Amend IPMC § 304.14, **Insect screens**, as follows: insert “January 1 to December 31.”
- (i) Amend IPMC § 602.3, **Heat supply**, as follows: insert “January 1 to December 31.”
- (j) Amend IPMC § 602.4, **Occupiable work spaces**, as follows: insert “January 1 to December 31.”

Section 5-15. International Private Sewage Disposal Code.

(1) The *International Private Sewage Disposal Code*, 2009 Edition, including Appendix Chapter A (“System Layout Illustrations”), as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Private Sewage Disposal Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *International Private Sewage Disposal Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Private Sewage Disposal Code*, 2009 Edition (“IPSDC”), are hereby revised:

- (a) Amend IPSDC § 101.1, **Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.
- (b) Amend IPSDC § 106.4.2, **Fee schedule**, as follows: insert the following fee schedule:

Fee Schedule	
Valuation of Work:	Permit Fee:
Not more than \$2,000.00	\$30.00
More than \$2,000.00	<u>\$30.00</u> plus \$10.00 per each \$1,000.00 valuation or fraction thereof.

- (c) Amend IPSDC § 106.4.3, **Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations.

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(d) Amend **IPSDC § 108.4, Violation penalties**, to read: Any person who shall violate a provision of this code or fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair private sewage disposal work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(e) Amend **IPSDC § 108.5, Stop work orders**, to read: Upon notice from the code official, work on any *private sewage disposal system* that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(f) Amend **IPSDC § 109.1, Application for appeal**, to read: Any person shall have the right to appeal an order, decision, or determination of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed no later than fifteen (15) days following the issuance of the order, decision, or determination.

(g) Delete **IPSDC § 405**, entitled "**SOIL VERIFICATION.**"

Section 5-16 National Electrical Code.

(1) The *National Electrical Code, 2011 Edition*, is hereby adopted by reference as the Electric Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *National Electrical Code, 2011 Edition*, shall remain on file in the Office of the City Clerk and open to public inspection.

(a) **Permits – when required**, are to be obtained from the Colorado Department of Regulatory Agencies (DORA), 1560 Broadway, Suite 1500, Denver, CO 80202 (www.dora.state.co.us/electrical), 303-894-2985. Permit(s) shall only be required from the City of Trinidad, Colorado, if the City, rather than the State of Colorado, is performing electrical inspections.

(b) **Violation penalties. If the City of Trinidad is performing electrical**

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code.

- (i) Paying any fee assessed under the authority of this Code or any technical codes.
- (j) Obeying any order or notice issued pursuant to this Code or any technical code.
- (k) Presenting his/her license when requested by the Chief Building Official.
- (l) Maintaining workers' compensation and liability insurance as required by Section 5-19.

Section 5-21. Suspension and Revocation of License.

(1) The Chief Building Official may suspend or revoke a license for any of the following:

- (a) Failure to comply with any of the duties and responsibilities set forth in Section 5-20.
- (b) Using a contractor's license to obtain a permit required under this code for any other person, corporation or legal entity.
- (c) Violating any provisions of the Trinidad Building Code including any codes which are adopted by reference.
- (d) Failure to reveal any material fact in the application for a contractor's license or permit, or the supplying of information which is untrue or misleading as to any material fact in the application for a contractor's license or permit.
- (e) Failure to obtain a proper permit for any work for which a permit is required.
- (f) Receipt of three (3) or more written verified complaints.

(2) Upon written notification of revocation or suspension of license, the contractor shall have the right to appeal their case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts to the Board of Building Code Appeals.

Suspension or revocation of a contractor's license shall not be construed to release the contractor from liabilities and obligations of completing his contract. During the period prior to the hearing before the Board of Building Code Appeals, the contractor shall not be allowed to submit an application for any other projects.

(3) The Board of Building Code Appeals (BOBCA) may reinstate a license for any contractor whose license has been revoked, provided a majority of the BOBCA votes in favor of such reinstatement for such reason as the BOBCA may deem sufficient. In such case where the

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CITY OF TRINIDAD, COLORADO

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF TRINIDAD, COLORADO, REPEALING AND RE-ENACTING CHAPTER 5 (“BUILDINGS”), AND ARTICLE 1 OF CHAPTER 8 (“FIRE PREVENTION”), OF THE CODE OF THE CITY OF TRINIDAD, COLORADO, FOR THE PURPOSES OF (i) ADOPTING BY REFERENCE UNIFORM CODES FOR THE REGULATION OF BUILDINGS—TO WIT, THE 2009 EDITIONS OF THE *INTERNATIONAL BUILDING CODE*, *INTERNATIONAL RESIDENTIAL CODE*, *INTERNATIONAL FIRE CODE*, *INTERNATIONAL PLUMBING CODE*, *INTERNATIONAL MECHANICAL CODE*, *INTERNATIONAL FUEL GAS CODE*, *INTERNATIONAL EXISTING BUILDING CODE*, *INTERNATIONAL PROPERTY MAINTENANCE CODE*, AND *INTERNATIONAL PRIVATE SEWAGE DISPOSAL CODE*; AND THE 2011 EDITION OF THE NATIONAL ELECTRICAL CODE; AND (ii) REPLACING CURRENTLY-ADOPTED BUILDING CODES IN CONFLICT THEREWITH

WHEREAS, Chapter II, § 2.4, of the Home Rule Charter for the City of Trinidad, Colorado, provides that “[t]he City shall have all powers of local self government and Home Rule possible for a city to have under the Constitution and laws of [the state of Colorado] as fully and completely as though they were specifically enumerated in this Charter.”; and

WHEREAS, § 31-15-601 *et seq.*, C.R.S., confers upon the City general powers to establish building and fire safety regulations; and

WHEREAS, the City Council of the City of Trinidad, Colorado, herein desires to adopt by reference uniform codes for the regulation of buildings—to wit, the 2009 editions of the *International Building Code*, *International Residential Code*, *International Fire Code*, *International Plumbing Code*, *International Mechanical Code*, *International Fuel Gas Code*, *International Existing Building Code*, *International Property Maintenance Code*, and *International Private Sewage Disposal Code* and the 2011 edition of the National Electrical Code—to establish minimum requirements to safeguard the public health, safety, and general welfare from fire and other hazards attributed to the built environment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, THAT:

Section 1. Repeal and Re-enactment of Chapter 5 (“BUILDINGS”) of the Code of the City of Trinidad, Colorado. Chapter 5 (“BUILDINGS”) of the Code of the City of Trinidad, Colorado, is hereby repealed and re-enacted in its entirety as follows:

CHAPTER 5. BUILDINGS.

ARTICLE 1. IN GENERAL.

Section 5-1. In General.

(1) Entity charged with code administration department having jurisdiction or similar words shall be the Chief Building Official (CBO) who shall be ICC certified. The CBO, appointed by

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the City Manager, is charged with the direct overall administration and enforcement of this code; and, in the performance of said duties, may delegate the necessary authority to the appropriate technical, administrative and compliance staff under the supervision of the building official.

(2) Authority of the Chief Building Official.

(a) The CBO is hereby authorized and directed to enforce all the provisions of this Article. For such purposes, the Building Official shall have the authority to adopt and promulgate administrative rules and procedures consistent with the provisions of this Article; to interpret and implement the provisions of this Article; to secure the intent thereof; to enforce all provisions of this Article pursuant to the authority granted; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in the adopted building code, or of violating accepted engineering methods involving public safety.

(b) It shall not be a requirement that the CBO be a certified peace officer.

(3) **Policy making power.** The Chief Building Official may promulgate policies and procedures as necessary for his/her department.

For example:

- (a) Issuance of Notice and Order citations
- (b) Stop Work orders
- (c) Contractor licensing
- (d) Payment of fees
- (e) Accepting plans and specifications. The review of said plans and specifications
- (f) Issuing of permits and performing required inspections

(4) **Inspections.**

(a) *Generally.* When necessary to make an inspection to enforce any provisions of this Code, or when the city has reason to believe there exists in any building or upon any land any condition that constitutes a violation of this Code, an authorized city employee or agent may present proper credentials and request entry. If entry is refused or if the owner cannot be located after reasonable effort, the city shall give the owner or, if the owner cannot be located, leave at the building or premises, a written notice of the city's intent to inspect the property. The notice shall set forth the time, not sooner than twenty-four (24) hours after the notice of intent to inspect is given or left, at which the city will return for inspection. The notice shall state that the owner has the

right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of a search warrant by a municipal judge of the city, or by a judge of any other court having jurisdiction.

(b) *Search warrants.* Upon application by the city and a showing of probable cause, the judge shall issue a search warrant entitling the city agent to enter the building or the premises and authorizing the use of reasonable force, if necessary, to gain entry. To establish probable cause, the city agent shall not be required to demonstrate specific knowledge of the violation at issue, but must show some factual or practical circumstances that would cause an ordinary prudent person to believe a violation exists.

(c) *Emergencies.* When an emergency situation exists in relation to the enforcement of any of the provisions of this Code, a city agent may enter any building or upon any premises within the city, using such reasonable force as may be necessary. An emergency situation includes any situation of imminent danger of loss of, or injury or damage to, life, limb, property, or threat to public safety. It is unlawful for any owner of the building or premises to deny entry to a city agent or to resist reasonable force used by such agent acting pursuant to this subsection.

(5) **Violations.**

(a) *Unlawful acts.* It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

(b) *Notice of violation.* The Chief Building Officer shall serve a notice of violation or order in accordance with Section 107 of the International Property Maintenance Code (IPMC).

(c) *Prosecution of violation.* Any person failing to comply with a notice of violation or order served in accordance with Section 107 of the IPMC shall be deemed guilty of a civil infraction as determined by the local municipality, and the violation shall be deemed a *strict liability offense*. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be assessed upon the real estate upon which the structure is located and/or a judgment shall be filed against the owner of record.

(i) *Civil judgment.* In any case in which a public nuisance is established, in addition to a permanent abatement order, the City may seek to have the Court impose a separate civil judgment on every part-defendant who committed,

conducted, promoted, facilitated, permitted, failed to prevent or otherwise let happen any public nuisance in or on the parcel that is the subject of the public nuisance action. This civil judgment shall be for the purpose of compensating the City for costs it incurs in pursuing the remedies under this Section.

(d) *Violation penalties.* Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(e) *Abatement of violation.* The imposition of the penalties herein described shall not preclude the City Attorney of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

(f) *Unauthorized tampering.* Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

Section 5-2. Abatement of unsanitary or dangerous premises.

(1) If either the City Manager, the City Engineer, the Building Official or the Fire Marshal determines that any premises within the City are unsanitary, as determined by the County Department of Health and Environment, or dangerous to the life or property of persons or constitute a fire hazard, a written notice of such condition shall be given by the City to the owner, agent or occupant of the property ordering the premises to be put in proper condition within such period as is set out in the notice and order. Such period shall not be less than twenty-four (24) hours.

(2) **Abatement by City in cases of emergency.** Nothing herein shall be deemed to limit the power of the City Manager, City Engineer, Building Official or Fire Marshal, in case of an emergency for the preservation of the public health or safety, to summarily remedy, change, repair, abate or order the evacuation of any dangerous or unhealthy condition found to exist without any notice to any person.

(3) **Abatement of nuisances when property owner absent.** If the lot or premises is not occupied and the owner is not found within the City when the notice is about to be given, the City Council may have the premises cleaned, changed, repaired or the nuisance abated without serving personal notice of any kind upon the owner or agent and may assess the costs against the lot or premises.

(4) **Abatement of nuisances by persons other than City.** Any person ordered to clean, repair, change or make safe any property or abate any nuisance may do so at such person's own expense, if suitable arrangements are made with the City Engineer, Building Official or Fire Marshal, prior to the time when the City shall start carrying out any order made under this Article.

(5) **Provisions to be cumulative.** The provisions of Section 5-2, items 1-5 are cumulative to all other provisions relating to unsanitary and dangerous conditions and to nuisances in this Code.

(6) **Recovery of expenses of abatement.** Once a property owner, agent or occupant of a property has received written notice from the City and the property/premises has not been put in proper condition within twenty-four (24) hours, the City may enter upon such property and abate the nuisance pursuant to the provisions of this ordinance. Actual costs thereof, including five (5) percent for inspection, a minimum fee assessment of fifty (\$50.00) dollars and other incidental costs in connect therewith, shall be assessed upon the property/premises.

In any case in which a public nuisance is established, in addition to a permanent abatement order, the City Attorney may seek remedies permitted by law or equity, including those provided in Section 5-1(5).

Section 5-3. Building Maintenance.

(1) **Nuisance declared and prohibited.** No owner or occupant of any real property within the City shall permit the maintenance or existence on such property of defective roofs, windows and decorative facades as said conditions are more particularly addressed and regulated by provisions of this Article, and such conditions are hereby declared to be a nuisance and a menace to the public welfare. This declaration of nuisance and prohibition shall apply to all locations.

(2) **Maintenance.** All roofs, windows and facades shall be in compliance with the current International Building Codes adopted by the City. In effect, building components must meet the climatic and geographic design criteria which are 90 mph winds, seismic B and 30 pound snow loads.

(3) **Abatement.** The owner of any private property on which a nuisance condition occurs is responsible for abating the nuisance. The owner's failure or refusal to abate a nuisance is a civil infraction. A separate offense shall be deemed committed on each day that a violation occurs or continues. The payment of any penalty does not relieve the offender from compliance with the requirements of this Article.

(4) **Violation and penalties; subsequent violation; suspension or revocation of license.**

(a) Whenever, in this Code or in any ordinance of the City, or rule, regulation or order promulgated by any law officer or agency of the City under authority duly vested in him/her or it, any act or failure to do a required act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided therefore, the violation of any such provision of this Code or any ordinance or any rule, regulation or order as aforesaid shall be punished by a fine of not less than Three

Hundred Dollars (\$300.00) nor to exceed Two Thousand Six Hundred Fifty Dollars (\$2,650.00) or by imprisonment in the City Jail or other place of legal incarceration for not more than ninety (90) days, or by both such fine and imprisonment in the discretion of the court.

(b) If the penalty for a particular offense is limited by State statute, then such limitation shall be applicable notwithstanding the provisions of this section.

(c) The suspension or revocation of any license, certificate or other privilege conferred by the City shall not be regarded as a penalty for the purposes of this Code but shall be in addition thereto.

(5) **Continuing offense.** Unless otherwise specifically provided, each day any violation of this Code occurs or continues to exist shall constitute a separate and distinct offense.

Section 5-4. Exterior Property Maintenance.

(1) **Nuisance declared and prohibited.** No owner or occupant of any real property within the City shall permit the maintenance or existence on such property of dirt yards, dilapidated fences or walls as said conditions are more particularly addressed and regulated by provisions of this Article, and such conditions are hereby declared to be a nuisance and a menace to the public welfare. This declaration of nuisance and prohibition shall apply only to locations that are visible from a public street or sidewalk. For the purposes of this Section 5-4, the term yard shall mean the open space between buildings and property lines at the front, rear and sides of any property containing one (1) or more buildings which, if newly constructed, would require a certificate of occupancy under this Code.

(2) **Yard maintenance.** No less than twenty five (25) percent of any yard area, excluding sidewalks and driveways, shall be covered with grass, ground cover plants or other landscaping material, such as mulch, decorative gravel, stone or paving bricks. Ground cover consisting of crushed rock, gravel or similar materials shall be one quarter (1/4) inch or larger in size and shall be maintained at a depth that is sufficient to cover all exposed areas of dirt.

(3) **Fence and wall maintenance.** All fences and walls shall be structurally sound and maintained in good repair so that there are no broken, loose, damaged, removed or missing parts (i.e., pickets, slats, posts, wood rails, bricks, panels). Repair of fences and walls shall be made with materials that are comparable in composition, color, size, shape, design and quality to those originally used to construct the fence or wall being repaired. Nothing herein shall be construed to prohibit or restrict the replacement of a fence or wall.

(4) **Abatement.** The owner of any private property on which a nuisance condition occurs is responsible for abating the nuisance. The owner's failure or refusal to abate a nuisance is a civil infraction. A separate offense shall be deemed committed on each day that a violation occurs or continues. The payment of any penalty does not relieve the offender from compliance with the requirements of this Article.

(5) **Violations and penalties.** Any person who violates any provision of this Article commits a civil infraction and is subject to the penalty provisions of Subsection 5-3(4).

Section 5-5. Notice and Order Procedure.

(1) The following procedures will be in place when a Notice and Order is issued to the owner of record when any of the aforementioned violations are noted or any violations specific to the International Property Maintenance Code.

(a) Notice and Order is sent by certified mail to the owner of record and property is posted as “Do Not Enter. Unsafe To Occupy” along with a copy of the Notice and Order. The structure shall remain vacated.

(i) The owner of record may appeal from this notice and order to the Board of Appeals at the City of Trinidad, provided the appeal is made in writing and filed with the Building Official within fifteen (15) days from the date of service of this notice and order. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

(ii) Failure to appeal and/or lack of response i.e. non-delivery/acceptance of notice, no communication written or verbal will constitute a waiver of all right to an administrative hearing and determination of the matter. (Section 111.1)

(iii) A Final Notice and Order will be sent via certified mail to the owner of record for the property. Lack of response and/or appeal warrants the following procedures:

(1) A building permit for the repair or demolition shall be secured by 30 days from the date of the certified letter, and the work shall commence on the date of permit. The work shall be completed within 30 days of permit issuance or as set forth by the building official.

(2) If the necessary repairs or demolition is not commenced or completed by the dates as outlined above, the City of Trinidad will proceed to have the work completed and charge the costs thereof against the real estate upon which the structure is located and a lien shall be filed upon such real estate.

(3) Should the owner of record elect to demolish the premises, demolition shall not be considered complete until all debris has been removed and fill material has been placed and compacted to the elevation of the surrounding ground.

(b) A building permit for the repair or demolition shall be secured by 30 days from the date of certified letter, and the work shall commence on the date of permit. The repair work shall be completed within such a time, as the building official shall determine is reasonable under all of the circumstances. The work shall be completed within 30 days of permit issuance.

(c) If the necessary repairs or demolition are not commenced or completed by the dates as outlined above, the City of Trinidad may proceed to have the work completed with costs being charged against the real estate through a special tax assessment upon which the structure is located and/or a judgment shall be filed against the owner of record.

(i) *Civil judgment.* In any case in which a public nuisance is established, in addition to a permanent abatement order, the City Attorney may seek to have the Court impose a separate civil judgment on every part-defendant who committed, conducted, promoted, facilitated, permitted, failed to prevent or otherwise let happen any public nuisance in or on the parcel that is the subject of the public nuisance action. This civil judgment shall be for the purpose of compensating the City for the costs it incurs in pursuing the remedies under this Section.

(d) Should the owner of record elect to demolish the premises, demolition shall not be considered complete until all debris has been removed and fill material has been placed and compacted to the elevation of the surrounding ground.

Section 5-6. Stop Work Order Procedure.

(1) **Authority.** Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

(2) **Issuance.** A stop work order shall be posted on the property in question. Upon issuance of a stop work order, the posted work shall stop immediately. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume. Before resuming any work the code official must be notified.

(3) **Placard removal.** The code official shall remove the stop work placard whenever the defect or defects upon which the posting were based have been eliminated. Any person who defaces or removes a stop work order placard without the approval of the code official shall be subject to the penalties provided by this code.

(4) **Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than Three Hundred Dollars (\$300.00) nor more than Two Thousand Six Hundred Fifty Dollars (\$2,650.00).

Section 5-7. International Building Code.

(1) The *International Building Code*, 2009 Edition, including Appendix Chapter J (“Grading”), as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Building Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, and changes prescribed in this Section. At least one (1) copy of said *International Building Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Building Code*, 2009 Edition (“IBC”), are hereby revised:

(a) Amend **IBC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IBC § 109.2, Schedule of permit fees**, as follows: insert the following Schedule of Permit Fees:

Schedule of Permit Fees	
Total Valuation:	Fee:
\$1.00 to \$500.00	\$24.00
\$501.00 to \$2,000.00	\$24.00 for the first \$500.00; plus \$3.00 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$40,000.00	\$69.00 for the first \$2,000.00; plus \$11.00 for each additional \$1,000.00 or fraction thereof, to and including \$40,000.00
\$40,001.00 to \$100,000.00	\$487.00 for the first \$40,000.00; plus \$9.00 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$1,027.00 for the first \$100,000.00; plus \$7.00 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,827.00 for the first \$500,000.00; plus \$5.00 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 to \$5,000,000.00	\$6,327.00 for the first \$1,000,000.00; plus \$3.00 for each additional \$1,000.00 or fraction thereof, to and including \$5,000,000.00
\$5,000,001.00 and up	\$18,327 for the first \$5,000,000.00; plus \$1.00 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Plan review fee Fifty percent (50%) of the permit fee
2. Inspections outside of normal business hours \$50.00 per hour* (Minimum charge – two hours)
3. Reinspection fees assessed under provisions of IBC § 108.4 \$50.00 per hour*
4. Inspections for which no fee is specifically indicated \$50.00 per hour*
5. Additional plan review required by changes, additions, or revisions to plans \$50.00 per hour*
6. For use of outside consultants for plan checking and inspections, or both..... Actual Cost**
7. For issuance of each temporary Certificate of Occupancy \$750.00***
8. Administrative Fees \$150.00 min (\$50.00 per hour thereafter)

NOTATION: Reference City of Trinidad Municipal Code Chapter 7, Article 3, Section 7-23 regarding imposition of Use Tax.

* Or the total hourly cost to the City, whichever is greatest. The cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

** Actual costs include administrative and overhead costs.

*** \$500.00 shall be refunded if a Certificate of Occupancy is issued prior to the expiration of the Temporary Certificate of Occupancy.

(c) Amend **IBC § 114.4, Violation penalties**, to read: Any person who violates a provision of this code or fails to comply with any of the requirements thereof, or who erects, constructs, alters, or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(d) Amend **IBC § 115.3, Unlawful continuance**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(e) Amend **IBC and IFC § 903.2.8, Group R**, as follows: **R-3 only** to be excluded from sprinkler requirements **only if** a two hour minimum fire separation completely separates the R-3 from any and all other occupancy classes and **only** when there is **one** R-3 unit within a commercial building. Said exclusion shall only be effective through December 31, 2016.

(f) Amend **IBC § 1612.3, Establishment of flood hazard areas**, as follows: insert name of jurisdiction as “the City of Trinidad, Colorado,” and insert “April 3, 1984,” as the date of issuance.

(g) Amend **IBC § 3412.2, Applicability**, as follows: insert date of “January 1, 1950.”

Section 5-8. International Residential Code.

(Buildable lot size shall be a minimum of 6,000 square feet. Twenty-five percent (25%) of the total lot area must remain open space. Accessory structures shall not exceed 75% of the *primary structure footprint*.)

(1) The *International Residential Code*, 2009 Edition, including Appendix Chapters E, L, F, and M, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Residential Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of

said *International Residential Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Residential Code*, 2009 Edition (“IRC”), are hereby revised:

(a) Amend **IRC § R101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IRC § R105.2, Permits**, as follows:

- (1) Accessory structures require a permit if greater than 120 square feet.
- (2) Fences require a permit if over 5 foot 6 inches (5’6”) high.

(c) Amend **IRC § R108.2, Schedule of permit fees**, as follows: **See Building Permit Fees Section 5-7(b). (deleted table)**

(d) Amend **IRC § R113.4, Violation penalties**, to read: Any person who violates a provision of this code or fails to comply with any of the requirements thereof, or who erects, constructs, alters, or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(e) Amend **IRC § R114.2, Unlawful continuance**, to read: Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3.4a and 5 of the Code of the City of Trinidad, Colorado.

(f) Amend **IRC Table R301.2(1), Climatic and geographic design criteria**, as follows: Insert the following table:

**TABLE R301.2(1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA**

Roof Snow Load	Wind Speed (mph)	Seismic Design Category	SUBJECT TO DAMAGE FROM				Winter Design Temp	Ice Shield Underlayment Required	Flood Hazards	Air Freezing Index	Mean Annual Temp
			Weathering	Frost Line Depth	Termite	Decay					
30 psf	90 mph Exposure “B”	“B”	Severe	32”	Slight to Moderate	None to Slight	1° F	No	Varies	597	51.7° F

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(g) Delete IRC Table R302.1 and replace with:

**TABLE R302.1
EXTERIOR WALLS**

EXTERIOR WALL ELEMENT		MINIMUM FIRE RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	(Fire-resistance rated)	1 hour with exposure from both sides	0 feet
	(Not fire-resistance rated)	0 hours	5 feet ¹
Projections	(Fire-resistance rated)	1 hour on the underside	2 feet
	(Not fire-resistance rated)	0 hours	5 feet ²
Openings	Not allowed	Not applicable	< 3 feet
	25% maximum of wall area	0 hours	>= 3 feet and < 5 feet
		0 hours	>= 5 feet
Penetrations	All	Comply with IRC § R302.4	< 3 feet
		None required	>= 3 feet

1. Fire separation distance of three (3) feet can be used if the exterior wall cladding and trim are of noncombustible material. (Refer to IRC § R202 for a definition of “noncombustible material.”)
2. Fire separation distance of three (3) feet can be used if the soffit cladding and fascia board are of noncombustible material. (Refer to IRC § R202 for a definition of “noncombustible material.”)

(h) Amend the exception to **IRC § R302.2, Townhouses**, as follows:

Exception: a common 2-hour [The remainder is unchanged.]

(i) Amend **IRC § R302.2.4, Structural independence**, by deleting exception No. 5 and replacing it as follows:

5. *Townhouses* separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

(j) Amend **IRC § R313.1, Townhouse automatic fire sprinkler systems**, to read: Effective January 1, 2017, an automatic residential fire sprinkler system shall be installed in *townhouses*.

(k) Amend **IRC § R313.2, One- and two-family dwellings automatic fire systems**, to read: Effective January 1, 2017, an automatic residential fire sprinkler system shall be installed in one- and two-family dwellings.

(l) Amend **IRC § R315.1, Carbon monoxide alarms**, to read: For new construction, an approved carbon monoxide alarm shall be installed within fifteen feet (15') of the entrance to each bedroom in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. Any basement, whether finished or not, with fire

fueled appliances requires a carbon monoxide detector hardwired into the smoke detector system.

(m) Add an exception to **IRC § 315.2, Where required in existing buildings**, as follows:

Exception: Work involving the exterior surfaces of dwelling units, such as the replacement of roofing or siding, or the addition of a porch or deck, is exempt from the requirements of this Section.

(n) Delete **IRC Chapter 11**, entitled “**ENERGY EFFICIENCY**,” in its entirety. Please refer to the International Energy Conservation Code, adopted in Section 5-12 of this Article, for energy conservation requirements.

(o) Amend **IRC § P2603.6.1, Sewer depth**, as follows: insert “thirty-two (32)” in two locations.

Section 5-9. International Plumbing Code.

(1) The *International Plumbing Code*, 2009 Edition, including Appendix Chapters C, D, and E, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Plumbing Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *International Plumbing Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Plumbing Code*, 2009 Edition (“IPC”), are hereby revised:

(a) Amend **IPC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IPC § 106.1, Permits – when required**, to read: Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the *occupancy* of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert, or replace any plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the code official and obtain the required permit for the work; provided, however, that such a permit shall only be required from the City of Trinidad, Colorado, if the City, rather than the State of Colorado, is performing plumbing inspections.

(c) Amend **IPC § 106.6.2, Fee schedule**, to read: The fees for all plumbing work requiring a permit from the City of Trinidad, **however, that such a permit shall only be required from the City of Trinidad, Colorado, if the City, rather than the State of Colorado, is performing plumbing inspections.**

(d) Amend **IPC § 106.6.3, Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations, **however, that such a refund shall only be required from the City of Trinidad, Colorado, if the City, rather than the State of Colorado, is performing plumbing inspections.**

(e) Amend **IPC § 108.4, Violation penalties**, to read: Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair plumbing work in violation of the *approved* construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(f) Amend **IPC § 108.5, Stop work orders**, to read: Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner’s agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than Three Hundred Dollars (\$300.00) nor more than Two Thousand Six Hundred Fifty (\$2,650.00).

(g) Amend **IPC § 109.1, Application for appeal**, to read: Any person shall have the right to appeal an order, decision, or determination of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed no later than fifteen (15) days following the issuance of the order, decision, or determination.

(h) Delete **IPC §§ 109.2 through 109.6**, regarding membership and procedures of the board of appeals.

(i) Amend **IPC § 305.6.1, Sewer depth**, as follows: insert “thirty-two (32)” in two locations.

(j) Amend **IPC § 904.1, Roof extension**, as follows: insert “six (6)” where indicated.

Section 5-10. International Mechanical Code.

(1) The *International Mechanical Code*, 2009 Edition, including Appendix Chapter A (“Combustion Air Openings and Chimney Connector Pass-Throughs”), as published by the

International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Mechanical Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, and changes prescribed in this Section. At least one (1) copy of said *International Mechanical Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Mechanical Code*, 2009 Edition (“IMC”), are hereby revised:

(a) Amend **IMC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IMC § 106.5.2, Fee schedule**, as follows: insert the following fee schedule:

Fee Schedule	
Valuation of Work:	Permit Fee:
Not more than \$2,000.00	\$30.00
More than \$2,000.00	\$30.00 plus, \$10.00 per each \$1,000.00 valuation or fraction thereof.

(c) Amend **IMC § 106.5.3, Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations.

(d) Amend **IMC § 108.4, Violation penalties**, to read: Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(e) Amend **IMC § 108.5, Stop work orders**, to read: Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner’s agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than Three Hundred Dollars (\$300.00) nor more than Two Thousand Six Hundred Fifty (\$2,650.00).

(f) Amend **IMC § 109.1, Application for appeal**, to read: Any person shall have the right to appeal an order, decision, or determination of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this

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code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed no later than fifteen (15) days following the issuance of the order, decision, or determination.

(g) Delete **IMC §§ 109.2 through 109.6**, regarding membership and procedures of the board of appeals.

Section 5-11. International Fuel Gas Code.

(1) The *International Fuel Gas Code*, 2009 Edition, including Appendix Chapters A, B, C, and D, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Fuel Gas Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, and changes prescribed in this Section. At least one (1) copy of said *International Fuel Gas Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Fuel Gas Code*, 2009 Edition (“IFGC”), are hereby revised:

(a) Amend **IFGC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IFGC § 106.1, Where required**, to read: An owner, authorized agent, or contractor who desires to erect, install, enlarge, alter, repair, remove, convert, or replace an installation regulated by this code, or to cause such work to be done, shall first make application to the code official and obtain the required permit for the work; provided, however, that such a permit shall only be required from the City of Trinidad, Colorado, if the City, rather than the State of Colorado, is performing fuel gas inspections.

Exception: Where *appliance* and *equipment* replacements and repairs are required to be performed in an emergency situation, the permit application shall be submitted within the City’s next working business day.

(c) Amend **IFGC § 106.6.2 Fee schedule**, to read: The fees for all fuel gas work requiring a permit from the City of Trinidad shall be as indicated in the following schedule:

Fee Schedule	
Valuation of Work:	Permit Fee:
Not more than \$2,000.00	\$30.00
More than \$2,000.00	\$30.00 plus \$10.00 per each \$1,000.00 valuation or fraction thereof.

(d) Amend **IFGC § 106.6.3, Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations.

(e) Amend **IFGC § 108.4, Violation penalties**, to read: Persons who shall violate a provision of this code, fail to comply with any of the requirements thereof, or erect, install, alter, or repair work in violation of the *approved construction documents* or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(f) Amend **IFGC § 108.5, Stop work orders**, to read: Upon notice from the code official that work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, the owner’s agent, or the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(g) Amend **IFGC § 109.1, Application for appeal**, to read: Any person shall have the right to appeal an order, decision, or determination of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed no later than fifteen (15) days following the issuance of the order, decision, or determination.

(h) Delete **IFGC §§ 109.2 through 109.6**, regarding membership and procedures of the board of appeals.

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Section 5-12. International Energy Conservation Code.

(1) The *International Energy Conservation Code*, 2009 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Energy Conservation Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, and changes prescribed in this Section. At least one (1) copy of said *International Energy Conservation Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Energy Conservation Code*, 2009 Edition (“IECC”), are hereby revised:

(a) Amend **IECC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IECC § 108.4, Failure to comply**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

Section 5-13. International Existing Building Code.

(1) The *International Existing Building Code*, 2009 Edition, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Existing Building Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, and changes prescribed in this Section. At least one (1) copy of said *International Existing Building Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Existing Building Code*, 2009 Edition (“IEBC”), are hereby revised:

(a) Amend **IEBC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IEBC § 1301.2, Applicability**, as follows: insert “January 1, 2014” as the specified date.

(c) Amend **IEBC § 113.4, Violation penalties**, to read: Any person who violates a provision of this code or who fails to comply with any of the requirements thereof, or who *repairs*, alters, or changes the occupancy of a building or structure in violation of the approved construction documents or directive of the code official, or of a permit or

certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(d) Amend **IEBC § 114.3, Unlawful continuance**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than Three Hundred Dollars (\$300.00) nor more than Two Thousand Six Hundred Fifty (\$2,650.00).

(e) **Add to IEBC § 104.10, Modifications.** Phased Construction (only for existing and historic structures within the city limits).

(i) A Colorado licensed design professional will do an assessment of the building or structure which will be provided to the Building Official for review to ascertain the current type of construction and structural adequacy.

(ii) A building may use a Phase approach to remodel project only if complete, stamped plans including intended occupancy are provided to and approved by the Building Official prior to the initiation of project.

(a) Phased approach plan submittal shall include:

(i) An overall time line.

(ii) A code analysis of all intended occupancies based on construction type.

(iii) Complete construction plans for *ALL* phases.

(iv) Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the code official. The work areas shall be shown along with fire protection system(s) shop drawings, means of egress, exterior wall envelope, interior environment and site plan.

(b) **Use and Occupancy Classification.** Intended occupancy must be submitted for review to the Building Official. If any owner cannot decide on intended occupancy, then the building shall be the most restrictive construction throughout.

(c) If the licensed design professional has an alternative method to meet the intent of the adopted code it will need to be stamped and provided to the Building Official.

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(i) Life safety, ingress and egress as well as ADA requirements will not be allowed to change.

(d) With all appropriate assessments and plans approved by the Building Official, work shall be allowed on the first floor. Within 24 months of first floor phase completion, reapplication including stamped plans and intended occupancy would be necessary for each additional floor requiring completion.

Section 5-14. International Property Maintenance Code.

(1) The *International Property Maintenance Code*, 2009 Edition, including Appendix Chapter A (“Boarding Standard”), as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Property Maintenance Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *International Property Maintenance Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Property Maintenance Code*, 2009 Edition (“IPMC”), are hereby revised:

(a) Amend **IPMC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IPMC § 103.5, Fees**, as follows: **See Building Permit Fees, Section 5-7(b).**

(c) Amend **IPMC § 106.4, Violation penalties**, to read: Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(d) Amend **IPMC § 111.1, Application for appeal**, to read: Any person directly affected by an order, decision, or determination of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed no later than fifteen (15) days following the issuance of the order, decision, or determination. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

(e) Delete **IPMC §§ 111.2 through 111.6**, regarding membership and procedures of the board of appeals.

(f) Amend **IPMC § 112.4, Failure to comply**, to read: Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(g) Amend **IPMC § 302.4, Weeds**, as follows: insert “six inches (6”).”

(h) Amend **IPMC § 304.14, Insect screens**, as follows: insert “January 1 to December 31.”

(i) Amend **IPMC § 602.3, Heat supply**, as follows: insert “January 1 to December 31.”

(j) Amend **IPMC § 602.4, Occupiable work spaces**, as follows: insert “January 1 to December 31.”

Section 5-15. International Private Sewage Disposal Code.

(1) The *International Private Sewage Disposal Code*, 2009 Edition, including Appendix Chapter A (“System Layout Illustrations”), as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Private Sewage Disposal Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *International Private Sewage Disposal Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Private Sewage Disposal Code*, 2009 Edition (“IPSDC”), are hereby revised:

(a) Amend **IPSDC § 101.1, Title**, as follows: insert “the City of Trinidad, Colorado” where indicated.

(b) Amend **IPSDC § 106.4.2, Fee schedule**, as follows: insert the following fee schedule:

Fee Schedule	
Valuation of Work:	Permit Fee:
Not more than \$2,000.00	\$30.00
More than \$2,000.00	\$30.00 plus \$10.00 per each \$1,000.00 valuation or fraction thereof.

(c) Amend **IPSDC § 106.4.3, Fee refunds**, as follows: insert “fifty percent (50%)” as the specified percentage in both locations.

(d) Amend **IPSDC § 108.4, Violation penalties**, to read: Any person who shall violate a provision of this code or fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair private sewage disposal work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(e) Amend **IPSDC § 108.5, Stop work orders**, to read: Upon notice from the code official, work on any *private sewage disposal system* that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(f) Amend **IPSDC § 109.1, Application for appeal**, to read: Any person shall have the right to appeal an order, decision, or determination of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed no later than fifteen (15) days following the issuance of the order, decision, or determination.

(g) Delete **IPSDC § 405**, entitled "**SOIL VERIFICATION.**"

Section 5-16 National Electrical Code.

(1) The *National Electrical Code, 2011 Edition*, is hereby adopted by reference as the Electric Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *National Electrical Code, 2011 Edition*, shall remain on file in the Office of the City Clerk and open to public inspection.

(a) **Permits – when required**, are to be obtained from the Colorado Department of Regulatory Agencies (DORA), 1560 Broadway, Suite 1500, Denver, CO 80202 (www.dora.state.co.us/electrical), 303-894-2985. Permit(s) shall only be required from the City of Trinidad, Colorado, if the City, rather than the State of Colorado, is performing electrical inspections.

(b) **Violation penalties. If the City of Trinidad is performing electrical**

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inspections, the following violation penalties shall be in affect: any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, or repair electrical work in violation of the *approved* construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(c) Stop Work Orders. If the City of Trinidad is performing electrical inspections, the following shall apply to Stop Work Orders: upon notice from the code official, work on any electrical system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(d) Application for appeal. If the City of Trinidad is performing electrical inspections, the appeal process shall be subject to Chapter 5, Article 4, Section 5-24 of the Code of the City of Trinidad, Colorado. Any person shall have the right to appeal an order, decision, or determination of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The application shall be filed no later than fifteen (15) days following the issuance of the order, decision, or determination.

ARTICLE 2. CONTRACTOR LICENSING.

Section 5-17. Definitions, Classifications and Fees.

(1) **Contractor.** Contractor means a person who supervises himself or herself, his or her firm or one (1) or more trades or subcontractors, and who for any compensation undertakes any landscaping, construction, addition, alteration, repair, demolition, removal or moving of any building, structure or utility. A resident homeowner shall not be required to obtain a contractor's license for any landscaping, construction, addition, alteration or repair of the homeowner's occupied residence, or a building or structure accessory to such residence, **provided that** the homeowner shall first assume all duties and responsibilities of a contractor as set forth in this Section by executing a form furnished by the Chief Building Official pursuant to which the homeowner agrees to assume all duties and responsibilities.

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(2) **Classification.**

(a) *Contractor A.* A Contractor A license is authorized to work with respect to multi-unit residential buildings, office buildings, commercial buildings, tenant finish and alterations thereto and any work authorized under Contractor B, C and D licenses. This license covers all buildings including those three (3) stories and above. ***Requires proof of ICC testing.***

(b) *Contractor B.* A Contractor B license is authorized to work with respect to multi-unit residential buildings, office buildings, commercial buildings, tenant finish and alterations thereto and any work authorized under Contractor C and D licenses. This license covers buildings under three (3) stories or less. ***Requires proof of ICC testing.***

(c) *Contractor C.* A Contractor C license is authorized to work with respect to detached single-family residential buildings and alterations thereto and any work authorized under Contractor D license. ***Requires proof of ICC testing.***

(d) *Contractor D.* A Contractor D license is authorized to work as a single trade only i.e. home repair, siding, plastering, sheetrock installation, excavation, concrete work not in a city right-of-way. **No proof of ICC testing required.**

(i) Plumbing and electrical contractors fall under D licensing but because they are required to hold a State Masters License are not required to show proof of ICC testing.

(ii) Mechanical and roofing contractors fall under D licensing but are required to show proof of ICC testing.

(3) **Fees.** Contractor's licenses shall be issued for a calendar year. The annual license fee shall be as stated below unless amended by resolution of the City Council in accordance with the licensing classifications as set forth above [Section 5-15(2)]. In addition to the license fee, there is a processing/application fee for new applicants in the amount of \$50.00.

(a) Contractor A - \$150.00

(b) Contractor B - \$125.00

(c) Contractor C - \$100.00

(d) Contractor D - \$75.00 for each license type i.e. roofing and stucco = \$150.00

(e) License fees are not refundable. Any fee paid under this Section shall not be refunded for any reason after the license has been issued.

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(4) **Violations.** A fine as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado shall be assessed to the following:

- (a) Any contractor or subcontractor working within the City limits without possessing a current contractor's license; and
- (b) Any contractor or subcontractor performing work outside the scope of their license.

Section 5-18. Testing.

(1) *ICC Standardized Contractor Exams.* Contractors are required to successfully pass the ICC Contractor Exam. The City and its citizens benefit from such commonality having a solid foundation upon which to issue licenses to practice.

Exam ID#	ICC Exam Category	Time	# of Questions	*Reference Codes
614	Building Contractor A	4 Hour	90	IBC
615	Building Contractor B	4 Hour	80	IBC & IRC
616	Building Contractor C	4 Hour	80	IRC
670	Mechanical Contractor A	4 Hour	100	IFGC, IMC & 2005 NEC
671	Mechanical Contractor B	3 Hour	50	IFGC, IMC & 2005 NEC
679	Mechanical Contractor C	3 Hour	70	IRC
765	Roofing Contractor	3 Hour	60	IBC & IPC

** Reference Codes may change due to date of exam.*

Section 5-19. Insurance Requirements.

(1) The City of Trinidad shall be noted as the Certificate Holder on insurance certificates. Every contractor shall procure workers' compensation coverage as required by state law and general liability coverage with the following minimum limits:

- (a) General Aggregate: two million dollars (\$2,000,000.00).
- (b) Products, completed operations: two million dollars (\$2,000,000.00).
- (c) Personal and advertising injury: one million dollars (\$1,000,000.00).
- (d) Each occurrence: one million dollars (\$1,000,000.00).

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- (e) A license and permit bond shall be procured for a minimum of \$5,000 for all new contractor licenses and any revoked/suspended licensees seeking reinstatement.
- (2) No contractor's license shall be issued under this Article until the following documents are filed with the Chief Building Official:
- (a) A statement or certificate signed by an authorized agent of an insurance company licensed to do business in the State, stating that a policy or policies have been issued to the applicant with the coverage amounts set forth in Subsection (1) hereof, and including the effective date and expiration date of the policy or policies; and
 - (b) A copy of an endorsement to the policy requiring at least ten (10) days' prior written notice to the Chief Building Official of cancellation of the policy for any reason.
- (3) In the event of cancellation of any policy required by this Section, the Chief Building Official shall immediately suspend the contractor's license. The license shall be reinstated when the licensee furnishes the documentation required by Subsection (2) hereof.

Section 5-20. Duties and Responsibilities of Licensee.

- (1) All licensees under this Article shall be responsible for the following:
- (a) All work covered by his/her permit, whether or not such work is done directly by the licensee or his/her employees or subcontractors. Subcontractors are required to be licensed with the City even if they are working under the supervision of a licensed contractor.
 - (b) All funds or property received by him/her for completion of a specific contract or for a specific purpose.
 - (c) Obtaining any required permits for himself/herself and any subcontractor under his/her supervision.
 - (d) Safety measures and equipment to protect workers and the public in compliance with applicable federal and state laws.
 - (e) Compliance with all applicable City ordinances, codes and regulations.
 - (f) Constructing any building or structure in substantial compliance with the drawings and specifications approved by the Chief Building Official and the permit issued for the same, unless changes are approved by the Chief Building Official.
 - (g) Completing all work authorized by the permit unless there is good cause for the non-completion of the work.
 - (h) Obtaining inspection services where required by this Chapter and any technical

code.

- (i) Paying any fee assessed under the authority of this Code or any technical codes.
- (j) Obeying any order or notice issued pursuant to this Code or any technical code.
- (k) Presenting his/her license when requested by the Chief Building Official.
- (l) Maintaining workers' compensation and liability insurance as required by Section 5-19.

Section 5-21. Suspension and Revocation of License.

(1) The Chief Building Official may suspend or revoke a license for any of the following:

- (a) Failure to comply with any of the duties and responsibilities set forth in Section 5-20.
- (b) Using a contractor's license to obtain a permit required under this code for any other person, corporation or legal entity.
- (c) Violating any provisions of the Trinidad Building Code including any codes which are adopted by reference.
- (d) Failure to reveal any material fact in the application for a contractor's license or permit, or the supplying of information which is untrue or misleading as to any material fact in the application for a contractor's license or permit.
- (e) Failure to obtain a proper permit for any work for which a permit is required.
- (f) Receipt of three (3) or more written verified complaints.

(2) Upon written notification of revocation or suspension of license, the contractor shall have the right to appeal their case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts to the Board of Building Code Appeals.

Suspension or revocation of a contractor's license shall not be construed to release the contractor from liabilities and obligations of completing his contract. During the period prior to the hearing before the Board of Building Code Appeals, the contractor shall not be allowed to submit an application for any other projects.

(3) The Board of Building Code Appeals (BOBCA) may reinstate a license for any contractor whose license has been revoked, provided a majority of the BOBCA votes in favor of such reinstatement for such reason as the BOBCA may deem sufficient. In such case where the

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contractor's license has been revoked and the contractor is petitioning the BOBCA for reinstatement, the petitioner shall follow the established policies for requesting such hearing and pay all applicable fees.

Section 5-22. Application Form and Contents.

(1) Along with the application, proof of ICC testing (if required) and certificates of insurance listing the City of Trinidad as the Certificate Holder must be provided. An application for a contractor's license shall be on a form furnished by the City, shall be filed with the Chief Building Official and shall contain the following information under oath:

- (a) Correct business contact information.
- (b) ICC testing information.
- (c) Insurance carrier information.
- (d) Business references.
- (e) Signature, title and date of person making oath of accuracy.

ARTICLE 3. NON-CONFORMANCE

Section 5-23. Non-Conformance.

(1) **Definition.** Legal Non-Conforming refers to uses and structures, excluding single family residences (R-3), which were begun or constructed when the law allowed for them but have since become noncompliant due to a change in legislation (for example, new codes are adopted).

(2) **How a structure loses non-conforming status.** Any structure or building within the city limits is a non-conforming structure meaning that when the City adopts a new code or standard the buildings built to the previous code are no longer conforming to the existing code. A non-conforming structure is allowed to remain as is, as long as it is generating sales tax revenue and is open for business. Once the business ceases to generate revenue or is vacant for no less than twelve consecutive months it loses its non-conforming status. A building under these circumstances must, therefore, be brought up to current code standards. Part of that process requires an assessment by a registered design professional be provided to the Building Official. Owners may apply via the Variance Application Form to the CBO for review and consideration of a six (6) month extension. The CBO will consider all reasons the extension is being requested in making the decision.

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ARTICLE 4. MEANS OF APPEAL

Section 5-24. Board of Building Code Appeals and Means of Appeal.

- (1) **Application for appeal.** Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within fifteen (15) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. The Board may only rule on the code interpretation of the CBO.
- (2) **Membership of board.** The board of appeals shall consist of a minimum of three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The board shall be appointed by the City Council, and shall serve staggered and overlapping two-year terms.
- (a) **Alternate Members.** The City Council shall appoint two or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.
- (b) **Chairperson.** The board shall annually select one of its members to serve as chairperson.
- (c) **Disqualification of member.** A member shall not hear an appeal in which that member has a personal, professional or financial interest.
- (d) **Secretary.** The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.
- (e) **Compensation of members.** Compensation of members shall be determined by law.
- (3) **Notice of meeting.** The board shall meet upon notice from the chairperson, within 20 days of the filing of an appeal, or at stated periodic meetings.
- (4) **Open hearing.** All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.
- (a) **Procedure.** The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not

require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

- (5) **Postponed hearing.** When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.
- (6) **Board decision.** The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.
 - (a) **Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.
 - (b) **Administration.** The code official shall take immediate action in accordance with the decision of the board.
- (7) **Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.
- (8) **Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

Section 5-25. Building Code Variance Petition.

- (1) Before any variance from building codes may be granted, the Board of Building Code Appeals must find *all* of the following:
 - (a) **Existence of special conditions or circumstances.** That special conditions and circumstances exist which are peculiar to the structure or building involved and which are not applicable to other structures or buildings in the same zoning district.
 - (b) **Conditions not created by applicant.** That the special conditions and circumstances do not result from the action or negligence of the applicant.
 - (c) **Special privilege not conferred.** That granting the variance requested will not confer upon the applicant any special privileges denied to other buildings or structures in the same zoning district.
 - (d) **Hardship conditions exist.** That literal interpretation of the provisions of the building code regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.

(e) **Only minimum variance granted.** That the variance granted is the minimum variance that will make possible the reasonable use of the building or structure.

(f) **Not injurious to the public welfare.** That the grant of the variance will be in harmony with the general intent and purpose of the building code and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.

(g). **Existing non-conforming uses of other property not the basis for approval.** No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

(2) **Application and instructions below.**

1. Fill in the owner's information section. It is important to have a complete address and phone number for communication between the applicant and the department.
2. Fill in the project description box. Explain what the building project is i.e. basement alteration, second floor alteration, two-story addition, etc.
3. If there is an agent working for the owner and the agent is a better contact for information regarding the variance, fill in the agent information area.
4. Answer the three questions:
 - a. State the code and section number with a summary of what the code says. Also, indicate what the non-conforming conditions for the project are i.e. COMM21.04 minimum stair width is 36 inches; i.e. will have 34 inches of stair width.
 - b. State why the rule cannot be satisfied i.e. not structurally feasible.
 - c. State what will be done to provide an equivalency to the code. These items should be things that relate to the item the variance is being sought for and exceed code requirements.
5. Print the owner's name on the line indicating to do so.
6. The owner of the property is required to sign where indicated. If the project is for a one or two family home, the form is not required to be notarized. If the project is for a **commercial building, the form is required to be notarized.**

BUILDING CODE VARIANCE PROCEDURE

1. Fill out the variance form.
2. If the variance is for a commercial building and is not for an accessibility code contact the fire department so they can fill out a fire department position statement.

3. Submit the application and a \$250.00 fee for a residential variance or a \$490.00 fee for a commercial variance to the building inspection department. Also, where applicable, submit the fire department position statement.
4. A field inspector may visit the site to verify existing conditions and the completeness of the application.
5. If there have previously been at least 5 variances for the same item approved, the variance may be approved on precedence. In this case the applicant will not have to attend a meeting of the Board of Building Code Appeals and will be notified by letter that the variance is approved. The letter will be sent within 7 days after the scheduled meeting.
6. In all other cases the variance will be presented to the Board of Building Code Appeals at a monthly meeting. Seven days before the meeting the supervisor will review the variance for approval to be put on the agenda. Five days before the meeting the secretary will mail out the agenda to the Board of Building Code Appeals members and to the applicants.
7. When a variance is heard by the board the applicant or agent must attend the meeting to answer questions.
8. The meeting minutes will be mailed within 7 days after the meeting.

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**CITY OF TRINIDAD
PETITION FOR VARIANCE
APPLICATION**

VARIANCE FEES
R-3 \$250.00
COMM \$490.00

Building Inspect Dept.
125 N. Animas
Trinidad, CO 81082

Priority = Double Above

Amount Paid:

Name of Owner	Project Description	Agent, architect, or engineering firm
Company (if applicable)		Street Address
Street Address	Tenant Name (if applicable)	City, State, Zip Code
City, State, Zip Code	Building Address	Name of Contact Person
Phone		Phone
E-mail		E-mail

1. The rule being petitioned reads as follows: (Cite the specific rule number and language. Also, indicate the non-conforming conditions for your project)

2. The rule being petitioned cannot be entirely satisfied because:

3. The following alternatives and supporting information are proposed as a means of providing an equivalent degree of health, safety, and welfare as addressed by the rule: (continue on back if necessary)

NOTE: Please attach any pictures, plans, or required position statements.

VERIFICATION BY OWNER - PETITION IS VALID ONLY IF NOTARIZED AND ACCOMPANIED BY A REVIEW FEE AND ANY REQUIRED POSITION STATEMENTS.

Note: Petitioner must be the owner of the building. Tenants, agents, contractors, attorneys, etc. may not sign the petition unless a Power of Attorney is submitted with the Petition for Variance Application.

_____, being duly sworn, I state as petitioner that I have read the foregoing petition, that I believe it to be true, and I have significant ownership rights in the subject building or project.

Signature of Owner	Subscribed and sworn to before me this date:
Notary Public	My commission expires:

NOTE: ONLY VARIANCES FOR COMMERCIAL CODES ARE REQUIRED TO BE NOTARIZED.

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CHAPTER 8. FIRE PREVENTION.

ARTICLE 1. INTERNATIONAL FIRE CODE.

Section 8-1. International Fire Code.

(1) The *International Fire Code*, 2009 Edition, including Appendix Chapters C and D, as published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 (headquarters), is hereby adopted by reference as the Fire Code of the City of Trinidad, Colorado, as if fully set forth in this ordinance, together with the additions, insertions, deletions, and changes prescribed in this Section. At least one (1) copy of said *International Fire Code*, 2009 Edition, shall remain on file in the Office of the City Clerk and open to public inspection.

(2) The following sections of the *International Fire Code*, 2009 Edition (“IFC”), are hereby revised:

(a) Amend **IFC § 101.1, Title**, as follows: insert: “the City of Trinidad, Colorado” where indicated.

(b) Amend **IFC § 105.2, Application**, to read: Application for a permit for new construction or remodeling of existing structures is required by this code and shall be made to the fire code official or the Chief Building Official in such form and detail as prescribed by the fire code official and/or the Chief Building Official. Applications for permits shall be accompanied by such plans as prescribed by the fire code official and the Chief Building Official as set forth in Chapter 5, Section 5-7 regarding the International Building Codes as adopted by the City of Trinidad, Colorado.

(b) Amend **IFC § 109.3, Violation penalties**, to read: Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or who shall erect, install, alter, repair, or do work in violation of the *approved construction documents* or directive of the *fire code official*, or of a permit or certificate used under provisions of this code, shall be subject to penalties as prescribed in Chapter 5, Sections 5-3(4)(a) and (5) of the Code of the City of Trinidad, Colorado.

(c) Amend **IFC § 111.4, Failure to comply**, to read: Any *person* who shall continue any work after having been served with a stop work order, except such work as that *person* is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than Three Hundred Dollars (\$300.00) nor more than Two Thousand Six Hundred Fifty (\$2,650.00).

(d) Amend **IFC § 3404.2.9.6.1, Locations where above-ground tanks are prohibited**, to read: The storage of Class I and II liquids in above-ground tanks outside of buildings is prohibited within all zoning classifications, except areas encompassed by the Industrial Zone district and only by special use permit.

(e) Amend **IFC § 3406.2.4.4, Locations where above-grounds tanks are prohibited**, to read: The storage of Class I and II liquids in above-ground tanks is prohibited within all zoning classifications, except areas encompassed by the Industrial Zone district and only by special use permit.

(f) Amend **IFC § 3506.2, Limitations**, to read: The storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within all zoning classifications, except areas encompassed by the Industrial Zone district and only by special use permit.

(g) Amend **IFC § 3804.2, Maximum capacity within established limits**, to read: Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L). Such storage is prohibited within all zoning classifications, except areas encompassed by the Industrial Zone district and only by special use permit.

Section 2. Repeal and Re-enactment of Sections of the Code of the City of Trinidad, Colorado in conflict with Chapter 5, as adopted. The following sections of the Code of the City of Trinidad, Colorado, are in conflict with Chapter 5 above, and are hereby repealed and/or re-enacted in their entirety as follows:

1. Section 9.59, Contractor defined; 9.60, Contractor's license required; 9-61, Liability and property damage insurance and worker's compensation insurance required; and 9-61.1, Contractor's examination, of Chapter 9, Licenses, Division 9, Contractors, of the Code of Ordinances of the City of Trinidad, Colorado, is hereby repealed.

2. Section 14-140, Appeals from orders of Building Inspector – Procedures; and Section 14-141, Conduct of hearing, of Chapter 14, Article 6, Board of Appeals, of the Code of the City of Trinidad, Colorado, is hereby repealed.

3. Section 15-1, International Plumbing Code, of Chapter 15, Plumbing, shall refer the reader to Section 5-9 of Chapter 5.

Section 3. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Trinidad; 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 4. Severability. Should any section, paragraph, sentence, clause, or phrase of this Ordinance, or of any of the primary or secondary codes adopted by reference herein, be judicially determined unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance or codes adopted by reference. The City Council hereby declares that it would have passed this Ordinance and each

part or parts hereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 5. Repeal. Any and all other ordinances, codes, or parts thereof not specifically enumerated herein in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance, code, or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded, and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 6. Effective Date. This Ordinance shall be published and become effective ten (10) days after final passage, as provided in § 5.5 of the Home Rule Charter for the City of Trinidad, Colorado.

INTRODUCED BY COUNCILMEMBER MILES, READ AND ORDERED
PUBLISHED this 3rd day of December, 2013.

FINALLY PASSED AND APPROVED this ____ day of _____, 2013.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the ____ day of _____, 2013.

LINDA VELASQUEZ, Mayor Pro-Tem

ATTEST:

AUDRA GARRETT, City Clerk

3-42



CITY OF TRINIDAD, COLORADO
1876

COUNCIL COMMUNICATION

CITY COUNCIL MEETING: December 10, 2013
PREPARED BY: December 6, 2013
DEPT. HEAD SIGNATURE: 
OF ATTACHMENTS: 1

SUBJECT: Consideration of an ordinance increasing business license fees and modifying the term of the same

PRESENTER: Tom Acre, City Manager

RECOMMENDED CITY COUNCIL ACTION: Staff recommends City Council consider the ordinance for first reading at the December 17, 2013 regular meeting.

SUMMARY STATEMENT:

- The need to increase the business licensing fee was discussed during the 2014 budget preparation process.
- The last time a change in the business license fee was made was 25 years ago when it actually decreased from \$25 to \$10. It had been \$25 since the 1930s.
- The ordinance provides that business license fees for all businesses will be due at the same time each year.

EXPENDITURE REQUIRED: No expenditure is required.

SOURCE OF FUNDS: N/A

POLICY ISSUE: Increase in City fees.

ALTERNATIVE: Consider alternative language.

BACKGROUND INFORMATION: See above.

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ORDINANCE NO.

AN ORDINANCE INCREASING CITY OF TRINIDAD BUSINESS LICENSE FEES AND MODIFYING THE TERM OF THE SAME

WHEREAS, Chapter II, § 2.4, of the Home Rule Charter for the City of Trinidad, Colorado, confers upon the City “all powers of local self government and Home Rule possible for a city to have under the Constitution and laws of [the state of Colorado] as fully and completely as though they were specifically enumerated in this Charter”; and

WHEREAS, § 31-15-501 C.R.S., confers upon the City the power to regulate businesses within the municipality, including, but not limited to, the ability to license, regulate, and tax, subject to any law of this state, any lawful occupation, business place, amusement, or place of amusements and to fix the amount, terms, and manner of issuing and revoking licenses issued therefor; and

WHEREAS, it has been twenty-five years since the City adjusted business license fees; and

WHEREAS, a rate increase is necessary in order to provide sufficient oversight and regulation of businesses within the City’s corporate limits and it is necessary to align renewal dates to a consistent annual date for better enforcement of licensing requirements.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, that:

Section 1. Chapter 9, Section 9-7 Repealed and Re-enacted. Section 9-7, Issuance, Article 1, In General, of Chapter 9, Licenses, of the Code of Ordinances of the City of Trinidad is repealed and re-enacted as follows:

Section 9-7. Issuance.

All licenses shall be issued by the City Clerk upon receipt of the following, unless otherwise specified in this Code:

All licenses shall be issued by the City Clerk upon receipt of the following, unless otherwise specified in this Code:

(1) A proper application containing all applicable information as required on the form provided by the City of Trinidad.

(2) Payment of the annual business license fee of \$50.00 to the City Clerk.

(a) The annual business license fee shall be pro-rated as follows:

4-2



CITY OF TRINIDAD, COLORADO
1876

COUNCIL COMMUNICATION

CITY COUNCIL MEETING: December 10, 2013
PREPARED BY: Les Downs, City Attorney
DEPT. HEAD SIGNATURE: *Les Downs*
OF ATTACHMENTS: 1

SUBJECT: Ordinance establishing regulations and licensing requirements for Medical Marijuana Businesses

PRESENTER: Les Downs, City Attorney

RECOMMENDED CITY COUNCIL ACTION: Review this first draft and provide input on specific parameters of the licensing scheme

SUMMARY STATEMENT: The proposed ordinance would provide for the licensing and regulation of Medical Marijuana Businesses within the corporate limits of the City of Trinidad

EXPENDITURE REQUIRED: No

SOURCE OF FUNDS: N/A

POLICY ISSUE: Cities are allowed to adopt regulations to permit medical marijuana businesses in Colorado

ALTERNATIVE: Consider alternative language

BACKGROUND INFORMATION:

- The City Council previously directed staff to develop regulations for the licensing of medical marijuana businesses by March 1, 2014.
- Much discussion about medical marijuana has already taken place.
- There is specific language within the draft ordinance that Council's input is sought.
- The City Planner and Planning Commission will need to review the ordinance as it pertains to zoning and make a recommendation to City Council.



CITY OF TRINIDAD, COLORADO

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRINIDAD,
COLORADO, ESTABLISHING REGULATIONS AND LICENSING REQUIRE-
MENTS FOR MEDICAL MARIJUANA BUSINESSES**

WHEREAS, on November 7, 2000, the voters of the State of Colorado approved Amendment 20. Amendment 20 added Section 14 of Article 18 to the Colorado Constitution, and created a limited exception from criminal liability under Colorado law (as opposed to federal law) for seriously ill persons who are in need of marijuana for specified medical purposes and who obtain and use medical marijuana under the limited circumstances described in Amendment 20; and

WHEREAS, the intent of Amendment 20 was to enable those persons enumerated in the amendment to legally obtain, possess, cultivate, grow, use, and distribute marijuana without fear of criminal prosecution under Colorado (as opposed to federal) law; and

WHEREAS, the Colorado legislature passed and the governor signed into law HB10-1284, entitled "*AN ACT CONCERNING THE REGULATION OF MEDICAL MARIJUANA, AND MAKING AN APPROPRIATION THEREFOR*". HB10-1284 adopted the "Colorado Medical Marijuana Code", which became effective July 1, 2010; and

WHEREAS, the Colorado legislature passed and the governor signed into law HB11-1043, entitled "*AN ACT CONCERNING MEDICAL MARIJUANA, AND MAKING AN APPROPRIATION THEREFOR*". HB11-1043 amended the "Colorado Medical Marijuana Code", which became effective July 1, 2011; and

WHEREAS, the Colorado Medical Marijuana Code clarifies Colorado law regarding the scope and extent of Amendment 20, and specifically provides that Amendment 20 does not apply to licenses issued pursuant to the Colorado Medical Marijuana Code, except as specifically provided in the Colorado Medical Marijuana Code; and

WHEREAS, the Colorado Medical Marijuana Code establishes a new procedure for the dual licensing by the state licensing authority and the local licensing authority of the retail sale, distribution, cultivation, and dispensing of medical marijuana; and

WHEREAS, the Colorado Medical Marijuana Code recognizes the power of a municipality to adopt and enforce its own rules and regulations for the licensing of medical marijuana facilities within its jurisdiction. Specifically, the Colorado medical marijuana code authorizes municipalities to: 1.) Prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused product manufacturing facilities within the municipality; 2.) Adopt an ordinance containing specific standards for the issuance of local licenses; 3.) Adopt additional local standards for the issuance of licenses, including, but not limited to, distance restrictions between premises for which licenses are issued; reasonable restrictions on the size of an applicant's licensed premises; and any other local requirement necessary to ensure the control of the

premises and the ease of enforcement of the terms and conditions of the license; 4.) Impose additional requirements necessary for the approval of applications under the Colorado Medical Marijuana Code; 5.) Enact ordinances or resolutions concerning matters authorized to local governments; 6.) Enact reasonable regulations or other restrictions applicable to licenses based on local government zoning, health, safety and public welfare laws for the distribution of medical marijuana that are more restrictive than the Colorado Medical Marijuana Code; 7.) Impose reasonable restrictions upon a local license; and 8.) Establish an application fee for a local license; and

WHEREAS, the presence of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused product manufacturing facilities within the City's corporate should be limited in number, and carefully district in order to protect, defend and preserve the economic vitality of the City; and

WHEREAS, the City Council hereby finds, determines, and declares that to the extent the requirements of this chapter differ from the requirements of the Colorado Medical Marijuana Code, the requirements of this chapter are more restrictive than the Colorado Medical Marijuana Code; and

WHEREAS, this chapter is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the City and the inhabitants thereof.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRINIDAD, COLORADO, that Article 12, Chapter 14, is hereby repealed and re-enacted in its entirety as follows:

CHAPTER 14

ARTICLE 12. MARIJUANA LICENSING AUTHORITY

14-201. Legislative Intent and Purpose.

(a) Legislative Intent. The City Council intends to regulate the use, acquisition, cultivation, production and distribution of medical marijuana in a manner that is consistent with Article XVIII, Section 14 of the Colorado Constitution (the "Medical Marijuana Amendment.")

(1) This chapter is to be construed to protect the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the City. There is no property right for an individual or business to have medical marijuana in the City.

(2) Medical marijuana is a heavily regulated industry in the City, and the City has a zero tolerance policy for violations of this chapter.

(b) Purpose. The purpose of this chapter is to protect the public health, safety and welfare of the residents and patients of the City by prescribing the manner in which medical marijuana businesses can be conducted in the City. Further, the purpose of this chapter is to:

(1) Provide for a means of cultivation, production and distribution of marijuana to patients who qualify to obtain, possess and use marijuana for medical purposes under the Medical Marijuana Amendment.

- (2) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, food safety, neighborhood and patient safety, security for the business and its personnel and other health and safety concerns.
- (3) Promote lively street life and high quality neighborhoods by limiting the concentration of any one type of business in specific areas.
- (4) Impose fees to cover the cost to the City of licensing medical marijuana businesses in an amount sufficient for the City to recover its costs of the licensing program.
- (5) Adopt a mechanism for monitoring compliance with the provisions of this chapter.
- (6) Create regulations that address the particular needs of the patients and residents of the City and coordinate with laws that may be enacted by the state regarding the issue.
- (7) Facilitate the implementation of the Medical Marijuana Amendment without going beyond the authority granted by it.
- (8) Support Trinidad's Comprehensive Plan goals by requiring renewable sources for energy use to grow medical marijuana.
- (9) Issue medical marijuana business licenses only to individuals and entities that have demonstrated an intent and ability to comply with this chapter without monitoring by city officials.
- (10) Protect public safety and residential areas by limiting the areas of the City where more than six medical marijuana plants may be grown.
- (11) Exclude from the definition of a *medical marijuana business* the private possession, production and medical use of marijuana by an individual patient or the private possession, production, distribution and medical use of marijuana by an individual caregiver for one patient, in the residence of the patient or caregiver, to the extent permitted by Article XVIII, Section 14 of the Colorado Constitution.

(c) Relationship to State Law. The provisions in this chapter that are different from the state law are consistent with the City's responsibility to protect the public health, safety and welfare as authorized by §12-43.3-305, C.R.S., and by the home rule authority granted to the City by Article XX of the Colorado Constitution and the charter of the City. The City intends that both state law and this chapter apply within the City. Where this chapter conflicts with the State Law, this chapter shall apply on all matters authorized in §12-43.3-101, et seq., C.R.S., and all matters of local concern.

(d) Adoption of this chapter is not intended to waive or otherwise impair any portion of the local option available under §12-43.3-106, C.R.S.

14-202. Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

Advertise means the act of drawing the public's attention, whether on print or on the internet, to a medical marijuana business in order to promote the sale of medical marijuana by the business.

Business manager means the individual designated by the owner of the medical marijuana business as the person responsible for all operation of the business in the absence of the owner from the business premises.

Cultivation or cultivate means (i) all phases of growth of marijuana from seed to harvest; or (ii) preparing, packaging or repackaging, labeling or relabeling of a *usable* form of marijuana.

Cultivation facility or optional premises means a licensed medical marijuana business that is owned by the same owner as a medical marijuana center and produces and harvests medical marijuana plants for a medical use for distribution by such medical marijuana center. Except as included in this definition, a cultivation facility may not operate any production on its premises.

Distribute or distribution means the actual, constructive or attempted transfer, delivery, sale or dispensing to another, with or without remuneration.

Fermented malt beverage has the same meaning as its meaning under the Colorado Beer Code, § 12-46-103, C.R.S.

Financier means any person who lends money or otherwise provides assets to any person applying for a license or who has been issued a license under this chapter. *Financier* shall not include a bank, savings and loan association, credit union or industrial bank supervised and regulated by an agency of the state or federal government.

Good Cause, for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance, means:

- (a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this article, any rules promulgated pursuant to this article, or any supplemental local law, rules or regulation;
- (b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;
- (c) The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

Licensed premises means the premises specified in an application for a license under this article, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell medical marijuana in accordance with the provisions of this article.

Licensee means the medical marijuana business named on the medical marijuana business license, and all individuals named in the medical marijuana business license application or later reported to the City, including without limitation, owners, business managers, financiers and individuals owning any part of an entity that holds a financial or ownership interest in a medical marijuana business.

Local Licensing Authority means the City of Trinidad City Council.

Malt, vinous and spirituous liquor has the same meaning as its meaning under the Colorado Liquor Code, § 12-47-108, C.R.S.

Marijuana means

- (1) The same as the term "usable form of marijuana" as set forth in the Medical Marijuana Amendment;
- or
- (2) May be more fully defined in any applicable state law or regulation.

Medical marijuana means marijuana that is grown and sold pursuant to the provisions of this article and for a purpose authorized by Section 14 of Article XVIII of the State Constitution but shall not be considered a nonprescription drug for purposes of Section 12-42.5-102(21) or 39-26-717, C.R.S., or an over-the-counter medication for the purposes of Section 25.5-5-322, C.R.S.

Medical marijuana business means (i) any person that cultivates, produces, sells, distributes, possesses, transports or makes available more than six marijuana plants or two ounces of a useable form of marijuana for medical use, or (ii) any person that produces any amount of medical marijuana. The term *medical marijuana business* shall not include the private possession, production or medical use of no more than six plants or two ounces of a useable form of marijuana by a patient or caregiver in the residence of the patient or caregiver.

Medical marijuana center means a licensed medical marijuana business that distributes medical marijuana to patients or primary caregivers or to medical marijuana-infused product manufacturers or to another medical marijuana center, but is not the primary caregiver.

Medical marijuana-infused product means a product infused with medical marijuana that is processed and intended for use or consumption, including, without limitation, edible products, concentrates, ointments and tinctures.

Medical marijuana-infused product manufacturer means a licensed medical marijuana business that produces medical marijuana-infused products.

Medical marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom including, without limitation, roots, stalks and leaves. For purposes of this chapter, the portion of a medical marijuana plant harvested from the plant or converted to a usable form of medical marijuana for medical use is not considered part of the plant upon harvesting.

Medical use shall have the same meaning as is set forth in Article XVIII, Section 14(1)(b) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Patient shall have the same meaning as is set forth in Article XVIII, Section 14(1)(d) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Possess or possession means having physical control of an object, or control of the premises in which an object is located, or having the power and intent to control an object, without regard to whether the one in possession has ownership of the object. Possession may be held by more than one person at a time. Use of the object is not required for possession. The owner of a medical marijuana business shall be considered in possession of the medical marijuana business at all times. The business manager of a medical marijuana business shall be considered in possession of the medical marijuana business at all times that the business

manager is on the premises of the business or has been designated by the owner as the business manager in the absence of the owner in accordance with this chapter.

Premises means a distinct and definite location, which may include a building, a part of a building, a room or any other defined contiguous area.

Primary caregiver shall have the same meaning as is set forth in Article XVIII, Section 14(1)(f) of the Colorado Constitution, or as may be more fully defined in any applicable state law or regulation.

Produce or *production* means (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging or repackaging, labeling or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. *Production* shall not include packaging or repackaging, labeling or relabeling of a usable form of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Restricted area means the portion of a medical marijuana business location within which the licensee defines on its application it intends to cultivate, distribute, possess or produce medical marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the medical marijuana business license application for the business.

School means a public or private preschool, nursery or state-licensed daycare center, or a public or private elementary, middle, junior high, or high school, or the principal campus of any college, university, or seminary. (The following is the definition according to the Colorado Liquor Code for comparison purposes: "School" means a public, parochial, or nonpublic school that provides a basic academic education in compliance with school attendance laws for students in grades one to twelve. "Basic academic education" has the same meaning as set forth in section 22-33-104 (2) (b), C.R.S.)

Violation of any law means a plea or finding of a violation of any law in a criminal, civil or administrative proceeding, whether part of a plea agreement, settlement agreement or determination by an arbitrator, hearing officer, court or jury.

14-203. Adoption of Colorado Medical Marijuana Code and State Administrative Regulations.

Except where the provisions of this chapter are inconsistent with or differ from the Colorado medical marijuana code or the state administrative regulations, all of the provisions of the Colorado medical marijuana code and the state administrative regulations are adopted by reference and as may be amended, and apply to all applications received and licenses issued by the local licensing authority. If there is a conflict between the provisions of this chapter and the Colorado medical marijuana code or the state administrative regulations, the provisions of this chapter shall control to the fullest extent permitted by applicable law.

14-204. License Required.

(a) License Required. It shall be unlawful for any person to operate a medical marijuana business without obtaining a license to operate pursuant to the requirements of this chapter.

(b) Additional Licenses and Permits May be Required. The license requirement set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license or any applicable zoning or building permit.

(c) License Does Not Provide any Exception, Defense or Immunity from other Laws. The issuance of any license pursuant to this chapter does not create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of marijuana.

(d) Separate License Required for Each Location. A separate license shall be required for each premises from which a medical marijuana business is operated. No two or more different medical marijuana businesses may be treated as one premises. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation wall between a medical marijuana business and any adjacent business.

(e) License Nontransferable; Exceptions. A medical marijuana business license is not transferable or assignable, including, without limitation, not transferable or assignable to a different premises, to a different type of business or to a different owner or licensee. A medical marijuana business license is valid only for the owner named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued. The licensees of a medical marijuana business license are only those persons disclosed in the application or subsequently disclosed to the City in accordance with this chapter. A transfer of a licensed medical marijuana business shall be permitted in the following circumstance:

- (1) The new owner and all licensees of the business have previously been approved by the City as part of another licensed medical marijuana business;
- (2) The new owner applies for and receives a new medical marijuana business license for the new location; and
- (3) The license transfer location is permitted without the exceptions of subsection 6-14-7(c) or (f) of this chapter.

14-205. License Type; Application Fee; Administrative Service Fees:

(a) An applicant shall pay to the City a nonrefundable application fee when the application is filed. The purpose of the fee is to cover the direct and indirect costs to the City of administering the local licensing mechanism established by this chapter. The application fees are as follows:

(1) New medical marijuana center license:

Type Of License	Local Application Fee
Type 1 center	\$ 2,812.50
Type 2 center	6,562.50
Type 3 center	10,500.00

(2) New optional premises cultivation license: Two thousand sixty two dollars fifty cents (\$2,062.50).

(3) New medical marijuana-infused products manufacturer's license: Two thousand sixty two dollars fifty cents (\$2,062.50).

14-206. General Provisions.

(a) General Licensing Provisions. The general procedures and requirements of licenses, as set forth more fully in this Chapter shall apply to medical marijuana business licenses. To the extent there is any conflict between the provisions of this chapter and any other provision of the Trinidad Municipal Code, the provisions of this chapter shall control for medical marijuana business licenses.

(b) Defense to Criminal Prosecutions. Compliance with the requirements of this chapter shall not provide an exception, immunity or defense to criminal prosecution under any applicable law, except in the Trinidad Municipal Court, for a violation of this chapter as specifically provided herein.

(c) Decisions on Application or Revocation Final. The decision of the City Council on an application for a medical marijuana business license or revocation thereof pursuant to this chapter shall be the final decision of the City subject only to judicial review pursuant to Colorado Rule of Civil Procedure 106(a)(4). No defense or objection may be presented for judicial review unless it is first presented to the City Council prior to the decision.

(d) Forfeiture of License. In the event that a medical marijuana business does not commence operations within thirty days of issuance of a license from the City, the license shall be deemed forfeited and the business may not commence operations.

(e) Landlord Duty. It shall be a requirement of any applicant for a medical marijuana business license that the applicant provide a letter of approval from the applicant's landlord. Said letter must acknowledge that the landlord is aware of and consents to the conducting of a medical marijuana business on the premises that he/she owns or is legally responsible for.

14-207. Application.

(a) Application Requirements. An application for a medical marijuana business license shall be made to the City on forms provided by the City Clerk for that purpose and thereafter filed with the City Clerk. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule or regulation. The application shall include the following information:

(1) Name and address of the owner or owners of the medical marijuana business in whose name the license is proposed to be issued.

(A) If an owner is a corporation, the name and address of any officer or director of the corporation and of any person holding issued and outstanding capital stock of the corporation.

(B) If an owner is a partnership, association or company, the name and address of any person holding an interest therein and the managing members. If a managing member is an entity rather than an individual, the same disclosure shall be required for each entity with an ownership interest until a managing member that is a natural person is identified.

(C) If an owner is not a natural person, the organizational documents for all entities identified in the application, identification of the natural person that is authorized to speak for the entity and contact information for that person.

(2) Name and address of:

(A) Any business managers of the medical marijuana business, if the business manager is proposed to be someone other than the owner;

(B) All financiers of the medical marijuana business; and

(C) All agents of the medical marijuana business who either (I) act with managerial authority, (II) provide advice to the medical marijuana business for compensation, or (III) receive periodic compensation totaling \$1,000.00 or more in a single year for services related to the medical marijuana business. It shall not be a requirement to provide required information pursuant to this provision if said agent is a licensed attorney, accountant, bookkeeper, mail delivery person or other contractor performing services for the business that are unrelated to the cultivation, production or distribution of medical marijuana.

(3) A statement of whether or not any of the named owners, members, business managers, financiers, primary caregivers or persons named on the application have been:

(A) Denied an application for a medical marijuana business license pursuant to this chapter or any similar state or local licensing law, rule or regulation, or had such a license suspended or revoked.

(B) Denied an application for a liquor license pursuant to Title 12, Article 47 or Article 46, C.R.S., or any similar state or local licensing law, or had such a license suspended or revoked.

(C) In violation of any law, other than a traffic offense, or completed any portion of a sentence due to a violation of any law.

(D) Convicted of driving or operating other machinery under the influence of alcohol, drugs or medication, driving while impaired or driving with excessive alcohol content in violation of § 42-4-1301, C.R.S., or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.

(4) Proof of ownership or legal possession of the medical marijuana business premises for the term of the proposed license. If the medical marijuana business is not the owner of the premises of the business, the applicant shall provide written authorization to the City from the owner to enter the property for inspection of the premises on a form approved by the City.

(5) An operating plan for the proposed medical marijuana business, including the following information:

(A) A description of the products and services to be provided by the medical marijuana business.

(B) A dimensioned floor plan, clearly labeled, showing:

(i) The layout of the premises and the floor plan in which the medical marijuana business is to be located;

(ii) The principal uses of the floor area depicted on the floor plan, including but not limited to the areas where nonpatients will be permitted, private consulting areas, storage areas, retail areas and restricted areas where medical marijuana will be located;

(iii) Areas where any services other than the distribution of medical marijuana are proposed to occur in the premises; and

(iv) The separation of the areas that are open to persons who are not patients from those areas open to patients.

(C) For cultivation facilities and medical marijuana-infused product manufacturers, a plan that specifies the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City as set forth in Chapter 12, Section 12-49, Prohibited Discharges; Exceptions.

(D) For a medical marijuana-infused product manufacturer, a plan that specifies all means to be used for extraction, heating, washing or otherwise changing the form of the medical marijuana plant, and verification of compliance with all applicable laws for ventilation and safety measures for each process. The City shall require the medical marijuana business to obtain a report from an industrial hygienist to verify that the plan submitted, and the improvements to be constructed, adequately protect the business and adjacent properties and persons and comply with all applicable laws.

(6) A security plan indicating how the applicant will comply with the requirements of this chapter and any other applicable law, rule or regulation. The security plan includes specialized details of security arrangements and will be protected from disclosure as provided under the Colorado Open Records Act, § 24-72-203(2)(a)(VIII), C.R.S. If the City finds that such documents are subject to inspection, it will attempt to provide at least twenty-four-hour notice to the applicant prior to such disclosure.

(7) A lighting plan showing the lighting outside of the medical marijuana business for security purposes. It shall be required that a free-standing medical marijuana business is well illuminated on all four sides of the building. If a medical marijuana business shares a wall or walls with other businesses, the exterior of any wall shall be well illuminated.

(8) A zoning confirmation form from the City, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the medical marijuana business is located, the proximity of the property to any school or state licensed child care center, to any other medical marijuana business or to any

residential zone district, school or state-licensed child care center, to any other medical marijuana business or to any residential zone district.

(9) Fingerprints and personal histories as may be specified on forms provided by the City Clerk. This requirement shall apply to all owners, business managers, financiers and caregivers employed by or under contract to provide services to the medical marijuana business, including all individuals who have an interest as described herein of any portion of the medical marijuana business, directly or as an agent, or a member, partner or officer of a corporation, partnership, association or company.

(10) A plan for disposal of any medical marijuana or medical marijuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

(11) A plan for ventilation of the medical marijuana business that describes the ventilation systems that will be used to prevent any odor of medical marijuana off the premises of the business. For medical marijuana businesses that grow medical marijuana plants, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises. For medical marijuana businesses that produce medical marijuana infused products, such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

(12) A description of all toxic, flammable or other materials regulated by a federal, state or local government with authority over the business that will be used or kept at the medical marijuana business, the location of such materials and how such materials will be stored.

(a) Evidence of Rehabilitation May Be Submitted. In the event the history of an owner, member, business manager, financier, primary caregiver or other person named on the application contains information regarding violations of any law, or previous denial or revocation of a license, that person may include with the license application any information regarding such violation, denial or revocation. Such information may include, but is not limited to, evidence of rehabilitation, character references and educational achievements, and other regulatory licenses held without compliance violations, especially those items pertaining to the period of time between the applicant's last violation of any law and the date of the application.

(b) Fee Required. Any application for a medical marijuana business permit shall be accompanied by the application fee, criminal background check fee, the annual license fee as required by Section 14-205 and any other applicable fees.

(c) Inspections. Inspections of the proposed medical marijuana business by the City shall be required prior to issuance of a license. Such inspection shall occur after the licensed premises are ready for operation, but prior to the stocking of the business with any medical marijuana, and prior to the opening of the business to any patients or the public. The inspections are to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of the code and any other applicable law, rule or regulation.

(d) Investigation. For purposes of section § 12-43.3-303(2), C.R.S., the investigation of the application by the City is not complete until the City Council has (i) determined the application is complete, (ii) determined the

medical marijuana business is prepared and able to operate in compliance with all applicable laws, (iii) conducted an inspection of the business, (iv) obtained all other information the City Clerk determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions, and (v) prepared the documentation necessary to support the decision made by the City Council on the application.

(e) Approval Requirements. The City Council may issue a medical marijuana business license if the inspection, background checks and all other information available to the City verify that the applicant has submitted a full and complete application, has made improvements to the business location consistent with the application and is prepared to operate the business with other owners and managers as set forth in the application, all in compliance with this Code and any other applicable law, rule or regulation. The City Council will deny any application that does not meet the requirements of this chapter or any other applicable law, rule or regulation or that contains any false or incomplete information. The conditions of an approval of a medical marijuana business license shall include, at a minimum, operation of the business in compliance with all of the plans and information made part of the application.

14-208. Persons Prohibited as Licensees and Business Managers.

(a) It shall be unlawful for any of the following persons to have an ownership or a financial interest in a medical marijuana business, and no license provided by this chapter shall be issued to or held by, and no medical marijuana business shall be managed by:

- (1) Any person until the annual fee for the license has been paid;
- (2) Any person not of good moral character;
- (3) Any corporation, any of whose officers, directors or stockholders are not of good moral character;
- (4) Any partnership, association or company, any of whose officers or members holding an interest therein, or a managing member, are not of good moral character;
- (5) Any person employing, assisted by or financed in whole or in part by any other person who is not of good moral character;
- (6) Any person, unless such person's character, record and reputation are satisfactory to the city manager;
- (7) Any natural person who is under twenty-one years of age; or
- (8) Any person who operates or manages a medical marijuana business contrary to the provisions of this chapter, any other applicable law, rule or regulation, or conditions imposed on land use or license approvals, or contrary to the terms of the plans submitted with the license application, as such plans may be amended as provided in this chapter, or has operated a business in violation of any law.
- (9) A licensed physician making patient recommendations;

(10) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to remedy an outstanding delinquency for taxes owed, or an outstanding delinquency for judgments owed to a government.

(11) A sheriff, deputy, police officer or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

(12) A person whose authority to be a primary caregiver as defined in § 25-1.5-106(2), C.R.S., has been revoked by the state health agency; or

(13) A person who is a licensee for a location that is currently licensed as a retail food establishment or a wholesale food registrant.

(b) In making the evaluation of the good moral character of an individual identified on an application or amendment thereof, the City Council shall consider the following:

(1) An applicant's violation of a law shall not, by itself, be grounds for denying an application;

(2) Verification of or lack of ability to verify items disclosed by the individual;

(3) When an individual has a history of violation of any law or a history including denial, revocation or suspension of a license, the types and dates of violations; the evidence of rehabilitation, if any, submitted by the individual; whether the violations of any laws are related to moral turpitude, substance abuse or other violations of any laws that may directly affect the individual's ability to operate a medical marijuana business; or whether the violations of any law are unrelated to the individual's ability to operate such a business;

(4) The evidence or lack of evidence regarding the ability of the individual to refrain from being under the influence of intoxicating or controlled substances while performing regular tasks and operating a medical marijuana business;

(5) Rules adopted by the City Council to implement this chapter;

(6) Law, rules and regulations applicable to evaluation of other types of licenses issued by governments that consider the good moral character of the applicants; and

(7) Any additional information the city manager may request of the individual if the individual has a violation of any laws, an administrative or judicial finding of violation of laws regarding use of alcohol or controlled substances or items disclosed by the individual which require additional information in order for the City Council to make a determination regarding issuance of the license.

14-209. Locations of Medical Marijuana Businesses.

(a) Fixed Location Required. It shall be unlawful to operate a medical marijuana business or to grow medical marijuana outside of an enclosed building. All medical marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows medical marijuana may be produced, dispensed or possessed shall be considered the "restricted area" portion of the business premises.

(b) Location – Permitted Use in Zoning District. A medical marijuana business license may be issued only if the business qualifies as a use permitted as a matter of right in the zone district where it is proposed to be located as follows:

(1) As "Community Commercial" or "Industrial" or "Historic Preservation" for a medical marijuana center;

(2) As "Industrial" for a cultivation facility; or

(3) As "Industrial" for a medical marijuana-infused product manufacturer.

No medical marijuana center, optional premises cultivation center, or medical marijuana-infused products manufacture premises, shall be issued a license if, at the time of the initial application for such license, the proposed location is:

(1) within 500 feet of any School; (1000 feet of a school=state statute)

(2) within 500 feet of another medical marijuana business; ????????

(3) within 100 feet of a residential dwelling unit;

(4) within any residential zoning district;

Further, location of optional premises cultivation centers and medical marijuana-infused products manufacture premises shall be restricted to the Trinidad Industrial Park??? (The City doesn't provide electric power in Industrial Park)

(c) No Medical Marijuana Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a medical marijuana business in a building which contains a residence, within a dwelling unit within any zone district, or within a residential zone district

(d) No Retail Sales in Cultivation Facilities or Manufacturing. It shall be unlawful for any person to permit retail sales within a medical marijuana business that is a cultivation facility or medical marijuana-infused product manufacturer.

(e) Distribution by Primary Caregiver. It shall be unlawful for any person to distribute medical marijuana to a patient except (1) directly to a patient upon the restricted area or (2) via personal delivery of the medical marijuana by the primary caregiver to the patient at the patient's residence as provided in this chapter.

(f) Limitations on Medical Marijuana Centers. The following shall be the minimum requirements for a medical marijuana center:

(1) The area of the business is 3,000 square feet or less;

(2) The business does not distribute medical marijuana only, but provides other caregiver services consistent with a wellness center, including but not limited to health treatments or therapy generally not performed by a medical doctor or physician, such as physical therapy, massage, acupuncture, aromatherapy, yoga, audiology or homeopathy or knowledgeable consultation on the effects of amount and forms of ingestion of different types of marijuana for medical use;

(3) The business includes a secured and locked medical marijuana dispensary room, one or more private rooms for consultation on the medical use of marijuana or other services and a separate reception area for screening of patients and waiting for nonpatients.

(4) All caregiver services provided to meet the requirements of this section must comply with all applicable requirements of any federal, state or local entity with jurisdiction applicable to the service provided.

14-210. Requirements Related to Operation of Medical Marijuana Businesses.

(a) Onsite Use Prohibited. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the medical marijuana business.

(b) Age Limitations. No person under eighteen years of age shall be in the restricted area, unless the person is accompanied by a parent or guardian.

(c) Display of Licenses Required. The name and contact information for the owner or owners and any business manager of the medical marijuana business, the medical marijuana business license and the sales tax license shall be conspicuously posted in the business.

(d) Business Conducted Within Building. Any and all cultivation, production, distribution, possession, storage, display, sales or other distribution of marijuana shall occur only within the restricted area of a medical marijuana business and shall not be visible from the exterior of the business.

(e) Owner or Business Manager Required on Premises. No medical marijuana business shall be managed by any person other than the licensee or the business manager listed on the application for the license or a renewal thereof. Such licensee or business manager shall be on the premises and responsible for all activities within the licensed business during all times when the business is open or in the possession of another person. In the event the licensee intends to employ a business manager that was not identified on the license or renewal application, the licensee shall report the name of such business manager to the City, and such business manager shall submit to the City, at least thirty days prior to commencing serving as the business manager, an application containing all of the information required by this chapter and on the license application. Such licensee shall report to the City any change in business managers at least thirty days prior to employing an additional business manager, and no more than five days after a business manager is released from such position.

(f) Hours of Operation. A medical marijuana center shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 7:00 p.m. and 8:00 a.m.

(g) Use of Pesticides. No pesticides or insecticides which are prohibited by applicable law for fertilization or production of edible produce shall be used on any marijuana cultivated, produced or distributed by a medical marijuana business.

(h) Ventilation Required. A medical marijuana business shall be ventilated so that the odor from marijuana cannot be detected by a person with a normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

(j) Limitations on Inventory. The medical marijuana business shall not maintain any more marijuana within the premises than is permitted under applicable law for the patients which have designated the business as primary caregiver. The medical marijuana business shall not maintain any more marijuana than the amount stated on the business license application to the state. No plants shall be located in a medical marijuana center or a medical marijuana-infused product manufacturer. The medical marijuana business shall maintain current records evidencing the status as patients of those who have designated the business as the patient's primary caregiver.

(k) Reporting Requirements. A medical marijuana business shall report to the medical marijuana licensing authority each of the following within the time specified. If no time is specified, the report shall be provided within seventy-two hours of the event.

(1) Transfer or change of financial interest, business manager, financier and primary caregiver in the license to the City at least thirty days before the transfer or change.

(2) Sales tax reports to the Colorado Department of Revenue as required.

(3) A violation of any law by any licensee or applicant of a medical marijuana business.

(4) A notice of potential violation of any law by any licensee.

(5) Any report that the medical marijuana business is required to provide to the state.

(6) Reports of all criminal activities or attempts of violation of any law at the medical marijuana business or related thereto shall be reported to the Trinidad Police Department immediately.

(l) Delivery to Patients. In the event a primary caregiver personally delivers medical marijuana to one or more patients, at all times any medical marijuana is outside of the restricted area:

(1) The medical marijuana shall be packaged, sealed and labeled as provided in this chapter. The label shall include the name of the patient to whom it is being delivered.

(2) The primary caregiver delivering the medical marijuana shall have in the primary caregiver's possession documents evidencing: (i) the patient identified on each package of medical marijuana has designated the person as the patient's primary caregiver; (ii) the patient requested delivery of medical marijuana

by the primary caregiver; (iii) the amount of the requested delivery; (iv) the date of the requested delivery; and (v) if more than two ounces is being delivered to a patient, a copy of the doctor's recommendation for that patient specifying the additional amount of medical marijuana medicinally necessary for that patient on the form provided by the City.

(3) The delivery is made directly to a patient who has a valid registration card and a valid picture identification card that matches the name on the registration card.

(4) In no event shall the primary caregiver be in possession of more than eight ounces of a usable form of medical marijuana for delivery outside of the restricted area.

(m) Delivery Between Medical Marijuana Businesses. It shall be unlawful for any person to transport medical marijuana, except as specifically allowed by applicable law, unless the medical marijuana being transported meets the following requirements:

(1) All medical marijuana-infused products are hand-packaged, sealed and labeled as provided in this chapter and the products stored in closed containers that are labeled as provided in this section.

(2) All medical marijuana in a usable form for medicinal use is packaged and stored in closed containers that are labeled as provided in this section.

(3) Each container used to transport medical marijuana is labeled with the amount of medical marijuana or medical marijuana-infused products, or the number and size of the plants, in the container. The label shall include the name and address of the medical marijuana business that the medical marijuana is being transported from and the name and address of the medical marijuana business that the medical marijuana is being transported to. The label shall be shown to any law enforcement officer who requests to see the label.

(4) Unless otherwise specifically allowed by applicable law, medical marijuana may be transported only:

(A) From a cultivation facility to a medical marijuana business; and

(B) Which medical marijuana business is owned by the same person as owns the cultivation facility; or

(C) Between one medical marijuana center to another center or between a medical marijuana-infused product manufacturer and a medical marijuana center, with proper bill of sale completed before transport.

(5) The medical marijuana must be accompanied by the manifest and confirmation e-mail from the state in accordance with state requirements for transportation of medical marijuana.

(6) When determining and reporting the route to take, licensees should select the most direct route that provides efficiency and safety.

(n) Disposal of Medical Marijuana and Marijuana Byproducts. All medical marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the

business in compliance with all applicable laws. This provision shall not apply to licensed law enforcement, including, without limitation, the Trinidad Police Department and the Trinidad Fire Department.

(o) Possession of Mature Flowering Plants. No more than one-half of the medical marijuana plants within a medical marijuana business or possessed by a patient may be mature, flowering plants producing a usable form of marijuana. ??????

(p) Advertisement. A medical marijuana business may not advertise in a manner that is inconsistent with the medicinal use of medical marijuana. A medical marijuana business may not advertise in a manner that is misleading, deceptive, false or is designed to appeal to minors. Advertisement that promotes medical marijuana for recreational or any use other than for medicinal purposes shall be a violation of this code. The following conditions shall apply:

(1) Any person licensed as a medical marijuana center or a medical marijuana-infused products manufacturer shall include in any advertisement for medical marijuana or any medical marijuana-infused product the following language: "For registered Colorado medical marijuana patients only." Provided, however, this language shall not be required to be displayed upon any sign identifying a medical marijuana center, as permitted by subparagraph (2)(a) below.

(2) Except as otherwise provided in this paragraph, it shall be unlawful for any person licensed under this article or any other person to advertise any medical marijuana or medical marijuana-infused product anywhere in the City where the advertisement is in plain view of or in a place open to the general public, including advertising utilizing any of the following media: any billboard or other outdoor general advertising device as defined by the zoning code; any sign mounted on a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this paragraph shall not apply to:

- a. Any sign located on the same zone lot as a medical marijuana center which exists solely for the purpose of identifying the location of the medical marijuana center and which otherwise complies with this code and any other applicable city laws and regulations;
- b. Any advertisement contained within a newspaper, magazine or other periodical of general circulation within the City or on the internet; or
- c. Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana center or a medical marijuana-infused products manufacturer.

(3) It is an affirmative defense if a medical marijuana business employee provided another individual, upon request, a business card for the purpose of providing that person's name and business affiliation, including, without restriction, title, mailing address, email address and telephone number.

(q) The owner or manager is required to respond by phone or email within twenty-four hours of contact by a city official concerning their medical marijuana business at the phone number or email address provided to the

City as the contact for the business. Each twenty-four-hour period during which an owner or manager does not respond to the city official shall be considered a separate violation.

(r) Separation of Cultivation Facility and Medical Marijuana-Infused Product Manufacturer. A cultivation facility and manufacturer are separate medical marijuana businesses requiring separate licenses and separate premises. In addition to all other application requirements for separate premises, each business shall:

(1) Have separate operations, ventilation, security and fire suppression systems, and separate access from a public area.

(2) Be divided within a building from floor to roof. Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation between a medical marijuana business and any adjacent business.

(3) Obtain delivery documents and manifests for movement of any marijuana between the cultivation facility and the manufacturer.

(s) Additional Requirements for Production of Medical Marijuana.

(1) No medical marijuana business may use metals, butane, propane or other flammable product, or produce flammable vapors to process marijuana unless the process used and the premises are verified as safe and in compliance with all applicable codes by a qualified industrial hygienist.

(2) The City shall require the business to obtain verification from a qualified industrial hygienist that the manner in which the business is producing medical marijuana complies with all applicable laws and does not produce noxious or dangerous gases or odors or otherwise create a danger to any person or entity in or near the businesses.

(t) Packaging at a Medical Marijuana Center. Provided that medical marijuana has been delivered to a medical marijuana center from its cultivation facility packaged and labeled as provided in this chapter, employees at a medical marijuana center may package and label any marijuana that results from the sale of medical marijuana in amounts less than as packaged for delivery to the center.

14-211. Right of Entry – Records to Be Maintained.

(a) Records to Be Maintained. Each licensee shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, correspondence, bank statements including cancelled checks and deposit slips and all other records necessary to show fully the business transactions of such licensee. Receipts shall be maintained in a computer program or by pre-numbered receipts and use for each sale. The records of the business shall clearly track medical marijuana product inventory purchased and sales and disposal thereof to clearly track revenue from sales of any medical marijuana from other paraphernalia or services offered by the medical marijuana business. The licensee shall also maintain inventory records evidencing that no more medical marijuana was within the medical marijuana business than allowed by applicable law for the number of patients who designated the medical marijuana business owners as their primary caregiver and the maximum amount represented to the state for its license from the state. All such

records shall be open at all times during business hours for the inspection and examination of the City or its duly authorized representatives. The City may require any licensee to furnish such information as it considers necessary for the proper administration of this chapter. The records shall clearly show the source, amount, price and dates of all marijuana received or purchased, and the amount, price, dates and patient or caregiver for all medical marijuana sold.

(b) Separate Bank Accounts. The revenues and expenses of the medical marijuana business shall not be commingled in a checking account or any other bank account with any other business or individual person's deposits or disbursements.

(c) Disclosure of Records. By applying for a medical marijuana business license, the licensee is providing consent to disclose the information required by this chapter, including information about patients and caregivers. Any records provided by the licensee that includes patient or caregiver confidential information may be submitted in a manner that maintains the confidentiality of the documents under the Colorado Open Records Act, § 24-72-201, et seq., C.R.S., or other applicable law. Any document that the applicant considers eligible for protection under the Colorado Open Records Act shall be clearly marked as confidential, and the reasons for such confidentiality shall be stated on the document. In the event that the licensee does appropriately submit documents so as not to be disclosed under the Colorado Open Records Act, the City shall not disclose it to other parties who are not agents of the City, except law enforcement agencies. If the City finds that such documents are subject to inspection, it will provide at least twenty-four-hour notice to the applicant prior to such disclosure.

(d) Audits. The City may require an audit to be made of the books of account and records of a medical marijuana business on such occasions as it may consider necessary. Such audit may be made by an auditor to be selected by the City that shall likewise have access to all books and records of the medical marijuana business. The expense of any audit determined necessary by the City shall be paid by the medical marijuana business.

(e) Consent to Inspection. Application for a medical marijuana business license or operation of a medical marijuana business, or leasing property to a medical marijuana business constitutes consent by the applicant, and all owners, managers and employees of the business, and the owner of the property to permit the city manager to conduct routine inspections of the medical marijuana business to ensure compliance with this chapter or any other applicable law, rule or regulation. The owner or business manager on duty shall retrieve and provide the records of the business pertaining to the inspection. For purposes of Rule 241 of the Colorado Rules of Municipal Procedure and this code, inspections of medical marijuana businesses and recordings from security cameras in such businesses are part of the routine policy of inspection and enforcement of this chapter for the purpose of protecting the public safety, individuals operating and using the services of the medical marijuana business, and the adjoining properties and neighborhood, as provided in this code. Application for a medical marijuana business license constitutes consent to inspection of the business as a public premises without a search warrant, and consent to seizure of any surveillance records, camera recordings, reports or other materials required as a condition of a medical marijuana license without a search warrant.

(f) Reporting of Source, Quantity and Sales. The records to be maintained by each medical marijuana business shall include the source and quantity of any marijuana distributed, produced or possessed within the premises.

Such reports shall include, without limitation, for both acquisitions from wholesalers and transactions to patients or caregivers, the following::

- (1) Name and address of seller or purchaser;
- (2) Date, weight, type of marijuana and dollar amount or other consideration of transaction; and
- (3) For wholesale transactions, the state and City, if any, sales and use tax license number of the seller.

14-212. Requirements Related to Monitoring and Security of Restricted Areas and Inventory.

All equipment and components of the security plan submitted with the application, as it may be amended, shall be in good working order, monitored and secured twenty-four hours per day. A separate security system is required for each business. The security plan must include, at a minimum, the following security measures:

(a) Cameras. The medical marijuana business shall install and use security cameras to monitor and record all areas of the premises (except in restrooms and consulting rooms while a patient is undressed), and where persons may gain or attempt to gain access to marijuana or cash maintained by the medical marijuana business. Cameras shall record operations of the business to the off-site location, as well as all potential areas of ingress or egress to the business with sufficient detail to identify facial features and clothing. Recordings from security cameras shall be maintained for a minimum of thirty days in a secure off-site location in the City or through a service over a network that provides on-demand access, commonly referred to as a "cloud." The off-site location shall be included in the security plan submitted to the City and provided to the Trinidad Police Department upon request, and updated within seventy-two hours of any change of such location.

(b) Use of Safe for Storage. The medical marijuana business shall install and use a safe for storage of any processed marijuana and cash on the premises when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached thereto. For medical marijuana-infused products that must be kept refrigerated or frozen, the business may lock the refrigerated container or freezer in a manner authorized by the City in place of use of a safe so long as the container is affixed to the building structure.

(c) Alarm System. The medical marijuana business shall install and use an alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information, and updated within seventy-two hours of any change of monitoring company.

14-213. Requirements for Public Health and Labeling.

(a) Medical Marijuana-Infused Products. The production of any medical marijuana-infused product shall be at a medical marijuana-infused product manufacturer that meets all requirements of a retail food establishment as set forth in § 25-4-1601, et seq., C.R.S., the Food Protection Act. The production of any product containing medical marijuana shall comply with all health and safety standards thereof. The licensee shall comply with all applicable state and local health regulations related to the production, preparation, labeling and sale of prepared food items as if the medical marijuana-infused products were food items.

(b) Labeling and Packaging Requirements. All medical marijuana sold or otherwise distributed by the licensee shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana and specifies the amount of marijuana in the product, that the marijuana is intended for medical use solely by the patient to whom it is sold, and that any resale or redistribution of the medical marijuana to a third person is prohibited. In addition, the label shall be in print large enough to be readable and shall include:

(1) Potential food allergy ingredients, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat and soybeans.

(2) All additives used to extract THC, including, without limitation, pesticides, herbicides and fertilizers that were used in the cultivation of the medical marijuana used in the product.

(3) The following warning:

THIS PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY OR EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE INGESTION OR USE OF THIS PRODUCT.

(c) The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

14-214. Compliance with Other Applicable Law.

(a) Application of State Law. Except as may be provided otherwise in this chapter, or rules adopted pursuant to this chapter or interpretations by the City, any law or regulation adopted by the state governing the cultivation, production, possession or distribution of marijuana for medical use shall also apply to medical marijuana businesses in the City. Provided however, if a state law or regulation permits what this chapter prohibits, this chapter shall prevail. Compliance with any applicable state law or regulation that does not permit what this chapter prohibits shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation is unlawful and shall be grounds for revocation or suspension of any license issued under this chapter. No medical marijuana business shall continue operations in violation of an additional state law or regulation, which does not permit what this chapter prohibits, applicable within the City after the effective date of the state law or regulation.

(b) Revocation of License Upon Denial or Revocation of State License or Applicable Federal Prohibition. If the state prohibits the cultivation, production, possession or other distribution of marijuana through medical marijuana businesses, or if a medical marijuana business is denied a medical marijuana business license or has such license revoked pursuant to § 12-43.3-101, et seq., C.R.S., or if a court of competent jurisdiction determines that the federal government's prohibition of the cultivation, production, possession or other distribution of marijuana through medical marijuana businesses supersedes state law, any license issued pursuant to this chapter shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

(c) Revocable Privilege. A medical marijuana business license is a revocable privilege, and no applicant therefor or holder thereof shall be deemed to have acquired any property interest therein.

14-215. Prohibited Acts.

(a) Prohibited Acts. It shall be unlawful for any person to:

- (1) Smoke, use or ingest marijuana for medical use in plain view of or in a place open to the general public.
- (2) Smoke, use or ingest on the premises of the medical marijuana business (1) marijuana, (2) fermented malt beverage, (3) malt, vinous and spirituous liquor, or (4) a controlled substance, except in compliance with the directions on a legal prescription for the person from a doctor with prescription writing privileges.
- (3) Operate or be in physical control of any medical marijuana business, liquor establishment, vehicle, aircraft or motorboat while under the influence of alcohol, medical marijuana, or other intoxicant.
- (4) Possess or use medical marijuana:
 - (A) on the grounds of a school, university or in a school bus; or
 - (B) use in a vehicle, aircraft or motorboat.
- (5) Possess medical marijuana that is not in a sealed package in a location where the possessor is not authorized to possess or consume medical marijuana.
- (6) Possess more than six marijuana plants without a medical marijuana business license for a cultivation facility. It shall be an affirmative defense to this charge if (a) a legitimate recommendation from a qualified physician of the patient for whom the marijuana is being grown includes a recommendation for a specific amount of marijuana in excess of six marijuana plants as being medically necessary to address the patient's debilitating medical condition and (b) the plants are located within a licensed medical marijuana business.
- (7) Possess more than two ounces of a usable form of marijuana without a medical marijuana business license for a center or a medical marijuana-infused product manufacturer. It shall be an affirmative defense to this charge if a legitimate recommendation from a qualified physician of the patient possessing the medical marijuana includes a recommendation for a specific amount of marijuana in excess of two ounces as being medically necessary to address the patient's debilitating medical condition.
- (8) Obtain marijuana from a person who is not licensed as a medical marijuana business.
- (9) Possess or operate a medical marijuana business in violation of this chapter.
- (10) Produce, distribute or possess more medical marijuana than allowed in this chapter than disclosed in the application to the state for a medical marijuana business license or other applicable law.
- (11) Distribute medical marijuana without a medical marijuana business license or outside of the restricted area of the medical marijuana business.

- (12) Possess medical marijuana, own or manage a medical marijuana business, or own or manage a building with a medical marijuana business, where there is possession of medical marijuana by a person who is not a patient, a primary caregiver or a licensee of a medical marijuana business.
- (13) Possess or operate a medical marijuana business in a location or in a manner for which a medical marijuana business license is prohibited by the terms of this chapter.
- (14) Operate a medical marijuana business without a medical marijuana business license from the City.
- (15) Operate a medical marijuana business in a manner that is not consistent with the items disclosed in the application for the medical marijuana business, or is in violation of any plan made part of the license application.
- (16) Operate a medical marijuana business without disclosing, in the application for a medical marijuana business license or an amendment thereto, an agent who either (I) acts with managerial authority, (II) provides advice to the medical marijuana business for compensation, or (III) receives periodic compensation totaling \$1,000.00 or more in a single year for services related to the medical marijuana business. It shall be an affirmative defense that the undisclosed person was an attorney, accountant, bookkeeper or mail delivery person.
- (17) Distribute, or own or manage a medical marijuana business where distribution occurs, from a medical marijuana business, a medical marijuana-infused product that was produced in a manner that is not in compliance with this chapter.
- (18) Cultivate, manufacture, distribute or possess any medical marijuana at a location without a medical marijuana business license prior to passing the inspections required by this chapter.
- (19) Make any changes, or for the licensee to allow any changes, to the items included in the plans submitted with the license application and approved by the City, or the individuals identified in the application, without prior approval of the City.
- (20) Attempt to use or display a medical marijuana business license at a different location or for a different business entity than the location and business entity disclosed on the application for the issued license.
- (21) Cultivate, produce, distribute or possess medical marijuana, or own or manage a medical marijuana business in which another cultivates, produces, distributes or possesses medical marijuana, in violation of this chapter or any other applicable law.
- (22) Allow an owner or business manager that has not been disclosed to the City as required by this chapter to operate the business.
- (23) Own, manage or possess a medical marijuana business where medical marijuana is outside of the restricted area portion of such business. It shall be an affirmative defense to a violation of this section if the medical marijuana outside of the restricted area was: (i) in the custody and control of a patient; (ii) purchased by that patient from the business and the patient has not left the business since purchase; and

(iii) the amount of medical marijuana in the custody and control of the patient does not exceed the amount the patient may possess lawfully.

(24) Possess a number of flowering plants that is more than one-half of the medical marijuana plants that are lawfully possessed by a person.

(25) Dispose of medical marijuana or any byproduct of medical marijuana containing marijuana in a manner contrary to this chapter.

(26) Distribute a medical marijuana plant to any person.

(27) Deliver or transport medical marijuana to a patient or between medical marijuana businesses except in strict compliance with this chapter.

(28) Refuse to allow inspection of a medical marijuana business upon request of a city official or city officer. Any licensee, owner, business manager or operator of a medical marijuana business, or the owner of the property where a medical marijuana business is located, may be charged with this violation.

(29) Advertise or publish materials or display signs that are in violation of this code.

(30) Violate any provision of this code or any condition of an approval granted pursuant to this code or any law, rule or regulation applicable to the use of medical marijuana or the operation of a medical marijuana business.

(31) Permit any other person to violate any provision of this code or any condition of an approval granted pursuant to this code, or any law, rule or regulation applicable to the use of medical marijuana or the operation of a medical marijuana business.

(32) Lease any property to a medical marijuana business that has marijuana on the property without a medical marijuana business license from the City.

14-216. Suspension or Revocation of License; Imposition of Fines.

(a) A medical marijuana business license may be suspended or revoked for any of the following violations:

(1) Conviction of the business, a licensee or any owner, business manager, financier or primary caregiver of any violation of this chapter or any other law, rule or regulation applicable to the use of medical marijuana or operation of a medical marijuana business.

(2) Misrepresentation or omission of any material fact, or false or misleading information, on the application or any amendment thereto, or any other information provided to the City related to the medical marijuana business.

(3) Violation of any law by which, if occurring prior to submittal of the application, could have been cause for denial of the license application.

(4) Distribution of medical marijuana, including, without limitation, delivery to a patient or transporting marijuana, in violation of this chapter or any other applicable law, rule or regulation.

(5) Operation of a medical marijuana business in violation of the specifications of the license application, any conditions of approval by the City, or any violation of this chapter or any other law, rule or regulation applicable to the use of medical marijuana or operation of a medical marijuana business.

(6) Failure to maintain, or provide to the City upon request, any books, recordings, reports or other records required by this chapter.

(7) Failure to timely notify the City and to complete necessary city forms for changes in financial interest, business managers, financier or agent.

(8) Temporary or permanent closure, or other sanction of the business, by the City, or by the county or State Public Health Department or other governmental entity with jurisdiction, for failure to comply with health and safety provisions of this chapter or otherwise applicable to the business or any other applicable law.

(9) Revocation or suspension of another medical marijuana business license or any other license issued by the City, the state, or any other jurisdiction held by any licensee of the medical marijuana business.

(10) Failure to timely correct any violation of any law, or comply with any order to correct a violation of any law within the time stated in the notice or order.

(b) In the event a business or licensee is charged with violation of any law, upon which a final judgment would be grounds for suspension or revocation of the license, the City may suspend the license pending the resolution of the alleged violation.

(c) Fines for violations of this chapter may be imposed by the City against the business or any licensee up to \$5,000.00 per licensee per occurrence.

(d) If the City revokes or suspends a license, the business may not move any marijuana from the premises except under the supervision of the Trinidad Police Department.

14-217. Term of License – Renewals – Expiration of License.

(a) Term of License. A medical marijuana business license shall be valid for one year. The license shall expire on the last day of the month in which the license is issued of the year following issuance or renewal of the license. For the first license issued for a medical marijuana business, the City Council may designate an expiration date in excess of one year, but no more than twenty-four months, to facilitate the administration by the City of renewals of such licenses.

(b) Renewal of License. The licensee shall apply for renewal of the medical marijuana business license at least forty-five days before the expiration of the license. The licensee shall apply for renewal using forms provided by the City. If the applicant fails to apply for renewal at least forty-five days before the expiration of the license

but does apply for renewal prior to expiration of the license, the City may process the renewal application if the applicant submits a late filing fee of \$5,000.00 at the time of submittal of the renewal application.

(1) The renewal license fee, and late fee if applicable, shall accompany the renewal application. Such fee is nonrefundable.

(2) In the event there has been a change to any of the plans identified in the license application which were submitted to and approved by the City with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

(3) In the event any person who has an interest as described in the disclosures made to the City pursuant to this chapter, or any business manager, financier, agent as defined herein or employee has been charged with or accused of violations of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed and the disposition of the violation with the renewal application.

(4) In the event the business license has been suspended or revoked or a licensee has received any notice of violation of any law, the renewal application shall include a copy of the notice, suspension or revocation.

(5) The renewal application shall include verification that the business has a valid state license and the state license is in good standing.

(6) The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased, the amount of marijuana sold, the forms in which marijuana was sold, the number of patients and the number of primary caregivers who received marijuana, the police report numbers or case numbers of all police calls to the medical marijuana business and for calls resulting in a charge of a violation of any law, the charge, case number and disposition of any of the charges.

(7) The City shall not accept renewal applications after the expiration of the license, but instead shall require the applicant to file a new license application.

(8) In the event there have been allegations of violations of this code by any of the licensees or the business submitting a renewal application, the City may hold a quasi-judicial hearing, prior to approving or denying the renewal application. The hearing shall be to determine whether the application and proposed licensees comply with this chapter and whether the operation of the business has been in compliance with this code. If the City does not hold a hearing and the application and the licensees do not meet the requirements of this chapter, or the business has been operated in the past in violation of this code, the renewal application may be denied or issued with conditions, and the decision shall be final subject to judicial review.

(c) Nonpayment of Tax. The licensee shall at all times be in compliance with the filing requirements set forth by the Colorado Department of Revenue as it pertains to timely filing of sales tax. Noncompliance may be cause for suspension and/or revocation of the license.

(d) Expiration of License. Expiration of a medical marijuana business license for any reason shall be considered an inactive local license as described in § 12-43.3.312, C.R.S.

14-218. City Clerk authorized to obtain additional information as may be required.

The City Clerk may request from applicants and licensees any other information as may be necessary in order to process applications and ensure compliance by licensees.

INTRODUCED BY COUNCIL MEMBER _____, READ AND ORDERED
PUBLISHED, this ____ day of October, 2014.

FINALLY PASSED AND APPROVED this ____ day of _____, 2014.

EFFECTIVE DATE OF THIS ORDINANCE SHALL BE the ____ day of _____, 2014.

JOSEPH A. REORDA, Mayor

ATTEST:

AUDRA GARRETT, City Clerk

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